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THE HONOURABLE GUY CHARBONNEAU
SPEAKER

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SPEAKER

THE HONOURABLE GUY CHARBONNEAU

LEADER OF THE GOVERNMENT

THE HONOURABLE LOWELL MURRAY, P.C.

LEADER OF THE OPPOSITION

THE HONOURABLE ALLAN J. MACEACHEN, P.C.

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GENTLEMAN USHER OF THE BLACK ROD

COL. JEAN DORÉ, C.D.

THE SENATE

Tuesday, December 11, 1990

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

Prayers.

THE SENATE

POINT OF ORDER

Hon. William M. Kelly: Honourable senators, I rise on a point of order concerning the business of the Senate and our ability to discharge—

Hon. Royce Frith (Deputy Leader of the Opposition): There is no business.

Senator Kelly: —our duty as senators. This relates to the overall business presently before the Senate.

Honourable senators, I want to take this moment to remind you that I have been in this chamber for eight years. I start my ninth year next year. I have never yelled at any one of you from my seat. Never! I have never interrupted. I have followed every possible rule dictated to me, in order to help me, by Senator Frith. I ask you to return me the same courtesy, please.

Some Hon. Senators: Hear, Hear!

Senator Frith: Just wait until the Speaker calls something so that you can raise your point of order. That is all I ask.

Senator Kelly: There are a number of important public issues on the Scroll, including the debate on the Persian Gulf crisis, the broadcasting bill and others. Committees have been prevented from meeting because of the extraordinary number of hours the Senate has been sitting because of the performances we have witnessed over the past several weeks.

Since September 25, the Senate has been engaged in consideration of Bill C-62. It could have been any other bill, honourable senators, but it happens to have been Bill C-62. We have spent more than 320 hours on this bill. It is now clear, if there ever was a doubt, that it is the goal of some members of the Senate to use their right to speak on this bill to prevent the Senate from coming to a decision, from coming to the point where the Senate decides—as at the end of the day it must always decide—to reach that point and to move on with its other responsibilities.

A significant backlog of public business awaits consideration by the Senate. Just as senators have a right to speak, they also have a right to decide. Indeed, they have an obligation to decide. For this reason, honourable senators, 53 senators took the unprecedented step of preparing a letter to the Speaker. In the letter the senators indicate that they would like an opportunity for the Senate to decide, if the Senate wishes, to determine the question on Bill C-62 and, if the Senate wishes, that the question be put on or before 5:45 o'clock on Thursday, December 13, 1990. In effect, they are saying that it is time to remove this roadblock and permit the Senate to go ahead with its other responsibilities.

Honourable senators, I have the letter in front of me. I have copies for every senator. The letter has not been delivered to the Speaker yet. It will be delivered to him now. It will be distributed to each senator at the same time.

Some Hon. Senators: Hear, Hear!

Senator Kelly: I would now like to read the letter into the record. It states:

> Dear Speaker Charbonneau:
>
> The events of the past two months in the Senate, and the need for the Senate to resolve the question now before it cause us to write in order that you may know our wishes concerning the conduct of matters in the Senate surrounding Bill C-62.
>
> This bill was introduced in the Senate on April 11, 1990. It was debated for approximately two hours at second reading and the motion was carried on May 3, without a recorded vote, but on division. During the summer, 40 days of committee hearings provided an opportunity for the consideration of possible amendments. Since September 25, 1990, the attention of the Senate has been given almost exclusively to Bill C-62. More than 320 hours have been devoted to the bill in the Senate. We believe that it is now time for the Senate to exercise its right to vote on the question now before it.
>
> The rights to speak and to delay are not absolute. The right to delay ends where the right to vote begins. The right to dispose of a question in parliament is as essential as the right to speak.
>
> As Senators we have the right and duty to vote on this matter. The present protracted proceedings prevent us from doing this. We recognize that it is not the Speaker's ultimate responsibility to decide when there has been sufficient debate on the question. The Senate itself must decide this issue. We believe it is your duty to provide the Senate with the opportunity to decide.
>
> We wish you to know that we would like the Senate to dispose of all questions related to Bill C-62 at 5:45 p.m. on Thursday, December 13, 1990 if they have not been earlier disposed of. This will provide all Senators with sufficient advance notice of the vote and there need be no further deferral of the division.

> The division bells should ring for not more than 30 minutes, at which time the necessary questions should be put to the Senate without further debate or adjournment.
>
> We believe that this matter requires your urgent attention and that the time has come for the Senate to decide whether or not it wishes to set a date for the final vote on Bill C-62.

Let us get on with the business of the Senate, the business that is piling up. Honourable senators, this is the letter and I would like to ask that it be delivered to the Speaker and that sufficient copies be delivered to the senators in their chairs. Thank you.

I have something further to say on this subject, senators, if you will just bear with me for a moment. Honourable senators, essentially what is being said here is that the time has come for the Senate to decide where it goes from here—and I mean for the Senate to decide, honourable senators. We have seen circumstances here—which I do not criticize—agreements between leaders, agreements, incidentally, that excluded independents, although that was corrected by further agreements, and so on. However, at the end of the day it is the Senate which decides. We believe that the Senate should decide where it wants to go now. The Senate should be given an opportunity to decide whether it has heard enough on Bill C-62, for example, and wishes to clear the way in order to to get ahead on its own responsibilities.

I want to refer at this time to something I have been hugging to my chest for quite some time. It shook me at the time it occurred, but I treasure it quite a bit because it comes from, I think, one of the wisest men in this chamber. It was a statement made on November 13, 1984, by Senator MacEachen when he first entered this chamber. It really is worth listening to. I think we should consider his admonition with respect to what we have to consider in the next day or so. Senator MacEachen said:

> No member of this chamber would suggest that the Senate should usurp the leading role of the House of Commons, or systematically obstruct the will of the majority in the elected body of Parliament.

He said:

> Certainly I do not approach my role as Leader of the Opposition from that vantage point.

Further down he reminded us of something else that I think we need to keep in mind. He said:

> Every legislative assembly in our system operates on the majority principle, and the Senate is no exception. The majority will decide; the majority will prevail.

Really, in the simplest possible terms, that is the system we are part of and that is the way the whole system works and must work.

The filibuster on Bill C-62 has been under way for a considerable length of time. Presentations, including individual speeches lasting as long as 18 hours, have ranged from reading books, sports pages, through political history to serious debate on substantive issues relating to Bill C-62. However, it is clear that the central purpose of this exercise is to delay as long as necessary to axe this tax. The opposition has confirmed this publicly again and again. However, we have gone beyond the things to which I have just referred. We went through petitions, in which I believe Senator Davey discussed the origin of the name "Peterborough". Where did Peterborough come from? How did they arrive at that name?

Hon. Keith Davey: On a point of privilege, that is incorrect, honourable senator.

Senator Kelly: I withdraw the statement.

Senator Davey: Thank you.

Senator Kelly: Someone did. Or perhaps it was Kingston that was mentioned. However, the fact is that, when you get to tactics of that sort, clearly the debate is over. The debate is over and we are at that time-filling stage. I do not argue, honourable senators, that our rules are being flagrantly broken. I do not do that. The filibuster is a time-honoured tradition. The technique of using questions in the form of mini-speeches is an interesting technique which preserves the right of the questioner to speak later in the debate.

Honourable senators, I do not doubt in any way—and I mean this sincerely—the sincerity of those who are participating in the delay. I recognize it and I respect it. We are firmly committed to the view that the obligation of Parliament is to decide, and we support the right of senators to speak, to be heard; but we also believe the rights of those who wish to decide must be taken into account. Since we in this house have no rule to assist in ending debate, we could see no way out of this impasse. Recently, however, Senator Frith, my mentor, introduced a view that served as a useful guide to us—

• (1410)

Senator Frith: Did I start all this?

Senator Kelly: —and hence the letter to the Speaker.

In reviewing the powers of the Speaker of the Senate, Senator Frith said—and this is from memory and subject to correction by Senator Frith, although I remember every word he has said to me, including "sit down"—

Senator Perrault: You are in trouble now!

Senator Kelly: My recollection is that Senator Frith said that the Speaker in this place has no power to act on his own initiative, but that it is the Senate that tells the Speaker what to do.

Senator Frith: Except under the rules.

Senator Kelly: Senator Frith said that the Senate decides.

The letter asks the Speaker to consider certain actions, and clearly the Senate must decide whether or not he should do so. We are simply asking the Speaker to ask the Senate to instruct him to put the question before us now.

Honourable senators, I am deeply conscious of the allegations concerning previous actions of the Chair, the tricks, the breaking of rules, and so forth.

I have reviewed the letter—I signed it as well—and the entire process was put in place in full view of all senators. The letter went to the Speaker at the time it went to all honourable senators. I can find no rule being broken, including reference to the powers of the Speaker, as described by Senator Frith. I believe, however, that the people of Canada are at the point of exasperation and now have every right to expect Parliament to decide and say yes or no to Bill C-62.

Business enterprises, large, medium and small, have the right to know whether this is a go or a no-go and to have this uncertainty and financial chaos brought to an end. Low-income groups who will be entitled under the legislation to receive GST rebates in advance have the right to have their minds set at rest.

Honourable senators, that is the end of my dissertation. I think it is time to get on with the business of the Senate, and I ask the Speaker to so rule.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, it is clear that a point of order is raised when there is a breach of order, when an irregularity has occurred to which attention must be drawn and for which a correction or remedy is sought.

We have had Senator Kelly express his frustrations respecting the passage of Bill C-62. He has brought up his frustrations under the guise of a point of order on a matter that is not now before the Senate.

Yesterday we followed the rules and adjourned the debate on Bill C-62. We will dispose with the vote on that today and will then be back on Bill C-62. At that time we will be prepared to deal with what Senator Kelly has proposed.

In the meantime, we would like to read the letter. We would like to examine the letter. We would like to examine its implications, and we would like to make our views known to the Speaker at the appropriate time, and I think the appropriate time is when the bill is again before the Senate.

Senator Simard: You are looking for mercy!

Senator MacEachen: All I want to say is that—well, I will not say anything further, because then I would be entering into the debate, but he has raised some important matters. He has revived in my vivid memory events in the House of Commons, when the Speaker attempted to do something, and did something, which now Senator Kelly is asking our Speaker to do, namely, formulate a motion and put it before the Senate. In so doing, Senator Kelly is asking the Speaker to do something which he has no authority to do and something we would resist totally.

Let us say that we are prepared to examine the letter, examine the implications of it and debate the matter when Bill C-62 is properly before the Senate. I take it for granted that what Senator Kelly has done is to give notice that this matter will be put before us when Bill C-62 is called.

Senator Simard: He is speaking on behalf of senators.

An Hon. Senator: Come on!

Senator Perrault: You can't do it that way!

[Senator Kelly.]

Senator Frith: Are you serious?

Senator MacEachen: Otherwise, it is totally out of context to ask the Speaker to rule on a point of order on a matter that is not before the Senate but relates to a bill that will be brought forward today when the motion is disposed of. So I would hope that we will at least be given a chance to read the letter, to consider it and to prepare our comments before this matter is pursued.

Senator Kelly: Honourable senators, once again I am in a situation in which I find myself so often in this chamber. Obviously, I did not explain myself well enough. My point of order deals with the ability of this chamber to carry on its business. Bill C-62 is secondary. The central issue with me is that under the present circumstance we cannot carry on our business in a responsible manner. That is my issue and that is my point of order.

Senator Perrault: That is ridiculous!

Senator Kelly: Bill C-62 happens to be the reason why we cannot carry on, but Bill C-62, or whatever, is not the central issue with me. I think that we have to ask ourselves, all of us, not just one side or the other, whether or not we are behaving responsibly. We are not putting ourselves in the position to deal responsibly with our obligations. That is the issue. The way to find ourselves in a position to deal with other business is to consider how to deal with that roadblock.

Senator Thériault: That is crap! Obviously, you have never been in a parliamentary body!

Senator MacEachen: If Senator Kelly's point of order is that we have no way of dealing with other business because of Bill C-62, he is totally wrong. Is he seriously alleging that we are incapable of dealing with other business? Again, he is deeply wrong. Yesterday,under the rules, the debate on Bill C-62 was adjourned and the Senate was free to deal with all other government business.

Senator Cools: All day!

Senator MacEachen: All day and all night. The government has kept us sitting around the clock on Bill C-62. Yesterday Bill C-62 was put off, and what did the government do? It adjourned. It stood every other item of government business. Instead of taking the opportunity to call all the items on the scroll, it stood every one.

Senator Barootes: By mutual agreement!

Senator MacEachen: We did not oppose it. However, if Senator Kelly was eager to do other business, he should have stood up and said, "No—

Senator Perrault: Yes, all 53 senators!

Senator MacEachen: —we want to deal with all of these bills." In fact, the only debate that was initiated was by Senator Frith, who dealt with the Copyright Act. All the other government items were stood by the Deputy Leader of the Government, including the Northwest Territories Bill, a bill to change the Bank Act—did you want to deal with that yesterday? Was that one of your items of public business? Well,

your deputy leader stood it yesterday. There are also bills dealing with the Penitentiary Act, the Canadian Heritage Languages Institute, the Criminal Code and aboriginal peoples. All of these bills were before us yesterday. We could have sat and dealt with them, but we were out of here—at what time? And at the request of the government. If that is the point of order, I think it is pretty weak.

In any event, we can deal with these matters today. Let us call these other items today.

An Hon. Senator: Let's do it today!

Senator MacEachen: Do not disguise your real intention. Your real intention is to get a vote illicitly on Bill C-62. If you want such a vote, we will deal with it when Bill C-62 is called. We will debate the issue and confront the Speaker with the issues that are involved.

• (1420)

In the meantime, don't tell us that you are stopped from doing government business. You had a full opportunity yesterday. Why didn't you do it then? Would you explain that?

Some Hon. Senators: Hear, hear!

Senator Kelly: Honourable senators, first, I do not need to be told what my intentions are. I know what they are.

Senator Perrault: We know what they are, too!

Senator Kelly: In fairness, I should like to remind Senator MacEachen—whom I respect immensely and I shudder at finding myself debating with him—that it may well be that the Senate adjourned last night although it should have worked all night. I would have to agree that that would have been the wiser move. However, it did not do that.

However, even Senator MacEachen cannot argue that we have spent hours and hours reading petitions very slowly, reading names very slowly, speaker after speaker. Take Senator Fairbairn—she will be my heroine forever. She spoke for 18 or 19 hours. She stayed up all the rest of that day. She was up for 35 hours, and was as bright and pretty as she always is. I apologize, senator; that may get me in trouble, but we have had long, long speeches, hours and hours of speeches, very often not on the subject. That was time that could have been used for dealing with the business of the Senate.

Some Hon. Senators: Oh! Oh!

Senator Kelly: Honourable senators, in fairness, that is what it was. It was done in the interests, quite legitimately, of delaying the bill. I understand that. However, no one would suggest that Canadians would believe the following argument: because the Senate adjourned last night, it was an indication that the Conservatives have this sneaky plan, that the people who have been delaying have been doing everything properly, and so on and so forth. That is plainly not right and not correct.

I do believe, as I said before, honourable senators, that it is our duty at least to ask the Senate what the Senate wants to do now.

Senator Frith: About what?

Senator Kelly: About getting on with the business of the Senate.

Hon. H.A. Olson: Honourable senators, if Senator Kelly wants to ask the Senate what it wants to do now, then he should at least follow the rules. Rule 44 (1) reads as follows:

> Two days' notice shall be given of any of the following motions:

There is nothing there that senators opposite do not understand, is there? Then:

> *(a)* to make a new rule or to repeal or amend an existing rule;

Surely that is what Senator Kelly is asking. If that is what he wants. Senator MacEachen, the Leader, asked him if he was giving notice. He said, "No, no, I am not giving notice. I want it right now."

That is the most ridiculous argument I have ever heard. He went on to talk about what Parliament is all about. Parliament is giving the people who are here and in the other place, because we are both Houses of Parliament, the right to speak. Rule 27 states that that is what Parliament is here for. Surely, if there is any respect whatever for Parliament and what it stands for—what its purpose is, why it has evolved the way it has—it is because Parliament is a place where the members therein have the right to speak. I ask senators to look at Rule 27. I shall not quote it, they can look at it themselves. It says that we have the right to speak.

I would hope that Senator Kelly will understand what parliamentary democracy is all about. Its rules are not to be trampled upon. There is a way of doing what he has described he wants to do. That is to follow Rule 44—nothing else.

Senator Frith: Honourable senators, I think it is clear that if there is a point of order—and there very well may be—it is on Bill C-62, which is not before us. That point of order, if it were to come up, would come up on the item that is the foundation of the point of order. I ask that we proceed with the business on the Scroll. Let us have the messages from the House of Commons. That is the first thing. Eventually, we will come to this point of order.

The point of order cannot be anticipated. I cannot stand here and raise a point of order on the Copyright Act, or on something which is further down on the Order Paper. I ask the Speaker to do his job, which is to give us these messages from the House of Commons and deal with the items on the Order Paper as they come up. In due course, today, we will get to the GST, when we can deal with this point of order which is based on the GST. There is nothing before us at this time which is the basis for a point of order.

[*Translation*]

Hon. Gerald A. Beaudoin: Honourable senators, I want to speak on this point of order. For days, weeks, months, we have had a debate on a bill. I think everything has been said. Often, the debate continued day and night. To my opinion, with the reading of the petitions, it seems clear that the debate is no

more productive. The right of the Senate to dispose of a question is at stake.

[*English*]

The right to speak and the right to delay legislation are not absolute—

Senator Frith: Order. He is talking about an order that is not before the House.

Senator Beaudoin: I did not interrupt you, Senator Frith.

Senator Frith: It is not now before the House. It is your duty, Mr. Speaker, to call the Orders of the Day. The first is messages from the House of Commons.

Senator Beaudoin: What has happened to my right to speak?

Senator Frith: The senator is attempting to continue the debate.

The Hon. the Speaker: I think, honourable senators, there is a—

Senator Frith: I ask you to rule that there is no point of order at the present time.

The Hon. the Speaker: There is a point of order. I think I should listen to the senator's point of view—

Senator Frith: No, you should not, Sir. You listen to senators when the point of order comes. There is no point of order before us. The point of order comes at the time the subject is before us.

Mr. Speaker, are you seriously suggesting that you should listen to debate on a point of order that is declared to be based on an order that comes later in the proceedings? If I raise a point of order now on something that is 10 places down, would you listen to debate on that?

The Hon. the Speaker: The point of order, as far as I have understood, and I have not seen the text, is not necessarily on Bill C-62, but on the general—

Senator Frith: It is precisely on that.

Some Hon. Senators: Read the letter.

The Hon. the Speaker: I have not read it yet.

Senator Frith: The only point of order which could have been raised at this point has to do with your not having said "Amen" at the end of prayers.

Senator Beaudoin: The point of order is on the right of the Senate to vote.

Senator Frith: What is before us at the present time is messages from the House of Commons. You should begin with those messages from the House of Commons.

Senator Beaudoin: Senator Frith, the point of order is on the right of this House, this Senate, to vote. That is what it is.

Some Hon. Senators: Oh, oh!

Senator Beaudoin: You have claimed for days and nights that you have the right to speak. So do I. I have the right to speak.

[Senator Beaudoin.]

Some Hon. Senators: Hear, Hear!

Senator Beaudoin: If you have the right to speak, then I have the right to speak. You have the right to delay; we have the right to vote. There is no right that is absolute. There is such a thing as the abuse of rights in our Canadian systems of law.

Some Hon. Senators: Hear, Hear!

Senator Beaudoin: We have reached that stage of abuse of rights. The right to delay does not include the right to paralyze Parliament.

Senator Corbin: You are the abuser.

Senator Beaudoin: Please, Senator Corbin—

Senator Corbin: You are the abuser, you and your dictatorial mentors.

Senator Beaudoin: Please, Senator Corbin, you may listen with advantage. I have the right to speak.

Some Hon. Senators: Not now!

Senator Beaudoin: Nowhere in the written and the unwritten Constitution is there such a right to paralyze this house. The right to speak ends where the right to vote begins. Parliament, too, has rights. The Senate has rights. One of those rights is to vote, to dispose of a question. The right to vote is as basic as the right to speak in our parliamentary system.

Senator Molgat: And your Speaker took the right to vote away from us.

Senator Beaudoin: You should not forget, Senator Molgat, that this house is a legislative body, a house of discussion, a house of exchange of views, but also a house where legislation may be disposed of. Sooner or later, questions have to be put and decided.

If there is nothing explicit in our rules, our bylaws or in the Constitution, then we have to rely on section 1 of the Standing Rules and Orders.

Some Hon. Senators: Oh, oh!

Senator Beaudoin: We have to rely on the implicit or implied power of this house. We have to create precedents, if necessary.

Some Hon. Senators: Oh, Oh!

Senator Beaudoin: *Lex parliamenti* is composed of rules and orders, but it is composed also of precedents. A legislative house may create precedents, in the same manner as courts of England have created common law. This house, in the field of *lex parliamenti*, is the highest court in the land. Let us do something positive. Let us vote.

Some Hon. Senators: Hear, Hear!

Senator Thériault: How much did you pay Jacques Flynn to write that for you?

The Hon. the Speaker: Honourable senators, I have heard the arguments on the point of order. I shall delay my reply and study—

Senator Frith: No, you do not.

The Hon. the Speaker: I will read the transcript of the arguments. I have listened to the arguments. I will take the matter under advisement. I will come back later this afternoon. In the meantime, we can proceed with the Orders of the Day.

Some Hon. Senators: Oh, oh!

Senator Frith: No, you do not.

The Hon. the Speaker: If honourable senators do not like what I am doing, then it is up to you to decide. You can say that you do not agree with me. I am here and I am listening. This is the usual procedure when there is a point of order. I have listened to the arguments—

Senator Frith: But you have not heard everything.

Senator Haidasz: Nobody adjourned the debate today. You cannot adjourn a debate.

Senator MacEachen: Honourable senators, my understanding of Senator Kelly's intervention was that he was giving us notice that when we got to Bill C-62, we would have an opportunity to discuss this matter. For that reason, I made some very preliminary remarks since the implications of this proposal are far-reaching.

Your Honour, you have heard hardly anything on this point from this side. I believe that we want to discuss this. I am requesting that we defer this point of order until we come to Bill C-62 in due course, and that we be given an opportunity to make our points. Other than that, I think this matter will create considerable difficulty in the chamber.

I do not think it is unreasonable that we be given the opportunity. I have not had a chance even to read the letter. I have been listening to other people. I think I should have a chance, as my colleagues should, to make our points. Then you can do what you feel you must do, Mr. Speaker. But I think you must hear us and give us a chance to prepare and to read the letter.

• (1430)

The normal time to do this would be when Bill C-62 is called and, honourable senators, if it is possible for 53 senators to address the Speaker and ask him to reach a certain conclusion, perhaps it is also possible for 51 senators on this side to ask that this matter be dealt with when we come to Bill C-62, when we will have an opportunity to make our points. I think that is a reasonable request.

Senator Kelly: Honourable senators, I would just like to take a moment to be sure the record is clear. I know enough about procedure in this chamber to know about notice. I was not giving notice. I was offering a point of order. It was not notice. A point of order was offered today.

Senator MacEachen: Honourable senators, if it was not Senator Kelly's intention to give notice, I am requesting on behalf of my group that this matter be dealt with when we come to Bill C-62. That will come in the normal course of events today.

Senator Ottenheimer: Honourable senators, it appears that there is a difference of opinion with respect to a very preliminary question, and that is whether the point of order submitted by Senator Kelly is specifically a point of order with respect to Bill C-62 and, therefore honourable senators opposite argue that it should be pursued when Bill C-62 is under consideration. The position maintained by Senator Kelly is that the point of order is not specifically with relation to Bill C-62 but that it is about the ability of the Senate to organize its own proceedings, and that obviously is a much more generic question, a much more general question. Obviously, Bill C-62—

Senator Thériault: Have you read the letter?

Senator Ottenheimer: —is an instance—

Senator Thériault: Have you read the letter?

Senator Ottenheimer: I will listen to Senator Thériault's speech after—

Senator Thériault: No, I am asking you a question. Have you read this letter? Have you read the first paragraph and if you have, under what interpretation of that language do you see support for what you are saying?

Senator Ottenheimer: I am referring to my interpretation, senator, to which I have as much right as you have to yours. I do not interfere with you when you express your opinion and I would hope for the same courtesy from you. I do not interfere with you when you express your opinion. You have the perfect right to do it. I have an equal right, not a greater right. At least Senator LeBlanc, when he interferes, does it so calmly that you sometimes have to strain your ears to hear what he has to say. But the honourable senator opposite has a more raucous voice—

Senator Thériault: You do not do it very calmly.

Senator Ottenheimer —and, therefore, it is not as easy to ignore.

Senator Thériault: Well, read the first paragraph.

Senator Ottenheimer: Therefore, having been instructed by the honourable Senator Thériault opposite, I will continue.

There has been an argument that the point of order deals exclusively, essentially, primarily—however one wishes to define it—with Bill C-62. The position put forward by Senator Kelly is that the point of order deals with a more general question and that is the ability or right of the Senate to determine its own business, the order of its business, the timing of its business and the organization of its business.

Senator Frith: One raises that under Prayers.

Senator Ottenheimer: That is, I think, the initial difference of opinion: whether the point of order deals specifically or exclusively with Bill C-62 or whether the point of order deals more generally with another principle, and that is the ability of the Senate to determine its own affairs.

If the point of order deals with the latter more general consideration, then it appears that now or any appropriate time is opportune to debate it.

Senator Kelly, in making his submission, as I recall, quite clearly stated that it was not a point of order exclusively or primarily on Bill C-62. It was not a point of order on Bill C-62, but a point of order dealing with—and these were perhaps not his exact words, but what I understood from them—the right of the Senate to order its own business.

Senator Corbin: It is obvious you cannot read your own letters.

Senator Ottenheimer: Senator Corbin tells me that I cannot read well. I will have to take my chances in trusting my ability to read without being corrected by him.

If the point of order deals with the more general, more universal, and I would suggest more important issue, which is the right of the Senate to determine and to organize its own business, then obviously it is an extremely important point of order. There is obviously a balancing of rights. What Senator Kelly has asked is not for the Speaker to decide on a substantive issue, but to provide an opportunity for the Senate to decide. It is not for the Speaker to decide, but for the Senate to decide with respect to its own organization.

That is what has been submitted to the Speaker. It may well be said, and I think it is true, that this procedure is unprecedented. I think that is probably the case. I doubt if any senator opposite will deny that the whole situation of the Senate during the past approximately two months has been an unprecedented situation—

Senator Frith: Senator Beaudoin tried it.

Senator Ottenheimer: —unprecedented in terms of the organization of business, unprecedented in terms of the way in which business has been conducted. Therefore, if one is in an unprecedented situation, then the solution or resolution itself is going to be unprecedented. It is practically impossible foresee that one would be in an unprecedented situation, and yet have a resolution full of precedents. That almost defies logic.

The Senate is in an unprecedented situation. Indeed the resolution of it, to establish or re-establish, confirm or enunciate, however you put it, the right of the Senate to conduct its own affairs and organize its own business is important. If the situation we are in is unprecedented, it may well be that the manner in which that principal is to be affirmed and made operative, may be unprecedented as well.

There is one other aspect. I think this has been canvassed and there is nothing original about it. Obviously, every parliamentary body has a right to debate, a right to speak. Every parliamentary body, I would suggest, has a right to decide, a right to come to a resolution. Therefore, there are times when these rights have to be balanced. I do not believe, although I do not know, if any honourable senators on the other side would say that the right to speak and debate is absolute, that it can go on and preempt any right to decide. I do not know if there are those who would maintain that. If so, it is obviously incorrect.

The Senate, whatever it is, is one of the Houses of Parliament. It is not a debating society. It is not like the Upper Canada Debating Society where people come to debate, to sharpen their oratorical skills, to learn to speak extemporaneously, even to train their bladder. It is none of those things. The Senate debates, but it must also decide. To argue that it can debate without an opportunity of coming within a reasonable period of time to a decision is, I think, contrary to the nature of a parliamentary institution.

• (1440)

Similarly, to require that a vote be held without a reasonable period of time for debate, is equally unacceptable. There has to be a balancing with respect to both the right to vote and the right to decide. What the Speaker is being asked to do is provide an opportunity for the Senate to decide its procedure in the particular circumstances in which we are, and that may well be unprecedented. However, the situation in which we are is unprecedented, and it is difficult to see that the solution can be anything but.

Before concluding, I should like to quote from the first five or six lines of paragraph 1 of *Beauchesne's Parliamentary Rules and Forms*, Fifth Edition, which state:

> The principles that lie at the basis of English parliamentary law, have always been kept steadily in view by the Canadian Parliament; these are: To protect a minority and restrain the improvidence or tyranny of a majority; to secure the transaction of public business—

The transaction of public business obviously is related to voting; that is not simply related to debating.

Beauchesne's goes on to state:

> to secure the transaction of public business in an orderly manner; to enable every Member to express his opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time;

Some Hon. Senators: Hear, hear.

Senator Ottenheimer: Since honourable senators opposite liked that particular passage so much, I will read it again. It states:

> —to enable every Member to express his opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time; to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse.

Senator Haidasz: I have not been able to speak on third reading yet.

Senator Ottenheimer: Honourable senators, it appears to me that those basic principles are, in the final analysis, the criteria which the Senate will wish to bear in mind.

In summary, the point of order put forward by Senator Kelly does not deal exclusively with Bill C-62. It deals with the general issue of the ability and right of the Senate to organize its own business. Within that context the Senate will need to bear in mind the balancing of rights to speak and to decide. It should use, as criteria in reflecting on that, what *Beauchesne's* calls the principles of parliamentary law. These principles make up the first paragraph of the Fifth Edition.

Obviously, it is not for me to suggest when that decision should be made. However, I do understand that Senator Kelly's point of order deals with the general principles of the right of the Senate to determine its own business. That does not mean it cannot be interpreted, viewed or seen in another context, a more restrictive one, that of Bill C-62.

As I understand it, the point of order put forward by Senator Kelly is on the general principles of the right of the Senate to organize its own business.

Hon. John B. Stewart: Honourable senators, may I ask the honourable senator a question? I have had a chance to glance at the letter dated December 10, to which reference was made earlier. The first paragraph states:

> The events of the past two months in the Senate, and the need for the Senate to resolve the question now before it cause us to write in order that you may know our wishes concerning the conduct of matters in the Senate surrounding Bill C-62.

The second paragraph recites certain information respecting that bill.

Then on page 2, the following appears:

> The Senate itself must decide this issue. We believe it is your duty to provide the Senate with the opportunity to decide.

The second last paragraph begins with the following:

> We wish you to know that we would like the Senate to dispose of all questions related to Bill C-62 at 5:45 p.m. on Thursday, December 13, 1990 if they have not been earlier disposed of.

Senator Ottenheimer has said that the point of order Senator Kelly sought to raise earlier this afternoon does not deal with Bill C-62, but rather deals with a more general question, the general question of the right of the Senate to decide on all questions put before it.

That leads me to pick up our rule book. I suppose it still has some relevance in this place, although one at times begins to think that it is now an antiquarian document. Rule 44 states:

> 44.(1) Two days' notice shall be given of any of the following motions:
>
> (*a*) to make a new rule or to repeal or amend an existing rule;

If in fact what Senator Kelly has said does not deal with Bill C-62, as the letter itself would lead one to believe, then what we have is a proposal to establish a new rule, a new rule dealing with how decisions in general will be made in the Senate. We already have a rule which lays down a rule of law stating how decisions are made by the Senate.

So I put it to Senator Ottenheimer that he is disguising an attempt to impose closure on Bill C-62 under the guise of dealing with a general principle. However, if he is bringing in a new rule incorporating a general principle, to use his words, and that if, indeed, this does deal with the general principles, the correct procedure would be to give notice under Rule 44.

So I ask Senator Ottenheimer, if this does deal with general principles and not with Bill C-62, why is he not following the rules of the Senate and why is he trying to duck the rules of the Senate?

Senator Ottenheimer: Honourable senators, briefly in reply to Senator Stewart—-

An Hon. Senator: Take your time!

Senator Ottenheimer: I intend to.

Senator Stewart first dealt with the question of whether the point of order dealt with Bill C-62, or the more general question, which I call the Senate's right to organize its own affairs. He quoted from the letter signed by a number of senators and which refers to Bill C-62. No one disputes that Bill C-62 is relevant here. However, my submission and that of Senator Kelly's is that the point of order is founded on a larger, more general principle, and that Bill C-62 and the references thereto are instances thereof.

• (1450)

Senator Stewart read paragraphs of the letter that referred to Bill C-62. Allow me to read the third paragraph:

> The rights to speak and to debate are not absolute. The right to debate ends where the right to vote begins. The right to dispose of a question in parliament is as essential as the right to speak.

I think that these are the general issues, and the point of order deals with those issues. Obviously, it has relevance to Bill C-62 as well, but I would maintain that the point of order has a grounding in these general issues.

Senator Stewart then said or asked a question to the effect that we were attempting to bring in a new rule and therefore it should be done in terms of a motion of which notice is given. My reply to that point is that there is no attempt here to bring in a new rule. However, there is an attempt, in a situation that is unprecedented—

Senator Austin: What a smoke screen! You must be embarrassed, Gerry.

Senator Ottenheimer: —to apply the rules and traditions as they presently exist. If the situation is unprecedented, then obviously the resolution or gestation of that situation will be unprecedented as well. It is like someone who has a cow. Perhaps that is not a good example.

An Hon. Senator: What is it?

Senator Ottenheimer: The example I was going to give relates to a cow and a bull. If they are together, the fruit of their union will be either a cow or a bull. The same would be the case if you had an elephant and an "elephantess". However, if you have a cow and an elephant, Lord knows what will develop, but that is not a particularly good simile, so allow me to put it another way. You can see that my knowledge of animal husbandry is quite limited. If we are in an unprecedented situation, then obviously the resolution of that situation will be unprecedented as well.

So in answer to Senator Stewart: No, it is not a new rule that is being sought; it is an application, in unprecedented circumstances, of what has always been recognized as the rule, practice and tradition of the Senate, and that is to organize its own business within the principles of parliamentary law, which are those to which I alluded earlier. That is my reply. It is not a new rule, but the application of existing tradition, rule and practice in unprecedented circumstances.

Senator Stewart: Honourable senators, I put it to the Honourable Senator Ottenheimer that it is closure without a closure rule. Let us be candid.

Senator Austin: Why don't you just use the word "closure"?

Senator Ottenheimer: I certainly would not call it that. I would not say that it is closure without a closure rule. I would say that it is a reaffirmation of the tradition and rule of the Senate to organize its own business.

Senator Olson: That's closure.

Senator Austin: Bring it in under rule 44.

Senator Ottenheimer: If it is necessary that this tradition be recognized in unprecedented circumstances, then so be it, but the tradition and the right of the Senate to organize its own business while respecting the rights of the minority and the majority—

Senator Perrault: It is muzzling!

Senator Austin: The rights of whom?

Senator Ottenheimer: —while respecting the rights of people to speak and while respecting the rights of people to vote as well. It is a balancing of the two rights, the right of people to speak and the right of people to decide. We are in an unprecedented situation. There has to be a balancing of the right to speak and the right to vote. The principle of the Senate deciding its own business is a valid one, and all we are asking is that it be recognized in the present circumstances.

Hon. Edward M. Lawson: Honourable senators, I am in a dilemma. I want to make an intervention on Senator Kelly's point of order but I am persuaded in my own mind, as a result of reading the rules, that if I were to speak or intervene I would be out of order on a point of order that is not properly before us and is therefore out of order.

Some Hon. Senators: Hear, hear.

Senator Frith: Senator Kelly, you didn't learn. Why didn't you wait until 8 o'clock? Nothing was going to happen in between.

Senator Lawson: The second part of my concern is that it has been suggested that the Speaker withdraw and consider this matter having heard the debate. If His Honour does withdraw to consider the matter without having heard my intervention—and I am not prepared to make that intervention now because I am satisfied that it would be a violation of the rules and that I would be out of order speaking on a motion that is not properly before us—it is a violation of my rights.

Some Hon. Senators: Hear, hear.

[Senator Ottenheimer.]

Senator Lawson: I know the ease with which the chamber has, while talking about preserving the rights of everyone to speak, from time to time overlooked we independents down in this corner. Fortunately, we were able to salvage the situation on the last occasion, but I am worried that you will fall into the trap of cutting us off again. I am not prepared to debate the merit of Senator Kelly's motion until it is properly before us, nor do I want—and I would protest it—His Honour withdrawing and deciding the issue without having heard from us.

Senator Frith: Good for you.

Senator Perrault: Well done.

Hon. Richard J. Doyle: Honourable senators, I want to thank Senator Stewart for repeating portions of the letter that was presented to us by Senator Kelly; in particular, when he referred to the portion of the first paragraph that reads:

> . . . in order that you may know our wishes concerning the conduct of matters in the Senate surrounding Bill C-62.

The operative words are "surrounding the bill" and that is what I want to come to. Senator Frith said a moment or two ago that if at that stage something was to be put before the Senate it would have to have with whether or not the Speaker can say "Amen" when he is repeating prayers. That comment might be apt, but I think there is something beyond it that we must consider, and that is that what made Senator Kelly's comments apt was the very presence here of the senators opposite and the senators on this side. We do represent the business of the Senate—what we are going to say, what we are going to argue and the points that we are going to make. We cannot lose sight of the role of the people in the Senate while we waive the rule book as we have been doing for days on end. We have waived the rule book here and we have waived it outside the chamber when we have stopped to talk to reporters after every meeting of the Senate. Members of the *Fourth Estate* have waited for us and we have said, "Just watch the rules. I've got a few more tricks up my sleeve. I have something to surprise them with tomorrow. We aren't finished yet." We have heard all these arguments made outside the chamber, arguments that are counterpoints to what we say we are trying to do here inside the chamber.

Some Hon. Senators: Hear, hear.

Senator Austin: Now go through the list of tricks Senator Murray has to shut us off that have ended up as stories in the press.

Senator Simard: You can speak later, senator.

Senator Austin: I am following your precedent.

Senator Simard: You are invited to speak later.

• (1500)

Senator Doyle: You have a louder voice than I have, but I will say this: You want to know what kind of tricks I am talking about. I will tell you. I will tell you about the trick yesterday, when the very business of paying tribute to a

deceased colleague was used to deflect this chamber from the purpose before it. I think that's foul.

Hon. Jerahmiel S. Grafstein: Honourable senators, I would like to know whether Senator Kelly and Senator Ottenheimer can explain to me whether, under the Kelly rule, it is open to me now to raise points of order on the Clerk's Scroll. There are several items here that might be of importance, pressing maters of national importance. I would like to know from Senator Ottenheimer whether, if these are the new rules, I can freely examine the Scroll and to raise certain points of order and have them debated, just as he is asking the Speaker to have his point of order debated.

Let me give you an example, if you would like. There is one item here dealing with the monitoring of the implementation of the Canada-U.S. Free Trade Agreement. I think that is a pressing and important matter of some public concern, and I think it is important that perhaps a point of order ought to be raised in that connection. I would be prepared to do it and deal with it now, if he would like.

Senator Simard: Chers collègues—

Senator Grafstein: Honourable senators, I have asked Senator Ottenheimer to respond as to whether or not, under your rules and procedures, it is appropriate.

Senator Simard: Obviously, Senator Grafstein knows what the answer is going to be. The answer is that this is not the proper time to raise that type of question.

Senator Grafstein: Exactly.

Some Hon. Senators: Oh, oh.

Senator Simard: I don't know of a rule that allows one senator to ask another senator a question for advice, legal advice or what have you. You can ask questions in Question Period. You can ask questions of the Leader of the Government in the Senate. That is tradition and that is fair ball, and I think Senator Grafstein is just stalling for time.

So I am going to go ahead now and make a few comments, as I invite Liberals or Conservatives to do. But certainly I invite Liberal senators to participate in this debate. After all, they want to speak. Senator Olson has argued for the rights of senators to speak. I say not only do they have the right to speak, but they also have the right to be heard. I am glad that the voice heard when Senator Ottenheimer was speaking has now ceased and I can go on uninterrupted. That's fine. That's an improvement.

[*Translation*]

Senator Frith, Senator MacEachen and some other senators opposite reminded us several times of a rule according to which the Speaker does not have the right to decide on his own initiative about the length of the debates. But that it was to the members of the Senate to express their opinion and ask the Speaker to allow the Senate to proceed. Our ultimate responsibility, I believe, for all of us in this chamber, after debating a question, after speaking about it, as Senator Olson said, our ultimate responsibility is to be able to decide or take a vote. This is what I remember of Senator Kelly's point of order. The objective is to allow this chamber, which has been paralyzed since the 25th of September, to function normally. This is what I remember from Senator Kelly's point of order and from his letter to the Speaker. Indeed, he requests the Speaker to consider if the work could proceed in a normal and regular fashion. To this question I humbly answer, no. The reason is that since September the 25th, this chamber has lived through unusual times. I do not know how many rules have been broken. It is not to me to judge but I know one thing: for all intents and purposes, the committees' activities have been cancelled. It has been impossible for us to take part in a number of committees which normally lead us to recommendations to this House.

[*English*]

Senator MacEachen said yesterday that the government senators indicated they were not serious about proceeding with the normal business of the house. According to him, that was all he needed to say, that we are not serious about dealing with the orders of business.

Senator MacEachen: I did not say that.

Senator Simard: Since 1984, Senator MacEachen, you have been able to do away with a very good practice, the pre-study of certain legislation, not only of Bill C-62 but of many other bills. You were able to do that, Senator MacEachen, but one thing you haven't been able to do yet, for all practical purposes is paralyze all the work of the other committees with your strategy, your methods, your gimmicks. Senator Buckwold predicted on September 25 that all political gimmicks would be used to stall this legislation and paralyze the work of this house.

So, yes, Senator MacEachen, you were able until September 25 to make sure that no pre-study took place, but you have gone beyond that, sir. So don't blame the government. Don't try to use yesterday's example, the fact that at 4 p.m. this house adjourned to demonstrate that the government is not serious and does not want to proceed, that the only thing on its mind is passing Bill C-62. You were responsible for that, sir, and your arguments won't wash.

Another thing you said, Senator MacEachen, to whoever wanted to hear, whatever media was in front of you asking you questions—as Senator Frith and Senator Buckwold and others have said, that unless government members or the Speaker broke the rules, invented or created new rules, this legislation would not get through.

Well, I respectfully submit that Senator Kelly's point of order, his letter to the Speaker, is not a breach of the rules. Actually, I think it is in the spirit of the rule book. The Speaker has to maintain order and decorum and it is also his responsibility—and this is my main point—to allow members on both sides of the house, collectively, to make decisions. There is no use debating, no use speaking, no use delaying. Senator Olson has told us he wants his rights. He would like everybody to believe that there is an absolute right for senators to speak. Well, I say that the ultimate right, the only right that counts, is that the legislature be allowed to make a decision

and bring a matter to its logical end, for or against. That is what I submit.

So, Senator MacEachen, don't go in your usual way, pretending that the government members are breaking the rules here. We are only asking the Speaker to live with the spirit of this rule book tradition. No Canadian will believe you Liberal senators if you try again to suggest that somehow, because of Senator Kelly's point of order, rules have been broken in the Senate of Canada. It won,t wash with Canadians. So this is why we are addressing this point of order.

• (1510)

Senator Haidasz, who I hope will participate in this debate, was seeking mercy a few minutes ago when Senator Ottenheimer was speaking. He in fact complained that he had not had time to speak on third reading. Yet, he is one who participated in the filibuster on this bill during the last three months. Thus my hope that he will speak to Bill C-62 before December 13.

As I understand Senator Kelly's letter, it asks the Speaker to rule that a vote be taken on December 13, two days hence. Surely senators opposite can arrange their business in a way which will allow them time to speak. The provisional rules have been in place for at least the last month. That should have allowed senators opposite time to participate in the debate. Yet, they chose to entertain us with stories about Premier Vander Zalm's cousin's dog. They have read books to us. Senator Davey told us about the World Hockey League. Another senator talked about the eloquence of Winston Churchill, while yet another read the book *Too Funny to be President*. Another senator read to us about the evolution of the Dominion of Canada—

Senator Barootes: Or told sexist jokes.

Senator Simard: Yes, while another told us about life in the time of Confederation. I am sure my other colleagues, regardless of their vacation plans—

Some Hon. Senators: Oh, oh!

Senator Simard: —would willingly give them up or rearrange them if senators opposite would tell the world when they are read to vote, if it is not on December 13.

Senator Perrault: Vacation plans.

Senator Simard: I would be quite willing to postpone my vacation plans and stay here until December 31.

Some Hon. Senators: Hear, hear.

Senator Simard: But what would that do for the families who are waiting for their cheques? What will that do for businesses such as Sears or the company from which I read the letter two weeks ago, a car dealership in the Maritimes? What will this do for the 120 people who work at this car dealer's business and for the company's inventories? What will it do for their plans to get organized for the implementation of the GST on January 1? And there are hundreds of thousands of other businesses in Canada waiting to know whether the GST is a "go" or a "no go".

[Senator Simard.]

I thus challenge you, Senator MacEachen, and I am asking if you will change your mind about using all the political tricks in your book and tell this house, today, that you will participate in this debate in a positive way and indicate to the Speaker, who will consider it, as the Speaker is a fair-minded person—

Some Hon. Senators: Oh, oh!

Senator Simard: I know he is. If your partisanship would not blind you, you would also know that.

Maybe that could be the extent of your participation in this debate, Senator MacEachen, and if, for some reason, a great many senators having not participated in the debate on third reading and wanting to, then perhaps you could tell the house that a week from now, or a week from next Thursday, on December 20, that, yes, you will agree to take a vote on December 20. Will you do that? Will you undertake on behalf of your party that at 5.45 p.m. on December 20 we will take the vote? I am prepared to wait. Canadians will put up with you for another week. But at least they will know that on December 20—

Senator MacEachen: I thought you said December 28.

Senator Simard: Do you want to do it on December 28? We are waiting for your offer, as I am sure the Speaker is. I am sure Canadians are waiting to get an answer from you. I am sure they are waiting for an indication that you want to be reasonable.

Some Hon. Senators: The 28th?

Senator Simard: You can decide. Why not make it the 25th? If you are going to make life miserable for all Canadians, go ahead. Our duty is to be here and to make sure that the wishes of Canadians, through their members in the House of Commons, are met.

Senator Frith: Ten per cent of the vote in North York.

Senator Simard: Senator MacEachen, you say that you want to wait until 8 p.m. I don't know what is magical about 8 p.m. or 6 p.m. You want to wait until you feel that you are authorized to speak, or that it is in better order to speak then because we will be back on Bill C-62 under these provisional rules. Why keep Canadians waiting? Why not participate in this debate now? You don't have to agree that, technically, it is a point of order or not, as Senator Frith is so proud of doing in dishing out his great knowledge on procedure. With some reservations, speak to this point of order and please undertake on behalf of your caucus that on December 20, or December 28, a vote will be taken. We are responsible. We can be here on December 20.

Before closing, colleagues, I ask Mr. Speaker to rule—unless you get a date other than December 13, that is, unless you get a firm and public commitment from Senator MacEachen and on behalf of his party—to rule today and according to the request made by Senator Kelly on behalf of some 53 senators of this house, a vote will be taken on December 13.

Senator MacEachen: Honourable senators, Senator Lawson has put the case very clearly in saying that this point of order is fraudulent, and it is. We attempted to overcome that by suggesting we are prepared to deal with it in its proper place when we come to Bill C-62. That has been ignored. If that is to be the prevailing view, then I think I will take the only recourse open to me at this point and move the adjournment of the Senate.

• (1520)

The Hon. the Speaker: It is moved by Senator MacEachen, seconded by Senator Frith, that the Senate do now adjourn.

Some Hon. Senators: Agreed.

Senator Murray: For one thing, honourable senators, we have already a house order to the effect that there will be a vote on Senator Gigantès' motion to adjourn the debate.

Senator MacEachen: At the next sitting.

Senator Murray: No, no, at 5:45 p.m. today.

Senator Simard: That is this sitting now.

Senator Murray: At 5:45 p.m.

Senator Simard: This sitting here.

Senator Murray: This vote has been set for 5:45 today so I suggest to honourable senators that a motion to adjourn the Senate now is out of order.

Senator Frith: It is never out of order.

Senator Doody: It cannot be received.

Senator Murray: Senator Doody has the appropriate citation here and can read it into the record, but we have set a vote for 5:45 tonight—

Senator Frith: No, we did not.

Senator Murray: We cannot adjourn the Senate now.

Senator MacEachen: Question.

Senator Doody: No, excuse me, senators, the adjournment that was taken yesterday started, in effect, a new sitting day today. At 2 o'clock we started at the top of the order paper again and this is a new sitting day. We are in the process of dealing with the business of today. Senator Kelly's point of order has been put on the floor and it is in the process of being discussed. Later on today at 5:45, according to the provisional rules, which were accepted by all members of this honourable chamber, we will have the vote. After that time, obviously, we have to proceed with the day's proceedings.

Senator MacEachen: Question.

Senator Frith: Question.

The Hon. the Speaker: Honourable senators, we have a vote at 5:45 that has to be held.

Senator Frith: Not today.

The Hon. the Speaker: Oh, yes, today. That was an order of the Senate yesterday.

Senator Frith: No, it says until the next sitting. Read the rules, which might be a new experience for a lot of people.

Senator Barootes: That same day, which is today.

Senator Frith: For one thing, we did not get to another sitting because we did not call anything. For another thing, the 5:45 vote is called at the next sitting at which 5:45 arrives.

Senator Simard: This is silly.

Senator Doody: You can see the calendar has changed. We adjourned on the 29th of November. We are sitting today on the 11th of December. It is a new sitting day.

Senator Frith: Of course it is. Of course it is. Mr. Speaker, you might have to follow the rules this time. It's tough.

The Hon. the Speaker: Honourable senators, we cannot supersede the order of the house on the vote at 5:45 today.

Senator Frith: Is that your ruling?

The Hon. the Speaker: You can overrule me, but that is the way I see it.

Senator Frith: That is your ruling? Your ruling, Mr. Speaker, is that the motion for adjournment is out of order; is that correct?

Senator Barootes: It is not receivable.

Senator Frith: Is that correct?

The Hon. the Speaker: It is not receivable because we have an order to vote at 5:45.

Senator Frith: It is out of order?

The Hon. the Speaker: Therefore, it is out of order.

Senator Barootes: It is not receivable.

Senator Frith: It is the same story. All right, we will appeal it.

The Hon. the Speaker: All those in favour of my ruling?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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.

Senator Frith: Honourable senators, pursuant to the provisional rules, this is an appeal, and it has been put, and the vote is put over for 12 hours.

Senator Murray: To twenty to four in the morning.

Senator Frith: So it will be at 3:40 in the morning we will have the vote.

Senator Doody: I wish to call to the house's attention that we have a vote here at 5:45 this afternoon.

Senator Frith: That is the whole point. You made that bed, now you have to lie in it.

The Hon. the Speaker: Senators, the sitting is suspended until 5:45 this afternoon.

The sitting was suspended.

• (1745)

At 5.45 p.m. the sitting of the Senate was resumed.

EXCISE TAX ACT
CRIMINAL CODE
CUSTOMS ACT
CUSTOMS TARIFF
EXCISE ACT
INCOME TAX ACT
STATISTICS ACT
TAX COURT OF CANADA ACT

BILL TO AMEND—MOTION FOR THIRD READING—MOTION TO ADJOURN DEBATE NEGATIVED

Pursuant to Provisional Rule P-3(a) the Senate proceeded to the deferred division on the motion of Senator Gigantès to adjourn the debate on the motion for third reading of Bill C-62.

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

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams
Austin
Bonnell
Bosa
Buckwold
Cools
Corbin
Croll
Davey
De Bané
Denis
Fairbairn
Frith
Gigantès
Grafstein
Graham
Haidasz
Hastings
Hays
Hébert
Kenny
Kirby
Lawson
LeBlanc (*Beauséjour*)
Leblanc (*Saurel*)
Lefebvre
Lewis
Lucier
MacEachen
Marchand
Marsden
Molgat
Neiman
Olson
Perrault
Petten
Rizzuto
Robichaud
Sparrow
Stanbury
Steuart (*Prince Albert-Duck Lake*)
Stewart (*Antigonish-Guysborough*)
Stollery
Thériault
Turner
van Roggen
Waters
Wood—48

NAYS

THE HONOURABLE SENATORS

Atkins
Balfour
Barootes
Beaudoin
Beaulieu
Bélisle
Berntson
Bolduc
Buchanan
Carney
Castonguay
Chaput-Rolland
Charbonneau
Cochrane
Cogger
Comeau
David
DeWare
Di Nino
Doody
Doyle
Eyton
Forrestall
Grimard
Hatfield
Johnson
Kelleher
Kelly
Keon
Kinsella
Lavoie-Roux
Lynch-Staunton
Macdonald (*Cape Breton*)
MacDonald (*Halifax*)
Macquarrie
Marshall
Meighen
Muir
Murray
Nurgitz
Oliver
Ottenheimer
Phillips
Pitfield
Poitras
Robertson
Roblin
Ross
Rossiter
Simard
Spivak
Sylvain
Teed
Tremblay
Twinn—55

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: I declare the motion negatived.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I ask for leave to ignore the clock to discuss something that Senator Doody and I have discussed.

The Hon. the Speaker: Honourable senators, according to the rules, I must call the Orders of the Day.

Senator Frith: Your Honour, according to Rule P-3(a), that is quite right.

Honourable senators, as things stand at the moment, the next event before us is a vote at 3.40 tomorrow morning. I do not want to disappoint any nighthawks, but that vote is now completely academic. It will not make any difference to anyone who wins or loses the vote because the decision was made that it was not receivable as a result of the necessity to hold the vote we just held. Therefore, the vote scheduled for tomorrow morning is dépassé, and for that reason Senator Doody and I recommend, with leave, that the motion for that vote tomorrow morning be withdrawn.

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

Hon. Senators: Agreed.

Motion withdrawn.

The Hon. the Speaker: It being 6 o'clock, I suspend the sitting until 8 p.m.

The sitting was suspended.

At 8 p.m. the sitting of the Senate was resumed.

THE SENATE

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think I was on my feet when the sitting was suspended.

Some Hon. Senators: Order!

Senator Frith: I have spoken to Senator Doody and I told him that we wish to take advantage of Rule P-1(a), our one per week, tonight. Therefore, it being after 5:45 o'clock on a Tuesday, within the terms of Rule P-1(a), I move that the Senate do now adjourn. The result of that, as you know, is that, without a ruling or anything else, the sitting is automatically suspended, not adjourned, forthwith until 2 o'clock the following day, and that would be our invoking of the P Rule for the week, in any event.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as the Deputy Leader of the Opposition has pointed out, that provisional rule is there. It offers the opportunity for any honourable senator to move the adjournment once a week. Senator Frith and his colleagues are invoking their right to do so.

Senator Frith: What about the "forthwith"?

Senator Murray: "Forthwith", as he says, and "notwithstanding". Let me therefore simply express my astonishment that this should be the case, having sat here this afternoon listening to a number of honourable senators opposite, and in particular the Leader of the Opposition, tell us why they wanted, and intended, to deal with Senator Kelly's point of order as soon as Bill C-62 was called and we were back on Orders of the Day.

Senator Frith: And that will happen tomorrow at 2 o'clock.

Senator Murray: The point of order is still before the house.

Senator Frith: We do not accept that.

Senator Cools: It never got before the house.

Senator Murray: Honourable senators, it seems to me that they cannot be very anxious to express their views on this important matter. However, that will give the Speaker the opportunity to study the transcripts of what was said during the day.

Senator Frith: I cannot resist mentioning that the wording of Rule P-1(a) was agreed upon and settled amongst us, and I am now going to have to look a second time at the meaning of the word "forthwith" when I agree to that word with Senator Murray. However, it is an automatic adjournment.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, what we are doing is out of order, but presumably we are doing it by consent, namely speaking when the rule says "forthwith", but having seen the breach occur twice, may I make it a third time? It is simply to say that it is my intention at 2 o'clock tomorrow to address the matters that have been raised by Senator Kelly—fundamental matters, I may add.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, the sitting of the Senate is suspended until tomorrow at 2 o'clock in the afternoon.

The sitting of the Senate was suspended until tomorrow at 2 p.m.

[*Editor's Note: For continuation of proceedings see Issue No. 116B.*]

THE SENATE

Tuesday, December 11, 1990

[*Editor's Note: Continuation of proceedings from Issue No. 116A.*]

The sitting of the Senate was resumed at 2 p.m., Wednesday, December 12, 1990, the Speaker in the Chair.

The Hon. the Speaker: The sitting is resumed.

BUSINESS OF THE SENATE

MOTION TO ADJOURN WITHDRAWN

Hon. Royce Frith (Deputy Leader of the Opposition): I think it is appropriate for me to withdraw the P-1 motion, your honour.

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

Some Hon. Senators: Agreed.

The Hon. the Speaker: Senator MacEachen?

Hon. Edward M. Lawson: I did not hear what Senator Frith said.

Senator Frith: I just withdrew the P-1 motion.

The Hon. the Speaker: I recognize Senator MacEachen.

RULE 26—MOTION TO HEAR SENATOR WATERS—POINT OF ORDER

Hon. Edward M. Lawson: Under Rule 26 I move that Senator Waters be now heard.

Hon. Royce Frith (Deputy Leader of the Opposition): The page should take your motion, if you have it.

The Hon. the Speaker: Has Senator Lawson a seconder?

Hon. H. A. Olson: I will second the motion.

The Hon. the Speaker: Under Rule 26, Senator Lawson has the right to move his motion because Senator MacEachen had not yet started to speak. Therefore, it is moved by Senator Lawson, seconded by Senator Olson, that pursuant to Rule 26, Senator Waters now be heard.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Senator Lawson: Honourable senators—

Senator Forrestall: That is a setup.

Senator Kenny: What is a setup?

Senator Forrestall: That is a setup, and you know it.

Senator Kenny: Who is saying that?

Senator Forrestall: I said it.

Senator Lawson: If you will be quiet for a moment, I would like to indicate my position on this. We have gone over these various debates over the last number of weeks, number of months, and on a number of occasions the Independents lost the opportunity to speak in this chamber because we extended the simple courtesy when the agreement was made between the two parties, that the Liberals would have eight amendments and so on, but in the process nobody bothered to give any recognition to the rights of Independents to speak in this chamber. I felt that to avoid that happening again on a very critical question that is raised by Senator Kelly, which could, if approved, result in the termination of the debate, that the Independents would not have any rights—you heard from a number of Liberals on the other side—the Independents would have no right whatsoever to speak on third reading and we would again be stripped of our right of legal participation in this chamber. If we cannot accommodate that by speaking last, I propose this motion to ensure that at least one of the Independents will speak first.

An Hon. Senator: I have no problem.

Senator Frith: Honourable senators, certainly the circumstances for the application of Rule 26 are before us. The last occasion on which the problem of Rule 26 arose—which rule reads:

> When two or more senators rise to speak, the Speaker shall call upon the senator who in the Speaker's opinion first rose; but a motion may be made that any senator who has risen "be now heard"—

And that has happened with the motion of Senator Lawson.

There was some dispute on the orderliness of this motion when it was last made.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Because there was a motion made.

Senator Frith: Honourable senators will recall that it was said by the Speaker at that time that he refused on that occasion to put the motion, which he has not done this time. In his defence, although it is not a brief that I particularly want to take, when I discussed it with him one of the things that he relied on was a provision in *Beauchesne's*. I made a note and as I recall it, it was at Page 99. I remember on that occasion, that Senator Murray was proposing a motion, which we argued, and which *Hansard* or the *Senate Debates* showed had not actually been put before Orders of the Day were called. In any event, the Speaker recognized Senator Murray, although Senator Waters was not only on his feet, but had given notice in advance that he wished to speak.

The Speaker first took the position that he could not do that because there was a motion before the Senate. There was some dispute as to whether there was, in fact, a motion before the Senate. Even assuming that there was a motion before the Senate, there is almost always some question before the Senate, and it is always in those circumstances that Rule 26 applies. Why? Well, because if there is a matter before the Senate, a question or a motion, then, of course, under Rule 27 any senator is entitled to speak to it.

Whoever made the rules took the trouble to anticipate that a situation could arise in which many senators, or at least more than one senator, might want to exercise his or her right under Rule 27 to speak to a motion. At that stage, the first phase of solving the problem of more than one senator wishing to speak lies with the Speaker. The rulemakers said:

> When two or more senators rise to speak, the Speaker shall call upon the senator who in the Speaker's opinion first rose;

It seems to me that the question of whether there is a motion before the Senate or not is not determinative of whether Rule 26 applies, because it only applies when there is a motion before the Senate and when more than one senator wants to speak to it.

Incidentally, the facts are all within the rules up to now, with the Speaker recognizing Senator MacEachen at the time that Senator Waters was on his feet, and Senator Lawson has made the appropriate motion under Rule 26.

Just to refer to that last occasion, and to be sure that the Speaker realizes or feels that this is an appropriate application of Rule 26, at that time he said to me on a couple of occasions, "Yes, but *Beauchesne's* says—". Now, we argue that there is no need to refer to *Beauchesne's* because the provisions of Rule 26 are so clear. He says, "*Beauchesne's* says—". Let us pass for the moment that *Beauchesne* is not applicable; even if it were, it indicates—and he cited citation 302, Paragraph (2), page 99:

• (1410)

> (2) A motion that a Member "be now heard" must be moved before the Member recognized has begun speaking.

Of course, in this case and in the previous case, the Speaker wanted to apply that rule to the circumstances that existed between Senator Waters and Senator Murray. The Speaker wanted to apply the rule on that occasion because neither Senator MacEachen nor Senator Waters had said anything, and he had recognized Senator MacEachen, which gave rise to the motion by Senator Olson. Honourable senators, I can find no objection to the regularity of Senator Lawson's motion. It seems that all the circumstances, even including the rather remote provision of *Beauchesne's* at page 99, are fully satisfied. I guess that is why the Speaker did put the motion in this case.

So leaving aside the question of regularity, which seems to be clearly established, the question we now have to assess is where we stand as far as order is concerned. I am not quite clear what Senator Kelly had proposed but I will try to find some word to describe it. Let us say it was an idea.

Senator Olson: Not a very good one but it was an idea.

Senator Frith: Let us see how far we can take it from there. I think we can assume that everybody on the other side who supports the government thought it was a good idea and we thought it was a bad idea. We heard the word "ruling". A ruling is made on a—

An Hon. Senator: Point of order.

Senator Frith: Yes, exactly, it could be on a point of order. That is right.

Senator Barootes: Are you just treading water or have you something to say?

Senator Frith: No, no, no.

Senator Simard: Let us hear the question.

Senator Frith: Let us hear the man. I did not hear you. I am sorry, did you ask a question? I did not hear your question, Senator Barootes.

Senator Barootes: I made the remark that I did not know whether you were just treading water or intending to say something.

Senator Frith: That, of course, will be a matter of opinion and the only way to find out is to keep listening.

Some Hon. Senators: Quiet, quiet, quiet.

Senator Frith: So all we have then is the idea, a point of order raised immediately after prayers, before the doors were opened and before there was a Debates reporter seated. That is when the point of order was raised. What was the point of order? It could not be that the doors had not been opened quickly enough. We have to look at the state of proceedings at the time. What I am trying to do now is to find out when we determine who will be heard when the Senate makes that decision under Rule 26. What exactly is it that they are going to be heard on? So far, it is an idea presented as a point of order somewhere shortly after somebody said amen, or may not have said amen, at the end of prayers, before the doors were opened, before the Speaker had said, "let the doors be opened" and before there was anybody in the house to take notes of the proceedings. Honourable senators, it is a long, hard job to research and find precedents for that sort of point of order.

Senator Perrault: Hear, hear!

Senator Frith: I certainly have not been able to find any case in which a point of order was raised after prayers, before the Speaker had said, "let the doors be opened" and once the doors having been opened, that someone was here to take the notes of our proceedings and provide a record.

There was nothing said that indicated there had been a breach of order at that point in the day's proceedings. I think at some point it was described as a general question of the Senate doing its business. That point was raised when objection was taken to the fact that the point of order was being

raised on C-62, the GST. The reason that was raised was to say that it must be out of time. Senator Kelly, if your point of order is that you say there has been a breach of order at that point in the proceedings, namely right after prayers but before the doors are open, and before there is a reporter taking notes, could it have been that the doors were not open fast enough or that the reporter did not begin taking notes quickly enough? It could not be because that all happened after the point of order was raised.

Senator Kelly did me the dubious honour—and I will explain that adjective in a moment—of saying I was his mentor. I say "dubious" because, liking Senator Kelly as I do, I hesitate to say anything negative. Obviously I find his mentor did not teach him very well about points of order. If I am still his mentor, his timing on his point of order would get an X.

Senator Simard: Do not let that go to your head.

Senator Frith: It is hard, Senator Simard. I know that you are a man of such strong moral fibre and stiff mental discipline.

An Hon. Senator: Absolutely.

Senator Frith: You are of such celebrated humility that if a man of Senator Kelly's qualities called you his mentor, you would not let it go to your head. Someone with the kind of easily encouraged—

Senator Simard: You are very modest, yourself.

Senator Frith: —ego like mine, I found it did go to my head a little bit. I thank you for the caution.

Senator Simard: I made my point.

Senator Frith: I will try to emulate what you would do in similar circumstances and not let this go to my head.

Senator Barootes: Have you forgotten your point?

Senator Frith: When the question was raised as to—pardon? I did not hear you?

Senator Cools: It was Senator Foghorn who was saying something.

Senator Frith: I am sorry, I did not hear it.

• (1420)

Then the question was raised, "Senator Kelly, why are you bringing up a point of order on the GST at this stage?" He said, "I'm not bringing it up on the GST. I am just bringing it up on the general need of the Senate to get on with its business." That is what I understood.

Senator Olson: That is what he said.

Senator Frith: It is not really about the GST or Bill C-62; it is about getting on with business.

I am sure everyone remembers that he said, "I have here a letter." The signature sheet was separate from the letter. It is similar to a petition, and I suppose I could read all the names. The signatures are in alphabetical order. The list begins with the names of Senator Atkins, Senator Balfour, Senator Barootes, and Senator Beaudoin, going from left to right.

[Senator Frith.]

We were told that this point of order was not raised on the GST and Bill C-62, but was regarding the general orderliness of the Senate getting on with its business. I take it that the general ability of the Senate to get on with its business was blocked at the moment prayers were completed, because that is when the point of order was raised.

A point of order is raised at the time there has been a breach of order. You cannot anticipate a breach of order and you cannot raise a point of order after the breach of order has gone by and there has been an intermediate proceeding. Senator Kelly must have thought that the general ability of the Senate to do its work was breached yesterday before the doors were opened and before anyone came in. Perhaps the objection was that we had prayers before we got to the GST, because that was the only breach of order that could have happened. The only event that took place up to the time that the point of order was raised was prayers. In accordance with the understanding that everyone has as to when a point of order should be raised, it must be that the saying of prayers in some way breached the powers and duty of the Senate to do its business.

Was this letter, which was to explain the point of order, referring to the general powers of the Senate? Was it not related to Bill C-62? If it related to Bill C-62, it should have been raised when we got to Bill C-62. The first paragraph of the letter states:

> The events of the past two months in the Senate, and the need for the Senate to resolve the question now before it cause us to write in order that you may know our wishes concerning the conduct of matters in the Senate surrounding Bill C-62.

The first paragraph mentions Bill C-62.

The second paragraph starts with the words "This bill." It is not talking about the general situation in the Senate or the general duties of the Senate, but it says, "This bill." The second paragraph deals with everything that was done in the Senate with regard to Bill C-62. Then it says that it is now time for the Senate to exercise its right to vote on the question. It does not say its right to vote on other questions, but the question now before it.

The next paragraph states:

> The rights to speak and to delay are not absolute. The right to delay ends where the right to vote begins. The right to dispose of a question in parliament is as essential as the right to speak.

I assume it is still talking about Bill C-62, but we will get to these general things in due course.

On the top of page 2, the next paragraph says:

> As Senators we have the right and duty to vote on this matter.

The antecedent of "this matter" can only be Bill C-62. It goes on to say:

> The present protracted proceedings prevent us from doing this. We recognize that it is not the Speaker's ultimate responsibility to decide . . . The Senate itself must decide

> this issue. We believe it is your duty to provide the Senate with the opportunity to decide.

It is still talking about Bill C-62.

This is not a motion, but is still only an idea. When the Senate decides whether Senator Waters or Senator MacEachen will speak to this idea, some senators—and I hope to be one of them—will address the basis on which it could possibly be said that it is the duty of the Speaker of the Senate to decide when a vote is to take place. The words "opportunity to decide" can only mean that. When the pipeline debate was taking place, one might have argued that Speaker Beaudoin, as Speaker of the House of Commons, had such a duty. However, not many did argue that he had such a duty. Of course, the fact is that he tried to do something just like that. He decided himself when he was going to put something to the House—not a motion—but he was going to present something to the House for decision. That ruined his career and life because it was such an outrageous thing to do. The suggestion here is even more outrageous than it was then.

The next paragraph states:

> We wish you to know that we would like the Senate to dispose of all questions related to Bill C-62 . . .

This letter is the basis for someone saying, "I'm not talking about Bill C-62. I'm talking about the whole business of the Senate," and how that order was breached yesterday at the end of prayers. The letter goes on to say:

> This will provide all Senators with sufficient advance notice of the vote and there need be no further deferral of the division.

Then it describes how the division bells should ring. Everything is written out for the Speaker in order for him to do something that he has no authority whatever to do. When someone speaks to this motion, I am sure they will point out that the second paragraph on page 2 is clearly against the provisions of rule P-3(a). That rule was unanimously adopted after consideration and agreement by representatives of the leadership on both sides. That decision was made by the Senate.

Senator Murray: Are you trying to anticipate Senator MacEachen's speech? That is almost lèse-majesté.

Senator Frith: Really?

Senator Murray: Yes.

Senator Frith: What does that mean? Does that mean treason? I hope I get the benefit of parliamentary immunity.

Someone will, no doubt, speak to that aspect of the matter. This letter is signed by approximately half of the senators, all government supporters. They are saying, "We want the Senate to decide." Nobody is being kidded that what it should be is "for Senate" and then put an asterisk so it would read "Senate", and down at the bottom put "read the Tory caucus." Honourable senators, this is the Senate of Canada, it is not a meeting of the Conservative caucus.

• (1430)

Senator Doyle: It is not a meeting of the Liberal caucus either.

Senator Frith: Exactly, it is not a meeting of the Liberal caucus either. You are quite right, Senator Doyle, and well said, sir. It is not a meeting of either caucus. That is a very good point. I see Senator Doyle is paying attention. I guess Senator Barootes has left in a huff, whatever a "huff" is.

Senator MacEachen: A huff and a puff.

Senator Frith: Honourable senators, I have difficulty in finding anything irregular about Senator Lawson's motion but I think we are faced with the question of who should be heard on that motion. When the Senate, under the rules, makes its decision as to whom should be heard, Senator Waters or Senator MacEachen, it will be elucidating and edifying to find out exactly what Senator Kelly's motion is and to hear about the various ways in which I would like to dignify it by saying that it is out of order or irregular. In fact, I think the better word to describe it is "outrageous" because, as something framed or something one can put into the context of the rules, I think it simply does not exist.

Some Hon. Senators: Hear, hear!

Hon. H. A. Olson: Honourable senators, as seconder of the motion that Senator Waters be now heard, I should give the chamber an explanation as to why I seconded that motion. I am sure a number of you noticed I was a little surprised that I did that. It was because another seconder did not seem to be coming forward.

Senator Doody: Senator Waters wants to speak.

Senator Olson: As I understand it, we have a motion before the Senate. Are we to have no respect for anything in the rule book? I happen to have some respect for Rule 29, Rule 26 and all of the other rules.

I do not want to get sidetracked because what I started out to say apparently needs to be said to this group of 53 senators who signed this letter saying that they are now going to change the rules. They are saying, "We are not going to follow the traditional pattern that has been developed over centuries, if you go back to the Mother of Parliaments." They are saying, "We are now going to write the Speaker a letter and tell the Speaker that we have had enough. All of those on the other side have not spoken but we have had enough . . ."

Senator Simard: That is right.

Senator Olson: ". . . so at 5:45 p.m. tomorrow we want to move."

Senator Barootes: Six hours each, is that not enough?

Senator Olson: Honourable senators, there is a right way to do things.

An Hon. Senator: Your way.

Senator Olson: No, not my way, but by the rules. If you do not like the rules there is a way to change them. That is not something new. Surely I need not again quote Rule 44 of the

rule book which tells you exactly how to change a rule if there is a need for a rule to be changed. However, just in case some of you were not here yesterday when it was quoted to you once, twice or, I think, three times, it says:

> Two days' notice shall be given of any of the following motions:
>
> (a) to make a new rule or to repeal or amend an existing rule;

If you want to create a new rule—a rule which does not now exist in our book of rules—that is how you do it: You wait until the Speaker calls "Notices of Motions," and if you had done that on Monday, December 10, we would have reached that motion today. But you did not do that. Maybe it is not kind to say so, but you have tried every other way, so why don't you try to do it the right way once?

Some Hon. Senators: Hear, hear!

Senator Olson: You have tried everything else in the book to frustrate the right of senators and the right of Canadians to expect their senators to say what is on their minds in this chamber.

Senator Simard: You have had three months to do that.

Senator Barootes: Six hours each.

Senator Olson: That is what Canadians want us to do.

I remember the Right Honourable John Diefenbaker who could rise to situations like this. He used to say, about some of my colleagues, that if they went across a pasture where there were ten cow pies they would step in every one. That is exactly what is happening here. Every time you move you do the wrong thing because you think you can outsmart everybody.

Senator Barootes: And you do not have the humour of Diefenbaker, so forget it.

Senator Olson: I had lots of fun with whom you called "Old John". I did not agree with the politics of John Diefenbaker but he was a good friend of mine. I used to see him on the opposition side week after week.

I would point something out to Senator Simard in case he did not notice. When I was speaking in the House of Commons, John Diefenbaker stayed there the whole time because he had some respect for what I had to say about western Canada. At that time the Liberals did not have many members from western Canada and he was glad that someone who knew something about what was going on out there would get up and represent the region. Not very many of you are respecting the rights of senators from various regions to get up and say what their people are telling them to say.

I suppose honourable senators opposite have noticed that we have read a few petitions but I have hundreds of letters in my office too and perhaps I should read a few of them to you some time before this debate is over, because whatever links you might have had to western Canada you have lost them, because no one on the opposite side is defending the rights and views of people living in western Canada.

Honourable senators, let us get back to the debate before us today. I seconded this motion because I think that all members on both sides of this house have a right to speak. When someone tries to circumvent all the rules or write new rules without bothering to go by traditional practices, it is too bad. I know Senator Kelly rather well and I respect him. He is a nice man, but he had better learn—and the sooner the better—that in this place we expect you to go by the rules as long as they are there. He read a section out of *Beauchesne's* the other day when he proposed changing the rules, and, I am sorry I have to say this, it was the most ridiculous argument I have ever heard. It was absolutely contrary to the argument he was trying to make. In this letter he says that he wants us to know that you are going to force, without a motion and without a notice of motion, the Senate to do this. He is saying, "We want the Speaker to decide tomorrow afternoon that that's it. It's over. We have heard enough. It's stupid. It's over." He then says that he did not even want to put forward a motion. The Leader of the Opposition then got up and asked him if he wanted to do it right. He even went further than that. He said, "I take it you are giving notice of a motion to change some of the rules." Senator Kelly says, "No, I'm not. I want it right now. No waiting. We want the Speaker to accept this letter and do it. No motion, no debate, no nothing." From now on there is going to be a regime here where a letter is written to the Speaker and no notices of motion or debate are needed to change the rules. Honourable senators, can you think of anything more disgraceful than that?

● (1440)

Some Hon. Senators: No.

Senator Olson: I can't. That is the most utterly disgraceful disregard for the rules that I have ever heard. Senator Kelly did it nicely. I am not complaining about that. His voice was soft and appealing and he smiled. However, do honourable senators realize how serious this is. Effectively, this is a coup d'état, a take-over of the running of the government and the Parliament of this country without even a debate. What is Parliament here for? It is for debate. Senator Kelly could at least have done us the courtesy of reading the rest of what was in *Beauchesne*'s.

As far as Rule 44 is concerned, we do not need to refer to the authorities; it is not complicated. The language is completely clear in those two and a half lines which state:

> (1) Two days' notice shall be given of any of the following motions:
>
> (*a*) to make a new rule . . .

Senators opposite wanted a new rule, a way of intercepting the debate when someone wants it, Senator Charbonneau in this case, but Senator Kelly wants it applied to Senate rules forever.

Senator Barootes: How much notice for a point of order? None.

Senator Olson: Not only does he want it applied to Bill C-62, but he wants it applied to everything. As soon as he has had enough, he goes around to a few of his colleagues, has

them sign a little letter, and that is the end of debate. That is a great way to run Parliament. That is what he said, because I asked him and Senator MacEachen asked him if he was giving notice that he would like to make a rule change. He said, "No, I am not giving notice. I have heard enough already and it's over on Thursday afternoon at 5:45, and you just tell the rest of the senators."

I have not had a chance to speak on Bill C-62. Senator Kelly does not want to hear from me. I am the representative of southern Alberta, from where I have received hundreds of letters and thousands of names on petitions, and I have not said a word yet, but Senator Kelly has decided he has heard enough and does not need to hear from the people of southern Alberta. That is what he said. Is that what you believe, too, Senator David?

Senator David: I do.

Senator Olson: That is how much respect you have for democracy and the right of Parliament to speak. I suggest you read the introduction to *Beauchesne*'s, Fifth Edition, which states:

PRINCIPLES OF PARLIAMENTARY LAW

. . . To protect a minority and restrain the improvidence or tyranny of a majority . . .

I think Senator Waters has the right to make a little speech on that.

Senator Barootes: Sit down and let him make it. He cannot speak because some of your people want to speak for 18 hours and that precludes everybody else.

Senator Molson: It just happens that we have a motion that Senator Waters shall be heard.

Senator Barootes: Let him speak.

Senator Olson: I am going to be in trouble with my own caucus. The Speaker recognized my leader and I seconded a motion that Senator Waters be heard.

Senator Austin: And he was elected.

Senator Olson: My friend, Senator Austin, reminds me why I was strongly motivated: Senator Waters was elected. Senators opposite claim they are in favour of an elected Senate. Sometimes senators on this side do. Not all of us all of the time, but some of us do some of the time. There were 264,000 Albertans who voted for Senator Waters.

Senator Barootes: How many voted for you to be in the Senate?

Senator Olson: Lots. Senator Barootes, I was elected five times.

Senator Barootes: As a senator?

Senator Olson: No, but by the people I represent now. They still write to me and say, "Senator Olson, I am so glad you are still there. When we write to all our Conservative members in the other house we do not even get a reply, but you stand up for us." I write back and say, "I will continue to do that." That is why I am so disturbed about Senator Kelly's notion. I know he is ashamed of himself now, but he should have thought about that on Monday.

Senator Molgat: He's not a bad fellow.

Senator Olson: No, he is a good fellow. I like him. I like drinking coffee with him and all kinds of things, there is no problem there. He is only a little misguided by someone a little west of where we are, who keeps sending orders over here, "Get that bill passed. Never mind parliamentary procedure, democracy, all the traditions of the minority's right to be heard, just set all that aside." Senator Kelly, did not even bother giving us notice that he was going to move it. We ask if we should take it as notice now, and the answer is that he cannot wait for that, he wants it right now.

I see many senators present who have not yet spoken. Only 11 of us have spoken, yet we have 51 all together on this side. Senators opposite should get the message that the people in this country do not like Bill C-62. Have you not yet got that message? You are going to bulldoze it through anyway and now you are not even going to listen to the people who are here for a parliamentary purpose in a parliamentary democracy to give their views.

I do not particularly care what you want to do, Senator David. If you have a bunch of people in Montreal who want you to do this type of bulldozing and set Parliament aside, that is up to you. I do not think you will get elected on that platform.

Senator David: You have been doing this for three months. We have listened to enough.

Senator Olson: I know lots of bills that were held up for longer than three months in the House of Commons, and they needed to be held up, too.

Senator Steuart: There were some of ours.

Senator Olson: We even introduced one or two that should have been held up for a while, perhaps even longer.

Senator Murray: Was that the National Energy Policy? Mr. Chrétien says it was a terrible mistake.

Senator Olson: Do senators remember that the bells rang for 17 days one time on an energy bill? I am sure senators opposite remember that, because apparently the Conservatives at that time thought that they had a responsibility to get the message into that chamber that what was going on should be challenged. That is all we are doing.

I remember another great Tory from Winnipeg, Gordon Churchill. He was a great fellow, but I disagreed with him most of the time.

Some new rules were being discussed about allocation of time, and just in case senators opposite do not know I should set down some of my credentials for that particular debate. I was chairman of a subcommittee for 16 months because the government of the day under the Right Honourable Lester Pearson believed that we were not getting on with the business as quickly as some people thought we should. We set up a

committee and the Prime Minister asked me, because I was a Social Creditor at that time—

Senator Murray: A pretty tame one, as it turned out.

• (1450)

[*English*]

Senator Olson: Tame one! He asked me because he thought he should have someone other than a representative of either of the major parties, to see if we could get this thing done in a non-partisan way; which I proceeded to do.

Never mind, I only mentioned it in case you think that I have not been through the rules.

In any event, Churchill's objection was, "We came in with a report". He said, "There are certain things we should do." At that time almost all the bills that came into Parliament had a major debate on second reading. The bill was then referred to either one of the standing committees or—and it was a very common practice in those days, that was in the mid-sixties—to take the bill to a Committee of the Whole, so that the whole chamber was involved. However, what some of them wanted, particularly the government of the day, was to have a time limit on how long it could remain in second reading. Churchill got up and said this—I will paraphrase it. I could get the exact quote, if you like— What he said is, "We cannot agree to that." You understand that they were in the opposition at the time. "We never know in advance how contentious a bill is going to be. The main purpose of Parliament, or at least one of its main purposes, is to hold up the debate between the introduction of a bill and its passage through the final stages long enough so that the public can mobilize their opinion."

The other thing he said was, "You never know until you start a debate who in the chamber is an expert on the subject". We had just had a demonstration of some backbencher who had not previously demonstrated an expertise on a certain subject—I can find it if you like—it changed the course of the entire debate because of his expertise. That is what happens.

Our responsibility is to hold things up here long enough so that the public opinion can be mobilized and conveyed to the government.

There is really not much democracy left in the House of Commons, because they use closure and time allocation, and all that stuff, so often that the minorities over there really cannot do what we used to do in the days of Honourable John Diefenbaker and Gordon Churchill.

Senator Murray: Those were the good old days. The golden years.

Senator Olson: They were the good old days when Parliament stood for something.

Senator Steuart: Just think, this will be the golden years 20 years from now.

Senator Olson: What has happened to Bill C-62 is that it got rammed and jammed through every stage in the other house, at every stage they used closure or a form of closure—there are three or four types of closure they can use—until it got here.

[Senator Olson.]

There are people, at least in my part of Alberta, Southern Alberta, who are saying that the Senate is the only hope. They know that there is no democracy left in the House of Commons. The House of Commons has democracy one day every four or five years; that is on election day. In between elections they run a dictatorship. That is not going to happen in this chamber as long as I have one breath left to stop it.

Some Hon. Senators: Hear, hear!

Senator Olson: Seriously, this coup d'etat with which this government is trying to take over the rules and the running of this chamber, without any respect for the rules, or for the traditions, or the procedures that have culminated in this little book that you have disgraced so badly, just has to stop. You can do things properly if you try. I do not know who it is over there—Senator Barootes is generally a patient man, it cannot be him—who is ramming stuff through here? You could have done things properly. You could have given us notice on Monday—two days ago—that you needed a change in the rules; but you did not. You could have given notice to us six months ago. You could have given notice to us three weeks ago.

Senator Steuart: And you would really like to give it to us now.

Senator Simard: Senator Frith said, "Majority rules, the majority must prevail, committee members and Senate members make the rules."

Senator Olson: There were two or three members there. One of them was Senator—

Senator Simard: That caused you to change your mind.

Senator Olson: Senator Simard and Senator Ottenheimer spent the whole seven hours in committee arguing whether or not they had a point of order. Then they get sore at us because we raise a point of order here once in a while.

I remember the chairman of the committee over there put those motions every time he was asked. Of course you did not win. You violated the rules. You violated the Constitution by stacking the Senate, but at least as long as that stands, you have a majority. Now you do not even know how to use that. You mess it up by disregarding the rules that are here. It is absolutely amazing. I sometimes sit at home talking to my wife and I cannot concentrate because I think that what is going on in the Senate cannot be happening in Canada. There are places where they do things like that; they have a duty talk, they do other things, and then after a while they get out the rifles and machine guns too. I hope you do not have that in mind.

In the meantime, the minority has a right to speak in Parliament and every single member on this side has a right to speak. And the Independents. That is what we are talking about now.

Senator Steuart: There are senators sitting there waiting.

Senator Olson: We hope you are not proceeding to the next step, because you can look around the world and you can look

through history, and that is the next step. As I say, I certainly hope that you do not have that in mind.

An Hon. Senator: What?

Senator Olson: A coup d'etat where you get out heavier weapons. You should be ashamed and hang your heads now for what you have tried to do to this chamber. You locked us out when the rules were that the whips should enter the chamber. Instead, you locked the doors to have a vote all by yourselves. Now you say, "Well, the debate has gone on for a little while". Senator Kelly says, "I am tired of it." I received a fancy little letter about it in which Senator Kelly indicates:

> —concerning the conduct of matters in the Senate surrounding Bill C-62.

Before two minutes had gone by, he denied that it applied to Bill C-62. I have never seen a senator do so many "somersaults", "flip-flops", whatever it is. Three times he denied that he was talking about Bill C-62. It indicates in the first paragraph that it is about Bill C-62 and in the second paragraph it says this:

> Since September 25, 1990, the attention of the Senate has been given almost exclusively to Bill C-62.

Is that not what Parliament is about?

On the next page, page 2, Senator Kelly, addressing the Speaker, says:

• (1500)

> . . . we would like the Senate to dispose of all questions related to Bill C-62 at 5:45 p.m. on Thursday, December 13, 1990 . . .

An Hon. Senator: Hear, hear.

An Hon. Senator: What arrogance.

Senator Olson: Is that not nice? Then in the little discussion which followed, he denied that it was Bill C-62 with which he was concerned, but we have to have a new rule in this place for when people become tired of hearing the vigorous expression of views. Then in the last paragraph, he says:

> We believe that this matter requires your urgent attention and that the time has come for the Senate to decide whether or not it wishes to set a date for the final vote on Bill C-62.

I would like to ask a simple question. How does the Senate decide, when there is no motion before it? Ask yourself. Senator Kelly, you will be forgiven as it probably never crossed your mind, but you do require a motion before the Senate can decide anything. When we ask you if you are giving notice of motion, you say no, you are not giving notice of motion; it will take too long or something. I think you might have been a little afraid there might be a debate on it or something.

Senator Perrault: Perish the thought.

Senator Olson: Perish that thought. Anyway, I tell you there is going to be a debate and you can be sure of that when we get to it. It is likely to be a couple of weeks of debate before we get to that.

This is ridiculous. You should get up and say to the senators here, "Dear friends, I am sorry I acted hastily; I want to withdraw my letter. I realize it was the wrong thing to do. It was wrong even to think that the Speaker could accommodate—"

Senator Frith: He is making notes.

Senator Olson: Do you want to withdraw it?

An Hon. Senator: Dictate the suggestion.

Senator Perrault: Just dictate it to him, slowly.

Senator Olson: That is with what we are faced.

Senator Frith: How would you word that withdrawal, senator? You might tell him he has to have leave.

Senator Olson: You have to have leave.

Senator Frith: It is not a motion.

Senator Olson: We do not have a motion.

Senator Frith: It is an idea; it is a thought.

Senator Olson: Do you want to withdraw the idea completely? It seems to have been a while so I want to remind you of the one section from *Beauchesne's* which Senator Kelly read to us. All the rules are there, it says:

> To protect a minority and restrain the improvidence or tyranny of a majority; . . .

That is what it says right at the top under "Principles of Parliamentary Law".

There is a second admonition in that law. It says:

> . . . to secure the transaction of public business in an orderly manner; . . .

Orderly manner means that you follow the rules.

Senator Frith: Exactly.

Senator Olson: If you try to bulldoze, you will be met by a force equal to that kind of bulldoze tactic. We know that if you want to start counting noses or heads or whatever you want to call them, that you have more over there, however illegally you have them. You are not going to bulldoze us. Surely you should have received that message before now. I just cannot understand the kind of rationalization behind your thinking that you can continue to bulldoze this place.

Here is the following one which says:

> . . . to enable every Member to express his opinions within limits necessary to preserve decorum . . .

Is that no longer important for every member to have a chance at expressing his opinions?

I want to tell you about southern Alberta where there are lots of people who have looked at Bill C-62. You should not have been surprised that it would take time to pass Bill C-62. I do not know if you are interested in polls or not. Apparently you are not. You are down to 14 per cent across the country; 7 per cent in Alberta support the Tory party, according to the latest polls. Do you know why? It is because you have stopped listening.

I have recently made two speeches in this chamber. I am sad and sorry to see what is happening in this chamber because whenever the government does not care what the public thinks, it is a dangerous government. You think that you can bulldoze the GST through and that the public will forget about it before the next election. Maybe you have convinced the people out there that you do not give a damn what they think. You should know that it is not your Canada; it is theirs. It is theirs as much as it is yours. You do not have the right to do that to them. The Speaker has absolutely no authority to do what Senator Kelly asks him to do. We will be arguing that for a long time.

An Hon. Senator: We could vote.

Senator Olson: In any event, you do not have any moral, legal or other right to do what you are trying to do to Canada's parliament.

An Hon. Senator: Or Canada's people.

Senator Olson: They resent it. I will bring hundreds of letters that say, until the debate came along, they were not sure what this Senate really did for them, but in no uncertain terms they now understand. If you think that you will emasculate this place so it has no capability whatever to slow down the government when it is passing legislation that 85 per cent of the population does not want, then you are wrong. On democratic principles, you are wrong; on moral principles, you are wrong; on legal principles, you are wrong. I predict that you will not get away with it, either.

I have heard the Honourable Michael Wilson and the Honourable Prime Minister say, "If you don't like it, you know what you can do at the next election." Canadians do not like it and they do not want to wait until the next election.

This business is changing the entire tax structure in Canada, which collects between $18 and $20 billion a year. It is repealing all those laws under the manufacturers' or excise taxes and setting in place a new regime that is costing hundreds of millions of dollars not only to the government but to industry and every person that conducts a transaction of a good or service. This is no small undertaking. I expect that it will probably not be until 1993 when you finally get it streamlined. You say, "We will implement the tax in 1991 and, if we lose the election in 1992, you can throw it out." Is that any way to run a country? Is that the complete disregard that you have for the views of Canadians, the people who own this country? You do not own it; you are only trustees operating a certain factor of it that is here, which is also our job. The sooner you understand it is our job and that we do not intend to renege on the people for whom we express opinions, the sooner you will get along a little better than you have up until now. It is ridiculous. The people I speak for do not want a coup d'état. They do not want Parliament taken over by someone writing a letter, no matter how many people sign it on his behalf. That is not the way.

[Senator Olson.]

• (1510)

You know how to change the rules in this house if you do not like them the way they are. You have the numbers. Why don't you try the rules once?

There are many people on the opposite side of this house whom I have much respect for. I do not think they thought for two minutes before they signed that letter. At least you could have had the decency to use the words "notwithstanding rule such and such," as we do when we ask for unanimous consent. Under section 45 there are a few rules that we have to set aside. We do that when we adjourn every week. Senator Kelly did not have the decency to say, "Notwithstanding rule 44(1), I wish to advise you, Mr. Speaker, that we have heard all we need to hear and we are ready to decide." He did not say that.

He said, "This is not a Notice of Motion." He said, "No. Right now I want the Speaker to decree that tomorrow afternoon we are going to put an end to the people having a right to speak in this place." It has been said here and in the other place that delay is a legitimate tactic of the opposition.

A few moments ago I explained that the reason for some of those rules is so public opinion can mobilize itself. We used to hold up bills in committee of the House of Commons until we heard from people who knew about the subject matter that was under discussion. There was no good reason for it except that we wanted to know what the people thought.

I was Minister of Agriculture for a few years. Marketing legislation was some of the most controversial legislation drafted. My colleagues and I got much abuse for it, but everyone who is in that business now knows the value of it.

On several occasions, when bills had gone through second reading in the House of Commons and had been referred to the Standing Committee on Agriculture, I would be called as a witness and a particular official of whatever department was under consideration would also be called. Then they would discuss what other witnesses to call. There are many people in the private sector who are experts on whatever the government is doing. Many times we said, "No, we'll wait two or three weeks until people who are going to be affected by this legislation can convey their views to the committee." That is a legitimate reason also—straight delay, while the people have a chance to consider what the government is trying to do. I thought I was in a hurry once or twice. Believe me, I learned that you do not hurry too much, even if it is good legislation, because you can get into serious problems.

Senator Murray has a guilty look on his face for being in too much of a hurry all the time.

Senator Murray: I am enjoying your speech.

Senator Gigantès: That is not the only thing he is guilty of.

Senator Doody: Is Senator Olson speaking on behalf of Senator Waters' right to be heard?

Senator Olson: Yes, I am. I am trying to persuade you to support that motion.

Senator Doody: I support it.

Some Hon. Senators: Hear, hear!

Senator Olson: I am sure I saw a dozen senators indicate that they are ready to support the motion. However, I do not know about my own colleagues. After all, if they vote for my motion, we will hear Senator Waters instead of Senator MacEachen, and they may not want that.

Senator Frith: We want to hear more. Keep talking.

Senator Olson: Honourable senators, section 44 is clear on how to change the rules. It will be a sad day, quite frankly, if we get to the point where we have allocations of time. Many people—especially members of the Social Credit Party—have asked me the difference between a Tory and a Grit. There is a difference—one is in and one is out. The Tories are always in a hurry. They cannot wait.

Democracy is not like a sports car; it is like a battleship—it takes more time to turn it. Of all the people on the other side to bring forth a motion to have a streamlined way of making new rules, I was shocked—almost horrified—when I heard it was Senator Kelly. This is the end of democracy.

I am sure he had no malicious intent when he moved his motion, but if the Speaker can do this once, then it becomes a precedent. He admitted that afterwards. We asked him if he wanted to give notice and he said, "No, I want a new regime based on what's in this letter. As soon as I have heard enough and get a few of my colleagues to sign the letter, that's the end of the debate." I was shocked.

Senator David: I must remind you, my friend, that this is after 320 hours of debate.

Senator Olson: I want to remind you that when Bill C-62 came out last spring, which is longer than 320 hours ago, we were told that there would be no amendments. The Tories, using closure at every turn in the other place, have produced this bill. They have said that there will be no amendments. I heard both the Honourable Otto Jelinek and the Honourable Michael Wilson say it. I believe they even said that the Senate has no right to make any amendments, did they not?

• (1520)

Senator Simard: This is a $1-million circus.

Senator Olson: The $1-million circus involved all the flunkies from Senator Murray's and Mr. Wilson's office who lapped around after us like a bunch of terriers. That is where you spent the $1 million. We took a count of them one day in Halifax and we found that there were six of them and I imagine the government paid for their rooms, their transportation and all their other expenses.

Senator Poitras: And yours.

Senator Olson: I hope Senator Simard will not bring that up again. I finally understood where the figure of $1 million came from. The committee's budget was $475,000 and we did not exceed it.

Senator Simard: —It—

Some Hon. Senators: Sit down! Sit down!

Senator Simard: It exceeded its budget.

Senator Olson: The statement that the committee exceeded its budget is simply not true. I know where the other half million dollars came from.

Senator Perrault: The advertising campaign.

Senator Olson: I realize now that Senator Murray's office and the Honourable Michael Wilson's office had a pretty big bill to pay for sending everyone around. They also sent all that equipment around and I do not if they hired a special airplane to do that. That is probably where the other half million dollars came from because it is said the committee cost $1 million. You guys spent the other half million dollars.

Senator Simard: A half million dollars for the Liberals and a half million dollars for the Conservatives.

Senator Olson: I remember sitting in the hotel in Halifax one day and noticing six or eight flunkies all lined up at the bank of telephones calling Ottawa.

Senator Simard: Mr. Speaker, make a ruling.

Senator Olson: We now know where the $1 million came from. You spent the other half yourselves. However, are you going to list it as expenses or are you just going to bury it in the minister's travel expenses? Shame on you for that too.

We have had a debate about services available to the committee being paid out of the public purse. We have made it clear that those services are available to members from both sides. Honourable senators will remember that I asked why I could not have a flunkey to dig material out of Michael Wilson's speech but one was never offered to help me. I had to do that all by myself and I am proud to say that we did a pretty good job.

Senator Simard: Oh yes?

Senator Olson: When we got back to Ottawa and analyzed the evidence we realized that it was a job well done. The people finally had a chance to say what they thought about Bill C-62. I demand my right to have my say in this chamber too. I have an undigested speech under my desk which will take me perhaps three or four hours to read. I could try to shorten it, but if I put forward all of the arguments the people in southern Alberta want me to put forward it would be substantially longer than three or four hours. I just happen to have a few notes here.

Senator Simard: Give it to us now.

Senator Olson: I do not want to give it to you now. What I am trying to do now is to persuade you that members in this house have a right to speak and that there is no justification for Senator Kelly to say, "That's enough!" The people of southern Alberta, especially those living in the Medicine Hat area, have not yet been heard from. You have heard a few words from the senator from Lethbridge but the one from Medicine Hat has not yet been heard.

Senator Steuart: Or the one from Prince Albert.

Senator Simard: How about a couple of petitions?

Senator Stanbury: We have thousands of them.

Senator Olson: You can laugh about this, but I can tell you there are people who will have some very serious doubts about this place if their views are not placed before the house when the debate is taking place. It is ridiculous.

In case anyone has forgotten, honourable senators, what we are now talking about is whether anyone has a right to speak to this point of order. There is no such rule. There is no precedent that was not defeated. Senators on this side are pretty bright too. We looked to see if there was a precedent for the Speaker doing what Senator Kelly asks and we found none.

However, there was an attempt in 1881 in the British Parliament when some Irish members were carrying on a filibuster but even that is a terrible precedent.

Are we going to reduce Canada's Parliament to that? I am not arguing that we might want to change the rules in order to have a time limitation, but that is not the thrust of my argument today. If Senator Kelly will take the time he will see that, under Rule 19, it says "notices of motions." He can give notice of a motion and then wait for two days. What we are faced with here today, Senator Kelly leaping up before Prayers on a point of order, that is not a notice of motion.

Senator Steuart: It is praying.

Senator Olson: He got up at the outset and said "On a point of order, I have had enough." He then read this letter which asks the Speaker to intervene in the debate and at 5:45 p.m. on Thursday to take a vote. He says, "It's over because I and my colleagues have had enough." Where is the precedent for that? Is this a new kind of democracy? I hope not.

Honourable senators, you may think you can get away with this within the four walls of this chamber, but the people out there are not going to stand for it. Please do not escalate it again and say that you are going to have a coup d'etat and take over. You can take over the government and that is, in fact, what you have been doing. You now have rules in the House of Commons with respect to closure and limitation of time. There is no democracy left down there. It used to sicken me as I watched them do that. If you talk too long, or what the government considers to be too long, in the House of Commons or after eight or ten have spoken out of about 120 who want to speak, then the Honourable Harvie Andre will come in and impose a limitation of time order saying that the debate can only go on so long during second reading. When that hour arrives, bang, it's over and he says, "I don't give a damn whether you have had a chance to speak or not! It's over."

• (1530)

It goes off to the committee and the same type of motion is moved over there. The committee is not quite so handy, so sometimes it takes a little longer. However, fellow senators, the consequences are the same.

Senator David: You did the same at the banking committee on September 24. You gave us a few hours to study a 318 page report. Therefore, you moved closure there. Half an hour after we started the committee there was a motion of closure, so you did exactly the same.

[Senator Stanbury.]

Senator Frith: And you did a filibuster when it came in here. Let's not call each other names. You filibustered that report for days.

Senator Olson: Senator David has either got a very vivid imagination or a poor memory. That is not what happened at all. Senator Ottenheimer raised one question of privilege after the other, supported by Senator Simard and others. They caused a lot of noise so the chairman could hardly keep order. That is what happened. However, I will leave it to Senator Buckwold to explain the inaccuracy of that comment about what happened in the committee. I also sat there for the whole seven and a half hours. For those honourable senators who do not know, the committee sat all summer from the middle of July, and Senator Simard, Senator David, Senator Poitras and others said we had to have this bill ready for the first day that Parliament sits. We knew that was on September 25, so we did not cave in right away and say we will have it ready because—

Senator Poitras: Tell the whole story.

Senator Olson: —it is a pretty big bill and there were many amendments. I know that the chairman and some of the staff on the committee worked their fingers to the bone trying to get it ready and analyze the evidence for September 25th. They really tried hard, and that's the thanks the chairman gets. I phoned him quite often and asked for an analysis of all the evidence, because I did not have the transcripts. I was interested in what people said, and I will mention one or two outstanding cases of which we need to be reminded. Senator Simard, remember when we were in Halifax and a group came from the South Shore Trade and Labour Congress. They had done some research and study of the bill. The Minister of Finance claimed it was a substitute tax. However, that group's study of the bill indicated that that was not so; it was a massive transfer of the tax burden from one group of Canadians to the other and those in the extremities of Canada would be the victims. They then went on to prove their case, and it really impressed me. I thought that we had to take this seriously. Is it just a substitute tax and everyone will pay the same, with perhaps slight modifications as to whether 13.5 per cent is paid on an automobile at the manufacturer's level, or 7 per cent at the retail level? The government claimed that the price was going to go down. I do not know whether or not the price will go down. What I do know is that the farther one lives from central Canada, the more tax would be paid. I know some senators told me not to bring that up again when I told them that Albertans would pay 15 per cent or 20 per cent more—

Senator Perrault: Which they are, and those in B.C. will pay even more.

Senator Olson: —than people who live in the Montreal-Toronto corridor, or in what is called the "Golden Triangle". However, it is true.

Senator Simard: Are you discussing Senator Lawson's right to speak?

Senator Olson: Senator Lawson moved a motion and I seconded the motion. He made a speech, Senator Frith made a speech, and now I am making a little speech because I am

pretty interested in whether or not the senators opposite who signed this letter are going to respect everyone's right to be heard.

Senator Doody: We want to hear Senator Waters.

Senator Olson: You want to hear Senator Waters? I am sure he is ready.

Senator Doody: Or Senator MacEachen.

Senator Olson: I am sure he is ready, and he is going to have a word or two to say about Senator Kelly's motion.

Senator Doody: Why do you not let him speak?

Senator Olson: I could finish my speech later, if senators wish me to. However, if I sit down, I will not finish saying all the things I have to say and that would be sad, because I am pretty sure senators opposite would not be sufficiently edified to understand what the rights of people are in this country.

Senator Doody: Is that fair to Senator Waters?

Senator Olson: You have been around the influence of Senator Murray and his boss, the Honourable Harvie Andre, from the other place. I have seen him lurking around here once in a while giving some instructions.

Senator Doody: Come on, get on with this.

Senator Olson: I saw him in the reading room a few days ago giving Senator Murray the real word: "Get that thing passed, get that thing passed."

Senator MacEachen: Who was doing that?

Senator Olson: That was the Honourable Harvie Andre from the other place. I imagine that they sit up there in the cabinet room and say, "Listen, Murray, we've done everything you asked, now get that bill finished." Senator Murray says, "Yes, all right. I'll see if I can get Senator Simard to help me," and away we go.

Senator Hatfield: You have no credibility.

Senator Olson: You are a great help, sometimes. We are not going to lie down and play dead just because you are trying to wreck Parliament.

I am sorry that it was Senator Kelly who was tagged to do this, because that is not his nature. I know that he is sorry himself right now that he asked for such a ridiculous performance to take place.

Senator Simard: Amen!

Senator Olson: Amen, there is no rule. The other argument that was used was that we have to do a balance. Who decides what is a balance, or do we follow the rules that are written in this little red book? I have never been on the rules committee, but I have always been in the Senate when changes in the rules were passed, and it is a decision of the house that we are going to abide by the rules, not of Senator Kelly, Senator Simard, or Senator David who says, "We have had enough." If you have had enough, Senator David, go outside the door. You do not need to listen. However, you are not going to sit in here and trample my right to be heard, I can tell you that.

Senator David: It is interesting what you say.

Senator Olson: Senator Ottenheimer has stated that we have an unprecedented situation that requires unprecedented action. Who decides what is unprecedented action and when it is appropriate to do it and, if so, what is the unprecedented action that is appropriate? I would think that senators should decide, using the little book, which states: "two days' notice", and then we have a debate. I do not know if it was the two days' notice that bothered Senator Kelly so much that he had to back away from his own suggestion. Senator Frith calls it "an idea." I call it a suggestion, and I would not dignify it beyond that.

There must be a motion to change the rules. If it is done any other way it is a coup. I do not say this lightly, but you can escalate this a little bit at a time until it gets dangerous, because Canadians will not have their Parliament destroyed by a bunch of senators who are in a hurry.

Senator Simard: Even the press has gone home. They are tired of listening to you.

• (1540)

Senator Olson: I am not talking to the press. I am talking to the people who are going to vote on this thing whether or not Senator Waters wants to be heard.

Senator Beaulieu: If you sit down.

Senator Olson: I do not need to sit down because there is lots of time. You are now in such a hurry you cannot even hear me. Is that not something? Wait until I get to Bill C-62. If you are going to cut the debate off tomorrow at 5:45, I will never get a chance to say anything at all on Bill C-62 at third reading. There are not that many, but there are about 300,000 or 400,000 people out there in the general area that I more or less represent who have not been heard yet. You have no respect for that.

I can see on the faces of some of the senators opposite that they are not yet going to vote for this motion. They are just tolerating me because—

Senator Bonnell: They like you.

Senator Olson: Senator Bonnell says they like me. I am not that naive. I do not think they like what I am saying either.

Senator Beaulieu: When you say something, yes.

Senator Olson: I do not think they like their consciences as to what they are doing to Parliament. Do you think so? Did you ever do this in the Legislature of New Brunswick; just trample over everybody's rules and rights?

I notice you stopped shaking your head that way. You are shaking it the other way now. I agree. I know you had Senator Simard in there for a while too. I suppose he has tried this a few times. You have probably saved the people from him.

We need a motion if you want to change the rules. If you do not want to change the rules, then every member on this side, and on that side, has a right to speak on Bill C-62. You have already partly violated the rules by moving the previous question.

Senator Simard: Eight months you have had.

Senator Perrault: It is not for you to decide.

Senator Olson: It is not for you to decide whether it was three years.

Senator Simard: We had one hour, you had three months.

Senator Perrault: Why do you not make a speech? Take ten hours if you want.

Senator Olson: Why do you not get up and say what you think about Bill C-62? One of the arguments that I was trying to make here a few minutes ago was that, when we gave in to the Tories and said, "Okay, you want the bill ready for presentation to Parliament, to the Senate, on September 25", we acquiesced. We said, "Okay, we will do it", and we did. Senator Buckwold and his staff, and other people, worked hard to do that analysis. They barely got it ready. Do you remember that it was so fresh that they did not even—

Senator Nurgitz: And you forced us on in one day. The first thing you did in your committee. Tell it straight.

Some Hon. Senators: You are wrong.

Senator Perrault: That is not true.

Senator Nurgitz: You cannot read the report. I remember you.

Senator Olson: I know that Senator Nurgitz and every other Tory senator that was on there had equal access to every single one of the transcripts, as did anybody else, but they did not bother because they were already told what to do.

Senator Nurgitz: We could not read the report, there was no time to read the report. Senator Frith said, "It is the will of the majority. Vote today." That is what he said.

Senator Frith: And that was upheld by your Speaker. Did you notice that? You keep forgetting that. And that you dead-ended that by filibustering.

Senator Olson: That was a disgraceful performance on your part.

Senator Nurgitz: You make me ill.

Senator Olson: I hope you get over it fairly soon.

Senator Simard: That was Senator Charbonneau's business. You voted that day.

Senator Olson: Anyway, we agreed that we would—I would like to finish my speech so that some of the others can get on.

Senator Simard: Plain garbage.

Senator Perrault: You can take your ten hours following him.

Senator Simard: We have had enough of that nonsense.

Senator Olson: As I said, honourable senators, they insisted—Senator Simard was one of them—"You have to get that ready so we can get it into Parliament to send it on the first day". I said, "Okay". I phoned up Senator Buckwold and I said, "Senator Buckwold"—I talked to him while we were on the trip—"they want this ready for that date." And Senator Buckwold said, "That is a big job". I said, "I know it is a big job". But we got it ready and—

[Senator Olson.]

Senator Simard: Who is "we"?

Senator Olson: Senator Buckwold. The committee. You were on the committee. It was the committee.

Senator Simard: Like hell, the committee. Senator Buckwold did it. And Senator Frith.

Senator Olson: Then what happened was—

Senator Simard: "Axe the tax", he said. "Axe the tax".

Senator Perrault: A very objective report.

Senator Buckwold: Not axe the tax, but tax the axe.

Senator Perrault: You are trying to axe the Senate now.

Senator Simard: We know who had a knife that day.

Senator Olson: All the senators opposite, they complain now because we had it ready. They complained because they had to read a bunch of it. They had access to all the transcript, if they wanted to read it. All it was was 292 pages—

Senator Simard: Wrong again.

Senator Olson: Two hundred and ninety-one, then.

Senator Simard: Wrong again.

Senator Olson: It was an analysis of the evidence. From there on there were four options.

Senator Perrault: A first rate report.

Senator Simard: Whose analysis?

Senator Olson: The staff's analysis.

Senator Simard: They did the analysis.

Senator Olson: They did the analysis. You could have read that. I chose not to read it because I knew what was in there. It was in a more convenient form. What I was interested in was the operative part of the report, and that was: 1) accept it without amendment. That was there—

Senator Simard: He has spoken a few times on that already.

Senator Olson: —2) Make some amendments. 3) Recommend a delay. 4) Argue that it is so badly flawed that we should reject the whole thing.

I was in that committee meeting, and they decided that the chairman—I wonder if Senator Simard wishes to make a speech? Or does he just want to talk all the time?

Senator Simard: You said that last year.

Senator Olson: Did he make speeches all the time in the legislature without getting up? He always did that? He never stops at all.

Senator Steuart: Senator Simard, we will not be able to hear Senator Olson.

Senator Simard: You will not have to. He is not contributing anything.

Senator Olson: That is the problem. They want to hear me, not you. I think I will have to wait until they become quiet.

Then Senator Ottenheimer jumps up and makes a motion, "Question of privilege. I have not had time to read this." If he had been along on the committee, he would not need to read it. He would know what is in it.

Then the chairman explained to him what was in the four options at the end. Of course there were a few little extra words in there to explain what it was to be, but what I said was, in essence, what was involved.

We then continued for another seven hours with Senator Ottenheimer leading the parade with one question of privilege after another, followed by Senator David. You talk about disrupting the deliberations of a committee; that is the most disgraceful performance I have ever seen. They would not even let the chairman move motions.

[*Translation*]

Hon. Paul David: Senator Olson, I must add that I received the French version of this report, which was 318 pages long, between noon and 12:30. Quite logically, it was absolutely impossible to read such a document through; we did not have enough time to read it carefully, to study its various alternatives, since there were many, nor to study the four options you were talking about.

There is a thing that you have not mentioned: we had been summoned for September 19. For undoubtedly very good reasons, although they were never explained to us, that meeting of the 19th, for which I had specially come to Ottawa, was cancelled at the last minute.

If the meeting, to which we've been summoned, had taken place, we would have had at least a week to discuss this report. In that case, too, you did not give us enough time and you distorted the facts. What was unacceptable is that you demanded that we make a decision about such an important and momentous document, that had required four weeks of work and had been condensed by the parliamentary researchers. One hour after it was received, for a question of privilege or whatever, you decided that a decision had to be reached by 7:00 p.m.

To my mind, you have done what was necessary to put an end to all debate. Around 6:00 p.m., you decided that the only remaining alternative was to reject the bill.

• (1550)

[*English*]

Senator Olson: I have heard that argument before and it is no more valid now than it was at other times. You do not convey the true picture of what happened in the committee. We all went in there and we all had the report. The committee meeting was called at 1:30, I believe, but by that time I had my report for half an hour or possibly longer. When we went into the meeting, we had not started and Senator Ottenheimer was on his feet with a question of privilege saying he had not had long enough to read it. We were in an impossible position because we had acquiesced to a great pressure play to have it ready for presentation to the Senate the next morning.

Senator Cools: Absolutely.

Senator Olson: If we had taken Senator Ottenheimer, Senator David, Senator Poitras and others' rule that we postpone consideration until, I believe, October 2nd, how would we have been ready for September 25th? Senator Poitras understood and said that was a problem. We wanted to keep our word that it was ready. In spite of all of that, senators do not need to kid anybody about what was in the report.

I remember in Halifax, Senator Poitras said he wanted more briefs. The next morning we brought our stuff and gave him five pounds of briefs. He did not read them. Who do you think you are kidding that you needed to read all the evidence over again? There is nothing wrong with your memories. You knew what was in the analysis of the evidence. You did not know altogether what was in the four recommendations. You know that was not the reason at all. The real reason was that you had already gotten word from on high that 8 more senators were to be appointed and you had to delay things until they were in the Chamber. Let us quit the act. I know and you know that is what happened. You keep bringing it up and I know in the committee the chairman tried over and over and over again to get some order. There was no order at all. Senator Carney was there contributing to the confusion as much as anybody else. She was not even a senator when we took the evidence, so what was she doing? She could have done it but instead of that she came to the meeting and raised hell. That is all. Shame on her is what I say.

Senator Carney: Shame on you.

Senator Olson: Senator Ottenheimer was on his feet on a question of privilege again and again and again. Senator Kelly was right there and saw him. In fact, I think he might have helped him find the right places to raise questions of privilege. After writing this letter with the suggestion made here, I do not think anybody should take his advice any more about parliamentary procedure. Senator Ottenheimer was perhaps a little desperate. They had their orders to get the thing stopped and not let them be ready to present the next day. Of course that is what you did. So we sat there for 7 and a half hours, amid bedlam and chaos; the Tory senators acted in complete disregard for any decorum. Then we returned to the chamber. Do you remember that? Do you remember that time on October 4th when they cited section 15? The Speaker has to keep decorum in this chamber. That was almost comical after what we had witnessed in the committee on September 24th. Do you think we have such short memories that we cannot even remember that much? Here is another plot being hatched.

Senator Steuart: Senator Kelly, do not listen this time.

Senator Olson: I want to say there has to be a motion if you want to change the rules; and the motion is debatable. I should read a little more from *Beauchesne's* Fifth Edition. On page 5, it says:

WRITTEN RULES

> Citation 7. Standing, Sessional and Special Orders are the rules and regulations which the House has agreed on for the governance of its own proceedings.

Does anything need to be more clear? Even the authorities who have written five editions will state flatly what is in this book is there for the governance of the proceedings in this chamber. It is right there and you need not refer to any other authorities. All you need to do is understand elementary English.

Senator Steuart: Senator, I wonder, is that in both plain English and plain French?

Senator Olson: Yes. I do not happen to have the French copy with me, but I am sure if you look under citation 7 you will find it is exactly the same in French as in English. I do not remember exactly, but I believe there are 114 rules until we had the provisional rules or what are commonly known as the P rules. Citation 8 says:

> A Standing Order has a continuing effect until changed or repealed.

So when did they get changed or repealed? When did Standing Order Number 27 get repealed, being an order that gives every member the right to speak on every motion here. I do not think it is repealed and it is there and it is still in effect. I can tell you I will demand and insist in every way possible to ensure I have my right to be heard on Bill C-62. I do not care whether the *Globe and Mail* supports that or not. I will insist on it. Most of the time the *Globe and Mail* editorials on how to run the country are as what is said about Lord Salisbury, "They are usually wrong, and when they are right it is for the wrong reason." You understand that, so it has this continuing effect until it is changed or repealed. That simply has not happened.

There are other sessional orders. We have rules P1, P2, P3, called provisional rules. It is a special order having an effect for only the remainder of the session in which it is passed. That is exactly what we have done with the so-called P rules in this chamber and they are only effective until the end of this session. Not this parliament; just this session. It says:

> All rules are passed by the House by a simple majority and are altered, added to, or removed in the same way.

We have to have a motion. That is our problem with Senator Kelly's suggestion. We do not have a motion. We have nothing with which to deal, and he has just said to the Speaker, "Stop the Debate at 5:45 tomorrow and call the vote."

● (1600)

That is a violation of the Speaker's function in this place. Our rules take precedence over every authority that has ever been written. Erskine-May, *Beauchesne's* and *Bourinot* have been written for clarification only. Do not expect *Beauchesne's* or anyone else to supersede what is written in our own rule book.

We are going to ensure that we have a chance to speak under rule 27. I do not know when my turn will come, but I want this debate to continue until I have had a turn.

[Senator Olson.]

Senator Bonnell: You want to be heard.

Senator Olson: Even when I get a chance to speak I cannot make any amendments, and I do have some amendments to make.

I travelled around Alberta and asked the people whether or not they wanted any changes. They said, "Senator Olson, the first choice would be to have the bill defeated. But if that can't be done, now that there are eight illegal senators, could you get a couple of things changed?" For example, I went to an auctioneers' meeting. In southern Alberta an auction is a traditional way of selling used equipment. People at the meeting said to me, "Senator Olson, you're our only hope. It's gone through the House of Commons." Even when it went through the House of Commons, most Alberta members of Parliament did not object. However, there were two members of Parliament who did object. Mr. Kindy from Calgary did object.

Senator Lewis: What happened to him?

Senator Olson: He was booted out of the Tory caucus. Mr. Kilgour from Edmonton was kicked out also because he voted against the GST.

Those members of Parliament were listening carefully to the people they represent.

Senator Steuart: They thought Parliament was supposed to be democratic.

Senator Olson: They thought that when every district elected a member of Parliament, those members would express the views of the people who elected them.

Senator Steuart: No!

Senator Olson: Is that not what Parliament is for?

Senator Steuart: It used to be.

Senator Olson: I thought it still was. They voted against that bill because 90 per cent of their people told them they did not want the bill passed. They were booted out of the Tory caucus. I can tell you that that has cost every single Tory in Alberta their seat in the next election. Perhaps you do not believe that, but I know what they are doing out there. These are the only two P.C. members in Canada who stood up for the people they represent.

Senator Balfour: What happened to your seat?

Senator Olson: There was no GST around at that time. If you want personal assassination, I will tell you what happened. It was the capital punishment debate that cost me my seat. That is not a very pleasant thing to remember, but that is what happened. The issue of capital punishment was hot in 1972. The Tories who were in opposition spoke out of both sides of their mouths. They said that we should have capital punishment and that this government had commuted every sentence since coming to office. They forgot one thing. Under Prime Minister Diefenbaker that is what happened also. The Conservatives did not have to answer for it, but, because I was part of the government, I did. When you belong to a government you accept the collegiality.

I hope you do not ask that question again, but that is the reason. However, I was not talking about that. I was talking about why Mr. Kindy and Mr. Kilgour lost their status in the Tory caucus. It was over Bill C-62, which is the bill that we have under consideration. At least the capital punishment debate—and also the abortion debate—was a matter of conscience; this is not. They were ordered to vote for it or else. There is no room for dissension in the Tory caucus.

Senator Balfour: Do you do it any differently?

Senator Olson: Oh yes. There were many people in our caucus who did not vote for every bill the government brought forward.

Senator Balfour: Who are they?

Senator Olson: Even today I moved a motion against my leader so we could hear Senator Waters. There is a different concept of democracy.

We cannot let this idea—it is not a motion—pass because then it will become a precedent. It will destroy Parliament.

Senator Stewart: Will you accept the word "notion" rather than "idea"?

Senator Olson: Yes, the word "notion" is better than "idea".

On December 11 Senator Kelly sent a notice to the Speaker saying that he had heard enough debate. He said, "Tomorrow afternoon I want to vote on this. Never mind that we have rules, that we have not changed the rules, and that the Speaker has no authority to make that decision. Never mind that, just interrupt the debate."

We cannot let that happen. The resistence will escalate until it does not happen. You can put any interpretation you want on that, but I am not going to sit quietly while you carry out a coup d'etat of our Parliament.

Citation 9 of *Beauchesne's* says that all rules are passed by the house by a simple majority and are altered, added to, or removed the same way.

• (1610)

That is what our rules say. They completely ignored that even when they were reminded that the Senate has agreed upon a proper procedure to change the rules. Senator Kelly said he would not give notice. He said he wants the Speaker to interrupt the debate at 5:45 p.m. on Thursday, with no debate. They have already wrecked Parliament by moving the previous question. In all the years that I have been in the Senate the previous question has never been moved. We never moved the previous question in order to ride roughshod or to bulldoze the rights of the minority, or of the opposition, to be heard.

Senator Doyle: Oh, oh!

Senator Olson: *Beauchesne's* then says:

> By custom, changes in the Standing Orders are generally made after study and a recommendation by the Standing Committee on Procedure and Organization.

In this place it is called the Standing Committee on Standing Rules and Orders. Senator Kelly was not prepared to refer his notion to the committee. When he was asked, he said that he would not even give us notice.

The situation is so bad, and what they are trying to do is so disgraceful that if members opposite think we have been a little creative up until now to try to get our message across to you and to the people about Bill C-62, if you try to do this, I can tell you that you ain't seen nothing yet!

Some Hon. Senators: Hear, hear!

Senator Olson: If this is the way senators opposite intend to treat this institution, which the country relies on to make sure that there is a certain amount of respect for democracy and for the rights of people, we are just getting started.

Honourable senators, what sends me up the wall and what sends my people up the wall is the statement we hear from the Minister of Finance from time to time when he stands up solemnly and says, "We know it's not popular, but it's right." He says, "We are not running a popularity contest. We are going to have this and that policy, including Bill C-62 because it's right, even though it isn't popular."

Senator Gigantès: It's right wing.

Senator Doody: If Senator Olson does not want Senator Waters to speak, will he let Senator MacEachen speak? He does not seem to want anyone to speak except Senator Olson, yet the debate is on the right of another senator to speak. Could he explain that to the house?

Senator Frith: I think you should explain that to the house, but take your time.

Senator Olson: I think I should explain to Senator Doody. He will remember that little story I told about the person stepping in everything in the cow pasture. That is Diefenbaker's story and I thought it was a good one because, although there may be more dignified ways of saying it, that phrase tells a great story. Most people in Canada understand it. Now you are in a hurry again. You cannot wait and listen to me explain why I seconded the motion.

Senator Frith: Explain it again.

Senator Bonnell: He was probably out, so you should tell him over again.

Senator Olson: I think I am going to quit while I am ahead. I did get some indication just a while ago, but if the honourable senator has not changed his mind then I had better try again. A while ago I made a suggestion that perhaps senators opposite would be willing to vote in favour of the motion, and I am sure I saw 15 or so senators opposite beginning to slap their desks which I took as an indication—and perhaps I am naive although I hope I am not—that they had accepted my argument. However, if it was an indication, as Senator Doody says it was, that I should sit down, then I suppose I had better spend a little more time trying to persuade senators opposite.

Senator Steuart: Go slowly.

Senator Olson: A lot of senators on this side are still saying they will vote for Senator MacEachen, so I should keep going

for quite a while. Perhaps Senator Simard might move a motion or make a good speech supporting the motion.

Senator Simard: I know what I am going to do in a few minutes.

Senator Olson: I know what you are going to do too. You have a bad habit of putting your foot in your mouth every time you open it. It is called "hoof and mouth disease." On the prairies that is dangerous.

Senator Simard: I rise on a point of order. I do not know how Senator Olson, who claims to be the seconder of a motion that Senator Waters be heard—if he is serious—can prevent the mover of the motion to speak. Is it the wish of Senator Waters or of Senator Lawson that they be heard now? If it is, would you tell your seconder to shut up? This is the most ridiculous situation any Parliament has ever witnessed. This is all coming from Senator Olson who, yesterday, was preaching about the right of senators to speak. Why does he not let the mover of the motion speak if it is not filibustering once again? Senator Olson says he is in favour of democracy. He is, in my opinion, rather in favour of Liberal crassness. He should let the Independent senator speak. Two months ago the Liberals negotiated a deal which allowed eight amendment motions to be debated. They worked out a nice deal for the Liberals but they deprived the Independents in that deal.

Some Hon. Senators: No, no!

Senator Simard: If Senator Olson is so much in favour of supporting the right of senators to speak, would he now let the mover of the motion speak? That is all I have to say to you for the time being. It is Liberal hypocrisy.

Senator Olson: You must understand that the mover, Senator Lawson, has already given a few explanatory remarks as to why he moved the motion.

Senator Simard: Yesterday Senator MacEachen was reported in the paper as saying that he was going to entertain us: He was going to make a speech at 2 o'clock. What is he waiting for? Has he lost control over his own troops? Perhaps Senator Olson is still the leader.

Senator Fairbairn: Senator Simard, you can do better than that.

Senator Simard: Is this another Liberal broken promise? Why is Senator MacEachen silent all of a sudden? It is his game and he is leading a bunch of warriors on his side defending democracy. Do not talk about democracy here. I am on my feet.

Would you answer those questions? Will the real leader stand up? Has there been a change and is Senator Olson now the leader? Has Senator Fairbairn lost her rank? I thought she was third in line?

Senator Frith: I would notice that Senator Simard has told the Speaker that he has to sit down because he is on his feet.

Senator Simard: Better still, why not let the Independents speak?

[Senator Olson.]

Senator Olson: Honourable senators, we have just had another demonstration of the regard which Senator Simard and his colleagues have for the rules. The Speaker was on his feet and Senator Simard said, "I am on my feet." Why do they ask the Speaker to break all the rules?

Senator Simard: Why do you not sit down too?

Senator Olson: I happen to have the floor right now. I think Senator Simard has asked a question I should answer. Rule 27 of the Rules of the Senate says:

> A senator may speak to any question before the Senate, a question of privilege, or upon a point of order, or upon a motion or an inquiry, or in making a mere interrogation . . .

I guess that is what you are doing.

• (1620)

The rule continues:

> . . . but not otherwise except with the consent of a majority of the Senate which shall be given or withheld without debate.

When you rise and make these little interrogations, you should seek the unanimous consent of the house to interrupt the senator who has the floor, otherwise you are out of order.

When talking about Senator Waters, you say, "Why don't you let him speak?"

Senator Bonnell: Senator Lawson.

Senator Olson: Senator Lawson has made his speech. He is now admonishing me to let Senator Waters speak so we can get on with the motion. A while ago I thought I had the Tories convinced to support the motion, but now I am not so sure. I will have to continue a while yet, because I know I am convincing if I take enough time.

Rule 28 states:

> A senator shall not speak more than once to any question or other matter before the Senate . . .

Therefore, as soon as I sit down, it's over. I do not get a chance to speak again on the same motion.

Senator Barootes: That is the only blessing in that book.

Senator Olson: That is why, Senator Simard, I have to complete my remarks on this motion before I sit down, because I am not like you. I will not jump up like a jack-in-the-box in the middle of everybody else's speech. I will rise, make my speech and finish it in line with Rule 28, and I think you should read that carefully.

Senator Simard: That is the only rule you have observed in the last three months. You have broken every other rule.

Senator Olson: Be sure you read it slowly so that you understand it. It is pretty clear that Senator Simard has not read any of the rules. If he has read any of them, he has not understood them. Neither has Senator Kelly. I cannot believe that Senator Kelly was unaware of what was in Rule 44(1). I cannot believe that he did not know that he had to give notice of a motion to change the rules. He wants to bring in closure

without calling it closure. Closure is not something that Parliaments take lightly. They do it down the hall in the House of Commons. With this government, there have been more closure and time allocation motions moved in the House of Commons since 1984 than in all previous Canadian history.

Senator Simard: Just stay in this house for a while.

Senator Olson: They have done a few things. They have borrowed more money than all previous governments in Canadian history. One can never receive the right figures from the government, but $165 to $180 billion was the national debt when the government took office, and now, six years later, it is $360 billion or $380 billion. They have borrowed more money than all previous governments in history, including governments during two world wars, the Korean War, and any other conflicts we were involved in.

Senator Steuart: And the Depression.

Senator Olson: And the Depression. That is what the government has done, so we really get precedents from this government. Now it keeps sending word over here to Senator Murray and Senator Kelly, and I do not think they bother with Senator Simard, but they keep telling them to do something to get the debate stopped and get it over with. They want to get out of here. I would like to know where you have to go and what you have to attend to that is more important than attending to the legitimate wishes of the Canadian people? Do you want to go off on a holiday somewhere? I have heard that is what they want to do, close up so they can adjourn or prorogue, or whatever they are going to do in the House of Commons, so that a bunch of senators and backbench members can go off on some holiday. I have heard that and I do not know if it is true, but I suspect that it is true.

I wish to conclude.

Some Hon. Senators: No, no!

Senator Simard: Promises, promises.

Senator Olson: I wish to say a couple of other things.

Senator Barootes: You were going to conclude, you said.

Senator Olson: You always say that when you get to the beginning of the last chapter.

The other day Senator Murray and I were having a little discussion during Question Period. By the way, I missed Question Period. I wanted to ask about the GATT negotiations that have collapsed in Brussels.

Senator Simard: What does that have to do with the motion?

Senator Olson: I am trying to give you a little background, which is permitted, so that you will know what I am talking about. Sometimes it is called a preamble, but it is a little bit of background. I will not give a full, detailed explanation. I never do that. I will just give enough so that you can identify the background you will have to dredge up in your own memory.

Senator Murray came in with some suggestions about what ought to happen when we have had two flagrant violations of the rules already. I think I said that I heard the voice, and the voice I heard was the voice of Esau, but I thought I saw the hand of Job. He said that that was not right, that it was the hand of Jacob. It takes a little while, but after you have been around here for a while you can tell who's voice it is. When I am sitting in my office, I can tell just about every voice in this chamber. I have been around here long enough to know that I saw the hand of somebody else.

An Hon. Senator: Who?

Senator Olson: We used to call him Senator Flynn. I see him around here. Every once in a while I see him out in the back room. I see him out in front. I see him many places. What is going on here is just exactly the way he would do things. I understand he is getting $1500 a day for that, which is a pretty healthy pay for that type of advice that will wreck Parliament.

Senator Frith: That is better than Legal Aid.

Senator Olson: That is scandalous, if it is true. As soon as I get a chance to ask a question—

Senator Barootes: If it is true.

Senator Frith: Are you denying it?

Senator Olson: I said, if it is true. That is what I have heard. All you need to do to disprove it is tell me how much he is getting. How much is he getting?

Senator Barootes: He is worth his weight in gold.

Senator Olson: As far as I know, it is $1500 a day to give advice to wreck Parliament.

Senator Steuart: Who is paying him?

Senator Olson: Who is paying it? We know that the taxpayers of Canada are paying him.

Senator Barootes: We will take it off your 153 bucks.

Senator Olson: I think you are going to try and take all of it. The only comfort I get is that you will not get yours either.

Let me conclude—

Some Hon. Senators: No, no.

Senator Olson: You do not want me to conclude, but I am going to anyway. As I said at the beginning, try using the rules and abiding by the rules. You have tried everything else and it fails every time. Every member has a right to speak. Rule 27 of the rule book states that. That is clear. By moving the previous question you have already cut us off, so we cannot move any more amendments. That is over. All we have left to do is to make a speech admonishing the government to do something. I do not know when it will happen, it may be a week, a month, or a couple of months, but eventually we will get to the end of the debate. It will be quite a while, I can tell you that, unless you are going to bulldoze a little more. Go ahead. There is a record kept of this in the minds of the electors. Thank goodness for that. I hope this is not escalated to the point where you are going to take over so that you really do not even need to have that any more. However, there has to

be a motion, Senator Kelly, and preceding the motion there needs to be a notice of motion. Senators opposite can look at Rule 19 and find exactly where the authority is to put the notice of motion. I have not dealt with this yet, so I am sorry I said "in conclusion." The Speaker has not the authority to comply with your notion, none whatever. There is no rule in our book, absolutely not even a suggestion of a rule anywhere in our book, that says that the Speaker can interfere or intervene, or whatever the right word is, and say, "I have heard enough". That is what Senator Kelly says. He is asking the Speaker to be a partner in the criminal act of destroying the Parliament. That is what it is. It is a crime. It is a violation of the rules. I feel violated too. That is what it is. It is a terrible, terrible thing to do to Parliament. I do not pull any punches about it. I am not going to stand by and see Parliament violated like that. You do not have any right to even make that suggestion to the Speaker to try to usurp authority that he does not have.

• (1630)

You did not even have the decency to give a notice of motion. You refused because you did not want to have a debate. What is Parliament about? It is about debating, where the minority can come into this chamber and express the views of the people of that part of Canada where they come from. Canada does not start some place here at the Golden Triangle and end there. There is a place called "Western Canada", and within that there is a place called "Alberta", with a few Canadians who want the rights of their Parliament respected. They are sick and tired of the kind of violations that the Tories have been trying to do to it.

I will wind up now, but—

Some Hon. Senators: Oh, oh!

Senator Olson: —there is absolutely no uncertainty about it. You try and get away with this, and the people of Canada are not going to accept it now or ever. The more often you try to violate the rules, because you are in a bit of a hurry, the longer it will take you to get anything through.

We told you at the outset that we were trying to defeat Bill C-62. That comes as no surprise. We told you that we wished to amend it. The report that came from the committee was to defeat it. The bill was so badly flawed that it could not be fixed without scores of amendments.

Even Senator David, all the senators that were along on the committee admitted, in the various places where we heard evidence, that there were severe injustices. In fact, right in Regina there were two or three cases drawn to our attention where the provisions of the bill were absolutely unjust. Even the Tory senators on the committee admitted that, "Yes, we have to fix that."

When we arrived in Whitehorse, there was another case. For example, the way the government was going to apply the goods and services tax to the outfitters up there. You may not think that is a big deal down here, and it is not; however, up there it is the largest part of their economy, outfitters to go on hunting and fishing trips. That is the tourism that is there. They explained very, very carefully how it was to be applied to them and how unjust it was. I heard Tory senators there agree. I will not go over the details now, unless you wish, because I remember them very, very vividly. For example, the application of that 7 per cent tax on the visiting clientele from the United States where everybody has to keep all the bookkeeping that is necessary to calculate the tax, collect the tax, and remit it to the federal government, and then, if that person goes to the trouble of applying for a rebate—and they can under the bill—they can apply for a rebate and get all their money back. What in the name of common sense do you want such a law for? To have those people go to all that trouble to calculate the tax so that they can remit it, and then as soon as their clients get back to the border, or into the United States, they can apply and get all of their money back. The government has gone to the expense, the person has gone to the expense, both the outfitter and his customer, and nobody winds up with a dollar. Is there any sense in that?

When we returned here, "Not one amendment". Nothing. That is what we were told. That is what hurts.

The opposition did not have the right, did not earn the right, to govern the country. We accept that. We understand that. We certainly do have the right, in fact an absolute, unequivocal obligation to point out weaknesses in legislation. A government that has any "smarts", if you want to call it that, or "intelligence", recognizes that and makes those adjustments. Not this government.

Did you notice in advance that no matter how much you study it—they did not even want us to go and study this. They did not want us to go and look at it. They gave us all the excuses about the deficit and the rest of it, but when the bill started out, "Oh no, it is revenue neutral. It is not going to do anything for the deficit." That is what the Minister of Finance said. I believe they are still carrying on that facade over there, to some extent. Then they said, "It is a substitute tax. We are not going to collect any more tax, we are just going to do it at this level, rather than that level, where the manufacturers' tax is now". We have a few intelligent people in Canada who are intelligent enough to do the research. They brought to us case after case where it was not a substitute tax, collecting the same amount of money from the same people. It is a massive transfer of the tax burden from one group of Canadians to another, to the poor people. You are not quite as poor as I am, but you know what I mean. It is easy for you to say. They can figure it out.

I have to admit that I had not done all the research on how serious this would be. I tell you, the Trade and Labour Council on the south shore of Nova Scotia did. They did the calculation on how much more of the so-called "$18 billion" that they were going to pay as a result of this bill, and the repeal of the other taxes—they just pointed out that Nova Scotia, by and large, was going to pay between 15 and 20 per cent more tax than the people in central Canada on the same package of goods.

Senator Steuart: Shocking.

Senator Olson: The most—

Senator Steuart: Senator Doody, rise up in horror.

Senator Olson: That is the facade that has been presented to us. This Bill C-62 does not stand up under investigation.

First of all, everything they claim for it is wrong. It is not revenue neutral. Even at 7 per cent it is not revenue neutral. That is the first thing insofar as overall revenue is concerned. It is not a transfer from one form of tax to another form of tax. It is actually transferring the tax burden to a different group of people. I tell you it goes with the great so-called free trade, because all those multinational corporations will win. In every way you want to add up this tax, the government has been dishonest with the Canadian people. It is sad because the fact of the matter is you will still be the government for the next 2 or 3 years, whether Canadian people like it not. Unfortunately the mandate lasts for 5 years in this country.

• (1640)

An Hon. Senator: How did they make out in the recent elections?

Senator Olson: I hope someone else can comment about that. I understood that they went down around 10 per cent. They did not run a candidate in Beausejour. I heard they received about 10 per cent in York North.

Some Hon. Senators: 8 per cent, 8 per cent.

Senator Olson: That is 20 per cent under 10 per cent. You are down to one digit. I will tell you something else. We have not yet had a test, but you are down to less than that in Alberta. It was 7 per cent by the last poll. You kicked out two members so you only have 22 members left from Alberta. That is sad.

Senator Bonnell: Nice fellows out there, too; Mazankowski.

Senator Olson: A lot of good people out there. What you are really doing and what makes me very angry is you are destroying parliament and parliament's function.

Senator Comeau: You have said that several times.

Senator Olson: I know I have said it. Do you believe it? I have to keep making these arguments from different angles until you are persuaded. If you get up on your feet and say you believe you are destroying parliament and had better not do this, and then Senator Kelly gets up and says he is sorry he did not realize how badly he was damaging parliament, that would help quite a lot. I do not think he will do it. It does not look like it. So we are defending the institution of parliament in Canada.

Senator Stewart: About two weeks ago, Senator MacEachen made an interesting intervention in which he raised questions about the revenue productivity of the proposed goods and service tax. That speech challenged in a tentative way the arguments put forward by many speakers; among them Senator Kelly, Senator—

An Hon. Senator: What is his name?

Senator Stewart: What is his name? It escapes me. The man who sits on this side but always votes for the government—Senator Everett, that's it. Yes, the arguments of Kelly, Everett, Poitras and Senator Castonguay. I know that Senator Kelly has a speech in which he will seek to answer the questions raised by Senator MacEachen. Nevertheless, Senator Murray has told Senator Kelly to sit down. He says, "Where do you think you are? Do you think you are in Parliament? Do you not realize that this is a club? Do you not realize that this is Club Patronage, where you drink tea and read books? You do not talk. This is not Parliament." Do you not realize, Senator Olson, that Senator Kelly is just waiting for Senator Waters and Senator MacEachen to speak so that he can get up and deal with Senator MacEachen's questions. That is why he is waiting here so patiently this afternoon. Do you not realize that?

Senator Olson: Maybe. My problem is that I cannot accommodate him in that respect because if I do not make my full speech now I will never make it. They do not let you rise twice here. I think Senator Kelly wishes to make a speech like that, also. He could act like Senator Simard who says everything that crosses his mind the minute it happens. Senator Kelly has not been doing that so we do not know what he thinks. The problem is that if I am to wait for him, my opportunity will not be available to explain how deeply I feel about this attempted violation of Parliament. I have to conclude now and, as I said a few minutes ago, I would conclude but points are raised where I have to make further explanations.

The rules in our book are not written in complicated or ambiguous language. I remember Senator Molson for years was Chairman of the Committee on the rules, and Senator Molgat was a very important member of that committee. They do not write these rules in ambiguous language. They are clear and simple and in words for which there is only one meaning. We do not need these references to the so-called authorities. That is what is so disturbing. It is a complete head-on confrontation with the rules. It makes me sad to think that you would even try, because surely you understand what is written in Rules 44, 27 and 26.

Do you remember the fight we had here the other day over Rule 26? There is nothing ambiguous or unclear about the wording. Senator Kelly, if you think the Senate needs a rule regarding limitation of time for debate and closure and that sort of thing, then do it right. Bring in a notice of motion. You need only wait two days. You could even ask for unanimous consent, and we might give it to you. I doubt it, though, now that we know your intentions. You have to ask the senators, and there is no way of asking them except by way of motion. Do not ask the Speaker to do something for which he has no authority. For heaven's sakes, do not ask the Senate to give the Speaker the authority, either. We do not need the Speaker in here with the authority to decide he has heard enough and the debate is over. I have not yet had a chance to speak on Bill C-62.

Senator Bonnell: We are waiting to hear from you.

Senator Olson: There are 40 more of my colleagues who have not yet had a chance to speak on third reading.

Senator Barootes: You are not allowing them the chance.

An Hon. Senator: Ask Senator Gigantès about that.

Senator Olson: Ask other people about that. That is such an assinine comment, it hardly deserves—

Senator Barootes: Ask Senator Hébert how much time he allowed his friends.

Senator Olson: Senator Barootes, do you not understand what a filibuster is?

Senator Barootes: I am learning.

Senator Olson: You want me to explain it to you? A filibuster is when you take a little time until the senators or members opposite receive the message from Canadians.

Senator Bonnell: Until the people in Canada have an opportunity to understand the Bill.

Senator Olson: People have the right to mobilize their thoughts and carry that message. There is a whole lot more coming. There are demonstrations which will be escalated to a higher level until the Government understands that 90 per cent of the people in this country, who will be hurt by Bill C-62, want to be heard in Parliament. They do not want the debate cut-off at every stage as it was in the House of Commons. When the bill arrived in the Senate, they said, "Thank God for the Senate." Then you try to destroy this institution, too. You should know that ordinary people have the right to be wrong. That goes with democracy, too.

An Hon. Senator: They have the right to be heard.

• (1650)

Senator Olson: There are not great financiers and rich people in this country who are going to tell the others what is good for them. People want to be heard in the halls of Parliament.

Mr. Wilson has said, "I know it's not popular, but it's right." He says that about his monetary policy also. There are so many bankruptcies because of the debt service charges on innocent people—especially in the agriculture sector—who have no way of escaping. They do not believe it is the right policy for Canada or for them. Are we going to have a few rich people telling us what is good for us? We have had that once or twice before. I am sad when I think about the remedies that have been taken in other countries, when a few rich people take over and decide what is good for everyone else.

Senator Murray: Who is it you want to speak?

Senator Olson: I want Senator Waters to speak. We know you now have the numbers. Remember that illegal act you pulled; you swamped the Senate.

Senator Murray: There have been three court decisions against you on that point, Senator Olson.

Senator Olson: I do not care if there is another ten, I do not happen to agree with it.

[Senator Bonnell.]

Senator Everett: And you are wondering about the rich people taking over.

Senator Barootes: This is where you are supposed to show righteous indignation.

Senator Olson: Section 33 of the BNA Act says that the Senate shall decide. It does not say that the courts shall decide. You bring in eight senators in order to swamp the Senate, and then you are judge and jury all by your own self. Take the eight out and then the Senate can decide. We have no problem with that.

Senator Everett: What is the Senate deciding?

Senator Olson: Read section 33 of the BNA Act.

Senator Everett: Are you saying that the Senate decides on appointments?

Senator Olson: Yes. The Senate decides if they are qualified. On page 9 of the BNA Act, section 33 says:

> If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

Senator Everett: Read the section on the qualifications now.

Senator Olson: Why do you want me to read that? There are many qualifications. I am telling you that the Senate decides. The Tories brought in eight senators. We say, "Are we going to have a vote without it being swamped, or are you going to bring in the swampers to decide whether or not they are qualified?"

Senator Everett: Read the section on qualifications.

Senator Olson: I did not look at that section. There is something about $4,000 and being a Canadian citizen.

Senator Everett: When you interpret a law, you interpret the other sections.

Senator Olson: I did not interpret the law. I read the law to you. You can interpret it any way you like.

Senator Steuart: Are you saying that the courts are always right?

Senator Everett: If the Supreme Court made a decision, I would abide by it.

Senator Olson: When did the Supreme Court make a decision on this?

Senator Everett: You said you did not care which court made a decision, you would not agree with it.

Senator Olson: I said that I agree with section 33 of the BNA Act, but not with a bunch of swampers.

Senator Murray: What about section 26?

Senator Olson: Section 26 of what?

Senator Murray: Section 26 of the Constitution Act of 1867, as we call it now.

Senator Frith: The Ontario Court of Appeal wants to take a look at that. They granted leave to appeal. You have been

crowing over the fact that there was no doubt. There is obviously a doubt. He would not have given leave to appeal if he did not think there was a good, sound reason to doubt. You can be sure of that, sir. Take it from me.

Senator Murray: All right.

Senator Frith: I articled to him. He was my chief when I was a law student and he knows his business.

Senator Murray: I know.

Senator Olson: Parliament—and the Senate is part of Parliament—ought to have the confidence of the people. The people who are occupying the treasury benches in the other place are down to 15 per cent in the polls. In my province they are down to 7 per cent.

We respect the law, whether or not we agree with it. The law says that the mandate is for five years. Now we have to stumble along with this government and all this mess.

Senator Kelly: Honourable senators, I have been the recipient of a fair amount of instruction this afternoon.

Senator Olson: No, just good advice.

Senator Kelly: It comes from friends and I know it is well meant. However, I cannot see that anything has changed and I have not been persuaded.

Senator Olson: I want to ask if this is a question. If it is not a question, you do not have a right to interrupt me. You have made your speech on a point of order.

Senator Kelly: I want the Speaker to give me a ruling on my point of order.

Senator Olson: If you have a question, ask it. If you do not have a question, stay in your seat and respect the right of other senators to speak.

Senator Kelly: Senator Olson did not sit down when I stood up.

Senator Olson: Then you went into a tirade. If you want to change the rules, Senator Kelly, do not come forward with some notion in a letter and try and confer on the Speaker authority that he does not have. That will not wash. Whatever it takes to stop that kind of abuse of Parliament is going to be done by the people on this side. Make no mistake about that.

I will tell Senator Murray that when he is giving little jobs to various senators, for Heaven's sake, follow the rules. They are here and are written in simple language. Section 44 says that you cannot do it that way. It says you have to give notice and then you have a debate.

Until this government and the Leader of the Government got in, I had never seen the need for closure. It was never been attempted in all the years I have been here. I want to ensure that the government does not destroy this institution.

In conclusion, let us have a Notice of Motion; let us have a properly drafted motion. I do not agree with this practice, but I will make sure that you get someone to help you draft it. You have Senator Flynn for $1,500 a day. Surely he should be able enough to draft something because he used to be good at it. Your letter says:

> We believe that this matter requires your urgent attention and that the time has come for the Senate to decide whether or not it wishes to set a date for the final vote on Bill C-62.

For Heaven's sake, where in this rule book does the Speaker or the Senate itself have a right to decide to set a date for the termination of a debate? It is simply not there and you know it is not there. Why do you try to run roughshod over the rules? What I am trying to explain very slowly and carefully is that, under Rule 19 you must give notice of a motion and then you wait for two days.

• (1700)

Senator Bonnell: Is that two sitting days?

Senator Olson: Since we began these long sessions it could be four or five days, but perhaps they could move the motion and admonish their colleagues to let the calendar be the guide. If that notice of motion had been made on Monday we would have been dealing with it now. The comical part of the letter is that it is dated December 10, so Senator Kelly knew he was going to introduce this motion then.

Honourable senators, it is quite clear that the Speaker has no authority to do what Senator Kelly is asking him to do. He has no right to take over the rules in this place. He has done it a couple of times and I can tell you right now that problems will arise out of that before this is over. If it is going to happen again there will be even more serious problems.

As *Beauchesne's* says, once the motion is debated then it is usually sent to a committee so that other people can also have an opportunity to speak to it. However, if they do not want it to go to committee, I suppose the matter can be dealt with right here. Surely honourable senators opposite do not expect the matter to be decided without a debate. Do they not think we should have a debate on what kind of closure we want to impose? There are several kinds of closure. I was in the other place when closure was introduced. I voted against it every time, but it was done. The motion could be to set aside certain hours during which every question that is required will be put to dispose of the whole matter. That is one way of doing it. The other way of doing it is to stipulate that there will be two days' debate. There are probably more creative and innovative ways of introducing closure, but Senator Kelly does not suggest any. He simply says that the Speaker should stop the debate and call a vote.

We on this side know we have to deal with the "swamp" senators and we know we are going to be swamped with that fact. However, one thing I have admired—and I do not think it will last much longer—is the fact that they are all here all the time. I think that is terrific. I admire that discipline but I think it will be fairly shortlived and I think that is one of the reasons both Senator Kelly and Senator Murray are now using bulldozing tactics.

Honourable senators, I do not think we need closure in this place.

Senator Doody: You are wrong.

Senator Olson: We are here as one of the checks and balances in the system. That is our job. When something is rammed through the House of Commons and its committees and it then comes to this place in that ram-bang shape, it is good that we have a place of checks and balances. I do not think you should try to do that to this place.

Some people think you have to have the goods and services tax for this, that or the other reason. I can tell you that 85 per cent to 90 per cent of the people do not want it and I think that is a good enough reason not to have it. People do not have to have what some big shot thinks is good for them.

To respect the right of Parliament to debate a bill and to propose amendments is a serious matter. If you ram Bill C-62 through this place illegally, it will be challenged. Thousands of people are going to say, "To hell with it." An illegal law does not have to be complied with.

Honourable senators opposite may not think that people are thinking so profoundly but I guarantee that they are. People in my own community have said that they are not going to try to carry on under what now appear to be the rules and regulations to enforce Bill C-62, the goods and services tax. I have heard people say, "I will close up first."

Senator Bonnell: What about the municipalities?

Senator Olson: I was going to explain that until I was so rudely interrupted by someone.

I talked to a group of auctioneers in Calgary who told me that they did not know what to do. They told me that they get consignments of trucks, graders and all kinds of used equipment. They told me that confidentiality was a factor in their business. An auctioneer would check to make sure that there was not a lien against a particular piece of equipment and then he would sell it at auction. Whoever purchased the equipment would have no right to ask where the equipment came from. That was the nature of the confidentiality. All sorts of serious consequences can flow from someone selling off their equipment.

Now, if a purchaser wants to collect a rebate, he has to give a complete history of the equipment.

Senator Bonnell: Is there no more confidentiality?

Senator Olson: No, the auctioneer is obliged to tell the purchaser where the equipment came from.

At one particular seminar all sorts of circumstances were raised and the senior officer from the Department of Revenue of Alberta was asked how they would handle various situations. I can certainly explain as many of those situations as honourable senators wish to hear about because there were all kinds of them. The response from the officer was that they simply did not know how they would handle many situations. The auctioneers then received a registered letter from the City of Calgary which sells a lot of its heavy equipment through auctioneers. In the letter they offered the opinion that the auctioneers need not collect the 7-per-cent tax on what was consigned to them by the City.

[Senator Olson.]

Senator Bonnell: Why is that the case?

Senator Olson: We know that municipalities are exempt from paying tax on a service that they themselves provide such as snow removal or garbage collection. If the municipality supplies that service it is exempt. I do not think it is zero-rated but I believe it is exempt. However, if the city contracts that work out to someone else, then it is subject to the tax. They then interpreted that to mean that all their equipment was tax free when they sold it at auction. The auctioneers do not know what to do. They do not know what rules and regulations they have to comply with. The Department of National Revenue does not know either. The auctioneers asked the senior officer about various circumstances that arise as a matter of common practice and the officer simply said, "We don't know." There is nothing new about that. Senior bureaucrats in both the Department of Finance and the Department of Justice simply sometimes do not know what is going on in the real world. They do not know what happens at an auction sale and they do not know what happens in a whole lot of other circumstances. We simply get a message from the government saying, "No amendments." They say that they are going to include all of these things and that they are going to ram it through the Senate after having rammed it through the House of Commons. They say they are not going to accept one single amendment. Of course, they have demonstrated that to us.

Senator Corbin: Even if it is good.

Senator Olson: Yes. If they do at some time get to the stage of administering this bill, I am sure they will introduce amendments in 1991, 1992 and in 1993 to deal with every single one of the amendments we have already moved.

Senator Steuart: And they will take the credit for it.

Senator Olson: Why don't they do it now? Why do you not have some respect for Parliament's right to make sensible amendments? Not one of the eight amendments that were moved was accepted, even at the committee meetings I attended across the country and where the Tories agreed it was a sensible thing to do. I know that Senator Lucier will remember that some of the rules that would be applied to outfitters in the North was unjust and nonsensical. Senator MacDonald, for one, would, if he were here, admit that he agreed it was stupid. That is the right word because they just simply did not know how outfitters function.

Senator Steuart: Is that his word?

Senator Olson: He said it was wrong. I am not going to quote him. Other senators also said that. However, they can all speak for themselves and I hope they do so one of these days. They were so anxious to get to the stage of debating Bill C-62 but, when we get to that stage, they are all silent. They know very well that the bill is not perfect, but they say, "We are going to have it. Pass it with all its imperfection and we will fix it up afterwards." How stupid can you get? That is stupid, pass a bad law first and trust us, we will fix it afterwards. Apparently that is the philosophy of this government.

• (1710)

I have a definition of bad. I did not know it was such a handy word. It is a very simple word with three letters, and it means: "defective, deficient, erroneous, fallacious, faulty, incorrect, inferior, imperfect and inadequate." That is only the first category of definitions. The second category is: "damaging, dangerous, deleterious, detrimental, harmful, hurtful, injurious, ruinous, and unhealthy." That is what "bad" means. This is a bad bill and it fits every single one of those definitions.

There is another category of definitions which reads: "disastrous, distressing, grave, harsh, painful, serious, severe and terrible."

An Hon. Senator: Dumb?

Senator Olson: I did not see "dumb," but perhaps dumb should be included. It is just a bad bill and it fits all of the definitions.

There is another group of synonyms that mean the same thing as bad: "adverse, discouraging, distressed, gloomy, grim, melancholy, troubled, troubling, unfortunate and unpleasant."

On that note, I want to say that Bill C-62 fits all those definitions and close to 90 per cent of the Canadian people do not want it passed through Parliament, which government supporters in the Senate are attempting to do now.

I hope senators opposite will reconsider what they are attempting to do.

Senator Stewart: Senator Olson, I understand there are other senators who wish to speak, so I will not ask my question now. Thank you for your willingness to deal with a question.

Senator Olson: I will conclude by expressing the hope that Senator Kelly will reconsider. After what I think are fairly persuasive arguments, I am sure that he does not want to do this to Parliament. He is too nice a guy to sponsor that kind of notion, and I am sure he will probably reach the stage where he will repent and withdraw the motion.

Some Hon. Senators: Hear, hear!

Hon. Sidney L. Buckwold: Honourable senators, I believe it is rather fortuitous that I am following the outstanding remarks of Senator Olson who concluded his comments on the proposition that has been made by Senator Kelly at what point debate will be cut off, the guillotine will fall, closure will be used, and tomorrow at 5:45 a bill that is supposed to be perfect, a bill that was unamendable, will become law.

Senator MacEachen: They hope.

Senator Buckwold: They hope.

Senator MacEachen: We don't.

Senator Buckwold: For several weeks the committee heard representations and came back with a report. We made amendments. There were eight amendments moved by the official opposition and two excellent amendments by Independent senators. No matter how worthwhile, no matter how outstanding, no matter how necessary, these amendments were rejected without any consideration at all. There was not a good word said about one of those amendments by the people who sit on the other side. The only thing that was ever expressed was that the legislation is good legislation, that the government has prepared this legislation, that it is ready to go, the Minister of National Revenue is ready to start collecting the tax, and that the people have a tax that is workable, unamendable and the government would not accept any amendments that were proposed.

We were told early in the committee not to bother with amendments. People ask, why did we not bring in amendments? The answer was relatively simple. We know that the government did not want amendments that would send this bill back to the House of Commons before the legislation was finalized.

I now find that there is a very good reason for the closure proposed—I consider illegally—by Senator Kelly, a very good reason. I want all senators to listen to this, because I think you will find it rather interesting.

As this bill is presently worded, it is in fact unworkable. It is unworkable in the opinion of those in the Department of Finance who have to have amendments available before the end of the year, at least on a Ways and Means motion.

Senator Stanbury: This year?

Senator Buckwold: This year. There have to be amendments to improve the legislation to the point that it will in fact be legal, acceptable and workable.

For that reason, it is important that the bill be through the Senate, by whatever means, fair or foul, by shutting up the opposition, taking away the right of Independent senators, taking away the right of those of us who want to speak on this very important piece of legislation and ramming it through as a perfect piece of legislation knowing full well that it is unworkable and that amendments are needed. I can tell honourable senators that those amendments are prepared. I have the amendments in my hand.

Senator Frith: Prepared by whom?

Senator Buckwold: By the Department of Finance in a draft release. This document has come into my—Senator Doody, I think you might find this of some interest because it is a very, very, I think one of the most important—not because of myself, but because of the contents of this information—some of the most important information that we have had for a long time.

• (1720)

The Department of Finance has prepared a draft release.

Senator Frith: Any date?

Senator Buckwold: No date. For immediate release, presumably as soon as this legislation is passed by the Senate, before the first of the year.

Senator van Roggen: Thursday night.

Senator Buckwold: Thursday night.

Senator Doody: Are you in favour of Senator van Roggen speaking or Senator MacEachen?

Senator Buckwold: I will come to that in due course, because I think it is very, very important, when we talk about closure, when in fact we have a document here, which I think will be a bit startling even to you, Senator Doody—

Senator Corbin: It will give new life to the debate.

Senator Buckwold: —admitting that there is a good deal wrong with this legislation that needs change. I will read you the amendments. Do not ask how this document got into my hands, but it is certainly from very reliable sources.

When Senator Doody has the temerity to say, "What are you talking about? Are you in favour of Senator MacEachen or Senator Waters?" I am in favour of good legislation. That is what I am in favour of. What we have in front of us is not finalized legislation, it is not workable legislation, and the government recognizes it.

Senator Frith: And admits it.

Senator Buckwold: And admits it. The government now prepares amendments that will be tabled under ways and means motions before the end of the year in order to correct some anomalies that make this bill, in the eyes of the department, unworkable. With your permission, let me read the document.

> Draft release
>
> Immediate release Ottawa,

Senator Frith: No date?

Senator Buckwold: No date. I quote:

> *CHANGES ANNOUNCED TO STREAMLINE OPERATION OF GST*

Now, the first is just a little press release, so it does not give you the details which I will get into in due course.

> The Honourable Michael Wilson, Minister of Finance, today announced his intention to introduce—

No date. That will be waiting until we are through.

> —to introduce a number of technical modifications to the Goods and Services Tax (GST).

Now, when you read the changes and you listen to me carefully, those of you who know this legislation, you will find that in many cases the changes are much more than technical. They are modifications of some significant principles in the bill, principles that have been touched on by witnesses who have come to the committee, amendments that have been made that are not directly on this, but affecting the proposal that I will read, unacceptable, of course, to the government senators, with absolutely no consideration.

> The Honourable Michael Wilson, Minister of Finance, today announced his intention to introduce a number of technical modifications to the Goods and Services Tax (GST).
>
> The Minister said "the basic objective of these further refinements is to streamline the operation of the GST. In most cases the proposed modifications are the product of detailed consultations with industry sectors and will be put in place to facilitate the start-up of the new system on January 1, 1991."

That is a very important sentence, "to facilitate the start-up"; an admission that without this it would be very difficult for them to start up, in spite of all the things that we have heard.

Senator Frith: This is something that he is going to have said.

Senator Barootes: It was announced weeks and weeks ago that it would be done. By the Prime Minister and the Minister.

Senator Frith: To the Tory caucus.

Senator Barootes: No, to the public.

Senator Buckwold: The first item:

> Responding to taxi industry concerns—

Senator Barootes: We do not need to hear it, it was announced in advance.

Senator Frith: The taxi industry? It is the word. There is no twist. Listen.

Senator Buckwold:

> —the Minister announced that effective January 1—

In other words, effective January 1. So this has to be changed after we have passed the bill. In other words it is a fait accompli. I am afraid that Mr. Wilson is going to get a real shock.

> —effective January 1, all regulated taxi fares will be taxable under the GST. Taxi and limousine operators with revenues of less than $30,000 annually will be eligible for a special transitional credit of up to $300.

Let me make it clear; up to this point taxis had the choice of either charging or not charging if they had gross receipts of less than $30,000.

> After consultation with the tourism industry, the Minister—

That is the taxi deal. We'll get into the details. We have a lot of time. The first amendment that will be brought in affects taxis. As I read the taxi amendment, you will find that taxis have to charge the tax, whether they want to or not. They have to charge the tax. A complete change from what was originally proposed.

Now they move into the tourism industry, and I am again quoting from the Minister of Finance's press release:

> After consultation with the tourism industry, the Minister announced changes to simplify administration of the tourist rebate program. The minimum rebate claim threshold will be reduced to $7.

You are aware that the present threshold is $20. They are now bringing it down to $7.

> In addition, a more streamlined system will be adopted for the assignment of rebates on short-term accommodation provided in package tours sold to non-residents.

A point that was made to our committee by several tour operators, and mentioned, of course, many times in our debate.

Finally, in the press release, before I get into the details:

> The Minister also announced a number of other technical changes effective January 1. Backgrounders on these changes—and on the GST treatment of taxis—are attached.
>
> A Ways and Means Motion to give effect to the above changes was introduced—

Senator Frith: "Was".

Senator Buckwold:

> —was introduced today in the House of Commons.

When I think of the closure that the government was attempting to put on this chamber in an anticipatory—the audacity of the Minister, the Leader of the Government in the Senate, and his colleagues, knowing—at least the Leader must have known, the cabinet must have known—what was coming, and using, in my opinion, the absolute hypocrisy in introducing what they did, in shutting off free expression in this chamber, knowing full well that it was being done because there was a ways and means motion required before January 1. Unbelievable. It is shocking. It is just an indication of the kind of dishonesty that has accompanied the whole presentation of Bill C-62 from the very beginning. From the very first day we have heard untruths, misleading statements and all kinds of propaganda not substantiated by the facts. Honourable gentlemen and ladies across the way know that.

• (1730)

Why did they do it to the taxi-cab industry?

> The Canadian taxicab industry operates under a number of different ownership and management structures. Most cab drivers are independent operators who rent their taxicabs from an owner. Some cabs are owned and operated by the same person while some companies hire employees to operate a fleet of taxicabs.

You might also keep in mind that taxicab drivers are not a bad group to have on your side. Any of you who have ridden in a taxi lately will know what I am talking about. I am sure you have had a bellyfull. They are not bad pressure as a friendly group because they certainly let you know what they think.

> The taxi industry is regulated at either the municipal or provincial level. In almost every jurisdiction, cab fares are regulated so that each taxi operator - regardless of the owner-operator relationship - charges the same fare for each cab ride.
>
> The Canadian Taxicab Association is a national organization representing the interests of the taxi industry, including taxi owners and drivers. The Federation of Canadian Municipalities also has a strong interest in the regulation of the taxi and limousine industry on behalf of their membership.
>
> THE GST AND TAXICABS
>
> Under Bill C-62, the legislation to enact the Goods and Services Tax, taxi fares are subject to the GST. However, the legislation also provides that businesses with annual revenues of less than $30,000 may choose not to register for the GST.

Quite frankly, many drivers told me they were not going to register.

> In doing so, these businesses would not charge GST on sales and would not be entitled to recover the GST paid on business purchases.
>
> Pointing to unique factors in their industry, representatives of the taxicab industry have asked the government to modify the operation of the GST so that every taxi fare is taxable, regardless of the revenue level of the operator. They identified a number of problems that could result under a two-tier pricing system, such as:
>
> —Disruption at taxi lines where consumers may seek the non-registered driver;
>
> —Cab companies would be continually requested to send non-registered drivers;
>
> —Regulators may be reluctant to include the GST in the meter if some drivers are not required to register. Tax inclusive pricing would make the GST easier for drivers to administer and less confusing for consumers;
>
> —Some companies may hire only part-time drivers;
>
> —Companies which operate with employee drivers would not have the same options as companies with independent drivers;
>
> —-A taxi company would have to charge GST to a corporate account even when GST was not charged by the driver.

These are all objections that were given to our committee. We heard them as we went along. The government absolutely refused to recognize them, but now they have prepared an amendment to cover that.

Senator Barootes: It is not an amendment.

Senator Stanbury: It is certainly not an anomaly.

Senator Corbin: Probably just another idea.

Senator Buckwold: I will not get into a shouting match with my colleague from Saskatchewan until we are finished.

Senator Barootes: Exactly as promised.

Senator Frith: He knows he is in the soup.

Senator Buckwold: Quite frankly, I am not sure whether Senator Barootes really understands this bill. Certainly when he says, "Why an amendment?", it is an obvious indication of his absolute ignorance of the legislation.

Senator Frith: It is a complete reworking of the bill.

Senator Buckwold: You can recognize that from any of his comments and questions.

> The Department of Finance has consulted extensively with the Canadian Taxicab Association (CTA). In a letter to the Minister of Finance, the CTA requested the elimination of the small supplier threshold for taxicabs, "effectively making all taxi rides taxable". They also

noted that because drivers are eligible to choose the *Quick Method* of accounting, the change would not create a hardship for independent operators.

The Federation of Canadian Municipalities, in a press release dated November 27, 1990, urged municipalities to include the GST in the meter. Further, FCM stated, "that the small trader provision should not apply to the taxi industry in order to ensure that the application of GST to taxi fares be equitable, consistent and simple".

Many jurisdictions have plans to include the GST in meter fares. Since the legislation already requires that all tax collected under the GST must be remitted to the government, eliminating the small supplier threshold for these jurisdictions would have minimal consequences.

As I said in my own comments, that is a very significant change. Now this is a little pat on the back which the Government gives itself. It says:

THE GOVERNMENT RESPONDS TO INDUSTRY CONCERNS

This is a strange time to respond.

The Government of Canada, recognizing the highly competitive and regulated nature of this industry, has decided that all taxi fares will be taxable under the GST.

As such, all taxi and limousine operators operating under a structure of regulated fares will be required to register and collect GST on all fares (excluding tips), regardless of the revenue level of the operator.

Senator Kelly: Honourable senator, may I rise on a point of order, please.

Senator Frith: It has been a long time; you must be getting itchy.

Senator Kelly: I am trying to discover how this fits. What are we supposed to be discussing? I want to remind this chamber that I do have a point of order before it and I believe I am entitled to a ruling from the Speaker at some time. We are not on any point that seems to be—

Senator Frith: You are not necessarily entitled to a ruling at all. However, listen and you will find out. We are glad you are paying attention.

Senator Buckwold: I answered the question earlier in that, to me, the very fact that the closure bill that you have proposed—

Senator Frith: The "idea", the "idea."

Senator Buckwold: Not the Bill. The notion, the idea, the thought or so-called brainwave. I think it is very important that senators and the Canadian public be made aware that this chamber is being cut off from further debate, consideration and action. What we already know is that the government proposes amendments, some of which have been discussed here in this chamber, and you are preventing further discussion on any number of aspects of this bill that are not acceptable to the Canadian people. Surely there is a very close relationship to what I am talking about and the proposal or thought that you have put forward.

[Senator Buckwold.]

An Hon. Senator: The legislation is flawed.

Senator Buckwold: I will continue.

Senator Gigantès: There was too much noise and I did not hear you.

Senator Buckwold: I will continue:

As such, all taxi and limousine operators operating under a structure of regulated fares will be required to register and collect GST on all fares (excluding tips), regardless of the revenue level of the operator. Voluntary tips received by taxi drivers will not be subject to the GST.

While the Government of Canada cannot require regulatory bodies to include GST in taxi fares, it acknowledges that this practice will contribute to a more consistent application of the GST in the marketplace and would be a simpler system for drivers to administer.

In addition, the GST transitional credit - currently available only to registrants with annual revenues in excess of $30,000 - will be made available to all taxi drivers operating in the first quarter of 1991. While operators with annual revenues over $30,000 will use the normal rules, other drivers will be able to apply a special $300 credit to their GST otherwise payable for returns covering 1991. For example, a driver with a first quarter remittance of $400 can use the entire credit and would remit only $100. If a driver has a remittance of $200, the credit can be applied to reduce the remittance to nil and the remaining unclaimed credit of $100 can be applied against subsequent remittances covering revenue earned during 1991. That means a driver cannot use the credit to generate a refund. To be eligible for this special credit, drivers must be registered before April 30, 1991.

• (1740)

While all taxi operators will now be required to register, they do not have to include other business revenues in their filings, provided combined revenues are less than $30,000. Therefore, a driver with taxi revenues of $15,000 and revenue of $10,000 from another trade, can still qualify for small supplier status for revenues earned as a tradesperson.

The government also recognizes that since all taxi fares will be taxable, the requirements for drivers to include GST registration numbers on individual receipts above $30—

That was required previously. They had to give a receipt with a GST registration number. I shall continue:

—would not be necessary. While drivers are still encouraged to disclose registration numbers, input tax credits will still be allowed to their customers if they are not provided.

By registering, taxi operators will be able to recover all GST paid—on vehicle rental, gasoline, repairs etc.—since GST paid is deducted against GST collected.

That is why they can do that. It goes on to say:

> Taxi operators will also be able to choose *Quick Method* accounting. Under this method, GST is charged to customers but there is no need to keep track of GST paid on operating expenses. The remittance can be determined by multiplying GST-inclusive revenues by 5%. In addition, all businesses with annual revenues of less than $500,000, can file one GST return for the year with quarterly instalments.

Let me now get into some other amendments. I know honourable senators across the way are not particularly interested, but these are interesting amendments to those who are knowledgeable about the bill. It says:

> *BACKGROUNDER*
> *TECHNICAL CHANGES*
>
> *Residental Exemptions*: Part I of Schedule V of the Act will be amended—

Senator Baootes is not here to hear the word "amended,"

> —to:
>
> - extend the exemption now provided for residential condominium fees to similar fees charged by housing cooperative corporations;—

That is a fairly significant change. It goes on to say:

> . . . and
>
> - clarify that where, as part of an agreement to supply exempt long-term residential accommodation, the lessor also supplies a minimum of ten meals per week for a pre-determined amount per rental period to the tenant in the place of residence, the supply of these meals will be exempt.

I have given you two amendments. Now I will give you the third:

> *Real Property Leases:* Clause 12(2) will be amended to clarify that, subject to Division IX of Part IX of the Act, GST applies to real property lease payments due after 1990 and not to such payments due before 1991.

That is an anomaly in the bill that made it almost unworkable. That is a very important amendment for those people who are affected by certain condominium payments that were being made before 1991 on which tax, under the present legislation, could have been charged.

Another amendment deals with imports and exports. Again, this was an item that was drawn to the attention of the committee. It says:

> *Import/Exports*: The legislation will be amended to codify current Customs practice with respect to the application of sales tax to Canadian goods returned. Containers described in a container bank authorized by Revenue Canada—Customs will be allowed tax-free importation. Other goods that are classified under headings 98.13 and 98.14 will not be relieved from GST under those headings if, prior to importation, they were supplied
>
> - outside Canada by way of sale,
> - outside Canada by way of lease, licence or similar arrangement,
> - in Canada in circumstances to which Part V of Schedule VI (zero-rated exports) applies, or
> - in Canada to a recipient who claimed, or was entitled to claim, a rebate for tax paid on those goods under subsection 252(1).
>
> and the goods are being imported for the first time after that supply.

These amendments are important in order to make that legislation workable. It goes on to say:

> Section 252 will be amended to provide for a rebate of the tax paid by an unregistered non-resident in respect of property or services supplied to the non-resident for use or consumption solely and directly in the production of goods for export. The non-resident will be able to assign the right to the rebate to the supplier of the property or service, effectively allowing the non-resident to purchase the property or service free of tax. There will be no requirement that such property or services be exported in order to qualify for this rebate. For the purposes of this rule, "goods for export" will include zero-rated export supplies, supplies made outside Canada, and goods supplied in Canada in circumstances to which section 179 (drop-shipments to a domestic destination on behalf of an unregistered non-resident) would apply. Also, "goods for export" will include intangible personal property embodied on a physical medium (for example a motion picture film or master recording tape) where the physical medium embodying the intangible property and all copies thereof are produced for export.

Again, I know this is very complicated for honourable senators, but it is an indication of the complexity of this legislation. It would be wise to be informed in this regard. It goes on to say:

> *Transition:* For transportation services commencing after 1990, the legislation will be amended to clarify that tax applies to consideration that becomes due or is paid without coming due after August 1990. The 50 per cent pro-rating rule for passenger transportation services will be repealed: subject, therefore, to the special rules for transportation passes set out in subsection 342(3), passenger transportation services commencing before January 1991 will not be subject to GST.
>
> An amendment will be made to clarify that, with respect to instalment payments deemed to fall due on December 31, 1990 . . .

This is a very important amendment, and I pass this on to Senator Doody because, quite frankly, it involes having this bill passed immediately and these amendments put into place. The amendment says:

> An amendment will be made to clarify that, with respect to instalment payments deemed to fall due on December

31, 1990 by virtue of paragraph 118(5)(b), FST becomes payable on those instalments on that date.

Relevant provisions in the *Excise Tax Act*, the *Customs Act* and the *Customs Tariff* will be amended to limit the claiming of refunds and drawbacks for FST, Telecommunication Services Tax and Telecommunication Programming Services Tax on transactions straddling the start-up date. Refunds or drawbacks of FST under these Acts will be availalbe only where the event giving rise to the refund or drawback occurs before 1991. These limitations on drawbacks and refunds will not apply to refunds for tax paid in error or bad debts under sections 68, 68.15 and 68.21 of the *Excise Tax Act*, for which adjustments will continue to be available to licensees in respect of pre-1991 sales.

● (1750)

Insurance, Warranties and Damage Claims: Subsection 123(1) will be amended to revise several definitions in the area of insurance and warranties. Paragraph (j) of the definition of a financial service will be amended to remove the licensing requirement for marine claims adjustment services. The definition of an insurance policy will be amended to exclude contracts for the service, maintenance or warranty of tangible personal property. The definition of a segregated fund will be extended to include properties held in respect of insurance policies other than life, such as annuities. Section 182 will be amended to exclude from its application: late payment penalties to which section 161 applies; amounts payable to a carrier by a shipper for delays in loading or unloading cargo (demurrage charges); penalties charged by one railway company to another for failure to return rolling stock on time (per diem charges); and damage, penalty or compensation payments made by a supplier to a recipient—this would include such things as non-performance penalties (e.g. failure to meet construction deadlines or quality standards), payments in settlement of warranty claims, and freight damages.

Honourable senators, that is a very significant change.

The next section, I think, is of interest to large business directors. Perhaps Senator Eyton may be interested in this amendment. He may have written it. It states:

Closely Related Corporations: Amendments will be made to the rules affecting closely related corporations. Subparagraph 128(1)(a)(vi), which defines two corporations as closely related when a group of five or fewer persons owns 90% or more of both corporations, will be deleted. In addition, the Act will be amended to ensure that where the use of a capital property, acquired before 1991, changes as a result of a corporation filing an election under subsection 150(1) that is effective before April 1, 1991, subsection 206(4) will not apply to that property.

I am not suggesting that anyone try to understand all of this, but it is a very important amendment. I can see a smile on Senator Eyton's face, perhaps indicating that he feels it was almost worthwhile form him to have to sit here during these long hours of tedium in order to have that change effected. I think it will please the large business community very well. It then continues as follows:

[Senator Buckwold.]

Tourist Rebates: Two changes will be made to the design of the tourist rebate program. First, the $20 minimum rebate claim threshold will be reduced to $7.

That is a very significant change. It continues:

Second, the assignment of the rebate for short-term accommodation provided in package tours—

—a matter that was raised before our committee on several occasions—

—sold to non-residents will be replaced with a much more streamlined system. The revised system will ensure that all short-term accommodation sold outside Canada to non-resident visitors to Canada will be effectively tax-free, without the complication of signed assignments or separate rebate claims being filed by those visitors. Additional details on these changes [have been/will be?] announced by the Minister of State (Small Business and Tourism).

Senator Corbin: Who is that?

Senator Buckwold: I think that is Mr. Hockin.

Senator Corbin: Is he not the fellow who said that implementation should be delayed?

Senator Buckwold: Yes, and that is one of the reasons why it all comes together.

Another change deals with lottery tickets. It states:

Lottery Tickets: The Act will be amended to provide a simplified treatment of sales of lottery tickets. Under this treatment, lottery corporations will remit tax on the full sale price of tickets. In turn, retailers and wholesalers of lottery tickets will not be required to remit GST their sales of tickets nor will they claim input tax credits on their purchases of tickets. In addition, transactions between provincial lottery corporations and retailers/wholesalers relating to lottery ticket sales will be ignored for GST purposes. These will include:

- payment from provincial lottery corporations to retailers/wholesalers:
  - encashment fees
  —reimbursements for prizes paid by retailers to consumers
  —promotional bonus payments
  —sellers' prizes (i.e. for vendors of winning tickets)
  —commissions on sales of tickets
  —payments from retailers/wholesalers to provincial lottery corporations:
  —administration fees
  —payments for damages to lottery corporation property.

With respect to the calculation of the net tax remittance by the Provincial Lottery Corporation, the tax it remits on the wholesaler/retailer's margins will not form part of the formula for calculating the "enhanced input tax credit" as set out in paragraph 188(5)(a)(i).

Senator Marsden: Is there anything on books or on reading materials?

Senator Buckwold: Honourable senators, in answer to Senator Marsden's question, there is nothing on books yet, but obviously that is coming.

• (1800)

Honourable senators, as I conclude the statement that I have made here today, I express my absolute shock, and I think that is all I can say. It is not politically inspired; it is shock that a government that ostensibly had a perfect piece of legislation, a so-called seamless web of legislation, "our way or no way" legislation, has abused the Senate by having Senator Kelly submit his idea that we have closure of debate. The government itself quite openly acknowledges in this secret document, which has not yet been released, that it is waiting for this bill to get through the Senate and then, bingo! bring in a Ways and Means Motion immediately. Why? In order to be able to implement that tax. I do not have any legal grounds, but I will go so far as to say that unless these amendments are made the government is in real trouble, over and above all the other headaches it will have in implementing this tax.

So the plot unfolds. The scenario is becoming more and more apparent as we see the so-called plot of the government. Why did it bring in closure? In order to get the amendments through that are necessary for this so-called perfect bill. That is all the more reason for us to reject in a very real and positive way the submission of Senator Kelly and his request.

Hon. Michael Kirby: Senator Buckwold, would you permit a question? In light of the document you have just read, would you comment on two particular issues which were discussed quite extensively before the committee.

As you will recall, there was an extensive discussion at our hearings in Moncton where the tourist industry in the Atlantic region objected strenuously to the impact the GST would have on that industry. I specifically remember that it was Moncton, because Senator Robertson dug out departmental memos from the government indicating that the GST would have no impact on the tourist industry. I think you will recall at the Moncton hearings there was quite a heated exchange between Senator Robertson and the witnesses and some senators on our side who were supporting the position the witnesses were taking.

In light of the department's previous statements, as quoted extensively by Senator Robertson at the hearings in Moncton, do you think those statements are consistent with page nine of the document which you read a few minutes ago, which talks about changing the minimum rebate claim, simplifying the process and, in effect, "ensuring that all short-term accommodations sold outside Canada to non-resident visitors to Canada will effectively be tax free"?

First, can you explain why the government is now accepting all of the comments and criticisms that were made with respect to this particular issue as outlined in the amendment? These are the same criticisms Senator Robertson called categorically untrue.

The second observation I would like you to comment on relates to page four of the document, where it states explicitly that taxi operators will be able to recover all GST paid on gasoline and repairs. I am particularly interested in repairs. I presume the argument, as this document makes it, is essentially that a taxi is the vehicle by which a taxi operator earns his living. Would you care to comment why that logic should not also apply to repairs made to boats used by fishermen, since a boat used by a fisherman is, as a taxi is to a taxi operator, the vehicle used to earn income? If repairs to taxis are to be free from the GST, why should exactly the same logic not be applied to repairs to fishing boats or indeed repairs to farm equipment such as tractors and combines?

I raise those two specific issues because, as you will recall, they were raised during our hearings this summer. This summer, we were repeatedly told by government members that the GST would never be changed with respect to those areas and that in fact it had no impact on those areas. Would you care to comment on whether my recollection of the hearings is correct? If so, why is the government proceeding this way, or proposing to proceed this way if, in fact, it ever gets the bill. In particular, as someone from the east coast, why will a taxi operator not pay GST on repairs to a taxi, and why then should a fisherman pay the GST on repairs to his fishing boat?

Senator Buckwold: Senator Kirby, I wish I had the answer to your question as to why the fisherman is not treated in the same manner. I would gather the government justifies the difference on the basis that one is part of the food industry, with the complications that are involved in that. Far be it from me to try and read the minds of the Minister of Finance and some of his officials.

Insofar as the tourism rebate is concerned, that was asked for by tour operators and others involved in the tourist industry. Certainly, it will help a little. As you will recall, it is a long way from meeting the problems that have been created by the GST and Bill C-62 for that very important industry for Canada.

As far as your question concerning the taxi, I presume the answer is that once the GST is paid, by law under this new change you are required to charge the GST and, as such, you are entitled to a rebate under the system, the input tax credit or the output tax credit for what is paid out and, therefore, it averages itself out. They are treated as any other business.

Again, the whole bill is so complicated that some of the answers become very fuzzy, as you can gather from the way in which I have responded to you.

Honourable senators, in speaking to Senator Kelly's request or notion, I thought it was my duty to be aware of what is going on with respect to the amendments, based on this bill being passed by the Senate before the end of the year.

The Hon. the Speaker: Honourable senators, it being 6 o'clock I shall leave the Chair to return at 8 o'clock.

The sitting of the Senate was suspended.

At 8 p.m. the sitting of the Senate was resumed.

THE SENATE

POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, concerning the point of order raised by Senator Kelly yesterday—

Hon. Royce Frith (Deputy Leader of the Opposition): Hold it.

Senator Olson: Order!

The Hon. the Speaker: —I wish to make the following statement: This is not an issue for me to finally decide.

Some Hon. Senators: Order.

Senator Cools: No.

The Hon. the Speaker: It is, however, a matter which a majority of voices in the Senate can decide, like any other question.

An Hon. Senator: Order.

The Hon. the Speaker: This is clearly provided for in Section 36 of the Constitution Act of 1867—

An Hon. Senator: Order!

The Hon. the Speaker: —and rule 49(5) of the Senate.

An Hon. Senator: Sit down.

Senator MacEachen: You sit down.

An Hon. Senator: Sit down.

The Hon. the Speaker: I suggest that nobody can dispute that fact. The dilemma I face is that, should I rule that I cannot put the question and an appeal—

Senator Molgat: No.

The Hon. the Speaker: —to my ruling is requested—

Senator Molgat: No.

The Hon. the Speaker: —then, the Senate could—

Senator Molgat: No!

The Hon. the Speaker: —the Senate could overrule my decision not to put the question. Obviously, I would have to put the question.

Senator Molgat: Mr. Speaker, you are completely against all the rules of this house.

The Hon. the Speaker: On the other hand, if I decide to rule that the Bill be disposed of—

Senator Molgat: You are completely out of order!

The Hon. the Speaker: —and the decision is appealed—

An Hon. Senator: Where are your rules of office?

The Hon. the Speaker:

[Senator Buckwold.]

—whether the Senate decides to sustain or overrule that decision, the Senate itself will have made a final decision in the matter.

Senator Molgat: You are completely out of order.

The Hon. the Speaker:

Therefore, in order to give the Senate a clear and definitive opportunity to decide—

Senator Molgat: You are corrupt.

Senator Olson: That is wrong.

An Hon. Senator: This is Heffnerism.

The Hon. the Speaker:

—which is its undoubted right, I rule, that not later than 5:45 p.m., on Thursday December 13, 1990—

Senator Molgat: You are corrupt, Mr. Speaker, totally corrupt.

The Hon. the Speaker:

—I will put every question necessary to dispose of Bill C-62 at the third reading stage forthwith and successively without any further debate or deferral of divisions.

Since it is for the Senate to decide this matter, it can do so by either sustaining or rejecting my ruling in the usual way.

Senator Molgat: Sick, sick, sick.

The Hon. the Speaker: Shall the Speaker's ruling be sustained?

Some Hon. Senators: Yea.

Hon. Richard J. Stanbury: Honourable senators—

The Hon. the Speaker: All those against the ruling?

Senator Molgat: Sit down.

Some Hon. Senators: No.

Senator Stanbury: Honourable senators,

The Hon. the Speaker: The yeas have it.

Senator Stanbury: Honourable senators—

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

Senator MacEachen: I have a question of privilege.

Senator Stanbury: Honourable senators, I rise on a personal question of privilege.

Senator Cools: There is a question of privilege.

The Hon. the Speaker: I said, "Call in the senators."

Senator Stanbury: Honourable senators, I have a question of personal privilege.

The Hon. the Speaker: I said, "Call in the senators."

Senator Stanbury: The Speaker has given a ruling which is a nullity. There was no proper—

An Hon. Senator: Call in the senators.

Senator Stanbury: —listening to orders and the alleged ruling was without foundation.

Senator Olson: You had better keep out of it. This is a party matter.

Senator Stanbury: —contrary to the practices of the Senate of Canada. My point of personal privilege—

Hon. C. William Doody (Deputy Leader of the Government): Don't let them scare you.

The Hon. the Speaker: I said, "Call in the senators."

An Hon. Senator: Sit down.

Senator Olson: You don't have any right to do so.

The Hon. the Speaker: I have the right to do so.

Senator Olson: You do not.

The Hon. the Speaker: I was asked for a ruling.

Senator Stanbury: —as a member of long standing of the Senate of Canada, in Ottawa—the privilege of the Senate as a whole—

The Hon. the Speaker: Are the bells ringing?

Senator Stanbury: My point of personal privilege affects not only my privileges as a member of long standing in the Senate of Ottawa but affects the Senate as whole.

The Hon. the Speaker: Are the bells ringing? Is it a 30-minute bell?

Senator Phillips: Suspend.

Senator Stanbury: Honourable senators, I rise on a point of personal privilege—

Senator Phillips: Suspend. You have your motion.

Senator Stanbury: The Speaker has given a ruling which is a nullity.

Some Hon. Senators: No.

Senator Petten: Continue. You are allowed.

Senator Phillips: Honourable senators—

Senator Stanbury: The alleged ruling was without foundation according to the rules and practices of the Senate of Canada.

Senator Phillips: Honourable senators, pursuant to rule P-3(c), I request the vote be deferred.

At 8.20 p.m. the Speaker left the Chair and the sitting of the Senate was suspended until tomorrow at 8:15 a.m.

[*Editor's Note: For continuation of proceedings see Issue No. 116C.*]

THE SENATE

Tuesday, December 11, 1990

[*Editor's Note: Continuation of proceedings from Issue No. 116B.*]

The sitting of the Senate was resumed at 8:45 a.m., Thursday, December 13, 1990, the Speaker in the Chair.

Hon. Stanley Haidasz: Honourable Senators, I rise on a question of privilege, which—

An Hon. Senator: Sit down!

Senator Haidasz: —supersedes all other orders—

Hon. C. William Doody (Deputy Leader of the Government): Not when there is a division.

Some Hon. Senators: Order, order!

THE SENATE

POINT OF ORDER—SPEAKER'S RULING SUSTAINED

The Hon. the Speaker: Honourable senators, last evening the Chair's ruling was appealed. Those in favour of the Speaker's ruling please rise.

Speaker's ruling sustained on the following division.

YEAS

THE HONOURABLE SENATORS

Atkins	Grimard
Balfour	Hatfield
Barootes	Johnson
Beaudoin	Kelleher
Beaulieu	Kelly
Bélisle	Keon
Berntson	Kinsella
Bolduc	Lavoie-Roux
Buchanan	Lynch-Staunton
Carney	Macdonald
Castonguay	(*Cape Breton*)
Chaput-Rolland	MacDonald
Charbonneau	(*Halifax*)
Cochrane	Macquarrie
Cogger	Marshall
Comeau	Meighen
David	Muir
DeWare	Murray
Di Nino	Nurgitz
Doody	Oliver
Doyle	Ottenheimer
Everett	Phillips
Eyton	Poitras
Forrestall	Robertson
Ross	Sylvain
Rossiter	Teed
Simard	Tremblay
Spivak	Twinn—54

NAYS

THE HONOURABLE SENATORS

Nil

ABSTENTIONS

THE HONOURABLE SENATORS

Adams	Lewis
Austin	Lucier
Bonnell	MacEachen
Bosa	Marchand
Buckwold	Marsden
Cools	Molgat
Corbin	Neiman
Croll	Olson
Davey	Perrault
Fairbairn	Petten
Frith	Robichaud
Gigantès	Sparrow
Grafstein	Stanbury
Graham	Steuart
Haidasz	(*Prince Albert-Duck Lake*)
Hastings	Stewart
Hays	(*Antigonish-Guysborough*)
Hébert	Stollery
Kenny	Thériault
Kirby	Turner
Lawson	van Roggen
LeBlanc	Waters
(*Beauséjour*)	Watt
Leblanc	Wood—46
(*Saurel*)	
Lefebvre	

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I abstain because I refuse to participate in this adjudication.

Some Hon. Senators: Order!

Senator MacEachen: You will not stop me—

Senator Petten: He has every right to explain his reason.

Hon. H.A. Olson: I abstain because this is being conducted by a bunch of criminals who are committing a criminal act against Parliament.

Hon. David A. Croll: I abstain on the grounds that the vote is illegal and corrupt and I will not participate.

Hon. Jack Austin: Honourable senators, I abstain because this is a corrupt event led my a corrupt Speaker and a corrupt government.

Hon. Royce Frith (Deputy Leader of the Opposition): I abstain because this is a corrupt and illegal vote and I can only participate in such a vote by abstaining, and so protest this corrupt and illegal vote conducted by a corrupt Speaker who himself just voted in favour of it.

Hon. Raymond J. Perrault: This is a day of parliamentary infamy, and this is an illegal vote by government supporters who know that it is illegal. I will not support any process designed by a totally discredited government that would legitimize this procedural goonery and violation of the office of the Speaker.

Hon. Louis-J. Robichaud: I do believe that this vote is corrupt, and I abstain.

Hon. Stanley Haidasz: Honourable senators, I abstain in this vote. I refuse categorically to adjudicate on the corrupt ruling made by the Speaker of this house yesterday. It is contempt of Parliament.

[*Translation*]

Hon. L. Norbert Thériault: Honourable senators, I abstain in disgust, because I refuse to have anaything to do with the crushing of the parliamentary system, as perpetrated by senator Charbonneau on the orders of senator Murray.

Hon. Len Marchand:

(*Editor's Note: The honourable senator commented in Okanagan*).

Hon. Roméo LeBlanc (Beauséjour): Honourable senators, I abstain from voting because I want no part in a corrupt decision made by a Speaker himself corrupted by senator Murray.

[*English*]

Hon. B. Alasdair Graham: I abstain because this is a corrupt ruling and an illegal vote.

Hon. Day Hays: I abstain because I refuse to adjudicate on a corrupt ruling.

[*Translation*]

Hon. Thomas H. Lefebvre: Honourable senators. I abstain because this is an illegal act and I want no part in it.

• (0810)

[*English*]

Hon. Gildas L. Molgat: I abstain because a man by the name of Guy Charbonneau has corrupted this Senate. He has been corrupted by Lowell Murray and by the Prime Minister of this country and his ruling is illegal and contrary to the rules of this house.

[*Translation*]

He is a traitor! It is an odious vote!

Senator Simard: You are a rascal, Senator Molgat, an uncouth individual!

Senator Molgat: I am telling the truth!

[*English*]

Hon. Jerahmiel S. Grafstein: I abstain because this action is a nullity and extra of parliamentary. It is outside the bounds of our Parliament. I refuse to adjudicate or participate in an arbitrary action that is corrupt.

Hon. Joan Neiman: I abstain because I refuse to participate in this illegal charade.

Hon. M. Lorne Bonnell: I abstain because I do not really think there should be a vote at all. There was no motion or appeal asked for by the Senate.

Hon. William J. Petten: I abstain because I refuse to take part in this illegal vote.

Hon. Joyce Fairbairn: I abstain with revulsion at this corrupt action.

Hon. Earl A. Hastings: I abstain in this vote because it is the only method I have for showing my disgust for this corrupt procedure by a corrupt Speaker in this Senate chamber.

Hon. Richard J. Stanbury: I abstain from participating in an illegal vote on a corrupt ruling by a corrupt Speaker.

Hon. Sidney L. Buckwold: I abstain because I cannot support a ruling by a corrupt Speaker carried out by a corrupt government that is carrying on a parliamentary form of diarrhea that I cannot accept.

Hon. George van Roggen: I abstain because I refuse to give any legitimacy whatsoever to an illegal ruling of a corrupt Speaker.

[*Translation*]

Hon. Fernand E. Leblanc (Saurel): Honourable senators, I abstain from voting because I refuse to participate in an illegal vote.

Hon. Willie Adams: I abstain because we have been corrupted by the Speaker, Senator Murray, the eight new Senators and Brian Mulroney. They are ruining everything in Canada with GST.

(*Editor's Note: The honourable senator commented in Inuktitut*).

Hon. Charlie Watt:

(Editor's Note: The honourable senator commented in Inuktitut).

Hon. Colin Kenny: I abstain because this is a corrupt ruling by a corrupt Speaker.

Hon. Michael Kirby: I abstain because this vote is illegal and to vote on this motion would be to sustain an illegal action-an action which was set in place by the Speaker, who left me with the impression two weeks ago in his office that he was going to ensure that the final vote on C-62 took place regardless of whether that objective was achieved legally or illegally, within the rules or outside the rules. That vote was—

The Hon. the Speaker: I didn't say that!

Some Hon. Senators: Shame!

Senator Kirby: He told me that two weeks ago.

The Hon. the Speaker: I didn't say that!

Hon. Michael Kirby: That is, verbatim, what you said.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, I refuse to participate in this prostitution of Parliament by unconscionable beings, men and women devoid of all honour and without shame!

[*English*]

Honourable colleagues, I refuse to participate in this prostitution of Parliament by unconscionable beings, men and women devoid of all honour and without shame.

Hon. Herbert O. Sparrow: Honourable senators, I abstain from this illegal vote, and I will not be a part of directions from corrupt speakers that are bastardizing this whole institution.

Hon. Keith Davey: I abstain because this is a corrupt and illegal farce.

Hon. D.G. Steuart: I abstain because this is an act by a corrupt Speaker. It is a shameful act by those people over there, and I think it is a disgrace to Parliament.

Hon. P. Derek Lewis: I abstain because I regard the vote as a nullity, and it is being carried out under the auspices of a Mulroney pawn.

Hon. Peter Bosa: I abstain because I do not want to legitimize or legalize a vote that is corrupt.

Hon. Paul Lucier: I abstain because I refuse to take part in a corrupt vote which denies every Canadian living in Northern Canada their right to be heard in this Parliament. You will all regret it. Whether or not there is revenge is not important, but every night when you go to bed you will know that Northern Canada never had a chance to speak on third reading. Not one of the northern senators was permitted to speak on third reading.

[*Translation*]

Senator Simard: This is going to be good!

Hon. Jacques Hébert: Honourable senators, I refrain from expressing my deepest disgust and contempt for the Speaker of the Senate and all those who corrupted him.

[*English*]

Hon. Anne C. Cools: I abstain. This is a corrupt ruling by a corrupt Speaker.

Hon. Peter A. Stollery: This procedure demeans Canada. I did not come to the Senate to participate in a demeaning act that would make our country less than it is. It is a corrupt procedure instituted by a corrupt Speaker under the direction of a corrupt leader in the Senate who, for the rest of his life, will have to live with his actions.

[*Translation*]

Hon. Philippe Deane Gigantès: Honourable senators, I abstain, since I do not want to be tainted by the corruption of Charbonneau, Lowell Murray and their accomplices.

[*English*]

Hon. John B. Stewart: I abstain because I do not wish to lend the colour of legitimacy to an act of thuggery.

Hon. Lorna Marsden: The Speaker's ruling is corrupt and this is an illegal vote. I abstain.

Hon. Charles Turner: I abstain. The Speaker is corrupt and he has no integrity. If this were a union hall, he would wind up, Chair and all, out in the lot or on the front lawn.

Hon. Edward M. Lawson: Yesterday I presented a motion that was seconded by Senator Waters that would allow independent Senators to speak. That motion was acceptable under the rules, and it was my right. During the supper adjournment I had a discussion with Senator MacEachen to indicate his willingness to stand aside for Senator Waters if I would withdraw the motion about Senator Water's right to speak. Accommodation had been reached for Senator Waters to speak, and we so advised the deputy leader. By his ruling, the Speaker has prevented that event from taking place and Senator Waters from having his right to speak.

You, Mr. Speaker, I am saddened to say, not only have a responsibility but a duty to protect the rights of independent senators to speak in this chamber. I am saddened to say that you have failed in that duty of allowing us our right to speak. If I am prevented from exercising my legal right to speak, how in the name of God can I vote? So I abstain.

Hon. Stan Waters: I abstain for the reasons expressed by Senator Lawson. The Speaker has let both of us down. You have said to us that you will look after the independents. Neither of us had an opportunity to speak in this debate. It is a denial of our democratic right and a travesty of Parliament against those people who have been left out by the ruling. I abstain.

QUESTION OF PRIVILEGE

Hon. Richard J. Stanbury: Honourable senators, I rise on a question of privilege. The Speaker has given a ruling that is a nullity. There was no proper point of order and the alleged ruling was without foundation under the rules and procedures of the Senate of Canada.

My point of personal privilege affects not only my privileges as a member of long standing of the Senate of Canada, but the privileges of the Senate as a whole and of each individual senator sitting anywhere in this chamber. The government

bulldozer must be stopped before it destroys not only the Senate but the Parliament of Canada.

MOTION OF CENSURE

Hon. Richard J. Stanbury: As a result, I find it necessary, sadly, to move, pursuant to Rule 33 of the *Rules of the Senate of Canada* as follows:

Whereas Speaker Guy Charbonneau, on September 27, 1990, left the Chair and ordered the doors locked although a sitting of the Senate was still in progress; and

Whereas Speaker Guy Charbonneau, on October 4, 1990, broke the rules of the Senate by arrogating to himself the right to set the time for division in direct contravention of the *Rules of the Senate*, which provide that a vote will be taken only on the consent of the Whips; and

Whereas the aforesaid violation of the *Rules of the Senate* was deliberate, as stated by Senator Charbonneau in a letter sent by him that day to four senators, with copies to six others; and

Whereas Speaker Charbonneau aggravated his offence by not informing other senators of his intention to conduct the division on the question then before the Senate at 5.30 p.m. on October 4, 1990; and

Whereas Speaker Charbonneau ordered the doors of the Senate chamber locked before the hour specified by himself in the aforesaid letter; and

• (0820)

Whereas by conducting the division on October 4, 1990 before the time specified in the aforesaid letter, Senator Guy Charbonneau—even assuming that he had the right to set the time of divisions—which assumption is false—violated section 17 of the *Constitution Act, 1867,* in that he supplanted the Senate of Canada by a clandestine assembly; and

Whereas Speaker Charbonneau collaborated with Government supporters to deprive other senators of their rights as senators, as suggested by the statement of Senator P. Michael Pitfield on October 9, 1990; and

Whereas Speaker Charbonneau on October 30, 1990, interrupted a senator, a senator then presenting a petition, and gave the floor to another senator who, having presented two petitions—one from three members of Senator Murray's staff—moved—"that the Orders of the Day be read now"; and

Whereas Speaker Charbonneau, on October 30, 1990, ruled that the motion—that the Orders of the Day be read now—which is defined by *Beauchesne* as a dilatory motion, can be used to set aside Rule 19 of the Senate; and

Whereas Speaker Charbonneau persisted in attempting to originate a new proceeding—by attempting to allow Senator Lowell Murray to move "that the original question be now put" at an hour when, under Rule 12, a sitting of the Senate is suspended; and

Whereas Speaker Charbonneau persisted in attempting to allow Senator Murray to move "that the original motion be now put" at a time when, because the Orders of the Day had not been reached, that motion could not be received by the Speaker; and

Whereas Speaker Charbonneau conspired with supporters of the Government to deprive the Senate of its right, under Rule 26, to decide whether or not to hear an independent senator, Senator Stan Waters, who had given notice of his wish to be heard.

And whereas he then acted as the negotiator on behalf of the Government with the two Independent Senators to come to the terms of an agreement under which Senator Waters and Senator Lawson would be allowed to propose amendments.

And whereas Senator Guy Charbonneau has now made a ruling contrary to the Rules and practices of the Senate curtailing the debate on the motion to move the original question on the Third Reading of Bill C-62.

And whereas Speaker Charbonneau has just now conducted an illegal vote of this assembly;

I move, seconded by the Honourable Joyce Fairbairn, pursuant to rule 33 of the Rules of the Senate,

THAT, the privileges of Honourable Senators having been consistently abused by the Speaker, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.

[*Translation*]

The Hon. the Speaker: Moved by the honourable Senator Stanbury, seconded by the honourable Senator Fairbairn, pursuant to rule 33 of the Rules of the Senate, that,

the privileges of honourable senators having been consistently abused by the Speaker, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Members: Agreed.

[*English*]

Senator Stanbury: Honourable senators, it is with great sadness that I move this motion, even though the necessity for it is born of personal shock and frustration at the loss of my personal privilege after 23 years in the Senate, and a sense of shame that honourable senators have allowed our institution to be so badly abused. My complaint concerning the behaviour of Senator Guy Charbonneau is that he allowed himself to become the tool of a vindictive and dictatorial Prime Minister. Mr. Mulroney has no more regard for the preservation of the integrity of his friends and servants than he has for the democratic constitutional institutions of our country.

Some Hon. Senators: Hear, hear!

Senator Stanbury: The Honourable Guy Charbonneau came to this chamber in 1979 with a fine reputation as a soldier and businessman. He perpetuated that reputation throughout his service as Speaker of the Senate after his appointment to that post by the Prime Minister in 1984. It is only within the last few months that he has allowed his warm friendship and blind loyalty to Prime Minister Mulroney to cause him to abuse his honoured position as Speaker of this chamber.

His abuse of the rights and privileges of honourable senators has brought the Senate to an impasse and to the brink of chaos and collapse, as we have seen this morning. Unhappily, his blind loyalty to the Prime Minister was exacerbated by his lack of knowledge and understanding of the history and tradition of the Senate and his lack of knowledge of, and respect for, the *Rules of the Senate.*

In an effort to avoid this final impasse, Senators Fairbairn, Lefebvre, Kirby and I visited the Speaker in his chambers after his offensive behaviour of November 22 and before the present debate began. Our purpose was to ascertain whether he intended to attempt any other manoeuvre, such as this one, to cut off debate on Senator Murray's improperly accepted motion on the previous question. In the course of our discussion, Senator Charbonneau expressed surprise that we should be upset by his previous breaches of the rules and his attempts to make new rules by precedent.

Senator Frith: Incredible!

Senator Stanbury: He expressed complete contempt for the present rules and said that the whole book should be thrown out.

Senator Frith: He's already done that!

Senator Stanbury: He said that, after this experience was over, we would have to write new rules. He also advised us that, before these events began in September, he had little knowledge of the rules but had learned a lot since. He offered the comment that he had not read *Beauchesne* and did not really know much about it until someone had referred him to a passage in it after he had refused Senator Molgat's motion—

Senator Haidasz: What dereliction of duty!

Senator Stanbury: —under Rule 26, asking him to recognize Senator Waters. Senator Charbonneau told us of his personal, strong, partisan support for the GST and made no apologies for voting with the government on all of the amendments, although other Speakers have not voted since 1943. He also talked about how long the debate would go on in relationship to the need of the government to get the cheques out. We made it clear that getting the cheques out and the length of debate were not his concern as Speaker.

On being pressed by us as to whether he recognized the right of each speaker to speak once on the previous question motion, and to speak at length to make use of delay as a legitimate tactic of the opposition, he said he was aware of the rule that each senator could speak once and he knew of no rule which could limit the time of debate. Yet here we are; he is willing to entertain, and has entertained, a supposed point of order of Senator Kelly, which was clearly out of order, and has now conducted an illegal vote on that matter.

Honourable senators, it would not be fair to recite the perceived sins committed by the Speaker without taking some time to review the history and powers of the institution of the Speaker of the Senate. The Speaker is invested with no more authority than any other member of the Senate. We are all equal in this chamber. Not one of us, including the Speaker, has any more rights or privileges than the others. The Speaker does not have the responsibility, the duty, the authority or even the legitimacy to break the rules of this place for any reason, nor to make new rules. Where the Speaker does have authority generally in preserving order and decorum as outlined in Rules 15 and 16, it is vested in him by the Senate at large. Moreover, even under the most liberal definitions, it is clear that order and decorum are not now in jeopardy in this place—at least, they were not before these activities. Therefore, the one area where the Speaker could be seen as having some incarnation of authority is wholly unacceptable in the current situation.

• (0830)

Furthermore, it would be wrong for honourable senators to attribute powers and responsibilities to the Speaker of the Senate which currently are enjoyed by the Speaker of the other place. I realize that there are many new senators here who perhaps are unfamiliar with the role of the Speaker in this chamber, and may be somewhat more familiar with the position and duties of speakers in the House of Commons or in provincial legislatures. Therefore, I feel it necessary to contrast the two.

Robert A. MacKay wrote in *The Unreformed Senate of Canada*, at page 65:

> The differences between the two speakerships are of historic origin; both offices are modelled on those of the British Parliament. The Lord Chancellor, a member of the Cabinet, presides over the Lords, where he represents the Crown rather than the dignity and authority of the House of Lords. He is not addressed by members when they rise to speak; instead, remarks are addressed to the members of the House. These customs are followed meticulously at Ottawa. Thus, the Speaker of the Senate is in reality but a chairman or presiding senator, not the spokesman of the House in dealing with the Crown as the Speaker of the Commons is historically, nor yet a president who sits above the party struggles.

Professor F.A. Kuntz has written in *The Modern Senate of Canada*, at page 168:

> The Senate contrives to run its debates without the need of a presiding officer in the traditional sense . . . More important—

And I hope you will listen to this:

> More important still is the lack of any provision for closure, with the result that there is no formal restriction on the right of any Senator to speak at any length in any debate. In the case of difference between Senators the matter will be discussed by the House, with the Speaker

> having no more authority than any other Senator. The fact is that the Speaker is not supposed to intervene, even if a rule is broken, unless a member calls his attention to the breach.

Let me read that again.

> More important still is the lack of any provision for closure, with the result that there is no formal restriction on the right of any Senator to speak at any length in any debate.

Speaker after Speaker has bemoaned his or her lack of authority. He or she rules at the discretion of honourable senators.

Let us now see in what respects Senator Charbonneau has violated the rights and privileges of honourable senators and, indeed, has brought the parliamentary institution of which we have all been proud, the Senate of Canada, into disrepute.

First, on September 27, 1990, the Senate was in session, and the bells were ringing to summon the senators to a vote. Without the consent of the Senate, the Speaker left the Chair, ordered the bells turned off and the doors locked. There was no precedent for such behaviour, and no excuse has been offered for his improper behaviour, except a vague reference to Rule 15 and to his responsibility for order and decorum.

Second, on October 4, 1990, the Senate was in session. The bells were ringing to summon the senators for a vote. The *Rules of the Senate* clearly prescribe the procedure to be followed leading to a vote.

Rules 49 and 50, of course, were not followed this morning, and they certainly were not followed on October 4, 1990. The procedure to be followed leading to a vote is prescribed in rules 49 and 50 and in the Forms and Proceedings concerning voting at page 70 of the *Rules of the Senate of Canada*. Section 49 states:

> When a question is put to a vote, the Speaker shall ask for the "yeas" and the "nays"—

That was not done last night.

> —and shall thereupon decide whether the question has carried.
>
> (2) In the absence of a request for a standing vote, the decision of the Speaker is final.
>
> (3) Upon the request of two senators before the Senate takes up other business, the Speaker shall call for a standing vote, at which time the "yeas" shall first rise in their places, then the "nays", then the abstentions.

Of course, that did not happen last night, either.

> (4) A senator is not entitled to vote on any question in which the senator has a pecuniary interest not available to the general public. The vote of any senator so interested shall be disallowed.
>
> (5) Questions arising in the Senate shall be decided by a majority of voices. The Speaker shall in all cases have a vote. When the voices are equal the decision shall be deemed to be in the negative.

[Senator Stanbury.]

Section 50 states:

> (1) A senator shall not vote on any question unless the senator is within the Bar of the Senate when the question is put.
>
> (2) Without leave of the Senate a senator shall not speak to a question after the order has been given to call in the members to vote thereon.
>
> (3) With leave of the Senate, the vote of a senator may, for special reasons assigned by the senator be withdrawn or changed by the senator immediately after the announcement of the division.

Then, at page 70, under the heading "Voting", it is stated:

> At the conclusion of a debate, the Speaker puts the question.

Where was the debate?

> If there is uncertainty of agreement, the Speaker asks for the "yeas" and the "nays" and then expresses his opinion as to the result.

That was not done last night.

> If two or more senators express their disagreement by rising,—

That was not done last night.

> —the Speaker calls for a standing vote.

That was not done last night.

> The division bells are rung, and when the Whips have entered the Chamber and have indicated to the Speaker that they are ready to proceed to the vote, the Speaker should say: "Let the doors of the Chamber be locked". The doors will then be locked by the pages and the Speaker will call for the vote.

While the bells were ringing, the Speaker sent out to four senators only, with copies to only six others, a letter which reads:

> Dear Senators:
>
> In light of the failure of the mechanisms established by the political parties within the Senate—

What mechanisms is he talking about? These are rules we are talking about.

> —to assemble senators for a division within a reasonable time, I will be stopping the division bells and will proceed to put the question now before the Senate at 5:30 this day.

As if he had any authority to stop the ringing of the bells or to put the question at a particular time.

The letter goes on to state:

> I have taken this decision after much reflection to protect the rights of individual senators to perform their duties.

I am not sure that Senator Waters or Senator Lawson believed that that step was taken in order to protect their rights and privileges, nor was it taken to protect the rights and privileges of the people on this side. There was a certain phalanx of people on that side whose rights and privileges were being protected by a partisan Speaker.

The letter stated that he would call the vote at 5:30 p.m. The record clearly shows that he ordered the doors locked at 5:25 p.m., with no consent from the Liberal Whip and no opposition members in the chamber.

The reason for calling the vote at 5:30 p.m. was clearly spurious. The bells had rung for only one hour and forty minutes before he sent out the letter at 5:05 p.m. The notice was clearly an attempt to ensure that what did happen would happen. In other words, the time was so short that it was clear that all senators could not possibly be notified in time. At least half of the opposition senators were not notified in time to be present, and even if they had appeared at the time stated in the notice for the vote, they would have found that the doors had been locked a full five minutes ahead of time.

• (0840)

The fact that the Speaker had turned off the bells and locked the Senate doors on September 27th, a week before, lead to more confusion. Those senators who had received no notice but heard the bells stop assumed that the Speaker had followed the precedent of the previous week, and closed down the Senate.

An independent senator, Senator Pitfield, has made it clear that there was no lack of notice to the Progressive Conservative senators. They all knew well in advance that the Speaker would call a vote, and at what time he would call it, but even Senator Pitfield, an independent, was given no effective notice.

As Senator Murray is fond of saying in other circumstances, any reasonable man would be forced to conclude that there was collaboration, and indeed conspiracy, to break the *Rules of the Senate* between the Honourable the Leader of the Government in the Senate and the Speaker, an offence so heinous that even that one parliamentary crime would have been sufficient to support this motion. But there is more.

Thirdly, on October 30, 1990 Senator Charbonneau again collaborated with the Government Leader in what had to be one of the more awkward and sadly humorous moves that we have yet witnessed. While the Senate was engaged in the Presentation of Petitions item on the Order Paper, Senator Charbonneau, by obvious pre-arrangement, interrupted a senator already reading genuine petitions from among the hundreds of thousands of Canadian citizens angered by the goods and services tax and furious with the government for imposing it. The Speaker then awarded the floor to Senator Doody, the Government House Leader, who used a counterfeit petition signed by three members of Senator Murray's staff to get the floor in order to insert a motion "That the Orders of the Day be read now". The motion passed after appeal among expressions, and well-earned expressions, of derision and disgust.

But the gimmick could not even have been tried had it not been for the compliance of the Speaker. He quite improperly ruled that a motion, clearly defined by *Beauchesne* as a dilatory motion, could be used to set aside Rule 19 of the Senate, which reads:

> At each daily sitting of the Senate, the Speaker shall call for, in the following order:
>
> (*a*) presentation of petitions;
> (*b*) reading of petitions;
> (*c*) reports of committees;
> (*d*) notices of inquiries;
> (*e*) notices of motions;
> (*f*) question period;
> (*g*) orders of the day;
> (*h*) inquiries;
> (*i*) motions.

Senator Frith: This is after he had said that he had read the rules and knew all about them.

Senator Stanbury: Yes, this is after he said he had read the rules and knew them now.

Fourthly: now comes another blockbuster. On November 21st, Senator Waters, the one elected senator elected by the people of Alberta, carrying a heavy responsibility to represent his constituents and his party, the Reform Party, advised the Speaker that at the end of the Debate and vote on the eight Liberal amendments to Bill C-62, he would be on his feet to move a further amendment.

On November 22, in the course of presenting petitions from his constituents in the province of Alberta praying senators to defeat this terrible Bill C-62, Senator Waters, on two occasions, made it clear that he would be on his feet after the vote on the eighth Liberal amendment to propose an amendment to Bill C-62. He specifically requested the Speaker, on both occasions, to recognize that he had the floor after the vote.

Instead of recognizing Senator Waters, as he was morally obliged to do, Senator Charbonneau recognized Senator Murray, the Government Leader.

Senator Murray had barely stood and uttered "Honourable senators," when Senator Frith called "6 o'clock," and it was at that time well past six o'clock. At that point the rules require that the Speaker leave the Chair and the chamber. Senator Charbonneau did neither.

Senator Molgat moved under Rule 26 that Senator Waters be heard. That Rule reads as follows:

> When two or more senators rise to speak, the Speaker shall call upon the senator who in the Speaker's opinion first rose; but a motion may be made that any senator who has risen "be now heard" or "do now speak".

So that if the Speaker insisted on ignoring the proper procedure upon reaching six o'clock, he was obliged to accept Senator Molgat's motion under Rule 26 to let Senator Waters be heard; but the Speaker insisted that Senator Murray's motion, which hadn't even yet been articulated by Senator Murray, was on the floor—this is what somebody pointed out to him from *Beauchesne*, something that has to do with the House of Commons, and this is when he learned about *Beauchesne*—was on the floor and therefore he could not accept Senator Molgat's motion.

Not only was Senator Murray's motion not on the floor, but if it had been it would have been out of order because the

Speaker had not yet called for Orders of the Day as provided in Rule P3.

After protest from independent and Liberal senators, the Speaker acted as negotiator on behalf of the Government with Senator Waters and Senator Lawson. After many hours, he reached an agreement with them. That agreement, quite improperly, imposed terms upon Senator Waters and Senator Lawson in return for the opportunity of proposing one amendment each to Bill C-62. They already had the unfettered right as senators to propose as many amendments as they might wish, to try to improve this ugly bill. That right continues up to the point where the Government successfully moves the previous question—which the Government had not as yet accomplished.

Senator Beaudoin has the habit of saying that his interpretation of a constitutional point is "crystal clear." However, even Senator Beaudoin will have to agree that the series of events that I have just recounted, and the action of Senator Charbonneau are "crystal clear" evidence of collusion and conspiracy between the Speaker and the Government to break, ignore and evade various rules of the Senate. The illegal purpose of the conspirators was clearly to reach the debate on the previous question before the independent senators had had an opportunity to propose amendments. Their fallback position was exactly what they accomplished—that is, to impose conditions on independent senators which they had no right to impose, and those conditions were negotiated on behalf of the Government by the Speaker.

Fifthly, and now Senator Charbonneau's fifth breach of faith with his senate colleagues: Senator Charbonneau knows, that the Senate rules were only revised in March 1988 with the unanimous consent of all senators—independents, liberals and progressive conservatives—and with the important participation of Senator Flynn, who is far and away the best parliamentarian the Government side of the Senate has been able to produce.

Senator Charbonneau knows that the rules provide, under Rules 27 and 28, for each Senator to have the right to speak on each motion. He knows that there is no rule which restricts the length of speeches in the Senate. He knows that there is a long tradition and practice of lengthy and comprehensive speeches in the Senate. He knows there is a rule which provides a method of changing the rules legally, if the competence had been available on the Government side.

Senator Charbonneau also knows that, as a partisan appointee, appointed by the Prime Minister and permitted to speak in partisan debate and vote in partisan votes, his only claim to credibility and objectivity is his even-handed application of the rules of the Senate. He knows that the principle task of any Speaker of any legislative body is the protection of the rights of the minority and of the individual members of that body. He knows today what we know, and that is that he has allowed his office to be prostituted before the blandishments of a close friend, the needs of a desperate government and his own partisan desire to see a piece of legislation, even a bad piece of legislation, passed into law. Knowing all of that, he has made a ruling which is a nullity.

[Senator Stanbury.]

● (0850)

There is no proper point of order and the alleged ruling was without foundation in the rules and practices of the Senate of Canada. That ruling attempted to invoke closure in the Senate of Canada and now, by an illegal vote and illegal procedure, he has apparently obtained a vote which does exactly that.

Can you imagine what an eruption all of this would have caused in the country if it had happened in the House of Commons? Can you imagine the press reports? This is just the Senate, which has earned a reputation for not taking strong stands on behalf of the people of Canada. However, the Senate is important, especially so in circumstances where a failed government jams a bad bill through the House of Commons and the Senate becomes the only refuge of a worried and unhappy people. Let us look at what happened when a similar situation hit the House of Commons. It may be of some comfort to the honourable senators opposite that they are not members of the first government in Canadian history to become so desperate and so arrogant as to make a Speaker the victim of its determination.

In June of 1956, the government of Mr. Saint-Laurent became just as excited over the difficulty it was having in getting the pipeline bill through the House of Commons as the government of Mr. Mulroney has become over its difficulty with the GST. Mr. George Drew, the Leader of the Progressive Conservative opposition, had the sad duty then that I have today. He was moving what is essentially a motion of censure of the Speaker of the House of Commons in circumstances much less damaging than those that are here present today, and I would like to quote from his remarks, to be found at page 4648 of the House of Commons debates on that day. He said:

> The government cannot divorce itself from the tragic downfall of the Speaker on this occasion. He is the victim. He is a casualty of the government's overbearing conduct during this debate. We had done what we could do to prevent the government proceeding on the arrogant course which has produced this sorrowfull result. That was our only recourse; that in fact was our only right. It was the duty of the Speaker to protect our rights just as it was his duty to protect the rights of the government.
>
> Whatever may be said of the ugly things that happened last week,—

and we might say again over the last two months.

> —I think it can be said with certainty that every hon. member is equally sorry that they ever happened. No hon. member of this house will want to see a repetition of the turmoil into which this house was thrown last Friday. Let it be admitted immediately that we all share some responsibility for that turmoil. We all took part in it. We can have no happy recollection at any time of that sad event. May I point out, however, that, confronted as we were with a rigid denial by the Speaker of our fundamental

rights to be heard in regard to these issues, we had no course open to us but to register our anger in the way we did.

He went on to say:

Were we quietly to submit in the face of this course that savoured in every way the dreadful dictatorships that have grown up in Europe in these past few years? It was Junius who said that the subject who is truly loyal will neither advise nor submit to arbitrary measures. The subject who is loyal will neither submit nor advise. We were not prepared to submit to as arbitrary measures as ever denied to the sitting members of a legislative body the rights to which they were entitled by tradition, by the rules and by all the declared purposes of this parliament.

I invite honourable senators to examine that debate at that time and see how little the Speaker did deserve this kind of retribution as compared to what our Speaker has done to us. Mr. Drew continues:

For all that happened here last Friday the Prime Minister must accept the responsibility. Most of us have little but sorrow in our hearts for the plight of the Speaker who was the victim of the government's action.

The Prime Minister could have prevented the dreadful scenes we witnessed here—

And for "the Prime Minister" I would put the name of Senator Murray, although the Prime Minister is the grey eminence behind all of these things.

The Prime Minister could have prevented the dreadful scenes we witnessed here if he had asserted his authority along the lines of our parliamentary traditions. The Prime Minister saw where all this was heading.

The Prime Minister saw what was happening in the House and he should have foreseen, as could be foreseen, what the consequences of that erosion must certainly be. I am not seeking for a moment to leave the impression that the opposition did not contribute to the disturbance, as did all the members on the other side. I repeat again, however, that we used the only weapons that we had as free men and women to bring to the attention of this house and to the attention of the people of Canada the disgraceful denial of our rights which had taken place.

We had no choice but to assert our rights as we did. We had no choice, moreover, but to bring this matter to a head by the motion which is now before us.

Here we had no power of self-defence. We have none but to declare what we believe to be the rights of the people of Canada and their representatives here in this house. We shall not be subservient to false interpretation of the rules. We shall not be subservient to anything that savours of dictatorship here in this house. We shall not be subservient to the will of the majority expressed by the Speaker, as it has been in this case, in a manner which no longer seeks to define the right of the majority but establishes for the time being mob rule.

He made one further comment:

A partisan vote on the motion now before us will not relieve the unhappy situation in which we now find ourselves. Never before has this house been faced with so serious a situation. Never before were members of this house conscious as they now are that something good, decent, precious and valuable has been destroyed. There is only one way this situation can be relieved. I appeal with all the earnestness I possess to the Prime Minister as head of the government to follow the only course which will restore the dignity, honour and traditions of parliament.

To let this motion go to a vote that divides the house denies the very basis upon which the Speaker occupies the chair.

Then Mr. M. J. Coldwell, the Leader of the Cooperative Commonwealth Federation, CCF, made the following sad comment:

I do not think that any of us like the position in which we find ourselves. We do not like the breaches in those personal friendships that have been established over the years in this house. Some of us do not like the feeling that we have perhaps lost respect for one another. In this connection I should like to feel that we could go back to the position in which we found ourselves three weeks ago and wipe the slate clean, but that cannot be done. We must face up to this situation. There is no doubt, Mr. Speaker—as the Leader of the Opposition has said—that no matter what we may do or say for the balance of this parliament, the Speaker has not the confidence of the entire house, which is something which is so necessary to conducting the business of this House.

● (0900)

It is hard for me to confess that a government led by my own party could have fallen prey to the same temptations of power to which the Mulroney government has fallen, but obviously it did, and it paid the ultimate price at the hands of the electorate in 1957 and 1958. However, there are two or three years left before the present government has to pay that price. Senators are not the chamber of confidence in the Parliament of Canada. If we were, the only proper result would be the dissolution of Parliament and a consequent election.

In our situation, in which the Speaker is named by the Governor General on the sole recommendation of the Prime Minister, we have no alternative but to advise the Prime Minister that we have lost confidence in his appointee, that the Senate cannot function without a respected Speaker and that the government leader should adjourn the senate pending the replacement by the Prime Minister of the present Speaker by a senator in whose character and judgment we can have faith, and whose integrity and objectivity we can respect.

There has been some suggestion that the government, through the Speaker, would justify this type of action with a precedent from outside this house. I say to my honourable colleagues that any search for a precedent must necessarily

start in the history of this very chamber, and only if there is nothing applicable here should other legislatures be looked at. The rules, the description of the rules, the conventions and traditions of the Senate of Canada are the first and preeminent authority. It is my belief that these guarantee the right of all senators to speak until they are satisfied that they have concluded their remarks.

There has, however, been some indication that the government, through the Speaker, would attempt to put forward the so-called *Brand* case as a precedent for a decision in this place. I should point out that the Speaker did not even have the courtesy to explain the authority upon which he thought he was making his ruling yesterday.

Senator Corbin: He is ignorant, that is why.

Senator Stanbury: The British House of Commons Speaker, Henry Bouverie William Brand, presided over a session of the House of Commons in 1882 that witnessed members of a tiny Irish Nationalists Party using "tactics of systemic obstruction" to frustrate the success of Parliament. Brand defined the obstruction as the "abuse of the privilege of the freedom of debate for the purpose of defeating the will of Parliament". The distinction he drew was between "legitimate opposition, no matter how stubborn, and wilful obstruction". In the case stated, Brand chose to cut off debate and call a vote prior to the completion of the speeches by some members. This is the only precedent anybody has been able to find that would give any legitimacy whatever to the Speaker's ruling.

Honourable Senators who have spent time in this chamber over the last weeks will know that the speeches given here have been extremely closely focused on the question of the bill before us and not on obstructionism. We are here trying to put our case for the defeat of this extremely poor bill. In lieu of outright defeat we had proposed a series of very good amendments touching on the areas of Bill C-62 that are in critical need of change, and the government has admitted that they are in critical need of change. In fact, the changes have to be made before the end of this year. We are concerned with the substance of the bill, and, according to the fundamental rules of this chamber, I and every one of my colleagues are entitled to speak to this bill and to put our arguments forward. It would be a mistake to see our actions as obstructionist because we genuinely hope to convince some of you across the floor to vote to defeat this bill when the time comes.

It is conceivable that with only a very few votes this bill could be defeated. Therefore, the exercise is by no means perfunctory or without purpose and legitimacy. You have no indication that there would be an ongoing systemic obstruction occurring in this chamber similar to the case described. In the *Brand* case, although there was some discussion as to how this particular obstruction should be ended, there was wide support, not only from the governing party and the official opposition, but among the public, so the applicability of that case to this situation would be absurd.

First, the House of Commons and the Senate are fundamentally different institutions. As it is arguable as to whether closure or time allocation are appropriate in the House of Commons, it is beside the point here in the Senate today. The rules are quite clear. It is my privilege as a senator to address any piece of legislation that comes before this chamber and to air all my arguments, regardless of the time it takes to do so. Moreover, in the *Brand* case the action was with the acceptance of the official opposition. I need not remind honourable senators that we constitute the great majority of the opposition in this place and that we are no small fraction of a minority. Our numbers in this chamber warrant respect. Our support outside the chamber cannot be ignored. We are legitimately representing the concerns of the vast majority of Canadian people and we do not want this bill to pass through Parliament.

The House of Commons, for their own reasons, has brought in rules of closure and time allocation. These rules do not exist in this place and they are, in fact, in direct contravention of the rules that are in place and that have hitherto been respected and obeyed. The government is able to cut off a debate at every opportunity in the House of Commons, but it has no right to do so here. The rules are crystal clear in this regard and there are no precedents that would justify action to the contrary. Let me repeat, there are no precedents that would justify action to the contrary.

Rule 30 specifies that it is the duty of the Speaker to ensure that every senator wishing to speak has the opportunity to do so before the final reply. Why in the world has the Speaker made no attempt to follow Rule 30? In addition, convention has dictated that senators do not have a time limit of any kind and, indeed, there is no instance where senators have been prevented from speaking as long as they deemed necessary. Thus there are no means, *de jure* or *defacto*, at the disposal of the government or the Speaker to limit debate here in any way. There are no means through law or convention to deny my rights and privileges as a member of the Senate to speak until I have thought fit to conclude my argument and made my case, and I personally have not yet spoken in the debate on Bill C-62.

In conclusion, honourable senators, there has been a deliberate circumvention of the rules and the accepted practices in this place. The Speaker cannot have it both ways. He cannot take on the role of a judicial and arbitrary figure and still conduct himself as a servant of the government and bend to their every whim. Convention over the last 30 or 40 years has dictated that the Speaker does not act as an active partisan, relinquishing his right to vote or speak in the Senate. The Speaker cannot exercise his influence based on the respect of other senators while acting as an unabashed instrument of the government. Therefore, much to my personal regret, I suggest that it is in the interests of each member of the Senate of Canada and the institution of the Senate of Canada that Senator Charbonneau cease to act as its Speaker. That is the only way our rights and privileges may be restored.

● (0910)

I would remind those on the other side that at some time in the future it may be important that their rights and privileges

be respected by a future Speaker in this house. I would only add that I do not believe that a vote on this motion, decided by a partisan government majority in this chamber, can in any way resolve the difficulties into which the government and the Speaker have led us.

Some Hon Senators: Hear, hear.

[*Translation*]

Hon. Normand Grimard: Honourable senators, this is my first official speech in this Chambre and . . .

[*English*]

Hon. Joyce Fairbairn: Honourable senators, as seconder of the motion—

[*Translation*]

Senator Grimard: Honourable senator, I have the floor. The Speaker recognized me, and I intend to speak!

Hon. Eymard G. Corbin: Senator Fairbairn rose before you did!

[*English*]

Senator Fairbairn: —it is with a sense of sadness—

[*Translation*]

Senator Grimard: Honourable senators, this is my first speech in this Chamber and I intend to speak for several minutes . . .

[*English*]

Senator Fairbairn: —it is with a sense of sadness and deep depression—

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, surely the seconder of the motion should have an opportunity to speak. She was on her feet. Are we going to have to go through Rule 26 again?

Senator Fairbairn: Honourable Senators, it is with a sense of sadness and depression that I second the motion moved by Senator Stanbury that:

> The privileges of Honourable Senators having been constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.

I suggest to honourable senators that no legislation, however important to a government's agenda, is worth the destruction of the fundamental rights of our system—

Senator Austin: Absolutely right.

Senator Fairbairn: —not the GST, not the clawback, not unemployment insurance, not the abortion legislation. As I was preparing for this debate after the tumultuous events of last night, I was seeking to find a definition of democracy that might guide us at this point in the debate. Having read a number of flowery attempts, I ended up with one simple sentence from the late Adlai Stevenson, who said in 1956:

> If I were to attempt to put my political philosophy tonight into a single phrase, it would be this: Trust the people.

I suggest, honourable senators, that the people of Canada have been mercilessly abused by the events that have taken place in this house as recently as last evening.

The fact that this motion is deemed necessary is truly a defeat for each of us, for the government and for Parliament. More importantly, it is a defeat for the people of Canada that the democratic process in this country and in this chamber has plummeted to such depths as to necessitate a call for the removal of the symbol of order and protection in the Senate. That is what the Speaker in the Senate is, a symbol of fairness, honour and political morality in a partisan house of a democratic Parliament. The use of those qualities to bring equilibrium to this place is his only strength, because he is a symbol without power, neither to order or direct our business, nor to interpret or enforce our rules. That is a job for senators themselves, and that has been the tradition and heritage of this chamber.

The present incumbent, Senator Guy Charbonneau, has taken that power unto himself at the risk of totally destabilizing the rule of law in this chamber. Last night he pushed the rule of law over the edge; and today this chamber, subdued though it may be at the moment, internally lies in shambles. Until these past several weeks, Guy Charbonneau has been viewed by all of us with a wide degree of respect and friendship. Until last night I would have thought he would have not willingly come to the brink of parliamentary chaos. I would have thought that only inhuman pressure had forced him to abandon our procedures and traditions—pressure from the Leader of the Government in the Senate, pressure from the cabinet, particularly the Minister of Finance, Michael Wilson, the Government House Leader, Harvie Andre, in the House of Commons, and the Minister of National Revenue, Otto Jelinek, but, most pointedly, pressure from the man who put him in the chair, Brian Mulroney. I must now conclude that Guy Charbonneau has done what he wanted to do out of perversion of a normally honourable quality, the quality of loyalty. He has brought this house to an historic low from which it may never recover, other than perhaps through the election of its members.

Senator Simard: Don't be ridiculous!

Senator Fairbairn: He has brought us to this historic low point—

Senator Stanbury: Look who is talking about being ridiculous!

Senator Fairbairn: —through a perversion of loyalty—

Senator Simard: You were being ridiculous a while ago.

Senator Fairbairn: —to his old friend Mr. Mulroney, loyalty to the Conservative Party, of which he has been a member for so many years, and loyalty to the business community from which he comes. His loyalty has not extended to this chamber—the loyalty he was asked to undertake as the symbol of fairness to each member of the Senate. His loyalty, most sadly, does not extend to the people of Canada who have held out such strong hope that their majority views, held unceasingly since this piece of legislation, Bill C-62, has been before the

people of this country, would have a fair hearing in the Senate, their parliamentary court of last appeal. They are the ones who have been so arrogantly rejected. They have dared to tell their government for more than a year that its legislation, leading to massive tax conversion from business to individuals, is badly drafted, unfairly targeted and oppressively directed, at a time when the country is faced with overwhelming economic pressures. It is designed to dig too deeply into the wrong pockets and to penalize the wrong sectors.

● (0920)

The existence of flaws within this bill could not have been demonstrated more dramatically than they were yesterday by Senator Buckwold when he read a draft press release and background information on so-called technical changes, which came to him not out of thin air but from within the Department of Finance, with the suggestion that these were not merely technical changes but were absolutely essential to having this tax operate at all.

The people of Canada want fair taxation, and they have told their government to look for alternatives, to make changes, to compromise. As I have said before in this house, there is no weakness in compromise. In government, compromise and sensitivity are signs of strength.

The people of Canada have not been heard. They have been patronized, at the least, and ignored with disdain. In their frustration, they have turned away from their government massively, in a vast way which has spread across this country and through the north. They have turned away, as well, from the House of Commons because the people whom they elected to that house were not prepared or, perhaps more specifically, were not allowed to represent their views.

They turned to this chamber, the Senate of Canada, because they felt that here they would at least get a fair hearing and that the collective wisdom of this place would have some effect on an implacable government.

Honourable senators, they were wrong, very wrong. In spite of all our efforts at public hearings, at debate, at amendment; in spite of the millions of names that have come in on petitions and, finally, in spite of a last-ditch filibuster, the views of the Canadian people have been met here by a wall of government silence, even with contempt.

Honourable senators, it is no secret that the Senate has been a convenient target for periodic and scathing criticism for most of its life. Despite this, the Canadian Senate has been singularly effective over many decades in examining national issues and making insightful legislative suggestions and amendments. There is a fundamental reason for this. Even with the size and the experience of the current bureaucracy and the work of the House of Commons, legislation does not necessarily emerge in a perfect form. By investigating national issues and legislative ideas at an early stage, the Senate has worked to instill excellence rather than patching up afterward.

The Senate's history of reports and investigations have made a tremendous contribution to the public life of this country. We have produced reports on poverty, reports on aging, reports on children at risk, reports on the media, and Senator Sparrow's magnificent report which has been hailed around the world entitled: "Soil at Risk".

We do not amend bills frivolously in this place. Indeed, of some 300 bills which have been passed in the Senate since 1984, only 19 have had any amendment.

Most of those appointed to this place, regardless of the reasons, have come here with a willingness to work, with a spirit of goodwill, and with a mutual respect. Once here, they have come quickly to understand what this place does well and how they can best contribute. There has been one condition upon which this good work has depended, and that is that the Speaker would maintain at all times full respect for the rights of each individual member to be heard, along with the strict observance of the rules of this place.

Honourable senators, we depend on the Speaker to ensure those rights, to protect them, and certainly not to interfere with those rights. In sum, we expect him to remain scrupulously impartial and to remember the tradition of his post. We have depended upon the Speaker to maintain this impartiality even when we have been under intense pressure from the House of Commons. The bill to amend the Unemployment Insurance Act, presented this year, is a good example. This was a tremendously unpopular bill, guaranteed to force thousands of Canadians in areas of high unemployment away from training, away from work, and into the welfare track from which it is so difficult to escape. Subsequently, that is exactly what has happened.

We tried to address these concerns with a series of amendments which were, for a long period, treated with utter scorn by the Prime Minister, by the Minister of Finance and by the Government House Leader in the Commons, who refused to consider them in good faith and refused to even contemplate a conference to negotiate a parliamentary solution.

In retrospect, it seems clear that the Executive used that unemployment insurance bill to attempt to beat down the Senate in preparation for a smoother sailing for the GST. More significant, they also used Senate reaction to this highly-destructive and punitive bill as an excuse to bring in an archaic and never-before-used constitutional provision to stack this chamber so that the GST could be forced through. Will the eight extra senators stay around indefinitely if this bill goes through today, or will they vote and then leave? Who knows? But that is why they are here.

This action makes it even more crucial that the good faith and honourable behaviour of the Speaker be maintained. Without these conditions, this institution and its long tradition of careful examination, both of issues and of new legislation, is in serious jeopardy. We cannot carry on in the way in which we have been.

● (0930)

Throughout the Debate on Bill C-62, we have had to watch the Speaker constantly. Since October 4th, when we were locked out of a vote, we have not been able to put our trust in him for a minute. Even under the most strident pressure he has

not upheld our rights, or recognized senators according to the rules. We have had to guard and fight for our rights in a manner totally inappropriate to this place, and to the decorum traditionally observed here, and none of us are proud of that. We have had to do it because the Speaker has chosen absolutely to ignore the purpose of this place, and the fact that it is an integral part of Parliament.

The Parliament of Canada has two houses, not one. The Senate cannot be muffled and manhandled simply because the Prime Minister and his house leader in the other place find this place to be an inconvenience; nor can a Speaker with any knowledge or respect for this place act as this Speaker has acted.

Neither the Executive nor the Commons have the right to coerce or co-opt the members of this house, including the Speaker. By rule, if the Speaker wants to speak to the debate he must leave the chair. By extension, if he wishes to act in a partisan manner, or feels that party loyalty is interfering with his ability to remain impartial—and that is understandable—surely, then, he is bound by tradition and honour also to leave the chair.

By convention and by virtue of the rules, closure is not imposed in this House. We have no rules of closure or time allocations. Perhaps in the future we will, but we have no such rules in this place now.

Bills leave here once consensus has been reached that they are fit law for the Canadian people: and the GST is fraught with serious flaws which were partially addressed, but only partially, through 10 major amendments moved in this House, eight of them by senators on this side, one of them by an independent and the other by Senator Stan Waters of the Reform Party of Canada. All of these amendments were rejected, and rejected with the tight party discipline which is characteristic of the Commons, not the kind of consideration that is hoped to be a tradition here, particularly in times of strain.

This is not a fit bill, this GST. In poll after poll over the year, Canadians have told us it is not a fit bill, and that they do not trust this Government to spend wisely the revenues raised by this massive new tax. Let us take a look at those polls for a minute. Gallup has shown the opposition to be overwhelmingly rock-solid and rising. Despite the drop in the rate of the proposed tax from 9 to 7 per cent announced last December, 72 per cent of Canadians opposed the GST in September of 1989, compared to 74 in January of this year and 76 per cent in October.

In the October poll, only 16 per cent actually favoured the tax. The October poll revealed also that the tax is unpopular.

Senator Simard: Government by poll.

Senator Fairbairn: Government by the people is what we are looking for, Senator Simard.

The October poll revealed that the tax is unpopular even among declared followers of the Conservative Party with 48 per cent opposed and only 40 in favour. Six Decima polls commissioned by the Department of Finance between September 1989 and June 1990 were so unfavourable that the department withheld five of them for four months and still refuses to release the sixth. In the five released polls, 71 per cent of Canadians who were aware of the tax had a negative impression, and 78 per cent were worried that the Government might waste a lot of the money it would collect. Sixty-nine per cent thought the tax would raise the cost of living too much, and 73 per cent thought it would be too hard on the poor.

A *Toronto Star*, CTV poll last February showed 79 per cent of Canadians opposed to the tax, despite the lowered rate. This poll found that active opposition to the tax was intense, with fully one-third of those opposed, amounting to one-quarter of all Canadians, intending to take actions ranging from signing or circulating petitions, to writing their MPs, to demonstrating against the GST.

Public opposition to this tax is so strong that 60 to 68 per cent of Canadians in polls by Gallup and the *Globe and Mail*—CBC, said that the Senate should overrule the Elected Commons and block the bill. Both Gallup and the Globe-CBC polls show that 2 or 3 times as many Canadians want the Senate to block the bill as believed that this chamber should respect the will of the Commons.

We are well into a recession and we may very well be close to a tax revolt; closer than we know. Yet this Government, like the Titanic, ignores all the signals and steams on, bent on serious damage to both democratic process and economic recovery.

At this point the Senate is a house whose tradition and honour have been savaged by a Prime Minister determined to impose his will, and determined in the process to destroy the parliamentary body that would insist on democratic process.

Honourable colleagues what can we do? How can we restore respect for this place, so that we can return with good faith to our proper work? Many government senators know the GST is the wrong tax for Canadians at this time. They have heard the message from experts, and they have heard the message from ordinary people. But the almighty ego, the childish and petty stubbornness of one man so dominates the governing party that all its representatives cower in his shadow and turn away from the citizens who gave him the power to serve them. And it is power that Brian Mulroney craves for himself and power for its own sake. He has neither the ability nor the depth to use it to enhance the lives of Canadians, or enhance the survival of this country.

Bit by bit, that which held Canada together is being torn away by a man without vision or honour. And what of those who follow him? The Leader of the Government here in the Senate, Senator Murray has had a long and distinguished career as a militant in the Conservative Party, something to be proud of, until he too was entrapped by the bizarre appeal of his Leader. He has been a willing pupil. He has shown disdain for this house and those who work in it throughout his leadership.

His performance as a lead Minister during the Meech Lake constitutional debate showed his own total lack of willingness

to listen or even to try to understand the forces that were gathering all across this nation; forces that needed to be heard and represented and understood. Instead, they were relegated to the sidelines, outside of a secret process that so antagonized Canadians that the original purpose, to secure accommodation of fundamental concerns for Quebec, became lost in the national anger at exclusion from the process.

● (0940)

The true measure of the Leader of the Government emerged in the final days of panic as the seamless web of the Meech Lake Accord quickly unravelled under the glare of democratic process in the Manitoba legislature. The Premier of Manitoba did not attempt to curtail debate there. He had committed himself to full public participation in a final decision. What did the Leader of the Government in the Senate do? He demanded that the Premier of Manitoba bend the legislative rules in his chamber to force an end to opposition in the province. What utter gall! He unloaded the wrath of his own constitutional mismanagement on the native people personified by Elijah Harper, whose quiet "no" cut through all of the manipulation and the rolling of the dice that Mr. Mulroney and Senator Murray had tried to use to bring Canadian discontent to heel. It is little wonder that in this house we now feel that same heel grinding relentlessly on the efforts of this chamber to give Canadians a voice and some influence in the decision making of an increasingly dictatorial government.

This time it is a massive tax that has been steadfastly rejected by over three-quarters of Canadians for over a year. Canadians have proven to be tough customers on this tax. They have fought against the January 1st deadline and those of us on this side, along with Senator Waters and Senator Lawson, have fought with them. We have carried the hope that our system of government and parliament, with all its vaunted opportunities for public involvement, would break down the terminal stubbornness of the Prime Minister.

We hoped that in this House we could use our rules to take the issue right to the wall, which in other jurisdictions forces negotiation and compromise. We thought that at the very least we could rely on the open rules of freedom of debate and equality of opportunity which have been the rights of each senator under the traditions of this house. What we did not truly anticipate was a Speaker who would resolve himself into nothing but a tool for the Prime Minister, who would throw aside every vestige of impartiality in an effort to respond to the compulsion of the Prime Minister to get his way, to get the GST through unchanged.

In moving this motion of censure, Senator Stanbury outlined very carefully the actions of Mr. Charbonneau which have been compounded one upon the other in this debate, resulting in the virtual destruction of the Senate as a viable place of parliamentary business. I would like to repeat again the full list of reasons behind this motion of censure, and I will quote from Senator Stanbury's own remarks when he moved, pursuant to Rule 33 of the Rules of the Senate of Canada, as follows:

[Senator Simard.]

Whereas Speaker Guy Charbonneau on September 27, 1990, left the Chair and ordered the doors locked although a sitting of the Senate was still in progress; and

Whereas Speaker Guy Charbonneau, on October 4, 1990, broke the Rules of the Senate by arrogating to himself the right to set the time for division in direct contravention of the Rules of the Senate which provide that a vote will be taken only on the consent of the Whips; and

Whereas the aforesaid violation of the Rules of the Senate was deliberate, as stated by Senator Carbonneau in a letter sent by him that day to four senators, with copies to six others; and

Whereas Speaker Charbonneau aggravated his offence by not informing other senators of his intention to conduct the division on the question then before the Senate at 5:30 p.m. on October 4, 1990; and

Whereas Speaker Charbonneau ordered the doors of the Senate chamber locked before the hour specified by himself in the aforesaid letter; and

Whereas by conducting the division on October 4, 1990, before the time specified in the aforesaid letter, Senator Guy Charbonneau—even assuming that he had the right to set the time of divisions, which assumption is false—violated section 17 of the Constitution Act, 1867, in that he supplanted the Senate of Canada by a clandestine assembly; and

Whereas Speaker Charbonneau collaborated with government supporters to deprive other senators of their rights as senators, as suggested by the statement of Senator P. Michael Pitfield on October 9, 1990 . . . ; and

Whereas Speaker Charbonneau, on October 30, 1990, interrupted a senator, a senator then presenting a petition and gave the floor to another senator who, having presented two petitions—one from three members of Senator Murray's staff—moved "that the Orders of the Day be read now";—

Which was treated in the humorous fashion in which, I presume, it was intended.

—and

Whereas Speaker Charbonneau, on October 30, 1990, ruled that the motion "that the Orders of the Day be read now", which is defined by *Beauchesne* as a dilatory motion, can be used to set aside Rule 19 of the Senate; and

Whereas Speaker Charbonneau persisted in attempting to originate a new proceeding—by attempting to allow Senator Lowell Murray to move "that the original question be now put"—at an hour when, under Rule 12, a sitting of the Senate is suspended; and

Whereas Speaker Charbonneau persisted in attempting to allow Senator Murray to move "that the original motion be now put" at a time when, because the Orders of

the Day had not been reached, that motion could not be received by the Speaker; and

Whereas Speaker Charbonneau conspired with supporters of the government to deprive the Senate of its right, under Rule 26, to decide whether or not to hear an independent senator, Senator Stan Waters, who had given notice of his wish to be heard.

Oddly enough, Speaker Charbonneau permitted Rule 26 to operate yesterday when no one from the government side was involved.

And whereas he then acted as the negotiator on behalf of the government with the two independent senators to come to the terms of an agreement under which Senator Waters and Senator Lawson would be allowed to propose amendments.

And whereas Senator Guy Charbonneau has now said that he is prepared to make a ruling contrary to the Rules and Practices of the Senate curtailing the debate on the motion to move the original question on the third reading of Bill C-62.

Senator Stanbury moved, seconded by myself, that the Senate advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.

● (0950)

These actions are a matter of public record, as are our rules, which were revised in March 1988 and accepted unanimously. They were accepted even by former Senator Jacques Flynn, a veteran parliamentarian.

Senator Stanbury: He practically wrote them.

Senator Fairbairn: Senator Flynn has been assured a dark place in our history, as the figure who has guided Senator Charbonneau through these malicious decisions, including the October 4 lockout.

Senator Lucier: He is on Murray's payroll.

Senator Fairbairn: It was because of our anxiety over the trend of Senator Charbonneau's activities in the Chair that four of us on this side of the house went to see him on November 22-Senators Stanbury, Kirby, Lefebvre and myself. We wanted to tell him of our personal concerns that the final debate on Bill C-62 be conducted fairly and fully under the rules so that each Senator would have a full opportunity to make a contribution. The first thing that became clear to us in our meeting was that Senator Charbonneau had concluded that, although there was a Senate rule book, it was really not worth the paper it was written on. He viewed the rules with utter contempt and expressed the wish that they be completely overhauled as soon as the current controversy was over.

Senator Buckwold: He should be overhauled!

Senator Fairbairn: Clearly, his view was that they should become more restrictive, perhaps along the lines of the rules in the House of Commons, particularly as they relate to time allocation or time limitation on speeches, or to whether debate should be curtailed. He admitted that he was not a student of the rules but that he had learned a lot while he was in the Chair. Indeed, he offered the admission that he really did not know much about what was contained in *Beauchesne* until he was handed a passage to justify his refusal to accept Senator Molgat's motion under Senate Rule 26, to give Senator Waters the right to be heard for the purpose of moving an amendment a couple of weeks ago. Armed with this shaky expertise, the Speaker argued that Rule 26 had suddenly become unclear and could only be interpreted through procedural glasses normally used over on the House of Commons side where there does exist closure and time allocation.

Speaker Charbonneau conceded to us that each senator had the right to speak in the debate we had been conducting for the past several days, and that there was nothing in our rules to indicate that we did not have unlimited time. However, he fretted over the extent to which that time might prevent the government from getting out the cheques to low income families as a first compensation for a GST that they do not want.

Senator Charbonneau wants the GST. He made that very clear to us. He made no apologies whatever for voting repeatedly with the government to defeat amendments to the GST, even though Senate Speakers have refrained from voting since 1943. Clearly, he saw no conflict whatsoever between his personal views and actions on the legislation and his role of impartiality as Speaker, a fact that I found deeply discouraging to hear.

Perhaps we should not be surprised. Indeed, let me refer honourable senators to an article written by Senator Charbonneau in 1985 and reprinted in the *Canadian Parliamentary Review* in the winter of 1985-86. In that article, he said, in part:

Upon taking my seat in the Senate, because of my experience and knowledge of certain specific areas, it was natural for me to become a spokesman for business groups, small and medium-sized businesses, financial institutions and industry . . .

He has stuck with that view to the very end. With regard to the GST, he is indeed maintaining his role as a spokesman for business and industry with considerable vigour.

Senator Frith: But not small business.

Senator Fairbairn: Not for small business but certainly for big business, financial institutions and industry. When pressed, Senator Charbonneau told us that he personally would not want to intervene to deny senators their rights to make speeches of whatever length they chose, but he added—and it was a big "but"—that he would of course have to consider arguments or suggestions made by others who might have ideas on how to bring this debate under some kind of time control. Clearly, he was anticipating that such arguments would be raised by the government. I sought assurances that he would be prepared to hear arguments on any such occasion, should it occur, from both sides of the house. I think I am correct in reporting that he conceded that that would be the case.

Well, it was not the case at all. It was not the case last night. He refused to hear arguments from anyone. It was a monu-

mental setup by the government and the Speaker to create a deadline and then to force a vote. For cosmetic purposes, neither Senator Murray nor Senator Charbonneau had any credibility to undertake this venture themselves. So they went to one of the finest gentleman on the government side, Senator Kelly, and dragged him into the scheme as the front man. It was not the first time that Senator Kelly had been hauled in to lend respectability to dubious and manipulative activity by the government. After the Speaker had followed the lead of Senator Murray in trying to prevent Senator Waters and Senator Lawson from moving amendments, this house was lead into another crisis atmosphere.

Perhaps it was because of his chairmanship of the Special Committee on Terrorism and Public Safety that Senator Kelly seemed like a natural soul to negotiate with Senator Waters and Senator Lawson. It could not have been a pleasant experience for him because, through the intervention of other parties, those negotiations smacked of double dealing throughout, and Senator Kelly's own successful efforts were at one point undercut by his own leader.

At any rate, Senator Kelly was picked to get to his feet and read out a letter on a point of order last Tuesday afternoon. It was a letter to Speaker Charbonneau signed by 53 Conservative senators, urging the Speaker to agree with them that the time had come for a vote on Bill C-62 and that it was his job to provide the Senate with an opportunity to decide that there had been sufficient debate on the subject. They then went on in the letter to dictate when the vote should be held and how long the bells should ring—at 5:45 this afternoon, after a maximum 30-minute division bell.

• (1000)

Senator Kelly gamely tried to explain to us that the government senators were not really giving the Speaker marching orders; they were trying to give the Senate an opportunity to make a decision. That letter flew in the face of all of our rules. In fact, it was trying to bring in amendments to the rules by the back door, while at the same time totally undermining any whiff of impartiality that might have been retained by the Speaker. This was at a time when only 11 of our members had had an opportunity to speak. Neither Senator Waters nor Senator Lawson had had that opportunity. Yes, I had a lengthy opportunity; and, yes, it was a filibuster, but there is nothing wrong with a filibuster.

Senator Cools: Senator Kelly said so!

Senator Fairbairn: Everyone knew this debate would end with a filibuster. That is a legitimate parliamentary procedure that has been used in many other jurisdictions, including often in the United States Congress. The purpose of a filibuster is to take debate on a contentious or publicly abhorrent piece of legislation to the wall with the hope that then there would be a compromise or negotiation to change that legislation and make it more compatible with the desires of the people of that country and those who represent them.

There was every opportunity for the government, over the past few months, to use the rules to change the rules; but, instead of doing the job in an open and up-front manner, it tried to slither and slide through the mire that has been generated by the GST tactics on the part of the government and put a nice guy like Senator Kelly up to shed a gloss of credibility on a thoroughly tawdry action.

Honourable Senators, the Speaker played his role in what can only be described as a cowardly fashion last night. He came into the house at 8 o'clock. He knew Senator Waters would be on his feet to argue Senator Kelly's point of order—where it should be argued, on the floor of the Senate and not through the mail. Senator Waters had told him he would be doing so, and he also knew Senator MacEachen would follow Senator Waters. In fact, Mr. Charbonneau could barely get through his convoluted and incomprehensible ruling, ignoring any contribution from opposition or independent senators. In the ensuing expression of outrage, he hurried from the chair to the safety of his chambers, his salon, and left democratic rights and freedoms lying on the floor of the Senate.

The Prime Minister was triumphant in the extension of his control over this chamber. The government leader was pleased to have been able to help, and Mr. Charbonneau will enter the history books for inflicting irreparable damage on our system.

Senator Lucier: So did Al Capone!

Senator Fairbairn: The atmosphere in this chamber has been severely poisoned. What happened last night created a feeling of revulsion for many of us who have never witnessed anything like it. It caused others to remember another time in 1956 when a Liberal government used a Speaker, René Beaudoin, to savage the rights of the members of the House of Commons in order to force passage of a bill to secure financing for a pipeline. That pipeline debate represented, until now, the darkest days of our parliamentary history and culminated in an attempt to censure the Speaker. It also produced some of the most memorable speeches in defence of parliamentary rights and freedoms. The Speaker actually turned back the clock in order to nullify a decision he had made which advanced the cause of the opposition.

The late Right Honourable John Diefenbaker described it as "Sorry days for the Canadian Parliament when a majority adopts 'brutalitarian' tactics in order to deny this Parliament freedom of speech". The great leader of the CCF party, M.J. Coldwell, movingly spoke about the tragedy of being driven to censure the Speaker and how his early unease about the partisanship of the Speaker had turned to anger.

But by far the most eloquent and unwavering in his condemnation of Prime Minister Saint-Laurent, C.D. Howe and Speaker Beaudoin was the late George Drew. Mr. Drew made a considerable contribution to the public life of this country as a soldier, a premier of Ontario and the federal leader of the Progressive Conservative Party and the Official Opposition in Parliament. The pipeline debate almost ruined his health, it ended his political career, and he honourably finished his public service as High Commissioner to the United Kingdom.

George Drew was a dear friend of mine, and reading his words in recent days caused me to reflect how none of his

dignity, honour and conviction are found in the current leadership of the Conservative Party. George Drew's speech, on moving the censure of Speaker Beaudoin 34 years ago, could be echoed today with a mere change of names. Although Senator Stanbury read from this speech, I, too, would like to include some of Mr. Drew's remarks at this point. In moving, as Leader of the Opposition, a motion for censure against Speaker Beaudoin, he observed:

> Our rights are important only to the extent that those rights represent the rights of the people themselves. If the traditional rights of the members of this house are debased, limited or arbitrarily curtailed in any way, it is not our rights that are of concern. What is vitally important is that in that curtailment of rights there is a limitation of the rights of the people themselves . . . I repeat again, that system was not designed for the advantage or convenience of the members of parliament. It was designed for the protection of the freedom of the people of Canada.

• (1010)

> What has happened here is something which goes to the very roots of our free institutions. It is something which could affect, and gravely affect, the rights, the freedom and the happiness of Canadians not only for generations but for centuries to come.

One passage of Mr. Drew's speech has particular relevance to what happened here last night. It states:

> One of the most serious aspects of this strange course was that when I attempted, as did many other hon. members, to be heard in regard to this matter on a point of order the Speaker refused to hear a word from any member in regard to this completely strange device which had been employed or which was then under consideration. At the moment the Speaker called the vote without permitting any point of order to be raised or any discussion whatever on the proceedings which were taking place, at that moment confidence in the Speaker disappeared in the minds of many members of this house.

Senator Stanbury: History is repeated.

Senator Fairbairn: Mr. Drew further stated:

> When the Speaker declares in his oath that he is the servant of the house he is declaring that he is not merely the servant of the majority but that he is the servant of all members. That is the bedrock upon which respect for our parliamentary system rests.

Mr. Drew stated that the damage that was done could not be undone. He further stated:

> The government cannot divorce itself from the tragic downfall of the Speaker on this occasion. He is the victim. He is a casualty of the government's overbearing conduct during this debate. We had done what we could do to prevent the government proceeding on the arrogant course which has produced this sorrowful result. That was our only recourse; that in fact was our only right. It was the duty of the Speaker to protect our rights just as it was his duty to protect the rights of the government . . .
>
> We had no choice but to assert our rights as we did. We had no choice, moreover, but to bring this matter to a head by the motion that is now before us.

That was the motion of censure.

Mr. Drew goes on to state:

> It is not necessary to enlarge upon the facts . . .
>
> Here we had no power of self-defence. We have none but to declare what we believe to be the rights of the people of Canada and their representatives here in this house. We shall not be subservient to false interpretation of the rules. We shall not be subservient to anything that savours of dictatorship here in this house. We shall not be subservient to the will of the majority expressed by the Speaker, as it has been in this case, in a manner which no longer seeks to define the right of the majority but establishes for the time being mob rule.

It is remarkable how those words, uttered back in 1956, require almost no change to eloquently express the situation in which we find ourselves today.

Senator Stanbury: History repeated, but much worse.

Senator Fairbairn: An election followed the pipeline debate a year later. The Liberal government was discredited, and John Diefenbaker won what at that time was the greatest majority in Canadian history.

Speaker Beaudoin was a broken man, his personal life destroyed, and his political contribution reduced to nothing more than an ugly memory. He died, living out of a suitcase and tending bar in Las Vegas.

That will not happen to Senator Charbonneau.

Senator van Roggen: His suitcase is full of other things.

Senator Fairbairn: In contrast, Speaker Charbonneau will, no doubt, move on to the diplomatic and social challenges of whatever suitable favour the Prime Minister chooses to bestow upon him in gratitude for a job well done in bringing the Senate to its knees.

An Hon. Senator: He has been bought and paid for.

Senator Fairbairn: But history and the people of Canada will judge him more harshly. The inherent wrongs of the goods and services tax and the repugnant manner in which it was forced on the people of this country will hang like an albatross around the neck of the Conservative Party for years to come.

It is not the role of any of us in this place, regardless of the sources of our appointments, to do the bidding of the Prime Minister of the day. By doing so, this Speaker has set up a chain reaction which has robbed this chamber of its rightful role.

A motion has been made to censure Mr. Charbonneau because he no longer has the confidence of this chamber. I can see no future in the viable operation of this house under the current Speaker. Should this motion of censure come to a vote,

the slight government majority may ensure a numerical victory. But that will surely be a defeat in every other sense.

To restore our confidence and the confidence of Canadians, who have been following the actions of this house for the last two months, we must have a Speaker who will honour the rules, who understands that, although he has been appointed by the Prime Minister, he owes his first loyalty to the Senate, not to the Executive. Accordingly, he must understand and honour the history and intent of this chamber as the second house of the Parliament of Canada.

Without his resignation, I do not see how confidence can be restored, nor do I see how this house can resume its proper role of legislative review and regional representation. Reason will return to this chamber only if the Speaker has the courage to take the right way out and resign or, failing that, if the Prime Minister has the courage to remove him. Only then can we try to pick up the pieces he has left in the battle over the GST.

I conclude, honourable senators, by reading the commission issued under the Great Seal of Canada, appointing Guy Charbonneau as Speaker of the Senate.

TO
THE HONOURABLE GUY CHARBONNEAU,
A MEMBER OF THE SENATE,

GREETING:

KNOW YOU that, reposing special trust and confidence in your loyalty, integrity and ability, We have constituted and appointed, and We do hereby constitute and appoint you, Guy Charbonneau, Speaker of the Senate.

That is what Speaker Charbonneau was sworn to do, and those are powerful words. He has broken faith with both the substance and the spirit of those words.

I implore him, on the strength of his own conscience, to take the initiative to leave the Chair and to allow this chamber to heal itself.

Some Hon. Senators: Hear, hear.

● (1020)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I am pleased to follow the address made by Senator Fairbairn, because she raised a number of items, which I want to deal with briefly, and of course to support the motion which has been moved by Senator Stanbury censuring the conduct of Senator Charbonneau.

No one takes any pleasure in these events today. We have resisted making this move, even though there had been a series of provocations. However, the most recent provocation was so flagrant and so gross that no alternative was left to us.

In the Canadian House of Commons there has been only one motion of censure against the Speaker. It occurred in 1956 in the midst of the acrimonious and highly charged pipeline debate. The Government of Canada had decided to setup a crown corporation to build a gas pipeline from the Ontario-Manitoba border to the Kapuskasing, Ontario, and to empower the company to lease the lines to the Trans-Canada Pipeline.

As I recollect, the company which was to build the pipeline faced a deadline for financing, and therefore the Government of Canada attempted to put the bill before the House and get it through the House before the deadline, which was June 7th, I believe.

How reminiscent that is of this particular incident we are dealing with today, in that the Government believes there is a deadline of Thursday, December 13th.

It is true that the Government got the bill through and the pipeline was built, but the process by which it was done left a wreckage that was strewn over the political landscape for years after. Mr. Speaker Beaudoin who had a most promising career, indeed he was mooted to be the first permanent speaker of the Canadian House of Commons, was destroyed. The motion of censure was opposed by government supporters, and I was one of those who listened to Mr. Saint-Laurent make a brilliant defence of Mr. Beaudoin, because he felt it his duty. Nevertheless, nothing could rehabilitate Mr. Speaker Beaudoin from the act he had performed on what is now known as Black Friday. I was in the House of Commons at that time, as was Senator Croll.

The principal personalities on the government side, in addition to Mr. Saint-Laurent, were Mr. C.D. Howe, Mr. Walter Harris, Mr. Jack Pickersgill, and quite a number of others, but they were at the centre of the procedural battle. On the other side of course were Mr. Drew, Mr. Fleming, Mr. Fulton, Mr. Churchill, and in the C.C.F. Party Mr. Coldwell and Mr. Knowles; so it was an array of quite formidable personalities in the House.

What did Mr. Beaudoin do on that occasion? He came into the House at 11 o'clock on the Friday morning that is called Black Friday, and stood up and said, first of all, that he intended to rule out of order the motion which had been put the previous night at 9 o'clock, which he had helped to draft and which he had put before the House, and upon which Mr. Drew had begun to speak. He then said: "I rule that out of order."

That was inconceivable. I will read Mr. Drew's speech, his words of indignation that the Speaker took it upon himself to remove, by edict, a motion in the possession of the House, upon which debate had commenced. He did that.

The second thing he did was to say that the had made another error, that he wanted to correct another matter. At 5:15 on the previous day, Thursday, when the Committee of the Whole reported, he said, his only duty should have been to put that report forthwith to the House, but he had not done so. He had allowed dilatory motions and points of order, but he now wished to correct his mistake. He then decreed that the House go back to 5:15 the previous day, Thursday He put that proposition before the House, and asked that it be accepted or rejected. Well, that is when hell broke loose.

If you read Mr. Drew and Mr. Coldwell and the others, they explain why hell broke loose, and how the provocation was so intense that they had no alternative. It is interesting that Mr. Beaudoin said that the House is master of its rules, and that he had the duty and the responsibility to put a proposition before the House.

Yesterday, there were clear resonances of that two-element philosophy. We witnessed Senator Kelly build upon one element of the discredited Beaudoin principles and Senator Ottenheimer build on the other, to construct the vehicle by which they presented to the Speaker the proposal that lead him down the same dangerous path which Mr. Speaker Beaudoin travelled.

Mr. Drew, I think, made the point so perfectly when in his speech about what Mr. Beaudoin did, which will be found at page 4646 of *Hansard*, June 4th, 1956, he said, "The Speaker could not have done that; the Speaker cannot present a motion," that is the simple dictum.

● (1030)

> The Speaker could not have done that; the Speaker cannot present a motion. Whether or not the motion would have been in order, the government might have presented a motion and it might have been debated. It certainly should have been debated if decisions made the night before were to be reversed.

That is the clear statement of Mr. Drew on that occasion. He went on, as Senator Fairbairn indicated, to explain why his conduct and the conduct of others was so necessary and so justified. He said:

> Were we quietly to submit in the face of this course that savoured in every way of the dreadful dictatorships that have grown up in Europe in these past few years? It was Junius who said that the subject who is truly loyal will neither advise nor submit to arbitrary measures... We were not prepared to submit to as arbitrary measures as ever denied to the sitting members of a legislative body the rights to which they were entitled by tradition, by the rules and by all the declared purposes of this parliament.

And I say amen to that, because yesterday we were denied the rights to which we are entitled by tradition, by the rules and by all the declared purposes of the parliament. We have been the victims of arbitrary measures. That is what caused the disorder in the Canadian House of Commons and that is why members on this side are outraged that not only did this occur last night, but that it was built upon the discredited foundations established by Mr. Beaudoin.

It is a disgrace that we ought to have re-enacted the very scenes and the very principles that Mr. Beaudoin used to justify his conduct. "The House is master of its rules", so said Senator Ottenheimer. "You have a duty to put something before the House", said Senator Kelly. Speaker Beaudoin said, "I have a duty to put something before the House. The authorities say so". Well, it was denounced by the Leader of the Conservative Party, by the Leader of the C.C.F. Party, and privately by the Prime Minister and all the ministers, because, even though Mr. Saint-Laurent was doing his duty in defending the Speaker, privately he was horrified at what happened. If honourable senators want to get a very good report of the events of that day, they should read Mr. Pickersgill's account contained in *My Years With Louis Saint-Laurent*. He refers to these words of Mr. Beaudoin:

> Now, the house is master of its own rules and it is my right to submit a matter to the house. I intend at the moment to submit to the house that in my view, the house should revert to the position where it was yesterday when I was brought back to the chair to receive the chairman's report at 5:15.

"It is my duty", said Speaker Charbonneau, "to decide . . .", contrary to the rules of debate and the provisional rules, ". . . that the debate will terminate tomorrow at quarter to six. The votes will be called. There will be no deferred divisions. It is my duty to do that". That is a page from Beaudoin.

Well, Mr. Beaudoin finished himself off with that, and Speaker Charbonneau finished himself off last night.

Some Hon. Senators: Hear, Hear!

Senator MacEachen: Honourable senators, when Mr. Beaudoin put that motion in the House of Commons, even though, in my view, it was to serve his own ego, it was interpreted to assist the government. Mr. Pickersgill writes in his book: "I confess I was shocked by this proposal which, in my experience, was unprecedented."—namely, taking upon himself the right to put a proposition before the House and then to say "vote for it or against it". That is what Mr. Beaudoin did and that is what Speaker Charbonneau did last night, with no authority to do so, infringing all the rules. Mr. Pickersgill, described by the Prime Minister of Canada, the present one, as the greatest Liberal of all time, went on to say: "Saint-Laurent seemed to me to be almost horrified."

No wonder they were horrified. No wonder. We are horrified at what happened last night. Mr. Speaker has not right, by edict, to change the rules of the Senate. He has no right to change Rule 27, which is still in effect, but which he repealed last night by his decision. Rule 27 provides, as I understand it, the right to honourable senators to speak in this chamber. Rule 27 states:

> A senator may speak to any question before the Senate, a question of privilege, or upon a point of order, or upon a motion or an inquiry, or in making a mere interrogation,—

A senator may speak to any question, and I have outlined that. That is the right of a senator. Prior to this particular motion for the previous question, which, in itself, is a motion limiting debate because once it is moved it is not possible to make any further amendment or to prolong the debate, we wanted to make other amendments, but by negotiation finally we ended up agreeing to two amendments for the independent members. However, all other members who wanted to move amendments were foreclosed by that restrictive motion. It was a debate limitation in itself. We then believed that that motion having been moved, that we would have an opportunity, each

of us, to speak on that motion. However, only 11 of our members spoke on that motion. All the others, 40 ideally—one or two are ill and would not be here—but all of the others, plus the Independents, were prepared to speak on that motion.

● (1040)

I have prepared myself to address matters of consequence on the GST. I know of other members who had prepared to speak. Under what authority did Mr. Speaker decide to accommodate the members on that side of the house and to ignore the members of this side? He removed all our rights.

I think in that connection I should read one or two quotations from Mr. John Diefenbaker, who said:

> Freedom is maintained by successive Speakers who have it in their hands and their power to sustain the rights of members in all parts of the House and to assure that the arc of the covenant for Speakers is that all members have equal rights and that at no time shall there be a deviation, however beneficial that might be to the government of the day, or however detrimental or prejudicial to the wishes of the government of the day any order made by Mr. Speaker may be . . . .To that end, rules have to be interpreted fairly.

I have talked about Rule 26.

> . . . for when the interpretation of the laws of parliament is altered or changed in order to meet the demand of the majority or has the appearance of being so altered, then the rights of parliament are violated and tyranny is substituted for justice.

Tyranny prevailed last night. Tyranny was in that Chair last night. Justice was denied. Justice was denied to the two Independents in that corner, and the 40 members on this side, but total accommodation was given to the 53 members who signed the letter.

Some Hon. Senators: Hear, hear.

Senator MacEachen: Total accommodation.

If the Speaker had come in with a judgment that had attempted to reconcile the concerns of members opposite and the members on this side, and attempted to conciliate and adjudicate the concerns on each side, then it would have been worthy of respect and consideration. The Speaker's ruling was a rewriting of the proposal made by Senator Kelly. The ruling was almost word for word a rewriting of Senator Kelly's proposal.

Honourable senators, governments in the past have been faced with filibusters. Some governments have taken steps to change the rules, and others have not taken steps. We all know that it was the Conservative Party which filibustered endlessly on the reciprocity bill. The filibuster was so prolonged that Sir Wilfred Laurier was forced to go to the electorate on reciprocity. I have never heard any member opposite get up and say, "Well we made a great mistake in filibustering reciprocity to the point where Sir Wilfred Laurier had to call an election." That is what happened. It may be interesting to recall the reality that existed at that time in the Canadian House of Commons.

An article that was written Dr. Eugene Forsey reads as follows:

> 'Til 1913 it was possible for an opposition in the House of Commons to force a government to go to the people in a general election. Every member could speak as long as he liked, and in committee, as long as he liked and as often as he liked, on every clause. This meant that if the great new issue of public policy arose to which there was strong and widespread objection across the country, we were not like the Americans, stuck with a particular administration for a solid four years. This was one of the marked superiorities of our Constitution over theirs.
>
> There were no time limits on speeches. There were no closures. There was no time allocation.
>
> This meant that an opposition in the Commons could, by obstruction, preserve the right of the people to decide on a question of prime importance.

The Conservative opposition in 1911 exercised it on reciprocity. As I have said, they forced Sir Wilfred Laurier to go to the election on the question of reciprocity.

Dr. Forsey goes on to say:

> It is a power that the opposition in the House of Commons has now lost. The last vestige disappeared with the adoption of the new rule that prohibits the interminable bell-ringing the Conservatives used so effectively against the Trudeau government, forcing it to divide a huge ominous bill into its component parts.

Senator Stollery: Instituted by Harvie Andre.

Senator MacEachen: A filibuster which resulted in flexibility on the part of the government. This government knows not the word of "flexibility", of "compromise", or "patience". Now, therefore, if there is a great new issue of public policy on which the electors have not been consulted, only the Senate can protect their right to be consulted. Why is it that the Senate has that power? We do not have a closure rule, and we do not have a time allocation rule. We had that rule imposed by edict, by a coup d'etat, last night.

Senator Stollery: In the midst of a debate.

Senator MacEachen: When Robert Borden came into office he brought in the naval bill. It was a bill to provide, I think, $65 million to the British government for the purchase of several dreadnaughts for the British Navy. The bill was not entirely popular, certainly not in the Province of Quebec, and was having a hard time in the House of Commons. In fact, the bill was introduced on December 5, 1912, and the second reading debate ended three months later on February 28. Mr. Borden, understanding that his bill was in trouble, decided to change the rules and he did it up front.

● (1050)

Senator Cools: He filed a closure.

Senator MacEachen: He did it up front. He introduced a closure motion. He moved the closure motion himself.

Senator Cools: That is right.

Senator MacEachen: When Sir Wilfrid Laurier rose to speak as Leader of the Opposition, the Speaker recognized Sir Wilfrid Laurier, and one of the Conservative members of the House moved what is now described in the Senate as Rule 26, that another member be heard. It went to a vote and Sir Wilfrid Laurier was not permitted to speak. He was not permitted to speak and that next member got up and moved the previous question. So the closure motion was introduced by Borden; his minister then got up and moved the previous question. It is rather draconian but at least they changed the rule in the Commons through what I call due process. That due process could have been followed in the Senate. Any time.

Senator Cools: Any day.

Senator MacEachen: Bring in a motion, have it debated and have it decided. That is what Mr. Borden did.

Senator Stanbury: They could have done it three months ago.

Senator MacEachen: Mind you, it took some time but when Mr. Borden got his disclosure rule, it was then applied to the naval bill in order to help out the British. So the complaint here is why was due process not followed if the rules were to be changed? Why were they changed by the Chair acting through an abuse of authority.

I will mention 1969, when it was decided that a system of time allocation ought to be introduced in the House of Commons. A motion was put down by Donald Macdonald to establish time allocation on future bills. It was resisted by all opposition parties. Then a committee report was brought in. The committee report was put before the House, which was similar in content to the Macdonald motion. That was debated and debated and debated and finally adopted under closure. It was all up front.

Last night we lost the due process that has been followed on the only two occasions when debate limitation was introduced in the Canadian House of Commons: in 1969, by a Liberal Trudeau government; and in 1913 by Robert Borden. Never, never, never did any government in the House of Commons ever entertain the notion that debate could be curtailed through a point of order by the Speaker. Never. It is without precedent in our history. You know I am even more alarmed because the letter signed by Senator Murray and Conservative senators repudiates the provisional rules which we all accepted.

Senator Stollery: I would not want to make an agreement with him; the welcher.

Senator MacEachen: Maybe I should read what was said by Senator Murray on that occasion when we brought in our provisional rules and our house order.

> With regard to the rules that the Leader of the Opposition has referred to and the motion he has placed before us, I do note that the provisional rules that we have agreed upon are to be with us until the prorogation of the present session.

Yesterday was not the prorogation of the present session.

Senator Murray said:

> We will all have an opportunity to work with them and see whether or not they stand the test of time in parliamentary practice . . .
>
> As Senator MacEachen has pointed out in a statement that is fair and accurate as to implications of the rule changes—a statement which I endorse—the ruling of Mr. Speaker last October 4 is put behind us. We no longer need any precedent of that kind because we have brought into this place a practice that exists in almost all parliamentary assemblies that any of us know of. We have imposed limitations on bell ringing. There are provisions, the Leader of the Opposition has pointed out, for the deferral of certain votes. There are provisions that protect the right of the minority to employ the legitimate parliamentary tactic of delay, . . .

But those have been removed in the letter that has been signed by Senator Murray and, unhappily, by Senator Roblin. I would be delighted to be told I am wrong and that the provisional rules still apply with respect to the taking of the vote. But the letter of the Conservative senators and the Speaker's almost verbatim repetition of that letter revises and changes the provisional rules.

When the four of us gathered for that negotiation, there were two companion documents. One was a legislative timetable which was to the great interest and benefit of the government. The other were the provisional rules which were to the benefit of both of us. They both were negotiated together and one would not have been accepted without the other. Now the government has reaped all the benefits of the house order on legislation.

Senator Murray said:

> Let me say that, in terms of the legislative timetable, the government has achieved its objective. This agreement restores order to the Senate and it allows important government legislation to proceed, and to proceed to a vote. We break the logjam that had existed here in some cases for a year. Bill C-28 will be voted on tonight, . . . Bill C-21 will be voted on Monday next . . . Bill C-62 will be voted at the report stage a week from today . . . Then there is bill C-44, the Hibernia legislation. That will have its final vote on Monday, October 29.

We meticulously respected that commitment to advance the legislation of the government and we had expected that the provisional rules would be meticulously respected by the government, by Senator Murray and by Senator Roblin. They gave us their word; they signed and initialled the document which I have here, and yesterday they repudiated themselves.

Some Hon. Senators: Shame, shame!

Senator MacEachen: I, for one, do not know how long I will continue as Leader of the Opposition but I can never again do business with either of those men because of the untrustworthy withdrawal of their word through the revision of the provisional rules. We found that their word and their signature are worthless. It is no wonder we are angry.

• (1100)

We delivered on the legislative program, and when it came to the key moment on the debate on the GST, we were stabbed in the back. That is what happened, and you tell us to be calm and reasonable and settle down. We have a deep grievance.

Honourable senators opposite, you thought that all your problems were solved when you brought in eight new senators.

Senator Lefebvre: They are just starting.

Senator MacEachen: Prior to that you had a minority over there, and on this side was a majority which, until the GST, had passed government legislation quite responsibly. The legislation dealt with by this house in the past six years was put on the record by Senator Stewart, and it is quite impressive. Now you have a majority on that side, and on this side you have a humiliated and embittered minority opposition. You have created that situation. If you thought you were on easy street because you got a majority, you have another think coming. Think again.

Even though we are a minority, in this debate we have out performed you in spirit, in speeches, in dedication and in commitment. We out performed you.

Some Hon. Senators: Here, here.

Senator MacEachen: And when you found that you were trounced, you had to go again to seek relief from another authority. You had to get the Speaker to join your team—

Senator Cools: That's treason!

Senator MacEachen: —to score the goals for you that you could not score in a fair fight between the government and the opposition. It is impossible for any team to win when the referee joins the other team. Now you must ask yourselves, what about tomorrow, what about next week, what about next month? Do you think you are going to get your bills easily? Do you think you are gong to have a cakewalk? Think again, ladies and gentlemen. Think again, Senator Charbonneau. You are not going to have an easy time because what we did in the GST was done in a spirit of calm understanding of the defects flowing from that bill. What will be done in the future will be fueled by a realization that we can't trust the word of the Leader of the Government, of—

Senator Perrault: A total fraud!

Senator MacEachen: —Senator Roblin, nor can we trust the objectivity or impartiality of the Speaker. That is what will fuel the confrontation.

I want to say to Senator Charbonneau that I was deeply disappointed, very deeply disappointed. I noticed that Senator Charbonneau had voted consistently with the government. That gives the signal to anyone that impartiality and objectivity have taken a holiday. Of course he was entitled to vote. His vote was unnecessary but he seemed to take pleasure in lining up—

Senator Stanbury: He loves the GST!

Senator MacEachen: —with his Tory colleagues. I was disappointed in that. I was disappointed that since October 4 that Senator Molgat was never permitted to sit in the Chair.

[Senator MacEachen.]

Senator Cools: And he is the Deputy Speaker.

Senator MacEachen: He was never permitted, never asked once. Before that he had been asked frequently by the Speaker to sit in the Chair, but never since. Isn't that right, senator?

Senator Molgat: Yes.

Senator MacEachen: Why is that? Because he was a Liberal.

At one time we in the House of Commons selected a Conservative Deputy Speaker in the person of Robert McCleave from Halifax, who later became a judge. As a Conservative Deputy Speaker under a Liberal government, he had all the authority and benefits and he was not punished by the Speaker when there was a conflict between the two sides of the house.

Speaking for myself, I thought I was entitled to have spoken on the point of order raised by Senator Kelly. I was appalled that I was denied that privilege, not only personally but as Leader of the Opposition the views of this group had not been expressed.

Senator Barootes: You broke your word when you did not speak yesterday. You said that you would, and you did not.

Senator MacEachen: I had indicated, when the point of order was raised, I wanted to speak. Last evening at 8 o'clock I told Senator Doody that I thought it was pointless to continue the debate as to whom ought to speak, Senator Waters or myself, and that I would allow Senator Waters to go ahead and I would speak after him. I conveyed that information to Senator Doody, and I have been told—and perhaps Senator Doody can explain this—that he conveyed that information to Mr. Greene who conveyed it to the Speaker. I rose to my feet, the Speaker cut me off and proceeded to conduct his coup d'etat. I am horrified. I am insulted. I don't think mutual respect can continue on that basis. I went up to ask the Speaker why he had not listened to me. I was speaking for 51 senators, and he was accommodating with his ruling 53 or 54 senators. Maybe we would have been entitled to have our views heard on that matter. I walked up and at that point Senator Doyle had taken his place on the dais next to the Speaker—

Senator Perrault: What a laugh!

Senator MacEachen: —as if he were a Swiss guard to a Borgia Pope.

Senator Doyle: I am not Swiss.

Senator MacEachen: I walked away. I walked away because I was and am offended deeply that the Office of the Speaker has been corrupted and that Senator Charbonneau behaved in a most corrupt manner last night in denying us the right to speak, in removing from us the right of all senators to speak on this motion, by calling a vote when he has no authority and in accepting to put a motion and follow into infamy the only other Canadian Speaker who ever did such a thing. I hope, Senator Charbonneau, that you will find it possible to leave soon—the sooner the better as far as I am concerned.

• (1110)

Some Hon. Senators: Hear, hear.

Hon. Douglas D. Everett: Honourable senators, in another few months I will have been in this chamber a quarter of a century.

Senator Hébert: We don't want to hear that.

Some Hon. Senators: Oh, oh!

Senator Everett: I have watched the ebb and flow of power during that time and the spirit of cooperation that has existed over many, many years in this chamber do its duty and see that legislation moves forward after proper review by a chamber of appointed people. There is no question that, since September 25, the rules, procedures and everything about the debate has been abused in this house.

Senator Buckwold: And supported by you!

Senator Everett: The question is: Who is responsible for this abuse? Is it all of us? Is it one side or is it the other side?

The role of the Senate is clear. It is essentially to review legislation from the other place. The Senate has the right to amend that legislation and even to reject the legislation. With respect to money bills, which I will define as budgetary measures and global spending estimates, such as the Main Estimates and the Supplementary Estimates, the Senate still has that right, but it is a right that has to be exercised with great care and great caution.

Senator Buckwold: You said that before.

Senator Everett: I have said it before and I expect I will say it again because it is true. It is a fact. It is the duty of this body to do just that.

Senator Olson: That is your opinion. It is not a fact. Your opinion is not a fact.

Senator Everett: It is a fact. I will give opinion at some point during this speech, but that is a fact.

Senator Olson: It is not a fact.

Senator Everett: What occurred over the years—and I have criticized the government in the past—is that ministers in the other place have stated that the Senate does not have that right or power, but in fact it does. So when legislation comes here, we have every right to review it, deal with it, amend it and even to reject it. That right should be respected by the other place. That is an important issue.

Since 1984, starting with the borrowing bill, we have seen a partisanship change in the operation of this chamber. Prior to that there was a sense of cooperation and obligation. In 1984, when a Conservative government took over in the other place and an overwhelming majority of Liberals existed here, the consideration of legislation became a partisan matter. I personally think that was regrettable, but it is a fact of life.

Senator Cools: Stop the rubbish! He should speak no more.

Hon. John B. Stewart: Will the honourable senator permit a question?

Senator Everett: Yes.

Senator Stewart: I thank the honourable senator for permitting me to ask him a question at this point. We have heard, particularly from the Speaker of the House of Commons, that the position of the present government would be far better off if the terms of the Parliament Act, 1911, as amended in 1949, were in effect in Canada, regulating the legislative relationship between the two houses. Will the honourable senator tell us which bill would have passed the Parliament of Canada faster in the last six years under the terms of the Parliament Act of 1911, as amended in 1949?

The senator is alleging that there has been a slowdown in government legislation. I challenge him to show that the Senate of Canada has acted more slowly in the last six years than it would have under the terms of the Parliament Act, 1949, or even much slower than it would have acted under the terms of the Hon. John Crosbie's draconian proposal to limit the consitutional powers of the Senate. Will he be specific?

Senator Everett: I don't think there is any need to be specific—

Some Hon. Senators: Oh, oh!

Senator Everett: —because I am not making that allegation. I am not saying that it is any faster or any slower. I am saying it is a fact of life that partisanship has been introduced to a high degree—

Senator Stanbury: By whom?

Senator Everett: —in the relationships between this chamber and the other chamber, a fact that did not exist before.

Some Hon. Senators: Hear, hear.

Senator Olson: That is your opinion!

Senator Everett: That is my opinion. I am giving you that opinion. It has occured and the government did not react well to it, which has created a conflict between the two chambers that I personally regret.

Senator Buckwold: What conflict?

Senator Everett: An enormous conflict. Look at the bills. There has been a conflict between the two sides.

Senator Olson: They told us before the bill got here that there would be no amendments, no matter what. That is what they said—no amendments.

Senator Everett: Well, that's what the government can say. There is no question about that. They can say there will be no amendments. I am not sure they did. That is your statement.

Senator Olson: I heard it a few times.

Senator Everett: Perhaps it is true. Perhaps that is what the government said. But we gave the bill second reading in this chamber. It went to the Banking, Trade and Commerce Committee, and I believe there were some three to four months of hearings. Amendments could have been proposed by that committee at that time. Do not forget you are dealing with a major budgetary bill of the government. You would want to

avoid rejecting it as much as you possibly could. The correct stance for this body under those circumstances was not to reject the bill, it was rather to try to amend it to make the bill work a lot better.

Some Hon. Senators: Hear, hear.

Senator Everett: In that regard, I believe that the Banking Committee failed.

Senator Simard: The Chairman!

Senator Everett: It could have defined the amendments that would have made the bill work. They could have brought them to this chamber. It is true they might well have been rejected—

Senator Stanbury: They said they would reject them.

Senator Everett: —had they been passed in this chamber, but that does not matter. You have an obligation as a body to do something. You have a committee that has public hearings, in which it is told over and over again that—

Senator Stanbury: That it is a lousy bill!

Senator Everett: —aspects of the bill should be amended. Read the committee report and you will find item after item, "This is what is wrong with this item; this is what is wrong with that item." There was every opportunity to amend that bill, and when you get to the report it just says, "Reject the bill."

• (1120)

Now, I don't believe that that is the role of this Senate. When we came back here in September and the government had a numerical advantage and was involved in some delaying tactics, I might say, I was opposed to those delaying tactics because I did not feel that a body of Parliament has a right to delay unduly the consideration of legislation, and when the government was trying to do it, I was opposed to it.

Then the government made the eight appointments to the Senate.

Senator Olson: That is why they delayed.

Senator Everett: That may be so, but they did make the eight appointments.

Senator Cools: Why did they make the eight appointments? Senator Everett, you have stood and spoken and many members of the press have believed that somehow you were one of us. It has caused many of us great discomfort. However, personally, we have been magnanimous. It is very easy for me to be magnanimous. I say to you, Senator Everett: Tell the truth.

Senator Everett: Give me a demonstration of some of your magnanimity.

The government made the appointments, and it had every right, in my judgment, to do that. The courts have confirmed it so far, and it is my judgment that if the Supreme Court were to hear the matter, it would indeed endorse the fact that the appointments were properly made.

Senator Davey: You don't know that.

[Senator Everett.]

Senator Everett: I don't know that. I am saying that it is my judgment that that is exactly what will happen.

Senator Davey: Your judgment is not always correct.

Senator Everett: Perhaps not. So far, the courts have dealt with the matter and, where they have dealt with the matter, the judgment has been that the appointments were properly made. I suspect that the same thing will happen as it goes forward in the court system.

The fact of the matter is, though, that, even if they were to find that there was a flaw in the appointments, which I do not believe they will find, the work of this body is still legitimate and the passing of acts within the body remains legitimate. I do not see anything wrong with the appointments.

What has buttressed the opposition here is a concept that it is backed by public will.

Senator Cools: And by the rule of law.

Senator Everett: I will come to the rule of law. They say that if 60 per cent or 65 per cent of the public is against the GST—

Senator Grafstein: You have not listened to the speeches. That was not the reaction.

Senator Everett: I am sorry, that is my reaction.

Senator Grafstein: You have not been here to listen to the speeches, honourable senator.

Senator Everett: I am saying to you that the background of the opposition to this bill has been the public will.

Senator Grafstein: What about the role of a regional senator? Has that not been reiterated here numerous times? It is not just the public will; it is the role of the regions. Have we been sitting in the same house?

Senator Everett: I am saying that it has been backed by the public will. But that is not the function of the Senate.

The function of the Senate is that each of us determine in our own way whether legislation is sound and whether it should go forward. It is not our function to react to the public will. That is why we are appointed. We are protected. We make our own decisions. It is the other place which reacts to the public will.

I don't find it much of an argument to say that because the public wants this, it should happen. The GST is an essential part of the budgetary requirements of the government. It is required to reduce the deficit.

Honourable senators will recall that when Senator Lawson proposed his amendment to use the excess revenues to reduce the public debt, I received a letter from the Minister of Finance in which he stated clearly that the excess revenues would be used to reduce the deficit and, more important, that they would not be used to increase program spending, and that program spending would be controlled.

This legislation makes good fiscal sense.

Some Hon. Senators: Hear, hear.

Senator Everett: I support it because it is necessary. If that puts me on the wrong side of the public, so be it. I am protected so that I can do that and so that I can make the decision on that basis. Others are protected here. If we want to react to the public, then, for goodness' sake, as I and many other senators have suggested for some considerable time, make the body elected. Make us responsible to the public. Make us react to the public will. Our function is to deal with legislation in a proper and responsible manner. Hopefully, it can be in conformity with what the public wants, but that is not the essential element. The essential element is that we do our job.

I have heard here that we should bring forward a motion to change the rules. There is a good reason that we do not have a set of rules in this house as they have in the other place. It is based on the fact that this house operates on reasonableness, that there is a give and take, that there is an attempt to improve legislation and to see that it goes forward. Some people are saying that maybe later we will change the rules and that we will have a form of closure or time allocation. Frankly, I hope that we do not. I hope that we get back to the position where we can deal with matters on a reasonable basis and let legislation go forward. I am not of the opinion that there should be a motion to change the rules. I don't believe there is any reason for it at all.

● (1130)

As we went through this process, all the way through I stated in speech after speech that there should not be undue delay by procedural motions, by allowing the bells to ring, by points of privilege, that we should get on with the business of the legislation because when you got to the report of the committee or when you got to third reading or when you got to the motion for the previous question, there was an unlimited right to filibuster. And I said, "Let's get to that and let the filibuster take place," and eventually we did.

The filibuster started and it was a raving success. I think there were eleven senators who spoke, and they took up to two weeks of time. It looked like Senator Gigantès might never stop speaking, he might be speaking in April. He was going to go on and on. I think Senator Murray will confirm this. I don't know that I spoke to him directly but I spoke to Senator Roblin and several senators on the other side, and I also spoke to Senator Frith. I said that as far as I am concerned if there is not undue delay by virtue of procedural motions then I will vote against any attempt to interfere with the filibuster.

The filibuster went forward. Astonishingly, with all the success that they had on their hands, Senator Gigantès got up and adjourned his own debate, for twenty-six hours. Now to me that is an undue use of a procedural right in the Senate, and if you think about it, suppose that had been accepted, suppose that had occurred and it had been let go by, when Senator Gigantès could speak for another 12 hours and adjourn his motion for 26 hours, and the next day someone else could speak and delay, and someone else could speak. The matter would never have come to a vote at all, and that is what is important.

Senator Davey: Let me ask you: how much of Senator Gigantès' speech did you hear?

Senator Everett: Absolutely none.

Senator Davey: How can you comment on it if you didn't hear it?

Senator Everett: I say he was successfully filibustering, and he was. He was doing a great job of filibustering. I said I was supporting his right to filibuster. I did not comment on his speech. I said that he then, incredibly in my mind, he introduced a motion to adjourn his own debate. At one time, I have to tell you, honourable senators, you could not do that in this house. When you got up to speak you finished your speech and somebody else adjourned the debate. I am not sure it is part of the rules. I guess it has become part of the procedure.

Senator Sparrow: Are you suggesting that the honourable senators was breaking some rule, that he was not in his right to adjourn the debate? There was not a criticism over there of his right to do that. Now you are taking away his right as well to do that. He was not breaking any rules. No one ever suggested that, but you are trying to tell us he was breaking the rules.

Senator Everett: I am giving you the view of one person, I am not saying that what I am saying is right or wrong. I am saying this is the position that, as an independent, I took, and I took it from the beginning. I said there should be no undue delay by bell ringing, by procedural motions, by cockamammy motions of privilege, there should be no undue delay. We should move forward with the legislation. The reason we should do it is that there is an unlimited right to filibuster, and I said time and again that if we move to the filibuster and the filibuster proceeds without being interfered with, again by undue use of motions or points of order, or points of privilege, or adjourning debates, then I would support the opposition if the government tried to interfere. But the fact of the matter is that Senator Gigantès adjourned his own debate and delayed the whole process for 26 hours.

Now that in itself may not have been the worst thing in the world, but the fact of the matter is that had that been allowed to have been established as a precedent, then you would make a joke of a filibuster. A filibuster is the right to get up and speak unlimitedly, and what is working against you is physical exhaustion. Are you going to say at any time "I am feeling a little tired" or "I would like to go to the washroom, so I will adjourn my own debate and I will be back in a little while"? The debate is adjourned, it goes to a vote; it takes place at 5:45 p.m. under the provisional rules and so you have delayed 24 hours or thereabouts. Well, there would be no way of ever stopping anything.

Senator Steuart: Senator Everett could I ask you a question.

Senator Everett: Just in a moment. It would go on and on, and the result would be that you would totally frustrate the work of this body and the work of Parliament and nothing at all would be done, and that, honourable senators, is absolutely wrong. Question?

Senator Steuart: Yes, you say somebody moved to adjourn the debate. That is a motion. Couldn't the motion be defeated? I have sat through more legislative procedures than you have. Any motion can be moved and defeated and it would be finished. So you are wrong. You can defeat it at any time.

Senator Everett: Not at all. On a motion to adjourn a senator's own debate, under the provisional rules it has to wait until 5:45 p.m. the next day and then it comes up for a vote. If it is defeated then the senator did not adjourn and he goes right on and there is no way of controlling the thing. If you defeat it, the senator just carries right on. If you don't defeat it, the debate is adjourned and the senator says, "I am ready to speak again" and he gets up and carries on.

You cannot use that to slow the process down. I may be wrong. I am not a parliamentary expert, but it would seem to me that you could go on forever, and Parliament could do no further work as long as that issue was kept before it and it was continually adjourned. That is why you lost my vote.

Senator Steuart: Oh God! You were against us from day one.

Senator Everett: I will tell you exactly what I said. I said that if the Government brought in a motion to interfere with the filibuster, and the filibuster had been properly conducted, I would vote against that motion. If that motion went through and we went on to a final vote on the GST, I said I would vote for the GST because I think it is right for Canada. That is what I said, and that is my privilege. But this is what is crucial: what you people are up to is really an unwarranted delay, the abuse of the rules in this place. Don't think that I would turn my back on my former colleagues and take the abuse that I have had to take without considering it. I am not saying I am right, but I would not go through that process unless I felt fairly strongly about it. The reason I feel strongly about it is the abuse of the process. There may have been some mistakes made by you, Mr. Speaker, most especially in that first vote, you should have given a longer time for everybody to participate.

Senator Gigantès: You participated.

Senator Everett: I participated, that's right.

Senator Grafstein: You didn't object.

Senator Everett: I didn't object.

Senator Grafstein: You didn't object to our rights.

Senator Everett: I didn't object, but, by the same token I had to listen to you people tell me that you lost your right to vote when your Whip was out there turning your people away at the door.

Senator Steuart: That's a lie.

Senator Everett: That isn't a lie.

Senator Steuart: They turned me away and I carried on. And I told you the lie and you admitted you were lied to, you told me, after I blew up at you, that you were lied to. You said they offered to bring us in and we wouldn't come in. And when I calmed down and you calmed down, you said, "I believe you" and I said, "Then let's see you get up and deny it and say you were lied to, and withdraw your support for that terrible motion you stood up and supported", and you have never done it.

• (1140)

Senator Everett: Just a minute. I am sorry, but I don't understand.

Senator Steuart: You don't understand what?

Senator Everett: I don't understand what you are talking about.

Senator Steuart: Well, let me tell you again.

Senator Everett: All right, okay.

Senator Steuart: I looked in at that door. Our Whips stood out and two or three of us showed up, that is all, because they had sent a note up; we did not know the vote was taking place. I heard the bell ring, then I heard the bell stop. I came down here. There were two or three of us there. The whip said to me, "Don't go in". I said, "Get out of my way. I want to know what is going on". The door was locked. I looked in. It wasn't even the time that they had said, as I found out afterwards. There you were, the only man on this side, voting with them. I blew up. I said things to you I regretted, however; so did Senator Sparrow.

After we had dinner and you said, "I was told that you people would not come in, that you were notified and refused to come in". We explained to you very calmly that that was not right. I said to you, "Do you believe us?" You said, "Yes". I said, "I hope you will get up and withdraw your vote and say you were misinformed or lied to", and I don't know whether you said you would or not, but you never did, and you have been making excuses for your conduct ever since.

Senator Everett: Come on, I don't necessarily agree. If I recall, if we are going to talk about having dinner that night, you had had a fair snootful, as I remember.

Senator Steuart: Oh, thank you very much!

Senator Everett: Well, come on, we are playing a game, eh? It is all right for you to come after me, but I cannot come back?

Senator Steuart: You can come right back all you want. Tell us some more of your fabrications.

Senator Everett: In any event, I was told that the bells were going to ring for the weekend, right? They were going to ring for the weekend, and certain senators were on their way home.

Senator Murray: And they were.

Senator Everett: And when I heard that, that is why I came down here. I got the notice from the Speaker. I heard that before I got the notice, incidentally. I want to make that very clear. I got the notice from the Speaker. The bells stopped ringing. I ran out of my office—I had been on the phone. I walked down here. The door was locked. I walked around the

Speaker's corridor and into here and I pushed my way into the Senate. That is how I got in.

Senator Corbin: And you voted for them.

Senator Everett: Yes, and I did vote, because I felt that this kind of delay was unjustified, where you had let the bells ring for one weekend, from Thursday to the following Tuesday. And when I was informed—and I had the evidence of my eyes of people getting into cars and going to the airport, obviously this meant—

Senator Murray: They were going to do it again.

Senator Everett: —that the bill was going to be delayed again for a whole weekend. That is why I came into this chamber, forced my way in, and voted. And I would do so again, because, if you think you can delay Parliament forever, so be it.

Senator Sparrow: Would you tell me why you had to force your way into the Senate? Why would you have to force your way into the Senate? We couldn't get in through the doors, but why would you have to force your way into the Senate? Against whom? Who was holding you out?

Senator Everett: Because you weren't coming in.

Senator Sparrow: Who was holding you out? What do you mean "forced your way"?

Senator Everett: The Whip couldn't tell me not to come in; he is not my Whip. I came to the door and they said, "Senator, the doors are locked". I said, "Open the door".

Senator Sparrow: Who locked the door?

Senator Everett: I don't know.

Senator Sparrow: The Speaker did, and you forced your way in. Sure, you got in. That is what we are talking about; we had to force our way into the Senate.

Senator Everett: Let me tell you that the door was not locked.

Senator Sparrow: Well, you said you had to force your way in.

Senator Everett: I had to tell the doorman to open the door. He said, "I am sorry, we can't let you in". I said, "Open the door", and he opened it and I came in.

Senator Sparrow: Somebody told him not to let you in. Somebody did.

Senator Grafstein: Could I ask another question, because I asked the honourable senator this before and I think it is relevant. The facts are relevant. A number of people can witness an accident and see different things from their own perspective. However, there is one clear and uncontroversial piece of evidence that was presented to me by the senator from Alberta, which is to your knowledge. He did not receive the Speaker's letter in his office until after that vote was taken. He was not able to participate in that vote and you subsequently discovered that.

You knew that Senator Waters did not receive the letter from the Speaker until after the vote. Yet you did not stand afterwards and say, "By the way, I think it was inappropriate that an independent senator should have received a notification after the vote, thereby being deprived of notice and not being able to participate". I think we have spent hours in this place, not just defending the right of each individual senator to speak and participate, but giving inordinate time, I think, to the rights of independent Liberal senators and independent senators to speak and participate.

All of us have sat here and listened while the rules were dealt with for that purpose. But we know on this factual situation that one independent senator did not receive a notice until after the event. He is here in the chamber and I assume he is not denying those facts. That strikes me as being very material to your pseudo-position that you are here to defend each individual senator as well as the rights of this place. Can you explain that?

Senator Everett: I am not sure I said I was here to defend the right of each individual senator. It is true that Senator Waters said he did not get the notice; but then I did.

Senator van Roggen: How long before the vote did you get your notice? Five minutes?

Senator Everett: Why don't you let me answer one question? That night, as you recall, you people let the television cameras in here; you let strangers occupy the seats, you brutalized the Speaker, you yelled, you screamed. Don't you think that that had an effect on me? I sat here and listened to that circus. As far as trying to reply to it, I got up—I don't think you remember how hard it was to speak. This is a calm, cool, reasoned discussion we are having now compared to what happened to me that particular night.

I did what I thought was right. I thought what you people were doing was delaying the work of Parliament. I think you have exacerbated the situation since then. The abuse of Parliament is on this side of the house and not on the other side of the house.

Some Hon. Senators: Hear, hear!

Senator Everett: For that reason I am opposed to what you are doing. I think you have made a dreadful mistake, and what you did to that filibuster—I mean, let us look at some of these statements. Senator Kirby this morning on CTV said, "We are going to delay it forever until it is defeated", if I quote him correctly, and I hope I do.

Senator Olson said it would be delayed forever. He even went on to say that, if the Supreme Court decided that the appointments were legal, he would not care what the Supreme Court decided. That has been the approach on this side of the house, not that there is some resolution to come to, not that some time we will deal with this matter, not that we are going to stay with the filibuster and we will stay with it and stay with it, and if that goes over to January 15, so be it. I told the government and the Deputy Leader of the Opposition that I would support that.

The vowed intent of you people is to delay this legislation forever. You are never going to let it go to a vote. I am not talking about my guess or my opinion, I am talking about your statements, and believe you me, I think there have been abuses on both sides.

Senator Buckwold: Will you take a question?

Senator Everett: But what caused me to take the attitude that I took, and I took it advisedly—I will live with it and I will suffer through it—is that the fact of the matter is that you are the people that have been abusing Parliament, and if this were allowed to continue, Parliament would be a bloody joke.

Some Hon. Senators: Hear, hear!

Senator Buckwold: I have a question.

Senator Everett: Is there a question?

Senator Buckwold: I would like to ask a question although it has been suggested I should not. The question is this, Bill C-62 was tabled last April by Senator Kelly. I, as chairman of the Senate Committee on Banking, Trade and Commerce, responded as the second speaker. The third speaker was Senator Everett. That night, Senator Everett got up and made one of the strongest speeches in support of the GST legislation—I am sure honourable snators will remember—indicating his position at that time, way back in April, saying that he was a supporter of the GST, that he accepted the philosophy of the bill, and that he was ready to support it—and he was critical of me.

• (1150)

My question to you then is: Throw away all of the flimflam. Throw away all of the rhetoric that you have given us about your "holier than thou" attitude. Tell us the real truth; namely, that this is your way to get passed a bill which you have expressed your support for, and the rest is all commentary.

Hon. Douglas D. Everett: I guess the shoe, if it fits me, fits you even better. The attitude on this side has been that you are against the GST. You think you have public support against the GST and you do not care particularly what tactics you use to get the GST through. I am in favour of the GST. What I am appalled at are the tactics that you—I have sat here from time to time listening, listening—

Senator Hébert: You are on the wrong side.

Senator Everett: Perhaps I should move to the other side.

Senator Hébert: Why don't you go to the other side?

Senator Corbin: Would you like to move now?

Senator Cogger: Speak from your own chair, senator.

Senator Everett: I will deal with that.

The fact is that you, and this side, have used your desire to defeat the GST to abuse the work of Parliament in a manner that I think is unacceptable. Do not accuse me of doing that, because if you can accuse me I can accuse you even more so. This has been an abuse of Parliament. Yes, I keep hearing how sad you all are, what a terrible day, what a black day this is, and so on and so forth. If you do not think that some of the things that have gone on in this chamber, organized by this side, have been an abuse of Parliament, then—

Hon. Keith Davey: Will you listen to my question, Senator Everett?

You have been talking very well, and very interestingly, and you talked a few minutes ago about knowing a great deal about the abuses on the other side. Would you care to indicate some of these abuses on the other side to which you take such great offence?

Senator Everett: I think they have been more than catalogued by speakers on this side. I do not need to catalog them. I am saying that I have listened to the catalog of abuses on the other side, and I am saying that there is an egregious abuse on this—

Senator Davey: Indicate some of these abuses. You say that you know them all so well: What are they?

Senator Everett: Did you listen to Senator MacEachen's speech? It was a superb speech. No question about it. I thought Senator Stanbury's speech was a very interesting speech on that subject. Also Senator Fairbairn. They all catalogued the abuses. Nobody seems to have talked about the abuse of the parliamentary process that has taken place here. And that was—

Senator Robichaud: By the Conservatives, and the Speaker.

Senator Everett: It is not my job. It is the way I feel, and I want you to know how I feel, and I want to put on the record that I feel that way. Do not tell me that the abuse is all over there and that there is no abuse over here. There has been abuse here, and—

Senator Robichaud: We have a right to speak on third reading.

Senator Everett: —that abuse has offended me.

You are absolutely right, yes, you have the right to speak. And I defended that right to speak with the Leader of the Government and the Deputy Leader of the Government. I told them you had a right.

An Hon. Senator: When?

Senator Everett: And you guys blew it.

Senator Robichaud: Why do you not defend it now?

Senator Steuart: When we lost you.

Senator Everett: No, not when you lost me. You used a procedural motion to delay, delay, delay—forever. I think you are wrong in tht . In any event, if I have been invited to move to the other side of this chamber, then I shall do so. Thank you, honourable senators.

Senator Hébert: That is great.

Some Hon. Senators: Hear, hear!

Hon. D. G. Steuart: Honourable senators—

Senator Murray: Is this a question?

Senator Steuart: No, it is a speech. I will only say a few words. I will deal with the situation between myself and Senator Everett. I feel badly, as does everybody on this side, about what has happened. I will not deal with that. It has been dealt with by Senator MacEachen and others in a much better way than I could have done. But I want to make my position very clear.

When I came to this chamber, I met Doug Everett, Senator Everett, and I respected him. When he decided—he was appointed by a Liberal, he was appointed as a Liberal, he was as a Liberal collector. I was a Liberal collector, sometimes called "a bag man" and so was he. Senator Everett was rewarded for that and so was I. I always carried that very honourably. I collected money. Actually, I never put it in a bag; I just gave it to the party. He did the same thing and he was rewarded by being appointed to the Senate as a very young man.

Senator Everett decided, in the fullness of time—he did a great job, he was an excellent senator—that he would sit as an Independent. We respected that. He voted and spoke very strongly in favour of the free trade deal. I was against the free trade deal and so were almost all of our colleagues, and possibly all of them. We never even asked him to leave our caucus. He himself chose to leave our caucus. We never asked him to leave this side of the house—

An Hon. Senator: Yes, you did.

Senator Steuart: We did not then. Senator Everett spoke in favour of the GST. That was his right. I have always respected his right, or anybody else's right, to vote. I have voted against the government when my party was in office; not often, but I have. People on this side have done that, and maybe people on that side. I respect that. I respected Senator Everett's right to vote for the GST and to speak in favour of it.

When that terrible day, October 4, happened, and I saw him in here, I admit I became very angry—much angrier than I should have. I said things that I have since apologized to various people for, and I was sorry. I was not sorry for being angry; I was sorry for some of the things I had said.

I did talk to Senator Everett later, and to Senator Sparrow. If I was in this condition or that, in a private talk, that is my business. I still talk to him. He told me after, "I respect that you and Senator Sparrow sat down and discussed it, because we had a very fine discussion, and I am sure I originated it, and I said many things then that I maybe should not have said."

However, we did point out to him—we asked Senator Everett why he came and voted with the government when we were not even in the house? It was outrageous. He told me then, and he told Senator Sparrow, and I hope he is not going to say that Senator Sparrow does not remember, because I remember and Senator Sparrow remembers. Senator Everett told us then that he had been informed that we had refused to go into the house. It was a fact that our Whip was out there, and when we came down to the chamber he said to one of us, "Do not go in". There were hardly any of us there to start with, because most senators had left. The bells were ringing. The weekend before we had left; that was the rule; nobody could stop us; that was the rule. I came in and I looked in the chamber and I saw that the door was locked. But I saw Senator Everett, the only senator on this side. I just blew up.

Later on, when we explained, he said, "I was under the impression that you people—I was told that you people had refused to come in." I said to him then, "You believe us now that we did not refuse to come in but that we were not informed at the right time and we did not know the bells were going to quit. My recollection very clearly is that he said, "yes." I said then, "I expect you will raise a point of order in this house and say you were misinformed on this vote? He never did that and ever since then, as far as I am concerned, Senator Everett, you have been justifying that position.

• (1200)

I do not recall and I would like you to dig up for me all those wonderful statements you made that you respected our right to filibuster. You warned the government that if they dared to interfere with our right to filibuster, the great Senator Everett would come down from on high and lay down on us ten commandments that they could not do it. Oh, he says to us, but if you dare to amend your own motion or make that filibuster last too long or not do it properly, in his opinion, then he would change his mind. That is why he said today "You lost my vote."

I am convinced all he has been trying to do ever since is justify why he was on that side. He never had to justify it, as far as I was concerned.

I want to say, Senator Everett, that you did not lose my respect or friendship when you voted against the government. In fact, maybe I had more respect for you because you had the guts to stand up for what you believed. What you did when you voted with the government, and what you did again this morning when you voted for something that you know broke the rules and that had never before happened—why did you do it? I guess it was for the respect of your big business friends or your Tory friends. You have their respect; they applaud you every time you stand up. You lost our respect and, in the long run, I think you have lost your own self-respect and I feel sorry for you.

Some Hon. Senators: Nonsense, nonsense.

Senator Lefebvre: Does the Honourable Leader of the Government in the Senate wish to speak?

Senator Murray: Yes, he wishes to speak.

Senator Lefebvre: You have my place.

Senator Murray: Honourable senators, first of all with regard to the exchange between the Honourable Senator Everett and Senator Steuart, let me say that it is a fact that Senator Everett told me, a good two weeks ago, I think, that he would not support the government in any initiative to end what he regarded as a legitimate filibuster. He told me that personally, and Senator Roblin has told me of at least one or more conversations he had with Senator Everett in which

Senator Everett made the same statement. Senator Everett, of course, confirmed as he had done in this house at the time of second reading, that he supported the principle of the GST and would support Bill C-62 on third reading; but he was opposed to any effort by the government to use its majority or to put together a majority with the purpose of ending what he regarded as a legitimate filibuster. I regret that the Leader of the Opposition is not in his place at this moment.

Senator Frith: He should be back soon.

Senator Murray: I want to deal with some of the matters that he raised in the course of his speech this morning. Senator MacEachen ended his speech by complaining that his right to speak last night had been taken away from him, and he dealt with the events of Tuesday and Wednesday, following Senator Kelly's point of order. I want briefly to review those events myself because they put things in quite a different light than that which Senator MacEachen seeks to cast on them.

It was on Tuesday afternoon that Senator Kelly raised his point of order. His point of order focused on the impasse in this house concerning Bill C-62. He did so as part of a larger problem that the house and Parliament faces. The filibuster within a filibuster, the systematic obstruction that we had known, as Senator Kelly pointed out, created a roadblock to the effective discharge of the business of the Senate and of the country. When he had done that, the Leader of the Opposition rose to insist that the point of order was riased at the wrong time.

Senator Kelly said this was not just about Bill C-62; it was about the business of the Senate in general. Senator MacEachen insisted this was the wrong time for Senator Kelly to do this. It should be discussed later, Senator MacEachen told us. We want time to consider it, he told us. We will discuss it when Bill C-62 is called, Senator MacEachen told us. In any case, we had several hours of discussion on Senator Kelly's point of order. Several hours of discussion ensued in which various honourable senators opposite took part. On Tuesday night at eight o'clock, when we returned with Bill C-62 before us, all of us on this side naturally expected that Senator MacEachen was going to address himself to Senator Kelly's point of order. Imagine our astonishment then—and I gave voice to it in a brief unscheduled intervention at the time—when Senator Frith invoked the right to move the weekly overnight adjournment. We were disappointed and surprised. And, as I say, I expressed my astonishment. At that point, Senator MacEachen rose to give notice that he would speak at two o'clock the next day on Senator Kelly's point of order and the fundamental issues it raised. Through the night, he and his colleagues weaved the web in which they eventually became entangled.

Senator Cools: A seamless web, was it?

Senator Murray: They weaved the web in which they became entangled. The next day, at two o'clock, it was obvious that a deal had been done. The deal was that Senator Lawson would rise in his place and move that Senator Waters be now heard while Senator MacEachen pretended to want to speak.

If you need any more evidence of that, Senator Lawson's motion was seconded by none other than Senator Olson, a frontbench Liberal who must surely be privy to the strategy of their caucus.

I still do not understand what all this was about because Senator Olson then proceeded to speak for three hours in the afternoon, not addressing himself to the question of whether Senator Waters should now be heard but addressing himself, rather, to Senator Kelly's point of order; addressing himself, rather, to the GST and to Bill C-62 and to every other issue that might be considered relevant to do in his three hour marathon. The debate went on.

• (1210)

Senator Frith preceded Senator Olson. Senator Buckwold followed Senator Olson. Frankly, if I may say so in parentheses, I do not understand why a motion that Senator so and so be now heard is a debatable. I do not think it makes sense that it be debatable. I think in the case of such a motion a vote should be held. That seems to be the logical course to me.

In any case, they presumed to debate Senator Lawson's motion. They never did address his motion. They addressed the GST and Senator Kelly's point of order. At any time, in my view—and I expressed my view en passant to Senator Waters—during the afternoon either Senator Waters or Senator MacEachen could have taken part in that debate. Under the quise of the motion that Senator Waters be now heard, the debate was really about Senator Kelly's point of order. Clearly what we had going here on Wednesday afternoon was a sequel to the initiative of Senator Gigantes to adjourn his own filibuster, and a filibuster within a filibuster. It was systematic obstruction.

Senator Frith: Of course it was. We never said it was anything else. That is what a filibuster is.

Senator Murray: So Senator MacEachean became tangled in a web, the web of deception that they had woven the night before in the collusion that they had arrived at with Senator Lawson, that he would move a motion while Senator MacEachen pretended to want the floor. I must say that it was quite well done. They played their parts, both of them, quite admirably.

Honourable Senators, I believe that this review of the events of Tuesday and Wednesday give the lie to Senator MacEachen's assertion that, in any sense, he was denied the right to speak on Senator Kelly's motion.

Senator Cools: Senator Kelly never introduced a motion!

Senator Murray: On Senator Kelly's point of order. I thank the honourable senator for that correction.

In the same vein the Leader of the Opposition complains that 40 or so Liberal and independent senators were prevented from speaking, and he blames us. We never got a chance to speak on my motion that the question be now put. A number of our senators wanted to speak, but they, like 40 Liberals and the independents, could not speak in the face of a filibuster by 11 senators, some of them speaking for 18 hours at a time.

Senator Cools: Bravo!

Senator Murray: That is what prevented you, and you, and Senator Haidasz and others—

Senator Thériault: You prevented me!

Senator Murray: —from taking part in the debate on my motion.

Honourable senators, let me come to the main burden of Senator MacEachen's speech this morning. I begin by saying that the initiative that Senator Kelly took the other day was taken, as you know, on behalf of 53 Conservative senators. With respect, I say that the role of the Speaker was, as our tradition would have it, relatively minor. What the Speaker did—and I will come back to this point later—at our request, was to provide the Senate with an opportunity to decide the question.

Some Hon. Senators: Here, here.

Senator Murray: Let the record show—

Senator Thériault: Under what rule?

Senator Murray: I will come to that Senator Thériault. Let the record show that the responsibility for that initiative was ours, the Conservative senators'. We accept the responsibility, and we will live with it on the record.

Some Hon. Senators: Here, here.

Senator Frith: That is certainly true.

Senator Murray: I listened very carefully to what the honourable the Leader of the Opposition had to say this morning at considerable length. At no time in the course of a speech that lasted almost an hour did he suggest that there was a solution, that there was a way out of this unprecedented crisis in which the Senate and, therefore, Parliament has found itself. As a matter of fact, in his entire speech he never once even acknowledged that we have been and are facing a crisis in this chamber, and an unprecedented one. To hear him speak, it was almost as if nothing could be more normal than a major tax measure, passed by the House of Commons and central to the government's economic policy, should be hung up for eight months in the Senate and its implementation date threatened by a filibuster and then by filibusters within the filibuster, all adding up to systematic obstruction. That is the situation in which the Senate and Parliament found itself.

The fact of the matter is that at various points we were under the threat of intimidation and mob rule, and to emerge from those threats of intimidation and mob rule we negotiated provisional rules, rules regarding legislation and so forth. The fact of the matter is, as Senator MacEachen knows, that every attempt in the last little while to discuss an end to this debate by agreement was rejected by the leadership opposite, and several such attempts were made. I can tell the house that one was made as recently as Monday of this week.

The situation in which the Senate and Parliament found itself was not normal. Far from it. It is contrary to all Canadian parliamentary practice and tradition, and honourable senators opposite know that.

This morning the Leader of the Opposition tried to lend his vast experience and considerable prestige as a parliamentarian to the proposition that all of this has just been normal parliamentary combat. However, not even the weight of Senator MacEachen's eloquence and conviction can rescue that proposition, because reasonable people know that it is untenable. What honourable senators opposite are asserting, sometimes implicitly and sometimes, as Senator Everett pointed out earlier, explicitly, is that the Opposition's right—and it is a right—to delay and to filibuster is unfettered and unlimited. That is the proposition we are left to grapple with in this house: that their right to filibuster and delay is unfettered by rules. Thus, over the past few months, we have had this flagrant abuse of the rules regarding privilege, for example.

• (1230)

We all know how questions of privilege are supposed to be raised in parliamentary assemblies. An honourable member rises, states his or her question of privilege, and, if it concerns only that member, it is probably dealt with immediately. If it concerns the privileges of the house as a whole, commentary is invited from members on both sides. It is decided whether or not a prima facie case is made.

Senator Frith: That is wrong, according to our Rule 33.

Senator Murray: Then remedy is brought through a motion as the case may be.

Senator Frith: Oh, that is different.

Senator Murray: But we have had, hour upon hour, day in, day out, night in and night out, a multiplicity of spurious questions of privilege without ever a motion having been moved.

Senator Frith: That is not true! That is false!

Senator Murray: Look back at the record, senator.

Senator Frith: You look back at the record, because motions were moved. I did not mean to interrupt you, but tell the truth.

Senator Murray: Also, there has been a flagrant abuse of the rules regarding petitions. We know how petitions are supposed to be presented. They have been presented before in this house. A member gets up, states that he or she has a petition from a certain number of people on a certain subject and desires to lay it before the house. That is it. Yet, hour after hour, day in and day out, night in and night out, we have had honourable senators standing up and flagrantly abusing the rules of practice regarding petitions, making lengthy speeches about nothing, and wasting time and obstructing. That is what we have had.

In the absence of precise rules in the Senate—and we find ourselves in a new adversarial situation—and in the absence of an effective way to enforce the rules of the Senate, honourable senators opposite have conducted themselves in a way that would never be tolerated in any other legislative assembly. That is a fact, and they know it.

Senator Frith: It is not a fact! It has been done!

Senator Murray: During the past two weeks we have had read into the record the entire texts of books. We have had the verbatim transcripts of the hearings of the Banking, Trade and Commerce Committee of last summer read into the record at considerable expense, even though the documents had already been published and were before the house. They have been reread into the *Hansard* record. We have had the verbatim transcripts of debates from the British Columbia Legislature read into our record. And then came this famous technique of 10- and 20-minute speeches in the guise of questions. Honourable senators know that that would never be allowed in any other legislative assembly in the world.

Some Hon. Senators: Hear, hear!

Senator Frith: Who says so? Where does it say that? Have you looked at them all?

Senator Murray: Show me a legislature in Canada or anywhere else where that has occurred.

People have said to me, especially the new honourable senators on this side and those who have had experience in other legislatures, that surely these people should be called to order for what they are doing. Sadly, I have had to tell them not to raise a point of order, because if they raise a point of order, honourable senators opposite will filibuster it forever. If the Speaker should rule against the opposition, they will not appeal—as is their right under our rules—they will storm the chair, as they have done three times.

Senator Cools: We never stormed the chair!

Senator Murray: They were waving their little red books, paralysing the work of the Senate and of Parliament, and intimidating the Chair. So for more than two months we have lived in this chamber with the threat—or the reality, which is as bad as a threat—of intimidation and mob rule.

Honourable senators, the opposition is asserting is not only that their right to delay and filibuster is unfettered by the rules, but that it is unlimited in duration; in other words, the right to delay is a right to obstruct indefinitely. That is their position. They assert that they are within their rights, as an opposition, to prevent a matter from coming to a vote and to prevent senators forever and ever, as Senator Kirby confirmed this morning on his weekly panel, from exercising their right to vote. What else are we to make of the record of the past eight months with Bill C-62 and, in particular, with the record since September 25? It is a record of time wasting, delay and obstruction which is there for all to judge.

Senator Simard: At great cost!

Senator Murray: They no longer have a Liberal majority in the Senate; we do have a Conservative majority in the Senate. They feared they might lose the vote on Bill C-62, so they were determined to prevent the vote from taking place. After eight months, they were determined to prevent Parliament from deciding in time to implement the tax for its January 1 startup date. In other words, they were determined to create the maximum inconvenience, confusion and chaos in the country and hope that the government would take the blame. How undemocratic! How unparliamentary! How irresponsible!

Some Hon. Senators: Hear, hear!

Senator Frith: What rot!

Senator Murray: Because we are coming to the final hours of this debate, I want to open a set of parentheses to discuss briefly the consequences of creating this kind of uncertainty and confusion in the country, as the Liberal senators have been trying to do. I have a statement that was made as long ago as November 5 by Mr. Alasdair McKichan of the Retail Council of Canada, whose members will be on the front lines collecting this tax. He refers to a telegram that he and other industry organizations sent to Senator MacEachen and Mr. Chretien concerning these matters. Mr. McKichan said in his speech:

> I would suggest that it is important that the senators keep hearing from our industry and others that at this point their actions are destructive, they are hurting an already fragile economy, they are causing hardships to thousands upon thousands of businesses, and ultimately, of course, to the employees of these businesses.

Later he says:

> Uncertainty as to the bill's passage induced by the Senate behaviour has caused hundreds of thousands of businesses to procrastinate both in registering and preparing themselves for the operation of the tax.

Then he goes on to explain in detail some of the implications. He says:

> Every day that passes these firms are being hurt. It is weeks since they should have come to the appropriate conclusions about their inventory levels, the way they will adjust their inventory prices, their marking strategy, have learned the new prices their suppliers will quote them, how they deal with their blended merchandise in inventory, their repricing program, and so on.
>
> Now these firms will have to scramble. Many of them will not fully understand the implications of their decisions, and as a result they will reduce their profitability, some of them probably to a fatal extent.

● (1300)

> It has been argued that because of the delay at this stage it would be desirable for the department to postpone the implementation by a month or two. In my view this is not a realistic option. The great bulk of business has geared itself for the January 1st date and it would be hideously expensive to unwind the preparations which have been made.
>
> There are warehouses and container loads by the thousand already marked with the post-GST prices. There are advertisements and flyers composed, catalogues printed, all assuming that January 1st, 1991 is the operative date. Employees have been trained, staff has been scheduled for the massive repricing operation. Computer programs have been established and installed. There are literally hun-

> dreds of millions of dollars of investment, all geared to the January 1 date.
>
> Two years ago when we were consulted on the GST, we told Michael Wilson that once the clock had started ticking there could be no deviation from the course. The trade needed a clear year, and it needed absolute certainty that the program would go ahead basically as outlined. That advice still stands.
>
> I think it is terribly important that the senators understand the same message. The senators may feel they are gaining political points by their quixotic behaviour. In reality they are wounding Canadian business, they are threatening the employment prospects of many and ultimately they are contributing to a lower GDP and a lower standard of living for all of us in 1991.

Those are the words of the President of the Retail Council of Canada as long ago as November 5.

A few days before that, on October 26, a group of organizations, ranging from the Automotive Parts Manufacturers of Canada, the Canadian Advanced Technology Association, the Canadian Exporters' Association, Le Conseil du Patronat du Québec, the Grocery Products Manufacturers, the Information Technology Association of Canada and others made the same point, saying that the defeat of the goods and services tax or its delay will cause enormous problems for business, small and large, across Canada, problems that we can hardly afford.

Senator Thériault: That gives you 8 per cent in North York. That is what it does.

Senator Murray: They ended, honourable senators, by saying that their second point has to do with the fundamentals of parliamentary democracy. They said:

> Some of the associations who are signatories to this letter do not approve, as you know, of every facet of each bill in question.

Here they are talking about Bill C-62 and several others. They go on to say:

> We are unanimous, however, in our view that the Senate is not justified in frustrating the will of the elected House of Commons.
>
> Moreover, it is not in the national interest to have the central institutions of the Government of Canada paralysed by the bitter and highly destructive partisanship that Canadians are now witnessing.

Senator Stollery: You ain't seen nothing yet.

Senator Murray: Senator Stollery says, "You ain't seen nothing yet," and I am glad to have that on the record for future reference. They go on to say:

> We therefore strongly urge you and your colleagues in Opposition to take whatever steps are necessary to ensure that the legislation in question passes through the Senate, and to leave final judgment on the Government to where that power ultimately and legitimately resides-in the electoral will of the people of Canada.

When he was speaking earlier, Senator Everett referred to some of the explicit comments that had been made by members of the Liberal opposition in which they indicated very, very strongly their determination to prevent this matter from ever coming to a vote.

I should like to place a couple of those statements on the record now, in addition to the one that I just referred to and that is as fresh as this morning's Canada AM from our colleague, Senator Kirby.

As long ago as October 13, Senator Jacques Hébert, in the *Toronto Star* said:

> It's a fight to the finish against the GST . . . ..if it takes all the weekends until July, I don't know and I don't care.

That is Senator Hébert, one of the leading tacticians and strategists of the Liberal opposition.

Senator MacEachen himself, on October 19, said:

> Petitions are eternal . . . ..Our objective is to kill the GST.

Senator MacEachen and I know something about the meaning of eternity, having studied at the same school. This is just one of many indications that their intention is to prevent the bill from ever coming to a vote.

Senator Thériault: Of course.

Senator Murray: Listen to their words. Listen to Senator Frith, as he is quoted in the *Western Report* of November 12.

Senator Stollery: I wonder what the Reform Party supporters are going to think about this.

Senator Murray:

> Mr. Frith says he won't disclose the Liberals' most devious procedural plans.

Senator Frith: "Devious" was his word, not mine.

Senator Murray:

> "We're into a war-metaphor mode," he says. "George Bush isn't telling Saddam Hussein his plans, either."

Senator Frith: He got it right. I will stand by that.

Senator Murray: George Bush, Saddam Hussein, Royce Frith: there they are.

Leaving aside the distressing signs of incipient megalomania, how irresponsible can you get. Listen to this, and this is not between quotes, although I will come to the quote in a moment:

> The Liberals' tactics are being master-minded by a triumvirate that includes Liberal Senate leader Allan MacEachen, former finance minister and acknowledged master of parliamentary procedure; Mr. Frith, a long-time Ontario Liberal; and Alberta's Joyce Fairbairn, a former journalist and legislative assistant to former prime minister Pierre Trudeau. The Liberals say if they can delay passage of the GST until after January 1, the tax can't be implemented until 1992. They argue that would be uncomfortably close to the next election, forcing the Tories to drop or radically modify the GST. Says Mr.

Frith: "Our entire strategy depends on delay. We're going to give them a good dose of anarchy."

Senator Frith: I will speak to that.

Senator Murray: Eight months after the bill has been sent to the Senate, the Senate is still not permitted to decide, and Senator Frith, the Deputy Leader of the Opposition, advertises that his goal is to give the Senate a good dose of anarchy.

Senator Frith: That was out of context. I will speak to that. That is what I said, but not in that way.

Some Hon. Senators: Shame, shame!

Senator Frith: Just wait for it. You will hear more about that.

Senator Murray: George Bush, Saddam Hussein, Royce Frith. Here is the war-metaphor mode again, this time on the 30th of November in an interview he gave to Radio Canada on the evening of the unfortunate incident in which Senator Hastings became ill, after his contribution to the debate. Senator Frith said:

[*Translation*]

It is like war, you can devise tactics and strategies, but in the end you have to come to the battlefield. Then, you learn.

• (1310)

[*English*]

Honourable senators when they start playing war games in Parliament, you know that Parliament has a problem, and a responsible majority in this place must find a way out of that.

Some Hon. Senators: Hear, hear!

Senator Murray: The letter that Conservative senators signed and sent to the Speaker, and that was placed on the record on Tuesday by our colleague Senator Kelly, is completely consistent with parliamentary and democratic practice and tradition. We asked only that the Senate have an opportunity to decide, eight months after Bill C-62 arrived here, whether a day and a time should be fixed to have a vote.

Senator Frith: Once you got a majority.

Senator Murray: What could be more democratic than that? What could be more in keeping with parliamentary tradition?

Senator Thériault: Shame! Shame!

Senator Murray: Honourable senators, this is a parliamentary crisis.

Senator Thériault: You caused it.

Senator Murray: It is an unprecedented situation and to resolve it we have had to create another precedent.

Senator Frith: A dose of anarchy. Your own dose of anarchy.

Senator Murray: The Senate lacks the large and comprehensive body of rules that the House of Commons and other legislatures have.

[Senator Murray.]

Senator Stollery: It is because you have not read the books.

Senator Murray: Senator Everett has pointed this out—

Senator Thériault: How would he know?

Senator Murray: —and so has Senator Fairbairn in her speech. The rules in the House of Commons and other legislatures—

Senator Frith: If you like it better over there, why don't you go over there?

Senator Murray: —try to anticipate almost every conceivable eventuality and to cover it with a rule. Our rules do not do that. They are quite general. We do not have a fixed calender of sittings and recesses. We do not have restrictions or schedules for routine proceedings. We do not have a fixed time for the beginning and the end of Question Period, as I well know. We do not have restrictions on the content of oral questions. We do not have time limits on questions. We do not have the time limits on speeches. We do not have restrictions on the amendments that can be moved at the report stage. We do not have restrictions on the debatability of a large number of motions. We do not have limitations on the length of time of the Throne Speech debate. We do not have a time allocation procedure. We do not have a closure rule. We have no such rules because we have never needed them. We have muddled through until 1984 without them. We muddled through until 1984 when this Senate began to become a far more adversarial, far more confrontational, far more partisan chamber than it had ever been since 1867.

An Hon. Senator: Since you became leader.

Senator Murray: No, I became leader in 1986.

In any case, Senator Everett argues that we still should not have such rules and, if I understood Senator Fairbairn's speech well this morning, she argues that we should not have such rules.

Senator Fairbairn: I beg your pardon?

Senator Murray: Senator Fairbairn quoted—I thought with some disapproval—the statement she said the Speaker had made during the course of a private meeting to the effect that we needed changes in the rules to make them, as she put it "more restrictive." Senator Everett also says we do not need and do not have rules of the kind I have just mentioned that exist in the House of Commons and in many other legislative assemblies.

If we are to continue to be, as we have been gradually becoming since 1984, an extension of the House of Commons, adversarial, confrontational and partisan, we are going to need such rules.

Some Hon. Senators: Hear, hear!

Senator Murray: That is a debate we can have at a later time but I think we are going to need such rules.

Senator Stollery: I guess we will use the same rules after the next election.

Senator Murray: Over the years, the Senate created procedures and precedents to deal with situations as they arose. That is what we have done over the years. I need look no further back than to the meeting of the Standing Senate Committee on Banking, Trade and Commerce of September 24 when just that happened.

In previous debates, I have referred to what happened at the meeting of the Standing Senate Committee on Banking, Trade and Commerce of September 24, but today I have the benefit of having in my hands the *Minutes of the Proceedings* of that meeting and I want to share something of those *Minutes of the Proceedings* with you because this is quite relevant to the discussion we are having today about having new procedures and creating precedents to get the Senate out of unprecedented situations.

On Monday, September 24, 1990, the committee met at 1:30 in the afternoon. A couple of hours earlier, honourable senators had been given a draft report, several hundred pages in length, which no senator in the opposition had ever laid eyes on before. The report was on the GST. Here is what the *Minutes of Proceedings* tell us happened after it lists the names of those present and the fact that the committee proceeded to meet *in camera*. It states:

> The Honourable Senator Frith moved that the Report on Bill C-62 . . . be presented in the Senate on Tuesday, September 25, 1990;

That was the next day. It goes on:

> —that, in order to allow sufficient time for production of the above-mentioned Report, a final decision be reached by 7 o'clock p.m. this day;

Senator Barootes: No filibuster allowed there.

Senator Murray: It goes on:

> —that the Committee proceed to consider the four alternatives as presented in the draft report, and that to this end the Chairman allot time and present each alternative in turn for division."

Some Hon. Senators: Oh, oh!

An Hon. Senator: How is that for a precedent?

Senator Phillips: Who was the chairman?

Senator Murray: Then our friend Senator Simard got up humbly—

Senator Petten: Humbly?

Senator Murray: —to suggest that perhaps they could give the committee a week to consider this report of several hundred pages. The Honourable Senator Simard moved that the motion be amended by striking out all the words after the word "Tuesday" and substituting the following therefore: "October 2, 1990."

We have Senator Frith's motion on the floor that the report be presented tomorrow; that the discussion be ended by 7 o'clock; that the Chairman allot time for the consideration of each point; and present each alternative. We then have Senator Simard's amendment asking for a week. After debate, the Honourable Senator Frith moved that the question be now put. Then, of course, it gets better. Then Senator Doody on a question of privilege and Senator Ottenheimer on a point of order said that this motion that the question be now put was debatable. "Oh no, it's not," said Senator Frith, "No, sir."

Senator Frith: Not in committee, it is not.

Senator Murray: On a question of privilege being raised by the Honourable Senator Doody and on a point of order being raised by the Honourable Senator Ottenheimer and debate arising thereon, the Chairman heard arguments and put the question. That is Senator Buckwold.

• (1320)

The Committee divided and, the names being called, they were taken down.

The motion, that is, Senator Frith's closure motion that the question be now put, on which he allowed no debate, was therefore resolved in the affirmative.

Then Senator Simard's amendment was put and it was defeated.

Senator Barootes: So much for the rights of the minority.

Senator Frith: All in accordance with the rules; the rules of your own Speaker.

Senator Murray: Then we came to the report of the Committee, and the Honourable Senator Frith moved:

> . . . that the draft report be adopted as the Report of the Committee with Alternative Four [declining to proceed further with the Bill] as the final chapter and that Alternative Four be amended as follows:

Then there is some text which I do not think is relevant here. So Senator Frith is now moving that that report be adopted.

> After debate, the Honourable Senator Frith moved that the question be now put.

Senator Frith: All regular.

Senator Murray:

> On a Point of Order being raised by the Honourable Senator Ottenheimer—

Senator Barootes: Not debatable.

Senator Frith: Not in committee. All ratified by your own Speaker.

Senator Murray: —and Senator Ottenheimer, having stated that this motion that the question be now put is debatable, was told, "No, it is not".

> On a Point of Order being raised by the Honourable Senator Ottenheimer, and debate arising thereon, the Chairman heard arguments and put the question.

That is what happened.

> The Committee divided and the names being called, they were taken down as follows: The motion was resolved in the affirmative.
>
> At 7:45 p.m. the Committee adjourned to the call of the Chair.

How is that for a precedent?

Let us just review what happened at that meeting on September 24th. Senator Frith came in and there was a 300-page report in front of honourable senators. Time allocation on the report, closure on the time allocation motion, and cut-off of debate on the closure motion. He did it twice in the same afternoon, and there is not a rule in the Senate or anywhere else that let him do it, and his defence on every occasion when it was protested was, "It is the will of the majority."

Senator Frith: All in accordance with the rules. Your own Speaker ratified it.

Senator Murray: Honourable senators, what is relevant here is that there is no rule to let him do that. He did it because, in his judgment and that of the majority of senators on that Committee, that was the way to deal with the particular situation that had arisen. The majority ruled.

Honourable senators, nothing so drastic, nothing so Draconian, nothing so peremptory or high-handed was done today. Senator Kelly's initiative asked senators to decide whether, indeed, the entire business of the Senate had been effectively blocked by the filibuster and the obstruction on Bill C-62. The answer was yes. Senator Kelly's initiative asked whether the debate on Bill C-62 had truly covered every possible argument. Goodness knows, the answer to that question was in the affirmative. Senator Kelly and the other senators asked whether the Senate should have the opportunity to decide where we go from here. The answer to that question was also in the affirmative.

As I said at the outset, Speaker Charbonneau played the role that he should play in the Senate. It is the only role that Liberal Senators and others have ever agreed that he should play; it is the role of letting the Senate decide, and that is what he did. The Senate has decided and taken responsibility for that decision.

I need go no further than to Senator Kelly's mentor, Senator Frith, and the statement he made over one year ago on June 28, 1989 to be found in the Senate *Hansard* at page 416. It was on a motion for reconsideration of the decision to close CFB Summerside. On a point of order, the Speaker's ruling had been negatived, and Senator Frith stated:

> Honourable senators, I am sure there are precedents for the vote having that result, but, in any event, I do not know how there could be any other interpretation. As I understand the principle, it is that the Senate decides that it is not necessarily bound by the rulings of the Speaker, that it reserves the right to overturn rulings and therefore retains the right to decide what is or is not in order by a majority vote. That is what has taken place. It is always the case, especially with the hotly fought questions, that a minority is not pleased with the result of the majority's vote, and I might feel the same way. That is the way the Senate works at the present time. It retains the right to decide finally, if it wishes, questions of order by a majority vote.

[Senator Murray.]

Honourable senators, let me place on the record once more, as I have done a couple of months ago, the statement of Senator Stewart of Antigonish-Guysborough. Professor Stewart, as he was then and is now, wrote a celebrated article for the *Toronto Star* at the time of the famous bell-ringing episode in which he stated that the Speaker should have taken the initiative to end that episode. He made a statement which should ring in all our ears: "If Speakers never dealt with procedural situations except on the basis of exact precedents, there would be no precedents."

That was stated by Senator Stewart.

Some Hon. Senators: Again, again!

Senator Murray: By popular demand, I will place that one sentence on the record again. This was said by Senator Stewart of Antigonish-Guysborough: "If Speakers never dealt with procedural situations except on the basis of exact precedents, there would be no precedents."

Senator Stewart: Senator Murray, I appreciate you quoting what I wrote back in 1982. Why do you take what I wrote so seriously? Why do you attribute so much authority to me?

Senator Murray: This will be as embarrassing for him as it is for me. As a matter of fact, he asked this question before, although not in quite those words. He asked that question a couple of months ago, and he knows the answer. I have to say again that he is an eminent authority. He was a member of the House of Commons for a number of years, having won two elections to that body.

Senator Stewart: Three.

Senator Murray: I beg your pardon, 1962, 1963 and 1965. He is the author of a book on parliament and parliamentary procedure. He is the author of a book, perhaps not relevant to our immediate discussion, on the political philosophy of David Hume. He is regarded as an eminent scholar. I can say, and I have heard this said for many years, that he is an extremely popular and respected professor at St. Francis Xavier University. What more can I say about his qualifications?

• (1330)

Honourable senators, I do not want us to dignify by any comment of ours some of the more unjust and indeed, slanderous, comments that have been made about the person of the Honourable Guy Charbonneau, both inside and outside this house. Those of us who have known him personally for some time, and my acquaintance and friendship with him goes back almost 30 years, know him to be a fine gentleman, a dedicated Canadian, who has in this situation, in a situation that has never before faced the Senate or any Speaker of the Senate, in all of our history, since September, conducted himself with almost heroic patience and forebearance—

Some Hon. Senators: Hear, hear!

Senator Murray: —in the face of horrendous personal provocation, in terms of some of the decisions he has made, I agree with the *Winnipeg Free Press* that they should build a statue to him on Parliament Hill.

Let me state again, in defence of the Chair and of the Speaker, that it was at our request—open, above board, in a letter, public, 53 Conservative senators signed it—that it was at our request that he gave the Senate the opportunity to decide. I say that it was, and Senator Kelly said that it was, his duty to do so. He could do no less.

Honourable senators, we on this side, we Conservative senators, accept the responsibility for our action, and for his.

Some Hon. Senators: Hear, hear!

[*Translation*]

Senator Lefebvre: Honourable senators, I will be brief, as usual. I simply wanted to corroborate a number of facts set out by my colleagues, senator Joyce Fairbairn and the honorable Richard Stanbury, regarding the meeting of the four Liberal senators with the Speaker, Guy Charbonneau.

Indeed, senators Stanbury, Kirby, Fairbairn and myself have requested, after consulting each other, a meeting with the honorable Charbonneau at his office. We had no mandate from anyone, neither our caucus, nor our leader. We were acting entirely on our own initiative. We are four experienced parliamentarians with, I think, some credibility among our colleagues on both sides of this House.

I decided to join the group as a parliamentarian with 25 years of experience who is deeply distressed by what has been going on for some time now in the Senate following the tabling of Bill C-62 on the GST.

During all those years in the Parliament of Canada, either here or in the other place, I have gone through rough times, as many others, after the government of the day announced certain policies. Policy announcements are always followed, as we know, by the Opposition parties taking a stand. That is how our system works. Certainly, there were stormy episodes, uproar, shouting and bells ringing for 15 consecutive days or more. But I have never seen anything quite like this, with decisions made against to our own rules and any parliamentary tradition.

Before this government came to power, such crises were always followed by talks and negociations between representatives from both sides. We would come to an agreement, after each side watered down their wine and moved back a little from their initial position.

Of course, nobody was totally happy. Neither side had won it all, but at least the government would accept some changes. And the Opposition would accept that, within a given period of time, the government had the right to move ahead with its bill with the solemn commitment to include a number of amendments, especially those from the official Opposition.

Based on this experience and in an effort to prevent as much as possible more stormy episodes in the Senate, I wanted to discuss with the Speaker and my three colleagues. The meeting went fine, socially speaking. Senator Charbonneau was friendly and polite. Nevertheless, I got out of this informal meeting with the distinct impression that nothing encouraging would come out of it.

As was mentioned by senator Stanbury, Senator Charbonneau recognized that at the beginning of his mandate as Speaker of the Senate and even until recently, he had not studied the rules of the Senate in any detail. However, things had now changed and he no longer had to master the rule book. He also recognized that we had the right to speak, that there was no rule preventing the debate from going on and a senator from speaking.

But he also added that the government might have plans in order to find a way to put an end to the debate and to have a vote since they were anxious to mail the GST credit cheques to eligible Canadians.

He explained to us that if Tory Senators made such a request, he would listen carefully to the arguments on the subject and then make a decision.

[*English*]

Honourable senators, it was quite evident that Senator Charbonneau was, and is, under tremendous pressure from his political masters, and has given us all on this side of the chamber the impression that he has given in to their demands, and has therefore lost his right to preside over our deliberations in this Senate. It is a sad day in the history of Canada's Parliament. Historians will no doubt be commenting on the disgraceful acts perpetrated in this chamber by the supporters of the Mulroney government. Yes, the present Speaker must go. He could save some dignity, perhaps, if he resigned forthwith on his own.

[*Translation*]

In conclusion, honourable senators, I am very happy about the battle fought by my colleagues of the Liberal Party against the GST. Even today, my office is getting dozens of long distance calls from Canadians congratulating us, the Liberals, and condemning the Mulroney government and its supporters. I am proud of the team work we did for Canadians. Tory senators will bear full responsibility for this GST legislation and for the abominable way they have chosen to get Bill C-62 passed. Shame on them! Canadians will not forget.

The Tories have broken all the rules, all the traditions, all the principles of our parliamentary tradition. I am convinced, dear colleagues, that very shortly they will pay for that as they should. Thank you.

Senator Grimard: I consider this intervention as my first, even though I spoke for a few mintues a couple of weeks ago to make a suggestion to the Deputy Leader of the Opposition, Honourable Frith.

I spoke only a few minutes, but I believe my advice was good since he seemed to have folllowed it to the letter.

Hon. Thérèse Lavoie-Roux: That is right.

Senator Grimard: Indeed, after all the other votes, contrary to what he used to do before my intervention, Senator Frith stopped doing his calculations, deducting the vote of the eight senators plus the vote of the Speaker and saying that the result would have been such and such.

So, I am quite pleased to have been able, after two and a half months in the Senate, to make a suggestion to a distinguished parliamentarian like Senator Frith, who has been here 13 years.

It is not without some emotion that I take the floor, even though I have been arguing in various judicial and administrative tribunals in the province and the country for 41 years. I have some experience, but speaking in this chamber for the first time, after two and a half months, is a bit disturbing.

First of all, I would like to say to all the honourable senators that I intend to respect every one of them but that, in return, I also want respect. I can tell you that this morning, when we voted and were heckled by senators from the other side, who called us "vendus", "traitor", "frog" or "gangster", not just me, but also my colleagues, I was deeply saddened. This is not what I expected from this chamber, as I have the distinct impression that this is not parliamentary language.

I would also, since this is my first intervention, like to pay tribute to the Leader of the Government in the Senate, Senator Murray, and to his assistant, Senator Doody, for the magnificent work they have done these last two months and a half, that is since my arrival in the Senate, despite extremely difficult conditions.

Broadminded as I am—and I ask you to show me the same courtesy and excuse me if, at times, I make mistakes or forget things—, I would also like to salute a great parliamentarian in the person of the Leader of the Opposition in the Senate, Senator MacEachen.

I want finally to pay tribute to another experienced parliamentarian, an experrt in matters of parliamentary procedure, his assistant, Senator Frith.

This being said, I want to come to the heart of the matter and tell you that, this morning, I listened intently to the interesting and profound speech made by Senator MacEachen. I was however a little surprised to hear this great parliamentarian say that the debates, of which I will speak later, had all been provoked by the appointment of eight new senators.

Senator MacEachen, I didn't know that these appointments had caused so much excitement. Come to think of it, it is not so much the fact that eight new senators were appointed, but the arrival of these new senators brought to an end the supremacy you held in the Senate for half a century that infuriated you. I can understand your frustration in this regard.

I listened to your arguments concerning the former Speaker of the House of Commons, Mr. Beaudoin. However, I would have liked for you to tell us that what he wanted to do was to change a decision he had himself rendered. As for the Speaker of the Senate, Senator Guy Charbonneau, it was not his wish to change a decision, but, as Senator Murray put it so well a few moments ago, it is at our request that he did so, at the request of the 53 Conservative senators who asked him to reach a decision and submit it to this House. That is the difference between Speaker Beaudoin's decision and that of Senator Charbonneau.

[Senator Grimard.]

Hon. Senators: Hear, hear.

• (1345)

I know that you have a lot to think about, but still, you made a mistake, Senator MacEachen. I regret that Senator Molgat is not here, because you have stated that Senator Molgat had never occupied the Chair since September 24, 1990 and, to confirm what you said, you turned to Senator Molgat and asked: "Am I correct". He nodded his agreement.

It may be that one of you or both have forgotten, but I have in hand a copy of the *Debates of the Senate*, of Wednesday, October 24, 1990, where we can read "The Honourable Gildas L. Molgat, Speaker *pro tempore*".

So your statement is incorrect, but I can understand that. Listen, we can all make mistakes. Nevertheless, you must admit that, contrary to what you said, Senator Molgat did have the opportunity to chair this debate, on October 24.

I wanted (it is in a way the purpose of my remarks) to convey to you the frustration I have felt since I came to the Senate on September 27. First of all, in one of your speeches, Hon. Senator MacEachen, you stated that we had come to the Senate through the backdoor. I do not know how my colleagues came in, but as far as I am concerned, the only door I knew was the front door. Nobody had told me to use another entrance.

When I arrived here, I thought that my seven colleagues and I would be received with full honour, with the privilege of signing in the presence of our peers, with our love ones watching from the gallery. I thought that, like each and everyone of you, I could come in the Senate through the front door.

Unfortunately, Liberal senators, when you heard that we were coming, you deemed necessary, in your wisdom, to vacate the premises not to return. Because of that, my colleagues and I took our oath of office on the sly, without having our loved ones and relatives in attendance to share in what I considered as was the crowning achievement of a great career.

So it can be said that the first time I came to the Senate, I entered through the backdoor! I suppose you must be proud to haved been so rude and impolite with us.

A few days later, I had an opportunity to see that Liberal senators do not hesitate to disregard the rules of the Senate which they claim now are so important. I saw them trample upon Rule 15 which states that when the Speaker rises, all other senators must remain seated or resume their seats. I saw you behave like this on several occasions, although you seem now so anxious to enforce the rules contained in the little red book.

On many occasions, I saw you break Rule 16(a) which states that when the Senate is sitting, senators should not pass between the Chair and the Table. On several occasions, I saw you behave as though these provisions were not part of the Rules of the Senate.

I heard, during the entire night of Thursday, October 4, the one I call "the night of the long knifes", the liberal senators insulting Speaker Charbonneau. Thus, at page 2345 of the

Debates of Thursday, October 4, Senator Haidasz was comparing Senator Charbonneau to Hitler.

A little later, the talkative Senator Steuart (Prince Albert-Duck Lake), speaking to Senator Barootes, ended his tirade with the following:

> You are a despicable little bugger!

Senator Simard: Which Senator Steuart?

Senator Grimard: . . . Senator Barootes. I may not be pronouncing his name right, but give me a few years and, I will be able to do better.

Senator Simard: That's fine with me.

Senator Grimard: And then, in the absence of senator MacEachen, I had to listen to what I call the cacophonous orchestra of the Liberal senators, who slammed their desktops from 9.30 in the morning till 4.30 in the afternoon.

Maybe those same honourable senators who are always so anxious to follow the rules could tell me what rule allowed them to hold such a concert in the Senate? It can't be rule 27 which gives the right to speak to every member of the Senate.

While some of them were busy slamming their desktops, we also saw what we considered serious people with bells, whistles, pipes . . .

Senator Lavoie-Roux: Kazoos.

Senator Grimard: . . . among other things. I even saw with my own eyes the honourable senator Davey distributing those things I took out of a brown paper bag. I thought he was the rainmaker as people call him. On that day, I found out he was really . . .

Senator Simard: The toy maker.

Senator Grimard: . . . a toy maker, but mostly a noise maker.

Since we came back, senators have spent hundreds and hundreds of hours in this house reading petitions, unnecessarily extending Senate hours, but also taxing our staff and wasting taxpayers' money. I saw some senators gloating about their speeches 12, 15, and 18 hours long.

Let's go back to rule 27 which I was referring to earlier and on which you base your opposition to the Speaker's ruling. The rule says a senator may speak to any question before the Senate. Now don't you think there is a difference between the rule and the spirit of the rule?

Do you think that those who drafted rule 27 intended to give any senator the right to speak, on any issue, for 15 for 20 hours? Do you not feel that there is a difference between the rule itself and the spirit in which it was adopted?

The Speaker of the Senate, Senator Charbonneau, was justified, I feel, in taking these decisions. I would simply like to quote some newspaper reports. There are hundreds on the manner in which you conducted yourselves.

I have here an editorial by Jean-V. Dufresne published in the *Journal de Montréal* on October 18, 1990. You will notice that this article was written two months ago. So without knowing what happened during the past two months, Jean-V. Dufresne wrote the following:

> I am particularly thinking of our infamous senators in Ottawa who, under a less tolerant regime, would have simply deserved to be charged with political destablilization.
>
> Morally, Jean Chrétien and his bunch of old fossils from the high chamber are the successors of the FLQ. Attempted usurpation of authority . . . , blackmail, erosion of parliamentary foundations, misappropriation of public funds.

This is what an editorialist thought of you.

On October 27, Claude Masson wrote a long article in *La Presse* of which I will read an excerpt:

> By acting in an unreasonable, inconceivable, inappropriate, extremist, irreverent and anti-democratic manner . . .

I think I have to repeat that because this is what an editorialist thought of you on October 27. I dare not think of what he would say now, after almost two additional months of useless debate. So I am quoting again:

> By acting in an unreasonable, inconceivable, inappropriate, extremist, irreverent and anti-democratic manner . . . , the Liberals have irreparably damaged this parliamentary institution.

Of course, he meant the Senate.

If, on October 27, at the very beginning of the filibuster, conscientious editorialists wrote what I just read, don't you think that it was time to put an end to the fury? That is why we, Conservative senators, have asked the Speaker of the Senate to take the necessary steps to stop the abuse.

Today, because decisions have been made, decisions which are reasonable, reasoned, fair and justified under the circumstances, a non-confidence motion has been put forward requesting that the Speaker of the Senate be dismissed from his duties. Why? Because he stopped an intolerable and unjustified abuse, because he put an end, once and for all, to the fury. I am absolutely sure, honourable Liberal senators, that if we had television cameras here like they have in the House of Commons, you would not have had the kind of behaviour that I described a while ago. You would have been ashamed! And Canadians too, if they had seen you, would have been ashamed of you!

An Hon. Senator: Especially of Senator Simard.

Senator Grimard: If you want to say something to Senator Simard, you know as well as I do that he is quite capable to fend for himself.

To conclude my remarks, I must tell you that I came to the Senate without any parliamentary background but only with the life experience of a decent man at 65 years of age.

I thought that my work as a senator would be to change and improve bills sent to us from the House of Commons. I thought that the Senate needed people with experience in all areas so that we could study bills and, based on our experience,

say that this bill or that bill needs a little more of this or a little less of that and so on. What a disappointment!

I was quite disappointed when I realized that you, my friends opposite, had only one goal in mind, to wreck this bill instead of improving it. You were ready to use any means in order to destroy this bill on which we had two months of useless debate. I am disappointed. I hope that after we vote tonight, we can see the light at the end of the tunnel, despite remarks by Senator MacEachen that the appointment of eight senators would not solve the problem. I hope that, after the heat of battle, minds will calm down. Tonight will be the nicest day in my life. It will be the end of two and a half months my colleagues and I had to spend almost uselessly in this chamber. Tonight, I will vote in favour of this bill and I will be able to say to myself tonight: Senator Grimard, this is the most beautiful day in your life because you were part of an important achievement. Time will tell that our government was right in putting this bill forward. Thank you, honourable senators.

• (1400)

[*English*]

Hon. John B. Stewart: The Honourable Senator Grimard, who has just taken his seat, attributed certain words to me in the course of his address which I did not utter. He may have done that inadvertently. If he did I hope that at an appropriate time he will rise and make a correction.

Senator Grimard has said that he has found this place disappointing. I must say to him that he says that because he came to this house at a moment of hot battle. Obviously he is quite unfamiliar with what had taken place during the previous six years. He does not realize that the discussion which has taken place here in the past few weeks has not been simply on Bill C-62 but has been a debate, a disagreement, a controversy, over the proper role of the Senate.

On November 29, in some remarks I made, honourable senators, I attempted to review that controversy. I hope that during the Christmas recess—to which Senator Grimard looks forward so eagerly—he will have an opportunity to peruse my remarks and perhaps go back to the Senate documents to ascertain whether or not my partisanship has led me to exaggerate. If he decides that I have exaggerated, I will be more than happy to consider his corrections.

I am sorry that Senator Everett has left once again because I do not think he would have said what he said here today if he had had accurate information. This afternoon Senator Everett told us that he is a senator—

Senator Frith: He is now here.

Senator Stewart: I am glad to see Senator Everett returning to the chamber.

Senator Everett told us today that he is a senator of long experience. The unfortunate thing about his experience is that it comes from a period during which one party was in power in government and had a laarge majority in the Senate. That experience produced a kind of lethargy in this place which led many people of all political parties—the Liberal party, the Progressive Conservative party, and the New Democratic Party—to conclude that the Senate is simply a bunch of lazy old folk who do nothing worthwhile.

The exception to that was the work of Senate committees om pre-studying bills. When scholars looked at the work of the committees pre-studying bills, they came to the conclusion that certain senators, and Senator Everett's name is mentioned in the academic literature, were participating in this Senate as a lobby from within. Professor Colin Campbell's book entitled, *A Lobby From Within*, is very harsh on lobbyists from within. Why? Because, he says, they constitute business lobby. He says that they very often use their privileged position as fundraisers for the two major political parties to gain special access. They lobbyied from premises paid for by the people of Canada.

• (1410)

Senator Everett states that, things have changed for the worse since 1984. His experience is limited. He does not know that there was a period of strong adversarial relationship in the Senate after 1896; that there was a period of strong adversarial relationship after 1911.

Earlier today Senator MacEachen told us about how the closure standing order was added to the rules of the House of Commons. That rule was added in the course of debate on the Tory government's naval bill. In the middle of the committee stage on the naval bill, the Borden government, duly elected in 1911, decided that this five-line bill was not going to make it through the House of Commons. It had been under debate for weeks. The prime minister of the day gave notice that he proposed a change in the rules of the House of Commons. He moved his motion for a change in the rules of the House of Commons. His motion was debated and eventually the rule was adopted. Using the new closure rule, the naval bill, to provide some $35 million to the British government for the construction of three dreadnoughts, passed the House of Commons. That bill, which was clearly very important to the government of the day, indeed so important that it found it necessary to add a closure rule to the rules of the House of Commons, came to the Senate. What happened? The Liberal senators defeated the bill; it never became law.

What has happened here since 1984 may be without precedent in Senator Everett's senatorial experience, but it is not entirely unprecedented in the history of this country.

In the 1920s a pension bill was turned down in the Senate. We also have what happened after 1935, and also certain episodes after 1958.

I hope that Senator Everett will read the record of the remarks I made on November 29, and if he does, he will see that I admit, indeed I insist, that the relations between the government and the Senate have been unusually hostile since 1984. Why? One of the explanations has been that this government had paid very little attention to certain constitutional principles deeply rooted in history. That was demonstrated in the case of a bill which Senator Everett mentioned earlier today, namely, the borrowing authority bill, in the winter of 1985. It was demonstrated again in the spring of

1989 when the government used special warrants to draw billions of dollars, without specific parliamentary authorization, from the Consolidated Revenue Fund. Some of us, perhaps out of an old-fashioned respect for some of the principles of the Constitution, were deeply offended by that kind of attitude displayed by the Mulroney government.

Another cause of an unusually intense adversarial relationship was the insistence by the government that every bill which came to the Senate late in June, where a Senate committee had not pre-studied the bill, must be rubber-stamped and passed immediately. For example, that happened with regard to the gating bill. It happened with regard to several other bills, which I mentioned in my speech, and I do not want to repeat that speech. Why? What was the trouble? Well, the real explanation that was given was, "You are depriving us of our summer holidays." If Senator Everett will look up the records of the bills that I mentioned on December 5—which is actually part of the extended sitting of November 29—and check the facts against the Journals of the Senate, he will see that the bills were not held up. In fact, they moved forward to become law rapidly, but they did run over into July. Bills C-18 and C-19, dealing with transportation matters, ran into August. There was a great outcry because senators were deprived of the opportunity to go to places such as Chester, Ingonish and, in my own case, Bayfield. That was the real cause of the uproar.

Then, of course, there were what I have called the "terrorist tactics" of the government. Senator Everett will remember that when the borrowing authority bill was before the Senate we said there was no problem with Part 1, that the government could have it right away. However, we did not wish to give approval to Part 2, which related to the forthcoming fiscal year, the fiscal year which was still two months away, until such time as we had seen the spending estimates. We were prepared to pass Part 1, and we saw no reason why Part 2 would not carry as soon as the spending estimates had been tabled, assuming there was nothing extraordinary in them. We did not expect anything extraordinary. What was the attitude of the government? "This is a money bill, and the government cannot even consider a reasonable proposal from the Senate with regard to a money bill." The fact that the bill was held up by the Senate, the Prime Minister said, would cost Canadian taxpayers $15 million, $16 million, $17 million—they kept changing the figures. The fact that it was going to cost the taxpayers money was serious, but the government argued that this was a small price to pay to put the Senate in its place.

I invite Senator Everett to do two things: first, to read a little history back beyond the period of his own advent as a senator. Second, I invite him to put my speech by his bedside.

Senator Barootes: In place of the Bible, I guess.

Senator Stewart: I was going to suggest, Senator Barootes, that he might find some of it interesting, but I suppose it would soon put him asleep. I also recommend it to you for that purpose, if indeed you are not sound asleep already.

• (1420)

In the course of Senator Everett's remarks, I put a question to him. We have heard, honourable senators, a great deal about the long delays inflicted upon the Mulroney government by the Liberal-dominated Senate. We have heard the Speaker of the House of Commons say that the Parliament Act of 1911, as amended in 1949, is just what we need over here in Canada.

Well, in preparing the remarks I made on November 29, I went through the legislative record and I applied the test of the Parliament Act to the legislative record of the last six years. The conclusion, honourable senators, is that we are pikers. Simply pikers! Compare our performance on money bills and on other bills with what we could have done under that greatly desired Parliament Act, and we are shown to be pure pikers in almost every instance. We went over the limit was six days in the case of the borrowing authority bill. We would have had 30 days under the Parliament Act, and we took 35 or 36. It did not make any difference insofar as Part 2 was concerned, because that Part was not needed for at least six weeks.

That is why I invited Senator Everett earlier today to check the facts. He has an impression that the Senate has been delaying the legislative program of the Mulroney government. That is a common impression. But I asked him to check the record against what has been commended to us as a reasonable standard.

I think Senator Everett wishes to raise a question.

Senator Everett: Just a point of correction. I think if you look at the record you will see that I did agree with you that there had not been undue delay so far as I knew. We will see what the record produces when it comes out. I will not interfere with the "blues" at all, but I think I did agree with you, senator, in that regard.

Senator Stewart: Yes, I think I remember something along those lines in the reply. My problem is that the reply seems inconsistent with your argument that there had been fiecely partisan combat in the Senate since 1984. As you say, we can check the record. It may be that both of us will have to make something of a modification.

Senator Everett: It will have been inconsistent, and the record will show that. But I did not argue with the undoubted scholarship you bring to the matter. When you said that there had not been undue delay, I meant to agree with you, but to say that there had been a great deal of partisanship in the relationships between the two parties in the handling of legislation.

Senator Stewart: I thank the honourable senator for making that statement.

I want to come to the situation that we now have in the Senate. I remember being told as a small boy that if one is incompetent in making a living, one option is to become a bank robber. It is one of the things one can do.

It was put to me another way—Senator Barootes, did I hear a confession?

Senator Barootes: If you are incompetent in other matters, you can always become a senator, it seems to me. That is my qualification, anyway.

Senator Thériault: You don't even have to become a senator, just a friend of a Tory senator.

Senator Stewart: The other way I heard the point made was: Thuggery is the last refuge of the incompetent. What we heard in here this afternoon from Senator Murray has been a confession of incompetence. Senator Murray talked about his need for eight new senators. "Just give me those eight new senators and all will be well." The eight new senators arrived. Then we were told that there was a great Parliamentary crisis. Things were not running smoothly. There was a crisis. That kind of language from Senator Murray really was not surprising. If one goes back over the record of the last five or six years, one will find that again and again Murray says, "If you amend—".

It is interesting to notice, Senator Everett, how he has backed off from his original position. The first position was, "If the Senate amends any government bill which has passed the House of Commons there will be a agreat constitutional crisis. And we quail before a constitutional crisis." Then he backed off to the position, "If the Senate amends a bill which has come into the House of Commons with a Royal Recommendation, then certainly there will be a serious constitutional crisis." Of course, Senator Murray quails at the thought of a constitutional crisis.

It goes on and on. Next, "If the Senate amends a bill which came to the House of Commons with a Royal Recommendation by decreasing the amount of an appropriation clause in such a bill, then there is going to be a constitutional crisis." Senator Murray has backed off step by step by step from his original position. Always we were told that if we exercise what he says are our constitutional powers under the Constitution Act, there will be a constitutional crisis. And, of course, Senator Murray quails when he thinks of a constitutional crisis.

After the eight senators were appointed, constitutional crises were to have been a thing of the past. But now he comes here and confesses that even with his eight brand new wonderful senators there is a "parliamentary crisis." That was the language he used earlier today. He described, in heartbreaking language, how over the last few weeks he has pleaded piteously for some accommodation. "I have now got my eight senators, I am going to put those Liberals in their place." Then the next week and the following week, "Please, won't you tell us when you are going to rescue us from our parliamentary plight? Please, even now that I have my eight new senators, will you not help me get my bill through?"

Senator Murray does not realize that by deciding to have those eight new senators, he signalled to the Liberals that the day of the Liberal-dominated Senate was over, that he was going to pit might against might, and he was going to put them in their place. Having once taken that stand, there is no basis for him to come pleading for an accommodation. That era is over. Yet we hear today his confession of incompetence. Even with his eight new senators he has not been able to do that which was set before him.

When I spoke on November 29, I pointed out that if ever a bill had been mismanaged by a government it is Bill C-62. I said that it had been mismanaged right from the very beginning in the Senate. Of course, when the incompetent get in trouble they resort to thuggery.

• (1430)

Honourable senators, what we have seen here in the last few hours comes as no surprise. It was all played out before, back in June. On June 19 Senator Murray went to Winnipeg to give the provincials an harangue on how things are done in Ottawa. "I find it incredible that one MLA can tie up a legislature in knots indefinitely." That is what he said. He had advice for the Manitoba provincials. First, suspend the rules of the legislature. Second, ram the Accord through by skimping—

Senator Stollery: Forget about the law.

Senator Stewart: —or skipping entirely the hearings required by law. If honourable senators wish to verify that, they have only to look at the *Toronto Star* of June 20, 1990.

There is nothing new now. Senator Murray has not changed his spots. He decides when he is going to roll the dice. He does not leave himself enough time. Then, when he gets in trouble he says to break the rules. When that does not work, he says, "Oh, it was all someone else's fault. Not my fault; someone else's fault."

Earlier today, Senator Murray was kind enough to quote something which I wrote back in 1982 concerning what I have called the Tory "bellabuster".

Senator Stollery: You mean the filibuster started by Senator Doyle in his editorial in the *Globe and Mail.*

Senator Stewart: I have no hesitation in speaking on closure. I said here before that there is a time for decision in the parliamentary process. There is no question about that. But there are at least two other things which are important in the parliamentary process, namely, rules and debate. Then decision.

If you review what has gone on in the Senate of Canada since last September, you will see that from the very beginning it was signalled in a very important way that the rules were going to be swept aside by Senator Charbonneau. When you add up the number of hours of genuine debate on Bill C-62 since the beginning of October, you will be astonished at how few there were.

Senator Barootes: Three hundred and fifty hours. That is all.

Senator Stewart: Much of the time that Senator Barootes says was taken up in debate was spent in fending off assaults by the Chair upon the rights of honourable senators.

Senator Cools: You are right, absolutely right.

Some Hon. Senators: No, no.

Senator Barootes: His sound was virtually mute.

Senator Stewart: I know Senator Doyle is always very careful on these things but I tell him that he will find, if he looks at the record, that he has been misled. Perhaps understandably he has formed an impression; yet I think if you look at the record you will find that much of the time was expended fending off attacks on the rules of the house.

Senator Barootes: Blowing whistles and kazoos, reading petitions and banging your desks.

Senator Stollery: Was he misled in 1982?

Senator Stewart: Senator Barootes, you do not remember?

Senator Barootes: I do not.

Senator Stewart: No, you do not remember. Why?

Senator Barootes: God, I guess I am older than I thought.

Senator Cools: No, you are just asleep.

Senator Stewart: Noise was made here on October 5 in order to prevent Senator Murray from moving a motion which was clearly out of order and which Liberal senators knew, on the basis of Charbonneau's previous performance, would be accepted by Senator Charbonneau.

Senator Barootes: Moving a motion that you did not want to hear.

Senator Stewart: It was out of order, Senator Barootes. What you intended to do on October 5, that is what you are doing now. You could not bring it off then because you were incompetent.

Senator Barootes: We will see, at 5.30 today, who fails.

Senator Stollery: We will see all next year. We will see all next year.

Senator Cools: We will see in the next election.

Senator Stewart: I am sorry Senator Doyle, I did not hear your comment. I am sorry, I still do not hear you.

Senator Doyle: I was replying to Senator Stollery who was suggesting that all next year we would be paying for what we did today.

Senator Barootes: More threats of intimidation.

Senator Stewart: No, no. As I understand it, Senator Murray has said the relationship in the Senate is hereafter going to be based, not on right, but on might. He said, "I have brought in my eight brand new senators; now I am going to put those Liberals in their place."

Some Hon. Senators: No, no.

Senator Cools: He said that at every chance.

Senator Stewart: That was the implication of the appointments.

Senator Barootes: Senator MacEachen said that and you said that. We did not say it.

Some Hon. Senators: Order, order, order!

Senator Stewart: He told us in the Senate on December 5 that, notwithstanding our confirmed opposition to pre-study, there is going to be pre-study in the Senate and that he has the votes to force pre-study on the Senate. If that is not might, I do not know what is. That is the breakdown of comity as between the two sides.

Senator Barootes: That is the Buckwold-Frith project on majority rule. Look at what he did in his committee; it was exactly that.

Senator Stewart: All right. Then you are accepting that it is going to be a relation of might. I understand that.

Senator Barootes: No.

Senator Stewart: That is what you will have to face from now on. That is how you want to run this place.

Senator Barootes: Morality and right.

Senator Stewart: Those are the rules of the game that you want. We understand. We understand. We will be as moderate as we can against the threat of might.

Senator Stollery: Until the next election.

Senator Stewart: Yesterday we had a most curious presentation from Senator Kelly.

Senator Fairbairn: Poor Senator Kelly.

Senator Stewart: Poor Senator Kelly was used as a cat's paw by Senator Murray. He got up, allegedly on a point of order, and he proposed either one of two things—I don't know which. Either an *ad hoc* closure on the previous question. Who ever heard of that? The previous question is a form of closure. But it is not strong enough for Senator Kelly. He wants closure superimposed upon closure.

An Hon. Senator: Like taxes, one on top of the other.

Senator Stewart: That is what he wants. Having had the previous question moved, he was not prepared to see that procedure played out to its inevitable conclusion. No. He wanted closure upon closure. Cascading closure. Alternatively, what he sought was the assertion of a general principle. This implies that he wanted a new general closure rule.

Now, there is no reason why the government should not have sought a general closure rule. It could have given the appropriate two days' notice under our rule 44(a), then make the motion, after that, move the previous question on the debate. This is what was done in the House of Commons in 1913: notice; then move a motion; debate; then have the vote. Thus you have got a rule of law, not only with regard to Bill C-62 but to other bills.

Senator Kelly wanted *ad hoc* closure on Bill C-62, but he wanted to raise his so-called point of order when Bill C-62 was not under debate. Thus we got an act of thuggery, an act by which he attempted to get *ad hoc* closure on Bill C-62 by pretending he was dealing with a general principle. That is how we got into the situation in which the Senate now finds itself. Senator Kelly makes a loud noise, the Speaker echoes that noise, and then all the Tory senators echo the echo. One

would think one were in the Swiss Alps, from Kelly to Charbonneau, from Charbonneau to Kelly and company. That is procedural incest.

● (1440)

It has been said that what has gone on in the Senate in the last few hours is unprecedented, and that is true. I should like to put before honourable senators some of the history of closure in order that they will appreciate how horrendous is the constitutional tragedy they are inflicting upon the Parliament of Canada. In 1881 the British House of Commons was confronted with a group of Irish nationalists. For months—indeed, for years—those nationalists had engaged in systematic obstruction of all business. They were out to demonstrate to the people of England that they could not live with the Irish. They were out to demonstrate that Home Rule was the solution for the Irish problem.

At a certain point the Speaker of the House of Commons, Speaker Brand, had conversations with the Prime Minister and the Leader of the Opposition. They agreed that he should put the question on the motion then before the House. There is no parallel whatsoever between that situation in 1881 and the situation which prevails now in the Senate of Canada. There has not been systematic obstruction. Rather, there is one bill which is in severe contention. There has been no agreement between the Leader of the Government in the Senate and the Leader of the Opposition in the Senate that the Speaker will intervene.

It is very instructive to see what happened after 1881. The Speaker's move to impose closure on the Irish nationalists was rejected within weeks by the Prime Minister, by Prime Minister Gladstone. He realized that this was not the way to proceed. He realized that muzzling the Irish nationalists in the House of Commons was profoundly counter-productive. From that moment on, the Liberal Party of Great Britain decided to promote Home Rule for Ireland. Home rule for Ireland would have been achieved had it not been for the British Tory Party. They defeated home rule for Ireland in 1886 and then they turned back Home Rule for Ireland immediately before World War I.

Senator Stollery: Sir Edward Carson was shot dead on his own doorstep.

Senator Stewart: When the time came in 1887 to put a closure rule into the rule book of the British House of Commons, they did not follow the pattern of 1881. They saw that it would never work. They used an entirely different approach.

The approach that has been proposed by Senator Kelly, seconded by Speaker Charbonneau and then subscribed to by all the Conservative senators, is the approach which was rejected in a much more moderate form by the British after 1881. It is simply unworkable.

Then we come to 1913, the situation to which I referred earlier. The Conservative's naval bill, the bill to give $35 million to the British to build dreadnaughts, was held up at the committee stage in the House of Commons. What happened then? As I said earlier, the Prime Minister, Sir Robert Borden, gave notice of a motion. On April 9, 1913, he moved that a closure rule be added to the Standing Orders of the House of Commons. After he had taken his seat, both a Conservative minister and Sir Wilfrid Laurier attempted to get the floor. Whom did the Conservative Speaker recognize? Who do you suspect? He recognized the Liberal. What a civilized place the House of Commons was then as compared with the Senate of Canada in 1990.

At that point a motion was made that a minister from New Brunswick, Mr. Hazen, be heard. There was a vote and the Conservatives carried the vote. The Tory minister moved the previous question.

Senator Stollery: Lowell Murray would not like that.

Senator Stewart: It was a way of silencing Sir Wilfrid Laurier, but it was in accordance with the rules of the House.

Senator Stollery: Lowell Murray has just said that he does not agree with that.

Senator Stewart: No, it is not draconian enough.

Senator Stollery: He said it here a few minutes ago.

Senator Stewart: Then when they came to debate Sir Robert Borden's motion for a closure rule, the man who was most prominent on the Conservative side in recommending addition of the closure rule was none other than Arthur Meighen. What did he say on April 10, 1913? His very first sentence was:

> Mr. Speaker, I do not remember that I have ever risen in this House with greater satisfaction than I do tonight.

He is rising in support of a motion to bring in a closure rule. He is rejoicing the fact that he is rising to put on the rule book of the House of Commons a closure rule. He goes on to say:

> Not that I feel in the slightest degree more competent than any other member of this House to discuss the issue now before the Chair, but because of the fact that we are now engaged in the discussion of a reform that has been continuously in my mind and with increasing force since the first month I entered this House.

I recommend Arthur Meighen's speech on that occasion to all his Conservative descendants.

● (1450)

In defending Sir Robert's proposal for a closure rule, Meighen said that there were only two ways to go: either the House of Commons have a closure rule comparable to that imposed by Brand back in 1881, a Speaker's closure; or the house could have a rule in which the government takes its responsibilities. This is what he said at column 7524:

> Following the great legislative bodies of the world, we must place the responsibility for choosing the time when closure shall be applied either on the Speaker or on the Government; under any rational rule of constitutional government it cannot be placed anywhere else. In England, for several years, the responsibility for the application of closure was placed on the Speaker. The result was that between 1882 and 1887 the closure was very seldom

> acted upon, because the Speaker was diffident about taking the initiative himself. Closure was in effect a failure.

He is referring to the Brand style of closure, a type of closure somewhat like what we are seeing here today. Then he went on to ask: Why was it a failure? If, he siad, the House of Commons had brought in a rule for closure which gave any considerable degree of discretion to the Speaker it would not have worked:

> As a consequence, it would have been open to honourable gentlemen opposite to complain if the responsibility for bringing closure into effect had been lifted from the shoulders of the Government and placed upon those of the Speaker. They would have cried: The Speaker is elected by the majority, he is the creature of the majority, and consequently he is prone to follow the will of the majority. But, instead of that, under the rule introduced, the Government takes the manly position of accepting responsibility and abiding by it.

Arthur Meighen would have none of this nonsense about a Speaker's closure.

Of course, that is what we are experiencing in the Senate of Canada in 1990. Do Tories never learn? Have they forgotten history?

I now want to turn to 1969. Senator Doyle is a great authority on allocation-of-time rules. Senator Doyle has written editorials on the subject. In December of 1968, he denounced the allocation of time. Why? Because it is closure.

Senator Lucier: Who said that?

Senator Stewart: Senator Doyle.

Senator Lucier: Not our Senator Doyle.

Senator Stewart: Yes, but you have to remember that a great transfiguration takes place when a Tory becomes a senator. Senator Buchanan, for example, was opposed to the GST. He attacked it savagely from one end of Nova Scotia to the other, but now, when he is a senator, he says that the GST is just about the greatest—

Senator Lucier: Not only when he became a senator; it was when he became a Tory.

Senator Stewart: I have never thought of him as a Liberal, senator. A great transformation takes place. Senator Doyle, of course, underwent a similar transfiguration. I do not know whether it was Saul on the road to Damascus or whether it was Paul going the other way—I guess it was Paul going away from Damascus—because his views are not as good now as they were when he was with the *Globe and Mail*.

What was the situation in June and July of 1969? The situation was that the House of Commons was making extensive changes in its legislative process. They intended to activate the report stage so that amendments to bills could be proposed at that point. In addition to that, the House of Commons was concerned with the fact that amendments proposed in committees were very often not treated thoroughly. All the time available often was used up on the first two or three amendments in committee or at the report stage. All parties agreed that some form of allocation of time was highly desirable.

There were some in the Progressive Conservative party, led by Mr. Erik Nielsen, who objected to the proposed rule. Mr. Diefenbaker objected. The result was that there was opposition in the House of Commons to what the government proposed.

What did the government do? It withdrew its own motion and, instead, moved for the addition of a proposal made by a committee. Even that was opposed. Eventually, the government decided that the debate on adopting the new allocation of time rules had gone on long enough. This was a simple little motion. Notice had been given on June 26 and closure was moved on July 24, a month later. Now we hear Conservatives complaining that a major bill, Bill C-62, has taken too long on the legislative ways.

Closure is dear to the hearts of the Tories. They put the closure rule into the rule book of the House of Commons back in 1913. They are the ones who have used it again and again over the years. Up to 1984, closure in the House of Commons had been used some 20 times, mainly by Tories. In the six years since 1984 it has been used 17 times. It was used 20 times between 1913 and 1984, and 17 times in the six years from 1984 to 1990.

Senator Stollery: Did Senator Doyle have anything to say about that?

Senator Stewart: Not yet, but I am sure he will want to write a letter to the editor denouncing this flagrant use of closure by the Tories.

In 1969, the allocation of time rule was added to the rule book of the House of Commons. It was used 40 times by the Trudeau Liberals from 1969 to 1984. In six years the Conservatives have used it 26 times. They love closure. Why? Because they do not like debate. That is the point.

Senator Fairbairn: They like to have their own way.

Senator Stewart: They do not like debate.

Senator Stollery: They do not like minorities.

Senator Stewart: My old professorial background is hard to suppress.

Senator Stollery: We don't hold that against you.

Senator Stewart: Senator Murray referred to my professional career earlier today. Now to lend credibility to what he said, let me say that long, long ago a philosopher, Aristotle, compared forms of government. He said that there was only one really practicable form of genuine government. That form was what he called "polity." It is from the word "polity", based on *polis* that we get our word "politics".

What was the nature of politics? That kind of government, polity, implied that the members participated as equals in debate. They discussed matters. They shook matters down. Gradually, they changed each other's views until a true political position was achieved. Against that, Aristotle set tyranny.

● (1500)

Very often we assume that the laws made by a tyrant are always bad. That, of course, is not true. Tyrants sometimes

make good laws. But according to Aristotle, regardless of how competent the tyrant is, regardless of how good the tyrant's laws are, that form of rule is not genuine government. Debate is necessary to develop an understanding, if not consensus, between and among the members of the body politic.

I have said here before that I think Senator Murray has a good deal of the tyrant in him. He is extraordinarily confident in his own judgment. He listens with great impatience to those who proffer advice to him. His is essentially the mandarin mind. The mandarin mind is always impatient of debate. The mandarin mind is always impatient of those dull people on the other side who do not get it right the first time. The mandarin mind always produces seamless webs. The mandarin mind always produces the bill that does not need amendments; amendments would flaw the bill. That is why we have had so little genuine debate on Bill C-62.

On May 1, 2 and 3 there were two speeches from the Conservative side. The second one was approximately 17 minutes. The first one, Senator Kelly's, was longer. When Senator Kelly moved the third reading, he simply rose and stated: "Honourable senators, I move third reading of this bill."

Two weeks ago yesterday, Senator MacEachen made what I thought was an important speech. It was important because it challenged some of the presuppositions on the basis of which many senators, including Senator Everett, intend to vote for this bill, the presuppositions that this bill will produce new revenue which will permit the annual deficits to be cut back. There will be no new programs, of course, thus there will be an impact upon the debt. Senator MacEachen took the government's own figures and challenged those presuppositions. He stated that he may be quite wrong—

An Hon. Senator: Senator Hatfield wants to say something.

Senator Stewart: If Senator Hatfield wishes to speak either for or against the GST, it would be very good to hear from him. Coming from the part of Canada from which he hails, he will have interesting things to say.

Senator MacEachen told us that it is conceivable that his analysis of the financial situation is inaccurate. He invited Senator Kelly to rise in his place, presumably after having had consultation with the department of Finance, and deal with the financial consequences of the bill for 1991-1992 and 1992-1993 and beyond. Has Senator Kelly risen in his place? No. He has only risen to propose closure upon the previous debate. I do not blame Senator Kelly for that. We know who put the gag in his mouth. He was told, "Keep quiet. Where do you think you are? Do you think this is parliament? This is a club. This is Club Patronage. Look here, Kelly, if you do not keep quiet, none of us will get away to Florida by the end of the week. Think how disastrous that would be."

Honourable senators, today we heard from Senator Murray a confession of incompetence. He has told us that even with his eight, brand new, keen, hard-working senators, he has had to come to the Liberal minority and ask for arrangements to facilitate the enactment of Bill C-62. He came in here this afternoon grieving and comlaining piteously that we have not facilitated his legislation. At that, after he armed himself with eight new senators! What an incredible performance. Having demonstrated his incompetence again and again, having brought back to our minds what happened to the Meech Lake accord, he has resort to thuggery. He resorts to the same technique that he recommended to the provincials out there in Winnipeg: "Ram it through, steamroll a member of the legislature, forget your rules, forget the laws, but get results." It is exactly that old Meech Lake mentality we are seeing in the Senate today. Remember the results of the Meech Lake ploy, of the Meech Lake discord. Did he accept responsibility? No. Just as here today, he sought to shift the blame to someone else. Get on television and try to shift the responsibility to someone else. It is a great thing to have that kind of mentality. You can foul it all up by reason of incompetence and bad judgment, yet it is all somebody else's fault! You will never suffer from mental disorders when you can unload the results of your own incompetence on scapegoats.

That is how we come to this act of thuggery which is being inflicted upon the Senate today. Those who cannot perform, who cannot make a living in the world, turn to robbing banks. Those who cannot govern in a parliamentary way resort to thuggery.

Hon. Stan Waters: Honourable senators, I am constantly referred to as an independent, but I represent the Reform Party, as Senator Murray constantly reminds me.

I want to speak to Senator Stanbury's motion to censure the Speaker—that is essentially his motion. I want to spend most of my time commenting on Senator Kelly's infamous letter. I am only sorry Senator Kelly is not present, because I yield to no one in my admiration of Senator Kelly. I fully appreciate his commitment to fairness and democracy. I am very disappointed he got himself sucked into the role of promoting that letter.

Indeed, it was Senator Kelly who helped myself and Senator Lawson when we were fighting our early battles for the independents. He was representing the Conservative side of the house. We very much appreciated his intervention and it was very helpful to us. I learned to appreciate his sense of integrity and his honour, and the attitude he has towards duty.

● (1510)

In his letter, dated the 10th of December, he raises some very serious problems for me, particularly as a Reform Party representative in the Senate and particularly as a man who came here in a slightly different way. Despite Senator Carney's intervention a few weeks ago, I did come here in a different way. I was selected by voters in a province. Then I fell into the other way of going through the Prime Minister and appointment by the Governor General. In that campaign in Alberta, we were very much exposed, in 1989, to the antagonism, the anger, the hatred of the GST. So I was inoculated early. I did my homework early on the GST. I fought part of my campaign on that subject, as all six candidates did.

I am still, I guess, a new and rather idealistic senator. I think senators should always retain a little idealism in this upper chamber, and certainly the past few weeks have been very difficult for all of us who profess to have an idealistic bent in the Senate.

Senator Kelly, in his letter, said that it was a current and frustrating situation that he faced, that it was unprecedented and therefore required unprecedented action. In other words, actions outside the rules. He was quite honest to admit that. But I can put it more crudely: any means to achieve an end.

The motion that he put forward in his letter was unmistakably a request to the Speaker to impose a form of closure. It was, in fact, a flagrant demand for closure. Is this not intemperate extremism? Is there something magic about devoting 320 hours in debate? Or for that matter, 500? And at that time all debate ceases? This point has come up several times. Senator Everett raised it, and Senator Steuart tried to put it to rest, but the facts of the matter, since 1984, are these: Until this summer's Parliamentary recess, 286 government bills have been passed by the Senate since the Tories came into power—286 bills since they came into power in 1984. Of those, 267 were passed without amendment by the Liberal majority in the Senate. Another 19 were passed with amendment, including those where the House of Commons accepted some, or all, of the Senate amendments. Only two bills have been delayed because the Conservatives refused to meet in a traditional Commons-Senate conference to resolve difficulties. Not one bill has been rejected by the Senate. Why then is this so unprecedented that you have one bill generating so much debate? Why does this require an unprecedented change in the rules? It seems massive overreaction, and the phrase I have used, which I will come back to in a quote from the House of Lords, is "intemperate; intemperate extremism".

Senator Olson, a couple of days ago in his eloquent dissertation, spent much time discussing Senate rules and the rules of law. I have become more and more aware of the fact that Senate rules are very flexible. There are not many of them, because we insist upon the good judgment of senators. It is based on 124 years of history in which intelligent, moderate, rational men and women debate in an atmosphere of reason. You are going to lose all that if you are not careful on both sides of this house, if you start imposing all sorts of inflexible, intemperate rules. You should be very careful before you move down that slippery slope.

You get the impression that, unless we have stricter rules, tougher rules, rules more like the House of Commons, that we will, in fact, be constantly drifting into anarchy. That is an overuse of that word. The long debate, even if some of it was frustrating for all of us, was after all only 320 hours. That is not a long time on an important bill—not when you put it in the terms of the record of the Senate which I read out earlier, the number of bills that the Senate has handled since 1984.

I think the major role of the minority in the Senate in opposition is the final constitutional barrier to an aggressive majority in the other place. That is a very important role to play.

Senator Kelly had his letter signed by 53 senators. I don't know which senator was missing in that, but in any event that was only 47 per cent of the number of senators in this house. Such a letter was only meant to circumvent the rules. Why? Why are we trying to circumvent the rules? What is this unprecedented situation that has arisen? In the 124 years of existence of the Senate we have had thousands of bills passed, some with ease, and some with difficulty. It is the role of this upper chamber to process legislation, to examine bill carefully, to pass bill when they are in good condition and when they are sound, well-conceived and well-prepared, and it is its role to argue when they are not.

Here we have a particularly difficult, badly written bill, which is highly unpopular. It does not seem to me that because one bill is being delayed that is adequate reason to change the rules of over 100 years—to circumvent one bill which is frustrating the majority.

Let me read an extract from a recent book by Lord Carrington, a former Leader of the House of Lords from 1963 to 1964. His book is entitled *Reflect on Things Past*. He had a distinguished World War II military career and was a member of every Conservative administration from 1951 to 1979, from Winston Churchill's, which was formed in 1951, to Margaret Thatcher's in 1979. He is a real renaissance man, having held office in the Ministry of Defence, the Ministry of Agriculture, as Defence Secretary, as Energy Minister and Foreign Secretary, as well as having handled the Rhodesians-Zimbabwe independence negotiations. In addition he has been chairman of the Conservative Party and Secretary General of NATO, where I first met him.

I have a quotation from Lord Carrington's book, a quotation which is very brief but quite germane to our discussion today, because it relates to his own experience in the House of Lords, and the House of Lords was the genesis of our own Canadian Senate. I am quoting from a chapter about his own concerns when he was leader of the Lords and about some of the problems he was having and reflecting on some of the great strengths that he perceived were in the Lords that he did not want to see changed. He said:

> The House of Lords, however, was and is more than a revising Chamber for legislation. It provides a forum where great issues can be discussed and opinions, even unpopular or minority opinions, can be advanced. It enables particular anomalies or injustices to be ventilated. It is a place of public debate.

And he goes on to say:

> In my early years in the House we had formidable debates and men of great achievements and distinction. We had a number who had served in the wartime Coalition Cabinet. We had—and this has tended to be a feature of the House of Lords and one of its justifications—we had experts on every conceivable subject.

He makes that distinction of particular members, the self-discipline shown by the Lords collectively, and the fact that few have spoken for personal gesture or effect, but purely if

they had something significant to say. If I may digress for a moment to my own impression of the Senate, it is that senators can certainly string a tremendous number of words together to express a few thoughts and that applies to both sides of the house. I am quoting now:

● (1520)

> —all this made the House of Lords I joined a very worthwhile and instructive assembly. Of course one cannot make too much of the merits of objective and dispassionate debate. Who reads these debates afterwards? What is their outcome in terms of action? Perfectly fair question, . . . and I did not think that a debating society *tout simple* justifies a House of Parliament. But I believe we should be poorer if there were no place where public men can give a minority cause an airing from time to time.

The last portion of my quotation reads:

> Occasions of that kind were infrequent but they were precious. The House not only had a part to play but could on occasion play it with something not far from objectivity. There was a further, a constitutional function for the Lords which I came to appreciate as I took more and more part in its affairs and thought more about it.

This is very germane to our debates over the last few weeks.

> A second Chamber—provided that it was differently constituted to the Commons—represented the final constitutional barrier to an extreme majority in the House of Commons . . . It was a pretty fragile barrier.

He is quoting the House of Lords, saying:

> We have no written constitution. We have no supreme court. Parliament has sovereign authority. The Upper House can impose an absolute veto on a vote by the House of Commons only to prolong its own life. Other measures of a revolutionary kind might be delayed, and might need to be preceded by Acts abolishing the second Chamber itself, but they would ultimately prevail if the Commons so willed. The House of Lords . . . was supposed to represent a mechanism against extremism.

I quoted that before. It says:

> The need for this in 1945 was sometimes exaggerated, but it can never be entirely absent.

I thought these remarks were germane to our discussion today about the role of the Senate and why it is important that we do not over-react because of the difficulties faced with one bill over a period of 124 years and, more recently out of 286 bills that have gone through.

This letter which was signed by the 53 senators, and I do not know who was the one who missed signing it.

An Hon. Senator: It was the Speaker.

Senator Waters: The Speaker? That is interesting. It is the only thing he has not signed. By this letter, which was signed by the 53 Conservative senators, they are inviting or really directing the Speaker to close off this debate. Most of us speaking to this subject have mentioned that only 11 Liberal senators have spoken in the debate on the question. I have not spoken on the debate in question, nor has Senator Lawson, and I do not know about the other independents.

Of course, Senator Kelly is absolutely right when he states, and I quote: "The right to dispose of a question in Parliament is as essential as the right to speak." Dead right. Yet I have not had that right to speak. Nor have the majority of the senators who wish to speak to that motion. That is a very important point to remember. Surely Senator Kelly, and I am sorry he is not here, would agree that, just because the process is taking longer than anyone expected and is creating great disruptions to all of us in our "public and private lives," that legitimate delay does not constitute a reason to ride roughshod over Senate rules and force closure on debate. It is exactly the wrong reason.

Some Hon. Senators: Hear, hear.

Senator Waters: He is setting a very dangerous and undemocratic parliamentary precedent which I believe we shall live to regret. In fact, it would be a major defeat for parliamentary democracy in the upper chamber. I urge Senator Kelly and all the honourable senators who signed that letter to withdraw this dangerous document which would so fundamentally weaken the rights of all senators and erode the traditional constitutional role of the Senate. I close with my usual admonition: more than ever the Senate must be reformed.

Senator Doyle: I would like to respond briefly to Senator Waters. I join the government Whip with the question as to how they must be reacting out there in the great wide-open Canadian to the Reform Liberal candidate who has been sent here by the Prime Minister.

I listened carefully to Senator Waters' fears about the damage that might be done to this institution if we pass the motions that are to be decided this afternoon and if we bring this debate to an end after only 320 hours. I might say they were 320 hours devoted to, among other things, Sir John A. Macdonald's drinking habits, the formation of the New Democratic Party or to any subject you wish to name including the names and origins of Ontario towns. That is what we have talked about for hours, often without mentioning the bill that is supposed to be under study.

If you felt the urgent need to at least get something in yourself, sir, where were you yesterday when we were urging you to get on your feet and speak and to say what you believe, as a Reform Party person in this place?

Some Hon. Senators: Hear, hear.

Senator Doyle: You sat and listened to Olson's record played over long play for the umpteenth time in this debate. You listened to Olson again and again.

Senator Waters: Would the honourable senator take a question?

Senator Doyle: I will when I finish, sir.

Senator Waters: Thank you. Would you be seated.

Senator Murray: When he is finished, he said.

Senator Waters: Oh, I did not hear that. When he is finished. Thank you.

Senator Doyle: I would like to continue. I am not going to be long; certainly not as long as Senator Olson. I did have a word or two that I wanted to pass along to my dear friend Senator Stewart who is not here at the moment. I regret that, but then perhaps it is just as well. I have always been slightly intimidated in the presence of professors. Oh, he is here. I was saying, Senator Stewart, that I was perhaps pleased that you were not with us because I feel slightly intimidated in the presence of ranking professors, or any kind of professors.

At any rate, I noted that you were concerned about the public perception of senators and particularly that perception which was held, shall we say, pre-MacEachen. That perception was of the senators as old fuddy-duddies. I do not think you used the word fuddy-duddy, but I believe that is what you intended to say. I thought that yes, things have changed, as you said, as a result of several new approaches in this chamber. So I looked in this morning's paper for some symbol of that change and I read a quote attributed to a man named Harold Chmara, who is director of planning at the Hudson's Bay Co. The writer of the article, Alan Freeman, says:

> And if there's a delay, Mr. Chmara will lay much of the blame on Liberal senators.

He quotes Mr. Chmara as a taxpayer and says:

> I didn't elect these 90-year-old croaks to screw around with anything.

So much for our improved image in the public eye.

• (1530)

Senator Adams: Would you permit a question, Senator Doyle?

Senator Doyle: I am collecting questions.

Senator Gigantès: Why are you attacking Senator Croll and Senator Macdonald, and Senator Molson who is absent? They are the only ones near 90.

Senator Doyle: You did not ask me how I felt. Very often I feel well past 90 years of age. I feel Senator Croll, my own good friend, is very much my junior. I feel that way in particular when I have reached the fifteenth hour of a Senator Gigantès' speech. I feel 80 years of age at hour two.

Senator Stewart spoke of the confession of incompetence that we had heard from the government leader. I do not know that I would agree with that description. I suppose it depends on what you want from the government leader. If you want a resolution of a situation which is contributing to the dislocation of the economy of this country, then I suppose you would fear what Senator Murray says and you would fear even more what he does. What he has done is move us towards a resolution of a situation that is injuring the economy.

I note that only 11 senators are said to have spoken. Yet, almost every senator on that side has spoken for 10, 15, 20 or 25 minutes on so-called questions. "Will you take a question?" is the new slogan of the assembly on the other side of this chamber. What have you not spoken very much about? That is really what you were going to do if you succeeded in talking out this bill.

You said that you are going to raise Trevor Eyton's taxes and you are going to charge all people like him a little more. You say that you are going to save perhaps two hundred and some million dollars on the rpgram to introduce the goods and services tax. You will save a penny here, save a penny there, and you will have enough. You will have enough to do what?

I received a letter the other day from someone from North York asking me to oppose the goods and services tax. He sent along a copy of a petition. I represent North York in this chamber. The good councillors in North York suggested that if we cut back on government programs, we will find enough money to replace the amount we might have collected from a goods and services tax.

Senator Lucier: Is that the area where the Conservatives got the 8 per cent vote in the bi-election?

Senator Doyle: Yes, part of that riding is in North York. That is very interesting. We do not quarrel with that. We do not claim any popularity for this tax. You are the people who are taking the popular position. I am just questioning the responsibility of the position you are taking.

The councillors suggested that we take something out of government programs to pay for that tax and replace it. Well, what programs? I thought we might cut a bit off unemployment insurance; we might cut a bit off veterans' pensions; we might cut a bit off old age pensions. I wrote all those things down on a piece of paper and I asked the tax department how much we could net if we eliminated them. If we eliminated them we would get something less than $30 million which would not begin to pay the cost of our deficit and the cost of payments on the national debt.

The goods and services tax is not going to help that this year, but the Prime Minister has pledged that after we have paid what we have lost from the federal sales tax, money will be directly diverted to payment of the debt. You people over there, having accumulated that debt, do not talk about that. That is irresponsible.

Senator Gigantès: I did say, for four hours, exactly what we would do about the tax and debt. But you did not listen. All you listen to is yourselves.

Senator Doyle: I did listen and I did not hear an answer. I should like to come back to what has happened here in the last few days. I should like to come back to the Speaker and his presentation to us last night.

The Speaker took his chair and said, "Honourable senators, concerning the point of order by Senator Kelly . . ." Those were the last words we heard directly. We heard thunder; we heard crashing of desks; we heard shouts; we heard threats. We did not hear another word he had to say. How did you people know what he was going to say? Why were you so angry about it before you knew what he was going to say?

Someone here this afternoon—was it Senator MacEachen?—said, "Why didn't you tell me about it? We would have discussed a compromise." What was the compromise? How

did you know about the secret message the Speaker had? You all knew, particularly Senator Molgat. Senator Molgat was practically out of his chair because he knew what the Speaker was going to say.

Senator Molgat: Yes, and for good reason, I was sickened by the absolutely obnoxious, odious decision of this Speaker. He had no right to even make a decision.

Senator Doyle: You did not know whether he was going to make one.

Senator Molgat: He announced he was going to make one.

Senator Doyle: No, he did not. You stopped him by your shouting.

Senator Molgat: He had no right to make a statement. He did not even hear from the other side of the house.

Senator Doyle: Go ahead. You have the floor.

Senator Grafstein: If Senator Doyle wishes to conclude his remarks, I would appreciate hearing his concluding remarks because I intend to make some remarks as well. I do not want him to stop on my account.

The Hon. the Acting Speaker: Are you finished, Senator Doyle?

Senator Doyle: No, I am not. I am waiting for Senator Molgat to finish.

Senator Molgat: He had no right to make a statement.

● (1540)

Senator Doyle: I have heard many things here in the last six weeks but I have never before heard that the senator who was presiding had no right to open his mouth.

Senator Molgat: When he is asked to make a statement.

Senator Doyle: I have never once asked the Speaker to make a statement. The Speaker makes his own.

Senator Molgat: That is wrong.

Senator Doyle: What was the terrible thing he had to say? I have the text of it here. He said:

> . . . should I rule that I cannot put the question and an appeal to my ruling is requested, then, the Senate could overrule my decision not to put the question. Obviously, I would have to put the question.

Then he turned around and asked: What would happen if I ruled opposite? In effect, he said: I can neither do it this way nor do it that way, so take your knife and slice the baby in two and have it your way. That is what he said. He said, "You decide. Do not let me decide. Do not make me rule."

Senator Fairbairn: Who are the "you" in your statement?

Senator Doyle: The fact is that I stand in awe of Speaker Charbonneau's courage.

Just let me read one other thing to you briefly which is a statement made in this chamber on October 4, two and half months ago. This statement was made by Senator Frith. It is your day, Senator Frith. Everyone is quoting you. He said:

[Senator Doyle.]

> Honourable senators, the proposition I put to my colleagues and ask them to support is that until Senator Charbonneau resigns and is replaced by a Speaker who is prepared to reinstate the rule book and respect it, we will do everything to stop business being done in this place. When he has resigned and been replaced . . . , we will get back to business. Until then, we will do everything to stop any business being done under his regime.

Honourable senators, that was two and half months ago. For two and half months we have been going against that.

Senator Frith: We did pretty well.

Senator Doyle: Will it be two and half months more, and two and half months more, and two and half months more? Who else did we blame during that period? Well, we blamed the English Queen. Senator MacEachen blamed the Roman Popes and the Swiss Guard. We have blamed just about everyone we could blame except ourselves. To that extent I stand with Senator Waters who says that we should stop and think what we are doing. When he said that he was not, at that point, suggesting we reverse what we are doing at this time. He was talking about the way we are performing in this chamber and the need to use caution. What is caution when the Leader of the Opposition can stand on his feet and say "No matter how this is resolved, you will pay. I threaten you that, for a year to come, every time you want a bill passed you will have to consider our position".

Senator Cools: That is because you have interfered with the composition of the constitution of the Senate.

Senator Doyle: That will be our lot. If that is to be our lot, my God, we should tremble. About threats.

Senator Gigantès and Senator Fairbairn, as well as others who have worked for newspapers, will remember the threat of advertisers. It was that if reporters spoke the truth advertisers would take their advertising away.

Senator Cools: That is what you did to us here.

Senator Doyle: In the war years a lot of people were threatened by Lord Haw-haw that if they dared to fly airplanes over the continent they would be captured and put into the most dreadful prisons.

Senator Cools: Senator Doyle, you can do a lot better than this. You are not doing very well.

Senator Doyle: This is the first time since Haw-haw that I have faced that kind of threat.

Senator Waters: Thank you, Senator Doyle. I always place you in the category of a superior gentlemen in this chamber.

Some Hon. Senators: Hear, Hear!

Senator Cools: He scrambles for scraps of support.

Senator Waters: I would like to ask you why you were attacking me for not interrupting one of western Canada's most distinguished parliamentarians, Senator Olson, in the midst of a two-and-half-hour or three-hour seconding of a

motion to have my right to speak. Why would that be objectionable to you, sir?

Senator Doyle: I had heard that speech several times before under different guises. It had almost nothing to do with you, Senator Waters. I say that knowing I am going to injure your pride. In truth, he did not give you ten words. He went on about everything from troubles in the farm belt to troubles with our own belt.

Senator Waters: Senator Doyle, I would just like to complete my question. I had very little control over the text of the speech used by Senator Olson, any more than you did, sir.

Senator Gigantès: I have a point of personal privilege.

Senator Doyle: I have to respond to the question by Senator Waters.

Senator Gigantès: A point of privilege comes before that.

I would like to protest the fact that the Tories have systematically misled the media by using a slogan. They ask a question: "What is your alternative?" We give the alternative and then they say "But you have no alternative". What you mean is we do not have an alternative the Tories would like. That is perfectly true. A Liberal alternative you would not like and because you would not like it, you say it is not an alternative, and, in consequence, you mislead the press. Because the press is owned by Tories largely they have produced that slogan that you have adopted as one of your lies.

An Hon. Senator: That is an insult to the press and you know it.

Senator MacDonald: Senator Gigantès, you promised me an answer with regard to that alternative on Tuesday. When I asked you on Friday you said, "Be patient. You will have the alternative on Tuesday." Then we adjourned.

Senator Gigantès: I will give it to you now.

Senator Doyle: I would remind Senator Gigantès that I did speak about an alternative that had been proffered from my own constituency. I know that he had an answer in his speech. He had an answer for almost everything.

Senator Barootes: Do not speak while "Mr. Know-It-All" is standing.

Senator Grafstein: Honourable senators, I would like to address the question of privilege raised by Senator Stanbury at the outset. Let me say that I agree with the comments of Senator Waters, save for his conclusion which is that the Senate should be abolished, because I think he made a very appropriate and articulate defence of the Senate as a last resort against an arbitrary majority.

Senator Waters: I have never recommended abolishing the Senate. I have recommended reforming the Senate.

Senator Grafstein: I stand corrected, honourable senators.

● (1550)

In any event, honourable senators, like Senator Stanbury's and others', my privileges were breached in two fundamental ways. First, the prevention of my ability to speak as a senator for Metropolitan Toronto, not only representing the province but the groups and the regions within that province. Second, there is a breach of Parliament when there is a wilful disobedience or a wilful evasion of the rules.

At this late hour, honourable senators, I will not refer you to specific citations, but *May*, *Bourinot* and *Beauchesne's* indicate that each member of the Senate or the other place have privileges. One of the pre-eminent privileges is the right to speak; and one of the other pre-eminent privileges is the right to speak in accordance with the rules of the House. Therefore, on both those fundamental grounds I reluctantly support the point of privilege raised by Senator Stanbury against the Speaker.

If I could, I wish to talk about the right to speak. I have waited throughout this debate. I have been present most of the time and listened to most of the debate. As Senator Doyle indicated, I have participated on petitions. In presenting those petitions, I sought not only to give the locations but also indicate the importance of those towns and regions within the province of Ontario. I thought that I was doing that in an appropriate way as a senator, representing the province of Ontario and the region of Metropolitan Toronto. I have behind me the requirement that, if I disagree with the sector or the region that I represent, I am still obliged here to put that case forward. Therefore, when Senator Everett stated earlier today that he speaks for himself, according to the constitution he does not speak for himself. All of us have read those debates and all of us are familiar with the debates. Clearly, we are here not only in our own capacity, not only armed against removal because we have tenure, but we are here under custom, convention and practice to represent our regions.

I have mentioned to senators from Quebec that I have no quarrel with senators opposite from Quebec who have chosen not to participate in this debate, or who have chosen to support the GST. Their Government, if not the population that they represent, are clearly on side. Like Senator Waters' province, which is dead-set against the GST, I represent a province that is dead-set against the GST. Once again, let me go through the groups that are against it. The City of Toronto is against it. The Metropolitan Government of Toronto is against it. The Borough of North York is against it. In the last election, all three parties campaigned against the GST. The newly-elected premier of the province has come out against the GST. Every group, save for some manufacturing groups in the province of Ontario, is opposed the GST.

I refrained from speaking on the amendments in the expectation that I would be able to articulate the positions put forward by the various groups and hope to prove the test that I set for myself. The test was that I had to satisfy myself beyond a reasonable doubt that the GST in its current form was not satisfactory and did not commend itself to me or to this chamber. That was a task I set for myself, and I have sat here lo these many days and hours seeking to prepare myself for that event and now I have been prevented from doing so.

I agree with Senator Waters, who put it very well, that many of us on this side have been prevented by the actions of the Speaker—and I say the actions of the Speaker, not the actions of those opposite—from being able to speak for my region. Therefore, my privileges have been fundamentally breached.

Honourable senators, the word "parliament" comes from the word "parler" which means to speak. It is not only the right to speak, but the right to be able to listen to what other people say and hopefully to reach a compromise. That is why those experts who are more knowledgeable than I about the rules and principles of Parliament have stated so eloquently today that we are here not only to speak and not only to vote, as Senator Kelly and 53 senators have stated, but we are here to listen and hopefully to compromise. Without compromise there is no role for Parliament.

In my view, Parliament is based on three principles: the right to speak; the right to compromise by listening to what others say; and the right to protect minorities. Those are essentially the principles that bind and promote this House. Honourable senators, we have breached those fundamental principles by breaching the rules.

More important, honourable senators, we have neglected to examine the symbols that give concrete basis to what we do. What are the symbols? The throne, the Queen, the coat of arms, and the most important symbol, is the mace on the table.

During the last several weeks and days I have had an opportunity to examine the history of this place and it is quite interesting. Based on the best information available, it is believed that the mace was fabricated in 1791. It is the oldest mace and the oldest symbol of Parliament that we have. It is not clear, but some believe that it came from England from Her Majesty in the Hanoverian Georges. Others believe that it might have been a replica. However, it is clear it is an ancient symbol and perhaps the oldest symbol in the land. The mace sits on that table representing two elements. First, it is to protect the monarchy, and that is why it is a mace. Second, it is here as a symbol of the monarchy whereby the monarchy has transferred the privileges and powers to this place. We, honourable senators, have watched the symbolism, we participate in the symbolism, but in the last weeks and months we have paid no heed to the symbolism. I say this not only to the Speaker, but to everyone present in this room, save for the Pages.

The mace is placed in a particular way which is different to the way it is placed in the House of Commons. It is pointed towards the Throne. Those of you who have been in the other place will recall that when the mace is brought in it is placed on the table pointed towards the Government's side. To my mind, honourable senators, that differentiates us from the other place. We are here as individual senators. We are not here to promote necessarily the Government's business. In my view, that is why the Speaker should not be called "The Speaker." Senator Molson put this in historical perspective very well. He said it is wrong to call the Speaker of the Senate "The Speaker." He is only here as the President. The french text states that the Speaker is called "the President". I think that is a more appropriate term because he is here to preside and he presides from time to time because we leave a seat for him. Why do we leave a seat for him? So he can attend to business, if he chooses to sit, talk, speak and listen as a senator. Otherwise he takes off his partisan, parochial or regional powers and sits in the chair. He sits in the chair to represent all of us as a co-ordinator, only being brought into the debate when we properly call upon him.

Here, regretfully, the Speaker has misinterpreted his role and in the process has undermined the constitutional basis of this place. I say that, because without the symbolism we have failure to obey the law. How do we suggest that people should obey the law in this country?

• (1600)

Governments have a monopoly of lawful power. Only the government can be violent and can imprison people. Individuals cannot. So that power is reposed in government and people respect the threat of that power by obeying the law; hence the symbolism. Therefore, if we do not have respect for the symbols, how can we expect citizens to have respect for the laws that we pass in this place? How can we can expect that? What we do, by disobeying the fundamental foundations of this place, is invite—we do invite—the public to disobey the laws. That, to my mind, senators, is why we have to be very careful in our comments and in our actions in this place.

There is another symbol, honourable senators, that will give you the difference; that will make you the comparison. We have our symbol of the mace handed down from the Georges through the Houses of Lower Canada to the Senate here. There is another symbol that is well known to senators who study history and that is a symbol that was started in the Roman senate and was then used during the 1930s in Italy. That is the fasces.

Now, honourable senators, our choice in this country is to follow the traditions and rules of the mace, not the fasces. Honourable senators, the element and the difference between the two is simple: it is compromise. The rules, the right to speak, and the right to listen are based on compromise. We have not had, since the beginning of this debate, one inch of compromise—even when honourable senators opposite, honourable Independent senators, have said that this bill is terrible, it is shoddy, it is inexact, it is inappropriate. Senator Everett has told us over and over again: "It is a bad bill in many, many ways, but I will support it." However, he did in fact support one amendment. Senator Molson said it was a bad bill, but gave us a reason why he could not clean it up. So we have a majority of senators, clearly, who believe that this bill in its present form is not a good bill.

If there is no compromise, why should the public accept this law? They do not expect us, as honourable Senator Simard has suggested, to get on with the business of the Parliament and the house simply for efficient purposes. We are here to get the public to accept what we do. So, instead, we have the most recent indication from the most populous riding in Canada, North York, that they are against the bill, North York is a

riding representing 160,000 plus people. It is bigger than, I believe, Prince Edward Island. If at the doors you ask members opposite in the other place, which I did, four or five members, "What are you getting at the doors?" "Why is it that the Tories went from 30-odd per cent to less than 10 per cent, just a little bit more than the GST?" "What were the issues at the door?" The answer is that the issue at the door is—and this it is not meant as a partisan comment—that they do not like Mr. Mulroney. I will leave that aside. I said, "Why? What is the rationale for it? Go beyond that. Why is it that they were so patriotically opposed to the Conservative Party when it has always had a hard-core support in that riding of 20-plus per cent?" The reason was clear. They do not trust the government and they hate the GST. They do not like the way it is being rammed through.

Do your polling after the event. Go back into that riding. If I am wrong I will stand up in my place and withdraw what I have said. But this is what I get. You know that. Members opposite know that. Every senator from Ontario knows that.

Senator Murray: It is not your job; that is the job of the elected people down the road.

Senator Grafstein: No. I have explained, Senator Murray, that my job here is to represent the viewpoints of the region and the sector, and if I disagree with them, to give a rational reason why I disagree and do so based on my conscience. My first responsibility is to represent the views of the region. That is why I have said I have no quarrel with members opposite from the Province of Quebec.

Honourable senators, we have a situation—I want to bring it back to the point of privilege—where the Speaker in principle, based on the symbolism of the mace, based on the throne, sits above us on the throne. That symbolism represents and protects all of our rights, not just the rights of the majority, or a clique within the majority, but all of our rights. Our rights certainly have been breached. Even Senator Everett has said today, in this chamber, that he agrees with Senator Stanbury that there have been abuses of the rules by the Speaker. I asked him that, and he said that. So we have in front of us a clear record of abuses, and unfortunately the Speaker decided that he would not stay independent. He would not do what Senator Grosart advised so long ago. He said that he has to exercise self-discipline and intervene rarely and rise above partisanship. But we do not have that now. That is why at this late date I rise to speak to this point of privilege.

There is one element that has not been mentioned before that bothered me a great deal, senators, and I am sorry that the Speaker is not in his place, because I hope that he will take his place, his seat on the side opposite, and give us an explanation. That is, when he chose to participate in a law suit brought by senators on this side—by the way, I would have absolutely no objection if senators opposite had chosen, as a group, or individually, to intervene in the lawsuit respecting the qualification of certain senators and the consequences of those eight senators. Senators on this side chose to proceed in the courts. I begged the Leader of the Government in the Senate, "Please let us have a reference to the Supreme Court of Canada. Do not require either citizens or senators to take this matter to the courts. Please have a reference." The power would have been yours because you could have determined the references. You could have defined what the reference should be and taken it to the Supreme Court and we could have removed that uncertainty by this time. It could have been brought in in early October, we could have been finished with it by now, and then the cloud that still hangs over this house, with cases yet to come, would have been removed, if, as Senator Beaudoin said, it was clear-cut.

The counsel for the government has said in that lawsuit that the issues raised were "complex, serious, of importance and of great constitutional purport". Those were the words that counsel for the Government of Canada used in those lawsuits. I say that, honourable senators, because this is where the Speaker now plays a role that I think is unheralded and certainly it must be offensive to all sides, and that is that the Speaker of the Senate chose to intervene in that lawsuit. What right did the Speaker have to intervene in that lawsuit? I cannot understand it. He asked to be made an intervenor to the lawsuit brought by certain senators. As I said, honourable senators, had senators opposite chosen to do that, or had he said, "I will step down from the Chair and try to argue an opposite view", I would have had no quarrel with that. But to intervene? To have the president, the Speaker of the Senate, intervene in this matter, I think, is inappropriate. That, combined with the other breaches that I have mentioned, seems to commend to me, very reluctantly, this motion of censure.

Honourable senators, I want to deal, if I can, with Senator Kelly's letter of December 10 and give it another caste; that is, when I read it I noticed that it was signed by all the senators opposite, save for the Speaker, and it seemed to me not to be a statement, not to be a point of order, but seemed to me to be a petition. By the way, I have no quarrel with that. If senators opposite wish to petition this place, that will be appropriate. But it was done in the guise of a point of order, rather than either a notice of motion or a petition. Had it been a petition, it would have been improperly constructed. I will just give you a very brief quote from *May*.

● (1610)

I notice that we are commended as senators to provide and present petitions. The one place where we are prevented from presenting petitions is when we are petitioning on behalf of ourselves. This is the thirteenth edition of the book by Sir Erskine May. It is very interesting and at page 615 he says:

> A peer or member may petition the House to which he belongs but, if a member desires to have a petition from himself presented to the House, he should entrust it to some other member, as he will not be permitted to present it for himself.

If this is a petition, it was breaching a fundamental rule of petitioning. So wherever you look at the Kelly letter, it appears not to be founded on any rule, practice or procedure but is based on the foundation that the Speaker comes along and makes not a ruling, as he suggested, but a statement.

I want to read to Senator Kelly the second last paragraph of the Speaker's statement, and he says:

> Therefore, in order to give the Senate a clear and definitive opportunity to decide, which is its undoubted right, I rule that not later than 5.45 p.m., on Thursday, December 13, 1990, I will put every question necessary to dispose of Bill C-62 at the third reading stage forthwith and successively without any further debate or deferral of divisions.

That clearly is a ruling, not a statement. The problem—

Senator Corbin: Look at the Table. The calendar says December 11.

Senator Grafstein: I will come to that in a moment. He was making a ruling here clearly without allowing members on this side or independent members to deal with the ruling. It appears that the order, so-called, by Senator Kelly, is illusory and a nullity. It appears that the Speaker then projected a so-called ruling without following the practice or the procedures of the rules. Finally, senators—and this to my mind is the most hurtful aspect because nobody can walk away from this place without responsibility—this is the Speaker's letter which we received this morning. It is to all honourable senators, and it is dated December 12, from the Honourable Guy Charbonneau, Speaker of the Senate, signed by him on the Speaker of the Senate's stationery. I will read the two paragraphs which say:

> My ruling was subsequently appealed and a recorded division was requested. Pursuant to Provisional rule 3(c), the twelve-hour deferral of the division was requested.

Honourable senators, this morning when I was confronted with this letter I asked who had appealed. Nobody had appealed. I asked who requested a recorded division. Nobody had requested a recorded division. Therefore, this statement by the Speaker is illusory. It is not based on fact. Senators opposite cannot turn their eyes away and say, "Oh, that this cup should pass by my lips," or "Please keep my hands out of this."

We were here last night and we saw a fictional statement put before us without the great Senator Everett objecting. I asked him, "Will you stand up and object to this letter?" "No," he said. I did not quarrel with him but I wondered why that eminent, brilliant, independent senator with so much experience would not say that this was a piece of fiction placed on the Table of the Senate. Oh, he stood and he strolled off to the other side without a word. Without a word.

Honourable senators, I stood in my place this morning saying that I could not participate in this vote because it is a nullity. I said to myself this morning, "Is there any other way that I can participate without tainting myself with this vote?" So the choices for me were very simple. Should I stay out? That would not have have been satisfactory. Should I stay here and be silent? That would not be satisfactory. I was worried whether, by abstaining in the vote, I would or would not be tainting myself and giving some legitimacy to the vote. So I adopted what was open to me: a brief statement to say that this was a nullity. Therefore, I could not participate in the adjudication because it was a vote. A vote requires an order, a rule, a decision, all according to constitutional practice. Then a vote. None of those pre-conditions took place so, therefore, honourable senators, it is a nullity.

[Senator Grafstein.]

So tonight, honourable senators, each of us who are going to vote will say I cleanse myself by the Senate majority. That is the heart of both Senator Murray and Senator Charbonneau's argument. The Constitution says that according to section 36, I assume, that the majority of the Senate rules. Honourable senators, you cannot cleanse yourself by hiding behind the Constitution on this issue. You cannot do that.

Honourable senators, I conclude by saying this. All of us are students and witnesses to parts of the twentieth century. If the twentieth century has taught us anything, there are two lessons. One lesson is that if you do not protect the minority, then ultimately your rights will be eroded. Lesson number two of the twentieth century is that you cannot hide behind somebody else. Each citizen has personal responsibility. You cannot hide behind a majority. You cannot hide behind the government. You cannot hide behind the leader. You cannot hide behind the Speaker. Each senator, each citizen, has personal responsibility. To my mind, that is the great lesson of the twentieth century. There is no place to hide. We are all culpable and responsible here.

When senators opposite say, "I have done my duty. I will tell my children I was proud of what I did today and in the past few weeks," I query that. I will have difficulty dealing with that.

There is a great book that was written by Elias Canetti called *Crowds and Power,* which I referred to before. It is probably the greatest book on political philosophy that I have read. Canetti, who won the Nobel Prize for this book among others, said that individuals become different animals when they move in crowds. They take on the coloration of a crowd. They take on the coloration of a group. They somehow leave their own personal responsibilities behind and they move with the crowd. It takes tremendous personal power not to be drawn into the magnet of the crowd.

Honourable senators, I am afraid that all of us have been pulled into crowds, but clearly that is not good. What we have done here cannot come to good but can only break our hearts.

Senator Lucier: Honourable senators, I wish to—

Senator Simard: Am I recognized? Thank you.

[*Translation*]

Hon. Jean-Maurice Simard: I should like to indicate quite clearly that, as I see it, the question of privilege raised by Senator Stanbury is rather specious and faithfully reflects the despair felt by our colleagues opposite.

But first I should like to pay an unconditional and unequivocal tribute. I want to say how I feel when reference is made to the work done by Senator Charbonneau, and how, in my opinion, we have come to appreciate his patience, his quest for impartiality, and his respect for parliamentary rules, provisional or otherwise. In short, how he has remained faithful to his love for democracy.

Not only did he fight outside in other countries precisely to promote democracy, preserve Canada or make it even prouder and more united, but in the last three month I imagine that, like us, he went through extraordinarily trying times. He did all that for democracy, out of respect for order and, to the extent possible, to respect the spirit of parliamentary rules and traditions.

Senator Charbonneau, again I want to say that you can count on our support, our admiration as well as our respect and our friendship at the end of the difficult times you experienced along with us.

• (1620)

[*English*]

Earlier today we witnessed a speech from the Leader of the Opposition. We all know that at one time he was a great parliamentarian.

Senator Lucier: He still is.

Senator Simard: I would say he still is an expert because he knows the rules of the House of Commons and, no doubt, the rules and procedures of other parliaments better than anyone else. We have to give him credit for that and show our respect. He has worked hard to attain this degree of knowledge when it comes to procedure.

However, I believe the speech he gave today was one of the worst speeches we have ever heard him give. I will tell you why I thought it was not a good speech. The man was angry. I do not believe you can deliver a good speech if you are angry. Being the leader of his party, he has to assume the responsibility and, no doubt, that responsibility dawns on him now as it did yesterday and last night.

He is a politician of another generation facing a younger leader sitting on our side. Our leader has relatively short experience, but his knowledge of Canadians has made him a great and exceptional leader. I am talking about Senator Murray. I have known Senator Murray for a long time. I did not think he was such a patient individual. Obviously, Senator Murray, you have learned that from Richard Hatfield and others. You know the Liberals better than anyone else in this house. You have fought them in Nova Scotia; you have fought them at the federal level in your previous life; you have been fighting them in this place; and you have fought them throughout the Meech Lake episode.

You people on the other side of this chamber would like to think that because the Liberal Party of Canada killed Meech Lake, somehow by a stroke of the pen . . .

[*Translation*]

. . . through mental gymnastics, Lowell Murray could be blamed. No, you are wrong.

So Lowell Murray, thank you for the direction you gave us, for your leadership. Some could say that you have already surpassed the master who sits in front of you, the ex-master.

[*English*]

There is always a danger of under-estimating your opponents. We in politics know that. Well, Senator Murray, the Liberal senators have under-rated you. In the same vein, I am sure that the Liberals senators will agree that their leader is probably the most over-rated politician in this house.

I did not know what Senator MacEachen was about to say, but at the end of his speech, after alluding to threats, I thought he was announcing his retirement from politics. I thought that was going to be his Christmas gift to this house because he was sad and angry. I thought perhaps the new leader of the Liberal Party had given him a signal that either he would be successful in stopping the GST or he would be gone.

[*Translation*]

That would not surprise me at all. In fact, today's *La Presse* titles on page 3 or 4 that the new leader of the Liberal Party found that the Liberal senators had fought a "sensational" battle in the last three months. Look for it in *La Presse*!

That is how the Liberal Leader, Mr. Chrétien, describes the dirty job our friends opposite have been doing for three months. Naturally, Mr. Chrétien is a man of the past as is demonstrated in another article published in *L'Acadie nouvelle* of December 5. That article states that the New Brunswick government saw fit to help the Liberal candidate in Beauséjour in view of the elections of last Monday, December 10.

So, when we say that Mr. Chrétien is a man of the past, it is quite true. Since he had to resort to methods of the past, with the full support of Mr. McKenna and others.

• (1630)

[*English*]

Senator Stanbury: That is for sure. He sure does.

[*Translation*]

In the midst of an electoral campaign, at the federal level, to get the leader ot the national party elected, the provincial government of New Brunswick felt compelled to help him by announcing a $1 million grant for a $8 million project dating back to 1982, a project developed by the inhabitants of Cap-Pelé.

You can see, dear colleagues, the despair, the lack of confidence that the Liberals, the Liberal government of New Brunswick were showing when they felt compelled, in order to save Mr. Chrétien from a potential defeat, to tell him: Well, we will spend $1 million to buy some lands. Doesn't that remind you, Senator Bolduc, of the old campaigns in Kamouraska, in Montmagny and elsewhere, when the Liberal governments of the time—and even the Unionists—were desperate?

Mr. Chrétien is the new candidate, the new leader of the Liberal Party who had to rely on some friendly government to get by. Of course, I do not know if they will have to wait till the snow milts to proceed with a land survey or to stake lots of pieces of land. They have one million but at the same time, the article says that the municipality will need 1.9 million of federal money. That means, I suppose, that the federal will be good, that it will come across . . .

All that to say, Senator Corbin, that you have done lots of campaigning, darned good election campaigning, I should say! But you have not always had to do that in the old days. And

the same goes for me! Because you and I used to build between elections and not the day before. But it seems as if we have gone back to the good old practices. Our new old leader . . .

In the old days, it would take sometimes three or four elections for the federal Liberal Party to get a project going, maybe a little less in the Madawaska area. It is like the train station in Rivière-du-Loup. During four campaigns; it was Jean-François Pouliot at the time, they promised that this community would have a station. And they did the same thing with the Gross-Cacouna harbour.

In any case, let us return to the GST for a moment. All that to say that Senator MacEachen received Mr. Chrétien's official support and grtitude for what Mr. Chrétien qualified as "sensationnal" efforts made by his Liberal friends.

Therefore, Senator Charbonneau, not only have you got our confidence, but I know that the Prime Minister trusts you and that he will continue to do so.

However, this afternoon's debate, gave us the opportunity to hear speeches that were prepared back in October. Because speeches delivered by Senator Stanbury . . .

[*English*]

Senator Fairbairn's speech, I am sure, was prepared in October or early November.

Senator Fairbairn: No, last night.

Senator Simard: Those were speeches that they would have delivered in a normal debate. They did not have a chance to deliver those speeches.

Senator Buckwold: Wrong again.

Senator Simard: Today was the day of last hope for whoever delivered their speeches. I must say that they were pretty good but they would have been so much more useful had they been delivered earlier.

Perhaps we could have deleted the famous draft of possible amendments that Senator Buckwold talked about, dealing with taxis and other areas. Senator Kirby alluded to that yesterday when he said that, if the Department of Finance could do that in respect of taxis, then perhaps they could do it for the fishermen. As I have said so many times, you people have once again scored in your own net. By stalling, you missed an opportunity in October or November to have a rational debate.

Senator Fairbairn tells us what we have suspected or even known for a long time—that a government led by Mr. Chrétien or by herself would govern by poll. We know that. Senators opposite keep quoting the polls and if they find that something is unpopular then they say the government should not proceed with it, that we should wait until it becomes fashionable.

It has been pointed out to me that in today's *Globe and Mail* it says that a poll indicated that 70 per cent of Canadians would accept a forced Senate vote on the tax. If you people opposite are so fond of governing by poll, remember that 70 per cent of Canadians will accept a forced vote on the GST. Put your minds to rest and let us get on with the business of this house.

[Senator Stanbury.]

We heard the sanctimonious statement of Senator MacEachen who was obviously angry. He has tried to find events that have taken place in the other house in years gone by, whether that was at the time of Speaker Beaudoin or others, that he can relate to this situation. We know Senator Frith's view on this matter. It is that things are decided in this house by a majority. He was certainly very good at that on September 24.

What we have witnessed here in the last three months has no parallel. There is no basis for comparison with anything that might have happened in the House of Commons, the House of Lords or in any other place at any other time. Is Senator MacEachen responsible for members opposite storming the Chair? I remember Senator MacEachen standing in front of Senator Murray's desk and making threats. Senator Murray and I could not figure out what he had to say.

Senator Stanbury: He does not want to hear what anybody has to say.

Senator Simard: I did not expect that from Senator MacEachen.

Senator MacEachen: You made a mistake, Senator.

Senator Simard: No, I did not. You came over here.

Senator MacEachen: No, you have it all mixed up. I will explain something.

Senator Simard: Tell us what you had to say. I will take your word for it. It was very clear to me what was on your mind that day. Threats.

Senator Frith: You have come to a wrong conclusion.

Senator Simard: I said earlier that we had heard some October speeches. I cannot blame senators opposite for delivering those speeches now because the Liberal senators knew that, despite their bravado, this legislation would pass.

Senator Lefebvre: What has that got to do with it?

Senator Simard: Despite the court action, despite the threats and despite all the political gimmicks, Senator MacEachen and his colleagues knew it would pass. I have no better proof of that than what Senator Kirby is reported as having said. He said that, at the risk of making a partisan comment, which he would hate to do in this chamber, he could not resist making the observation that "Many of us on this side of the house would look forward to the daily press stories which will occur day after day when this tax is in effect."

There is another statement almost cautioning and almost threatening the press to reflect exactly what was taking place, and yet telling us that the legislation will be implemented on January 1.

• (1640)

Senator MacEachen, I must say it was a good effort, but you have to assume responsibility for the actions of some of your members.

Senator MacEachen: I always take responsibility, unlike you and your leader who put the responsibility on others.

Senator Simard: Thank you. That is fine.

This morning Senator Olson told one of the table officers that he was a criminal. Is this the type of respect senators opposite have for people and for house rules? It is bad enough for me and all of my colleagues to have had to listen to Senator Sparrow calling me a thug, my neighbour a crook, someone else a liar, and concluding by calling Senator Everett a crook or a thug. That is bad enough, but please leave the staff alone. My colleagues will remember that, during the session, senators opposite told the press and us how the staff needed to relax, needed a rest and obviously needed more pay. We know what this exercise has cost in the last two or three months. One of the members of the Senate calling a table officer a criminal is shocking.

This debate has at least permitted us to know our friends. I will sit down in a few minutes—

Senator Buckwold: That will be good.

Senator Simard: Senator MacEachen is quoted in today's paper as stating that in order to get the bill through, all the traditions and customs and rules of parliament have been thrown overboard. "The Speaker has behaved as a true gangster, nothing short, in his conduct", says Senator MacEachen.

I was standing next to Senator MacEachen when he made that statement in the entrance to the Senate yesterday. Is this the product of a great parliamentarian? I say no. I say that this is the statement of an angry man, a desperate individual who is obviously on his way out. Senator MacEachen went on to state that Senator Charbonneau will never be forgiven for what he has done tonight.

Senator MacEachen, your party and yourself will not be forgiven or forgotten for the actions of your members during the last three or four months.

Senator MacEachen: We hope not.

Senator Simard: This is not you finest hour.

As a member of the Senate Banking Committee, I have to finish with Senator Buckwold.

Senator Buckwold: I was wondering when you would come to me.

Senator MacEachen: Why don't you say something about the anniversary?

Senator Simard: Which anniversary?

Senator MacEachen: December 13th.

Senator Simard: You want me to talk about that? I will. I will deal with Senator Buckwold first, and I will come back to that. If I should forget, remind me again.

Senator Buckwold, yesterday you complained, and Senator Kirby echoed your statement or your feelings, that it was awful that the Minister of Finance should be working on amendments to improve the GST or make it more acceptable.

Senator Buckwold: Amendments that had to be done before December 31st. Come on, tell the facts.

Senator Simard: You and others have been pleading and sending letters to the Department of Finance all summer and most of this fall on exactly what you are complaining about today. You and I and other members asked the Department of Finance to look at the testimony of witnesses and the possible unfairness that Bill C-62 contained. You have the nerve now to criticize and say that it is too late. I say to you, sir, it is never too late to correct a mistake. Michael Wilson should be congratulated.

Senator Buckwold: Why won't you accept any amendments?

Senator Simard: Would you be displeased, shocked or flabbergasted if the Minister of Finance should announce tomorrow that the tax on books will be reduced? You cannot have it both ways. Last week you were pleading for amendments. What hypocrisy!

Senator Buckwold: When the argument is weak, keep yelling.

Senator Simard: You are out of arguments. I hope that the Minister of Finance and his department will continue to work with people in the health sector for technical changes, or people in other industries, or people who trade in auto parts, because we heard that there were problems there. Senator Castonguay has indicated that he would like to see changes in the insurance sector. I hope you can join us once your partisanship has evaporated and when you come back to normal and support us and Senator Castonguay in pleading for those changes.

Senator Buckwold, you cannot argue for amendments and then knock the minister for getting ready to announce amendments.

Senator Buckwold: Amendments to make the bill workable; that is what they are. There are a million other amendments that are needed, but these are required to make the bill workable and, without them, they are in trouble. That is why you fellows are ramming this bill through tonight; so there is time for a Ways and Means Motion.

Senator Simard: You say that we are ramming it through tonight. It has been three months. You should have assumed your responsibility instead of listening to the enforcer, Senator Frith. He and you should have listened to people and discussed and debated the amendments with us.

This debate has allowed us to determine and assess, if not visualize and sometimes appreciate, the new partnership of Lawson, MacEachen and Waters. I am looking forward to returning in February or March and discussing the Estimates and other legislation. Senator Lawson, I am talking about you. I am trying to predict the future here. Listen!

• (1650)

I am referring to when Senator Waters got up and suggested that all the social programs be cut by 15 per cent. I wonder what Senator Lawson will do to his former ally, what he will tell him? Will you agree with Senator Waters when he advocates a 15 per cent cut on the social programs, grants by the

government for these programs? Will you agree with Senator Waters or will you be asking 15 per cent, yourself, as an increase? I suggest that will be the end of the partnership then.

Of course you will not be here, Senator David Steuart. We will miss you.

Senator Steuart: I will miss you, too. You are giving me a headache.

Senator Simard: We will miss you. And I would hope that before you leave, though, you tell Senator Charbonneau how you appreciated him and how he served this house very well in a very distinct fashion, under terrible pressure in adversity. I know that you will want to tell him that because this is exactly what Senator Charbonneau has put up with in the last several months.

[*Translation*]

Senator MacEachen is not here to listen to this but I remind honourable senators of the anniversary of December 12 or 13, 1979. That was the day the Clark government was defeated in the House of Commons. I remember that day, how they had managed to get into the House all the sick, all the handicapped, all the people who had not been seen there for months, how the Liberal Party resorted to that method in an attempt to defeat the government.

They did defeat the Clark government that had promised to slap a 15-odd cents tax on a gallon of gas. They were going to do better! And they did just that! I think they increased the tax on a gallon of gas by something like 60-odd cents.

[*English*]

Eleven years ago, your party, Senator Sparrow, defeated my party in the House of Commons. You should not be celebrating this anniversary today. You should be ashamed. Every time you talk about this anniversary, you remind Canadians how the Liberal government cannot be trusted, because having promised Canadians not to allow a raise in the price of gas, of 15 or 12 cents or 32 cents, or whatever, you more than doubled, if not tripled, that tax. You should be the last to talk about it, because every time you do, as I said, you remind Canadians that Liberals cannot be trusted.

[*Translation*]

I am pleased to take part in this debate. I wish the Senate Committee on Banking, Trade and Commerce had done a better job. I am concerned about the scope of a number of provisions in Bill C-62. I am even more afraid of the interpretation officials may give to certain clauses. But this bill, as many others, I suppose, will have to stand the test of time. If changes must be made, if blatant inequities come to the surface, I am sure my hon. colleagues, including Senator Robertson, will bring them to the attention of the government who will correct them.

I feel I have done a good job. It has been said over and over again that this legislation is unpopular. It will remain so for awhile. Yet, I feel it is useful and necesary. I wish it had been debated in a quieter more and positive atmosphere. This way, we might have had a better bill.

[Senator Simard.]

I think that time will prove us right. It is the right bill for the 1990s. Thank you.

[*English*]

Some Hon. Senators: Hear, hear!

Hon. Paul Lucier: I rise to support this motion of Senator Stanbury's that said that Senator Charbonneau is unfit to be the Speaker of the Senate. I think that it is even more significant that a person Senator Stanbury's stature should be the one making this motion. He is one of the most gentle, understanding senators in this chamber. That one of the least vindictive senators in this chamber should feel compelled to put forward this kind of motion, I think adds extra significance.

Concerning Senator Simard's comments, some time ago—earlier today, in fact, Senator Grafstein, in discussing another situation, said that two different people can look at an accident and see two different things in exactly the same accident. I can only tell Senator Simard that he and I are looking at the accident that sits in Senator Lowell Murray's chair, and we see him from an entirely different point of view. I can assure you of that. You see him as your hero, and I can tell you that he is not my hero, nor is he the hero of the North. Or of the country.

It is a kind of sad day today, and not only because the Speaker allowed himself to be corrupted by Senator Murray, Prime Minister Mulroney, Mr. Wilson and Mr. Andre. We have known Senator Murray's methods, we have known his mentality. We know his morals from way back during the Meech Lake debate, that seamless web that was presented to us which enshrined into the Constitution of Canada that Northerners were second-class citizens. We know that he tried to push that through and we also know, as was stated here by different senators today, that when Elijah Harper, an Aboriginal member of the Legislature of Manitoba, stood in his place and obeyed our rules—our rules as non-Aboriginals—he was an Aboriginal and he was obeying our rules of how a legislature should be run, and how people should govern themselves. We set the rules, brought him in, and said, "You have to live by these rules". And when he chose those rules to defend the rights of his people, his people who were 100 per cent opposed to the Meech Lake Accord, Senator Murray got on national TV and did not instruct, because he could not, but tried to force the Premier and the opposition leaders in the Manitoba Legislature, tried to convince them, that what they should do is throw out the rule book and get rid of this Elijah Harper. I mean, after all, he was being a pest. He was supporting the views of his people. You cannot have that in the legislature. You cannot have a man standing there representing the views of his people. You have to do something about that.

So we know the Mulroney-Murray mentality on that. So it does not surprise us a great deal that the Speaker allowed himself to be corrupted by them. I think what did surprise us somewhat is that there are some decent people on the other side who allowed themselves to be sucked into this process. They are the ones who are going to hang their heads in shame.

I do not expect Senator Murray, Prime Minister Mulroney, or the rest of them to hang their heads in shame. They were just doing what they have always done.

• (1700)

It is a pity when you take a look at what has taken place in this chamber. Senator Murray has brought in Senator Jacques Flynn, a former and very respected colleague, and put him on the payroll. Some people say it is for $1,500 a day; I don't care if it is $15 a day. He has the right to bring Senator Flynn in and he also has the right to pay him whatever he thinks he should pay him. It would be interesting, when the figures come out, to see just how much he is paying him, but that is beside the point. The point is that he was using Senator Flynn as a go-between for himself and the Speaker of the Senate. He was using Senator Flynn to corrupt the Speaker. Senator Flynn has been seen going in and out of the Speaker's chambers. That has to be a real classy act!

An Hon. Senator: Freedom of movement.

Senator Corbin: Then going back to Murray's office.

Senator Lucier: Exactly. I asked a question of Senator Murray some time ago in this chamber. I asked him whether there had been any discussion with the Speaker to try to involve him in the shenanigans that were going to take place. We knew they were going to do something and I asked had there been or would there be any discussions involving Senator Murray or anyone representing him and the Speaker. He answered very clearly and the answer was no. He lied. That was a lie because obviously there was someone speaking with Mr. Charbonneau from Senator Murray's office.

You senators opposite have always lived by a set of rules. From the time you are born, from the time you are three years old and you learn to understand, you learn that there are rules. Whatever you do, there are some basic rules which you have to follow or you get into trouble and you cannot play the games. If it is amateur sports or professional sports, if it is political life or whatever, you have to follow a basic set of rules. They do not have to be very complicated, but there are always some rules. Even if there is not a referee, there have to be some rules under which you play. If one side does not follow the rules, it becomes very difficult.

Quite frankly, very often the rules are not very good. That happens in the NHL. They change the rules every year. But they do not make changes during the game. They make changes between seasons.

What has happened here? This idea of going into a session of Parliament, a session of the Senate of Canada, with the Senate pasing laws for Canadians to follow and saying to them, "While we are making the laws that we want you to follow, we will break all the laws of our own chamber." Doesn't that make a lot of sense? We are breaking the laws of Parliament so that we can pass a law which Canadians do not want. That is really putting in place an intelligent process.

Senator Haidasz: Two wrongs do not make a right.

Senator Lucier: Exactly. Senator Everett, who has been a good friend of mine for some 15 years since I entered this chamber, has really disappointed me in the last little while. I wish he were here to hear what I have to say, because, first of all, I want to say that I respect his right to support the GST. If Senator Everett wants to support the GST, let him do that. I do not understand why he does it, because the northern part of his province is going to be very seriously damaged by this GST; but if he chooses to do so, that is his perogative.

Senator Haidasz: He is a millionaire and has nothing to worry about.

Senator Lucier: What I cannot figure out and what I cannot understand is that he condones the Speaker joining the Conservative caucus and using the Speaker's Chair to pass government legislation. If I ever expected anyone to object to such a move, I would have expected Senator Everett to object to that process.

As I say, I understand him if he wants to support legislation or not support it but I certainly do not understand him supporting a process in which the Speaker, who is the referee, joins one of the teams.

Honourable senators, I listened carefully to Senator Everett today and his explanation seems to be that the Speaker can only become part of one of the teams if it looks like they are going to lose. The Speaker should be impartial and he should just rule with an iron hand right down the middle, independently, so long as the teams are equal. If one team is losing, then the referee has a right to join that team. There are no longer six players on that side; there are now seven. That seems to be his logic. I wish he was here to hear what I am saying, because I would appreciate hearing his defence.

An Hon. Senator: He is listening.

Senator Lucier: During his remarks today Senator Murray was agreeing with, I believe, an editorial from a Winnipeg newspaper. He was suggesting that there should be a statue for Speaker Charbonneau. Just take a look at the implications of this.

Supposedly you have an independent, unbiased, fair Speaker. One of the teams is saying this guy helped us pass our bill so we should erect a statue to him.

Senator Hastings: Riding a horse.

Senator Lucier: Can you imagine Punch Imlach suggesting, during a hockey game, that the referee should be honoured for the way he is refereeing a game? Wouldn't that be great? I tell you, that would be a winner.

Honourable senators, I know the hour is getting late. There are others who want to speak, but I want to speak for a few minutes on the treatment that the north is receiving with this particular ruling and on this letter, notion or whatever you call it, that has been put forth by Senator Kelly.

Senator Bonnell: The letter was not signed; it was two blank sheets of paper which were signed.

Senator Lucier: It is really too bad that Senator Kelly was the one to do this. Everybody has been very quick today to forgive Senator Kelly for his actions because he is such a decent person. Senator Kelly, I can tell you I am not that quick to forgive you. I think that you have been a very distinguished person before you came to the Senate and you are a very distinguished person now. You knew better. You should never have been conned into this. You knew better. I cannot forgive you as easily as the others do. I am very sorry to say that, because no one in here has ever respected you more than I have.

As far as I and Senator Adams and Senator Watt are concerned, I really think that you have imposed on us a very serious breach of Parliament. You have taken away our right to speak on third reading of a piece of legislation, after other people had a right and had been accepted to have a right to speak on third reading. We are the only three who speak on behalf of northern Canada and you denied us that right, as you did Senator Lawson and Senator Waters. However, they are very capable of speaking for themselves; I do not need to speak for them.

You may not know, Senator Kelly, but until 1975 there were no senators from the Yukon and there were no senators from the Northwest Territories. A special amendment to the Constitution of Canada was passed so that we could be here. We have a very special responsibility when we come here; it is not only to pass laws. We can pass a law in two minutes. We are here to put the views and bring forward the protests of the people of northern Canada who disagree with the laws; not the ones who agree. You have denied northern Canada that right. Senator Kelly, I can only tell you there was a report put out which I was intending to use in my remarks and which I wished to table for some of its input. It was a report on concerns regarding the implications of recent tax measures for the economies of the north.

• (1710)

It is a very important report. It was put out by Ernst & Young, and it was prepared for northern ministers of the provinces and territories. I will not read from the report because I do not have time. However, I would like to quote a few statements that were made by the Minister of Northern Development, Shelly Martel, when this report was tabled in the legislature of Ontario. She said:

> The report states that the Goods and Services Tax will reduce the purchasing power of northern consumers and add to the cost of northern manufactured goods and tourism services.
>
> Northern manufacturers will face special challenges because transportation costs will be taxed under the GST. This will lead to an increased incentive to manufature goods close to the market, and will put northern businesses at a disadvantage.
>
> The GST will also reduce demand for the northern tourism industry, by raising the cost of visiting that part of our country. Northern tourism is heavily dependent on transportation and the tax will make travel more costly.
>
> Municipalities, universities, hospitals and schools in the North will also bear higher overall costs under the GST. Rebates for these institutions are based on a single national calculation which will not be sufficient to compensate for the additional costs associated with a northern location.

[Senator Bonnell.]

Honourable senators, I would like you to pay attention to this next statement. When I read a sentence like this, I wish that I had said it myself. It is something that should be burned into the memory of every senator in this chamber on both sides. The statement is this:

> "The GST is a tax on distance and weather," added Martel. "The more remote the region and the colder the temperatures, the higher the GST tax on transportation and heating."

Honourable senators, there are other things I could read and say, but there is nothing that will say it better than that statement: The GST is a tax on distance and weather. The more remote the region and the colder the temperatures, the higher the GST tax on transportation and heating. Honourable senators on the other side, when you stand to vote today, you should perhaps hold your heads down a little because you have inflicted a very serious and unforgivable penalty on the people of northern Canada. You have done it, not inadvertently, but with full knowledge of what you were doing; you have done it deliberately. You will pay for it in the long run; if not in any other way, your conscience will have to bear the results of your actions tonight when you stand to vote for this piece of garbage.

Hon. Edward M. Lawson: My stable mate, Senator Waters, concluded his remarks by saying that the Senate should be reformed. I refer to him as my stable mate because, in spite of Senator Simard's remarks about the partnership, during this fight we have had over the GST and the rights of independents to speak, Senator Waters has proven that he is a horse for the long haul.

We know that Senator Waters' party is for reform and the Triple E; others want to abolish the Senate and others want a suspensive veto. The Rhinoceros Party want the Triple A Senate. If you have not heard of that, it is arthritic, alcoholic and abolished. We have different views from the various extremes as to what to do. There are other ideas also, such as instead of winning $1 million in LotoCanada you will win a Senate seat. That will not work because there are no vacant seats.

One thing that is clear with all these different proposals is that there is a need for reform, a change in the Speaker of this chamber. We must have a neutral and impartial Speaker.

What I am about to say might be somewhat harsh. A long time ago someone asked the definition of an honest politician. The answer was this: That is one who, when he is bought and paid for, stays bought and paid for. That is a harsh comment to make, but I should like to say to the government that this is

a classic example of getting value received for what you paid for. It saddens me to say that.

What troubles me even more is Senator Kelly's petition. As I understand this precedent, we are now going to rule by petition. On this occasion it is closure on this vote because of 320 hours. What is to stop the same 53 senators from petitioning on the abortion bill that perhaps on that occasion only the women should speak because they are the ones affected? Or perhaps only the men should speak on another occasion because they are the only ones affected.

Senator Waters said 320 hours was the amount that Senator Kelly had deemed to be enough on this occasion. On the next occasion, if we rule by petition, what is it going to be—200 hours, 20 hours, 12 hours? Who is going to decide that? Obviously that will be decided by the petitioners.

This system can only work if you own and operate the Speaker and he agrees to implement your demands. That, to me, is so wrong. In this late hour I do not want to spend too much time talking about the GST, but the other point that is so wrong about the GST—and I simply cannot understand the attitude of the government—is that in 1987 there were 117,000 corporations that made $25 billion in profits and did not pay 5 cents in tax. You have the same knowledge that I have about that.

In the name of conscience, with that information, how do you propose to pass a bill that is going to punish and penalize ordinary Canadians—the poor, the seniors, the working people. I am not talking about working people represented by trade unions who have recovery powers to recover the GST. I am talking about working people with no recovery powers. How in the name of conscience can you sit there and ram this through, knowing that billions of dollars flow to these corporations? It cannot simply be because you owe them and they support you. Surely there must be some conscience that says, "What about the ordinary Canadians?"

Some Hon. Senators: Hear, hear!

Senator Lawson: As to the violation of the rules, as a labour representative, if any trade union in Canada violated the rules as often as they have been violated here, with the most recent one last evening and the vote this morning, that trade union would be in trusteeship or in court under the provincial or federal labour laws. Under Canadian labour laws you could not get away with it. It astounds me that you can get away with it here.

I should like to tell you one other story. I suffered an injury. I am not talking about the injury we have all suffered by the decision of the Speaker, by the petition and by the vote. I hit myself on the thumb with a metal object. I would like to tell you it was while using a hammer to build a house for the homeless, but I was playing hooky and it was a golf club. A recognizable face appeared on my thumb.

I asked Senator Waters if he recognized that face. He thought it was the face of God. I said, "I don't want to say anything. I don't want to encourage religious fanatics to come and worship at the shrine of my thumb. I do not want to ask the government to do something religious, and, if I did, this heartless government would probably take a collection and charge GST on it. The only change on this face in the last month is that this morning I saw some tears. I do not know whether they are tears for the loss of democracy in this chamber or for innocent Canadians who are going to be hurt by this and who cannot be helped.

• (1720)

A final point I want to make about this little injury as it keeps moving up the thumb is that in the next few weeks this injury will be healed and this face will disappear, perhaps to watch someone else. It is the healing in this chamber that concerns me. In days gone by we conducted ourselves in an honourable fashion under the rules and I see no way that that healing process can commence until we change the Speaker. For that reason I support Senator Stanbury's motion.

Some Hon. Senators: Hear, Hear!

Hon. David A. Croll: Honourable senators, I thought that, as the dean of parliamentarians on the Hill, I would have something to say that should be of interest. I have had some responsibility for keeping this institution alive.

Honourable senators, 36 years ago, when I came here, this was a different institution. We only had about four conservatives, and sometimes we had six. What government was in and what government was out did not cause us any trouble. In those days, no matter what side you sat on, if a bill which was difficult to understand came to this place, then Senator John Connelly would take a great interest in the bill and look after its passage. Others like him have also passed along.

It was not until 1984 that we got into this situation. We then faced an attitude that was hard for us to accept.

We must not lose sight of one thing: Today Senator Stanbury gave a monumental indictment of the Speaker. He took 25 minutes to do it and he did it beautifully.

The Speaker cannot say, "I cannot accept that". It is not for him to say. The country will heed it and the government must heed it and do something about it. They cannot ignore it.

Honourable senators facing two more years of living with boxing gloves on all the time and using them is just unacceptable. We cannot do it. No matter what happens here, you, over there, are the losers, because you have to see the legislation through day after day when it comes from the government. We have some people over here who recognize legislation for its value. I would particularly mention Senator MacEachen because he has a knack for doing that. Unless we take off the boxing gloves and get down to business, the remainder of this regime will be even worse than it is now. We cannot do anything about that.

In the end, honourable senators, the Senate will lose.

Here we were trying to build up the Senate. We were building it up in the estimation of the public—then we got into this rigamarole. It was the only thing we could do. Today I heard one speaker say, "I am not interested in what the people are interested in. I am interested in what I think I should do." I heard that view expressed today.

You need us more than we need you. We are available. We want to see this country run well through these hard times. We want to get in behind the government and help it in any way we can. The Leader of the Government had better get his speech ready for making peace with Senator MacEachen in order that we may make some progress. One of the real troubles we have had in this house is that the government would not talk to us. None of them would talk to us but when they did they were insulting. That was unacceptable.

Honourable senators, I am not talking about the issue before us as such, but I can tell you that there are some new men over there with particular ability and a lot of brains and common sense. I say to you: Make your peace quickly, otherwise you will be in this position until a year or two or whenever the government decides to go to the country.

I cannot say more than that to you at the present time, honourable senators. Do not lose sight of the fact that the charges made and documented by the senator will be of interest to people across the country. Civil libertarians in particular will live that document morning, noon and night. You cannot get rid of it unless you do something about it, and I would urge you to do it quickly. That is all I have to say.

Hon. Senators: Hear, Hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, in about 10 minutes history is going to be made. Certainly, parliamentary history will be made. I know it is tempting at a time like this to overdramatize, but I think that we should remember that, when history is being made and one participates in that history, one does not get the sense of it as it is happening. Things that eventually become landmarks in the history of a nation and in the history of its parliament at the time do not perhaps seem trivial but are easily trivialized.

● (1730)

I would like to say a word about the rule of law. All my life I have found that the rule of law is a very difficult thing to get anyone interested in, unless they happen to be the victim of a breach of the rule of law. It is very difficult to work up a deep, emotional feeling about a breach of the rule of law in any context in which I myself am not involved. It is always an abstraction until then, or it is discussed in a very abstract way, but of course it has no abstract importance. Its importance is in its application.

It is not, as some dismiss it as, the rule of lawyers. The rule of law is not the rule of lawyers. The rule of law is the opposite to what Thomas Hobbs called the state of nature where life is nasty, brutish and short. It always expresses itself in some individual moment in history like what is happening right now and will happen in approximately 14 minutes.

It is always justified on the proposition that is the essence of every speech that has been made today against Senator Stanbury's motion. It is a very simple proposition. If you listened, as I listened to every speech that was made on the opposite side, it was the following. The end justifies the means. It is always that way. It was that way with Idi Amin. It was that way with Hitler, Mussolini, and with every situation. Let me make it clear. I am not suggesting that anyone here in this assembly or in this nation is as evil as Mussolini, Hitler or Idi Amin were. I am saying that the principle is the same principle; that it is always said that way. When the rule of law is broken in a large way or a small way, it is always said, "We had no choice. What could we do? There was abuse."

The rule of law is always inconvenient for somebody. At this very moment all over this planet, the rule of law is inconvenient for somebody. There is somebody right now in South Africa, or in South America, or in Iraq for whom the rule of law is inconvenient and who will say, "I know I should follow the rules. I know I should obey the law, but what can I do?" It is often General So and So who says, "Disorder has come into our land; I must take over and I will hold elections eventually. I know I am breaking the law by doing this. I am taking over. I am not following the constitution, but I have no choice because it is inconvenient and because the means I am going to use are justified by the end."

The very first time it happened here was on October 4. On October 4 in this chamber a vote took place with the opposition locked out, totally against the rules, totally against tradition, and against the rules and traditions of every parliamentary system in the world which operates on the basis of a vote. It is an astonishing thing, honourable senators, to experience that. It really takes your breath away and you really do not know what to do. It is a bit like the feeling of opening your door at home and finding you have been burglarized and you do not know exactly how to respond to it. You are frustrated and annoyed. What has happened, of course, is that the rule of law has been ripped away right from you; not out there in the abstract but right from you. It is the same as getting mugged.

Senator Barootes: And was your behaviour that evening at 8 o'clock the rule of law? Was that the rule of law? That was anarchy. You broke every rule.

Senator Frith: Senator Barootes, if you are going to keep yapping like that we are going to have to have someone follow you around with a poop scoop!

Senator Barootes has pointed out that our reaction to that breach of the rule of law was outrageous. I take responsibility for it. I was the acting leader at the time and I took the responsibility of, as Senator Barootes says, breaking the rules and coming in here and saying that there are no rules left here. I will tell you why. The Speaker's was a lawless act and a short but stiff jolt of anarchy is the best thing to wake up a lawbreaker, and it did. It makes the lawbreaker experience what life is like without laws and rules.

As we have used the metaphor before, when the referee picks up the ball and starts to run with ball for the opposite team, it is against the rules. It is against the rules to tackle the referee. But if you do not do something about it then, it becomes too late.

I want to say something about the press. The press is part of the media, the day-to-day historians. They do not have the luxury that historians have of doing years and years of research. They have deadlines and have to write their stories or

file their reports, in whatever form, often within a matter of minutes and usually never any longer than a matter of hours. I want to say two things about the press. Because of the fact I was in this position, I had to deal with the press. I do not want to make invidious comparisons. I am not even going to look up. I know it may be bad form to do this. I made a list this morning, thinking back, about the reporters. I dealt with all of these people. I had to say to myself this morning that, on balance, they reported what was going on while this history was in the making in a very conscientious way and, I believe, in a balanced way.

● (1740)

And the ones I dealt with who got on my list—and I admit that it might be bad form to do it, but I will do it because I will never get a chance again—were Susan Delacourt, Helen Branswell, Alvin Cader, Johnathan Ferguson, Keith Boag, Julie Van Dusen, the two Newsworld people I dealt with, one in Halifax, and Don Newman, and Alan Freeman of the *Globe and Mail*. Given that fact, I do not think that the press will understand, any more than any of us would understand, why we are taking this so seriously, unless they can picture, from their point of view, the closure of the press and the muzzling of the media because someone accused them of abusing their rights. We have been accused of abusing our rights. We have abused our rights in here from a certain point of view.

Some Hon. Senators: Hear, hear!

Senator Frith: I believe that in every case we did so when either in response to a provocation by an abuse on the other side, or in the attainment of an objective that of course was contrary to the objectives of the government.

I think I acknowledge it. I do not hear anyone over there acknowledging ever having done anything wrong in all of this. I have never heard the Speaker, in all this time, despite all of these accusations, admit that he had done anything wrong. Of course it is possible that you have never done anything wrong, that your behaviour was absolutely perfect throughout. To listen to you, you would certainly think so. And that the Speaker's was.

Senator Bonnell: The people will judge.

Senator Frith: Honourable senators, we are about to approach an illegal and corrupt vote. It is going down in history as the second only in the history of the Canadian Parliament. It has been botched up to the last. We received a notice that we were going to have a vote, for example, on the 13th of December, and the Parliamentary day is sill the 11th of December. Again, the crowd that could not shoot straight. We are going to another example of a totally botched illegality. I hope that no judge—because of the fact that included in all this mess is the appointment of the eight senators, which has been challenged, and for which leave to appeal has been granted—that no judge of the Supreme Court will participate in the Royal Assent. We will see. I would hope that he or she would not.

Honourable senators, it is going to happen in a moment. It will be Beaudoin and Charbonneau. The two people, Charbonneau, and Beaudoin themselves, will be forgotten years from now. What they tried to do will never be forgotten. You will be here seeing it happen—here we go—in a moment. Then we understand that the Speaker is going to be appointed to some other position, perhaps as an ambassador. I do not know. It is going to be ironic to have him called, in my opinion, "Excellency", but it has gone past that personal point—and we have all been personal about this. It has gone past that. It is the historical event that we are all participating in. I am glad, I must say, that I am going to be associated with people, with senators, who are voting against what is about to happen. That moment has come when this outrage is finally going to spin its way to an end, when, as is going to happen right now, this illegal, corrupt vote is going take place, presided over by that disgraced Speaker.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: By order of the Senate, I must interrupt this debate to put the question on Senator Murray's motion.

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

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

EXCISE TAX ACT
CRIMINAL CODE
CUSTOMS ACT
CUSTOMS TARIFF
EXCISE ACT
INCOME TAX ACT
STATISTICS ACT
TAX COURT OF CANADA ACT

BILL TO AMEND—MOTION FOR THIRD READING—ADOPTION ON DIVISION

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Murray, seconded by the Honourable Senator Doody, that the original question be now put. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favor of the motion please say "Yea".

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators against the motion please say "Nay".

Some Hon. Senators: Nay.

Motion for third reading adopted on the following division.

YEAS

THE HONOURABLE SENATORS

Atkins
Balfour
Barootes
Beaudoin
Beaulieu
Bélisle
Berntson
Bolduc
Buchanan
Carney
Castonguay
Chaput-Rolland
Charbonneau
Cochrane
Cogger
Comeau
David
DeWare
Di Nino
Doody
Doyle
Everett
Eyton
Forrestall
Grimard
Hatfield
Johnson
Kelleher
Kelly
Keon
Kinsella
Lavoie-Roux
Lynch-Staunton
Macdonald (*Cape Breton*)
MacDonald (*Halifax*)
Macquarrie
Marshall
Meighen
Muir
Murray
Nurgitz
Oliver
Ottenheimer
Phillips
Poitras
Robertson
Ross
Rossiter
Simard
Spivak
Sylvain
Teed
Tremblay
Twinn—54

NAYS

THE HONOURABLE SENATORS

Adams
Austin
Bonnell
Bosa
Buckwold
Cools
Corbin
Croll
Davey
De Bané
Denis
Fairbairn
Frith
Gigantès
Grafstein
Graham
Haidasz
Hastings
Hays
Hébert
Kenny
Kirby
Lawson
LeBlanc (*Beauséjour*)
Leblanc (*Saurel*)
Lefebvre
Lewis
Lucier
MacEachen
Marchand
Marsden
Molgat
Neiman
Olson
Perrault
Petten
Pitfield
Rizzuto
Robichaud
Sparrow
Stanbury
Steuart (*Prince Albert-Duck Lake*)
Stewart (*Antigonish-Guysborough*)
Stollery

[The Hon. the Speaker.]

NAYS

THE HONOURABLE SENATORS

Thériault
Turner
van Roggen
Waters
Watt
Wood—50

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

[*English*]

The Hon. the Speaker: Honourable senators, I declare the motion carried.

Hon. Royce Frith (Deputy Leader of the Opposition): for the last time, honourable senators, this vote, without the eight illegitimate senators, would have been defeated by that four margin. It is another illegitimate win over there.

Senator Murray: You keep losing in the courts.

Senator Stollery: Murray actually thinks he won something.

Senator Sparrow: They don't know what they are doing.

Senator Frith: They have gotten so used to the fact that they do their votes all by themselves.

THIRD READING

The Hon. the Speaker: Honourable senators, we will now have the vote on third reading. It is moved by the honourable Senator Murray, P.C., seconded by the honourable—

Senator Frith: What is the question? Have you learned anything?

The Hon. the Speaker: —seconded by the Honourable Senator Beaudoin, that Bill C-62 be now read the third time.

Will all those in favor please rise.

Senator Frith: You locked us out the last time. Unfortunately for you we are here this time.

Some Hon. Senators: Go home, go home.

The Hon. the Speaker: The question is on the third reading.

Senator Frith: That is not the question. You have not put the motion.

Senator Sparrow: Let us get somebody in the chair who knows what he is doing.

Senator Frith: He has not put the question.

An Hon. Senator: Yes he has.

Senator Frith: No he has not.

Senator Lawson: Mr. Speaker, once again for those of us who are seated further back than members of the House of

Commons, will you please speak loud enough so we can hear what we are voting on?

Senator Olson: Even I didn't hear and I am right here.

An Hon. Senator: We are not supposed to know.

Senator Frith: What is the question?

Some Hon. Senators: Resign, resign, resign, resign.

The Hon. the Speaker: Those opposed to the motion please rise.

Senator Frith: Do you know what the question is? Tell us if you do. He has not put it yet.

An Hon. Senator: What is the question.

Senator Frith: Anyway, whatever the question is, if he put it, I am against it.

An Hon. Senator: What a mess.

Senator Olson: I don't know what the question is, but whatever it is I am opposed to it.

Senator Frith: Let's wait for Jacques Flynn to come in and tell you what to do, Mr. Speaker. What is the question? Sorry for the inconvenience of being in here to participate on the vote rather than being locked out, as you would no doubt prefer.

An Hon. Senator: Do your job.

An Hon. Senator: I want to know what I am voting for.

Senator Phillips: You have not known for the last 50 years.

Senator Davey: I am voting against this bill because it is a tragic day for the Tories and an even sadder day for the people of Canada.

Bill passed on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins
Balfour
Baootes
Beaudoin
Beaulieu
Bélisle
Berntson
Bolduc
Buchanan
Carney
Castonguay
Chaput-Rolland
Charbonneau
Cochrane
Cogger
Comeau
David
DeWare
Di Nino
Doody
Doyle
Everett
Eyton
Forrestall
Grimard
Hatfield
Johnson
Kelleher
Kelly
Keon
Kinsella
Lavoie-Roux
Lynch-Staunton
Macdonald (*Cape Breton*)
MacDonald (*Halifax*)
Macquarrie
Marshall
Meighen
Muir
Murray
Nurgitz
Oliver
Ottenheimer
Phillips
Pitfield
Poitras
Robertson
Ross
Rossiter
Simard
Spivak
Sylvain
Teed
Tremblay
Twinn—55

NAYS

THE HONOURABLE SENATORS

Adams
Austin
Bonnell
Bosa
Buckwold
Cools
Corbin
Croll
Davey
De Bané
Denis
Fairbairn
Frith
Gigantès
Grafstein
Graham
Haidasz
Hastings
Hays
Hébert
Kenny
Kirby
Lawson
LeBlanc (*Beauséjour*)
Leblanc (*Saurel*)
Lefebvre
Lewis
Lucier
MacEachen
Marchand
Marsden
Molgat
Neiman
Olson
Perrault
Petten
Rizzuto
Robichaud
Sparrow
Stanbury
Steuart (*Prince Albert-Duck Lake*)
Stewart (*Antigonish-Guysborough*)
Stollery
Thériault
Turner
van Roggen
Waters
Watt
Wood—49

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: I declare the motion carried.

Some Hon. Senators: Shame, shame, shame, resign.

Hon. Royce Frith (Deputy Leader of the Opposition): Without the eight senators, the GST would be dead. Without those illegitimate senators, it would be dead, dead. It is alive by eight illegitimate senators. Otherwise the GST is dead.

Senator Barootes: Liberal rule is dead in the Senate.

An Hon. Senator: It stinks.

Senator Frith: An illegal message.

Some Hon. Senators: Resign, resign.

Motion agreed to and bill read third time and passed, on division.

The Hon. the Speaker: It is now past 6 o'clock. I shall leave the Chair, to return at 8 o'clock.

The Senate adjourned until 8 p.m.

At 8 p.m., December 13, 1990, the sitting of the Senate was resumed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, when the sitting was suspended at 6 o'clock, under Rule 12, I was speaking on Senator Stanbury's motion. I intend to continue with the third point I was making, and then adjourn the debate.

Honourable senators will remember that I attempted to make the point that when the rule of law is broken we tend not to consider that, on a contemporaneous basis, as seriously as we ought to. We usually think that when there is a breach of the rule of law we will see neon lights flashing, and because of that it will be ingrained in our memories; but that rarely happens. In my opinion, that is what took place respecting the three main events over the past little while, those which took place on October 4, November 22 and December 13.

The media, as we all do, lack perspective at these times because they are trying to record events as they take place. I hope the day never comes when the media view things as we do—that of a tyrant abusing his or her position and, to complete the analogy, running to Parliament and saying, "Don't let that tyrant get away with muzzling us." In that case, the response Parliament could give to the media would be what the media now gives us, "This is just a little squabble between the Conservatives and the Liberals. This is not a serious breach of the rule of law simply because the Liberals are complaining and the Conservatives are not."

We, as parliamentarians, should keep a watch on whether the government is muzzling the press. And if it ever happens I hope we won't say it is just a little squabble between the government and the media and because we are not affected by that breach of the rule of law, brush off that breach of the rule of law. That brings me to my third point.

Some honourable senators think that the Speaker, Senator Charbonneau, is a hero because he made certain decisions—

Senator Simard: Hear, hear.

Senator Frith: Across the way Senator Simard is thumping on his desk, and because of that I can only assume that he is one of those who consider Senator Charbonneau to be a hero.

Senator Fairbairn: But he is only clapping with one hand!

Senator Frith: I only raise this to establish the fact that there is a record of what took place in the Senate over the past while. History will decide whether what took place was right or wrong. That is the good news. I say that because, in many cases when the rule of law is broken, it is usually broken by those in the military, or by revolutionaries, who take control, usurp authority unto themselves, and then try to rewrite history because there is no record. This is a small point, but some day someone will look at this record and then decide whether what has happened was proper. They will also see that Senator Simard and others believed Senator Charbonneau to be a hero.

Senator Di Nino: Hear, hear.

Senator Frith: Well, let's get all of the names of those senators who think Senator Charbonneau is a hero. I say that so those who will be reading the record of these proceedings in the future will know who it was who thought Senator Charbonneau was a hero because he broke the rule of law. I suppose, in that regard, that all other usurpers of authority have their supporters.

Senator Molgat: That was Senator Di Nino, Senator Carney's friend.

Senator Frith: Yes, and his hero may turn out to be a villain and someone else's villain may turn out to be a hero. That is what I want to make clear.

We already know that the deed has taken place and the historical plot is under way, but there is a record of these debates and that record will be there for the future, unlike what would happen if there were a military takeover in the dead of the night with no record of the facts; however, we do have a record in this place.

Whatever Hall of Fame or Hall of Infamy Senator Charbonneau is going to be elected to, we now know he will be in the company of one—and only one—former Speaker in the history of Canada, Speaker Beaudoin. Speaker Beaudoin will have Certificate No. 1 and Speaker Charbonneau Certificate No. 2. The record will live long after the individual personalities have disappeared. But the names, Speaker Beaudoin and Speaker Charbonneau, will be recorded and linked forever. Each, it may be said, had promising careers.

Senator Simard: Then I nominate you for the Hall of Infamy.

• (2010)

Senator Frith: I like the sort of informal Academy Award nominations I am getting here.

Some Hon. Senators: Hear, hear!

Senator Barootes: Let's see your right profile.

Senator Frith: It was interesting that we had a sort of maiden speech this afternoon from one of the infamous eight. Senator Grimard, during his further attempt to purge his position as a doubtfully qualified senator—

Some Hon. Senators: Oh, oh!

Senator Frith: You do not expect me to change my position on that. I have never been anything but quite up front about that.

Senator Barootes: So now you are an acting Supreme Court judge, are you?

Senator Bolduc: That is not only a lack of good faith, it is a lack of good taste.

Senator Frith: Let us just have a look at that.

Senator Olson: I may not be a lawyer but I know a lot about common sense. Shame on you!

Senator Frith: I know that Senator Bolduc—and I say this quite sincerely—is a very intelligent and accomplished man. I guess he either misunderstands what my position is, or I misunderstand him—or perhaps he is not as intelligent as I thought. However, if I understand him correctly, he knows that I have consistently challenged the legality of the appointment of those eight. A judge—the same judge—has disagreed twice with me. The Court of Appeal has granted leave to appeal, and it does not grant leave to appeal unless it thinks there is a reasonable case to be made. Senator Bolduc is not a lawyer, but I know he is listening and he is open-minded and knows that it is important to the political life of this country as to whether they are legitimate appointments. I think it is legitimate to question them. I am sure Senator Bolduc would be the last one to say that I have no right to raise a constitutional question.

Is he saying that it is always in bad taste to raise constitutional questions? I cannot believe that of him. In fact, even if he acknowledges that that is what he is saying, I do not believe it because he knows that we share a number of views on some important Canadian subjects and I cannot believe that he thinks that it would be in bad taste. It would be in bad taste if I had not said, as I have said consistently, that there is nothing personal in this and that it is purely political and constitutional. However, in fairness to Senator Bolduc, I did word my comment about Senator Grimard in a somewhat personal way and I withdraw that. That would not be good taste if it had that spin on it because I want to maintain the point that I have made that there is nothing personal in this. It is political and constitutional, and I do not think it is in bad taste to raise those points.

Senator Lefebvre: Absolutely not!

Senator Frith: The point Senator Grimard was making is relevant to the point I was in the course of making before there was this diversion, and the point he made, as I understand it, was that there was a distinction between the Beaudoin case and the Charbonneau case. Now, Senator MacEachen, I thought very clearly, explained how the foundation for embarking on the Beaudoin path was clearly established by Senator Kelly and Senator Ottenheimer. Both of the conditions to getting on the path that led to the self destruction of Speaker Beaudoin were clearly laid down by Senators Kelly and Ottenheimer. Then Senator Grimard said, "Ah, but there is a distinction." I was not listening to the translation; I was listening to him in French, and I am quite sure that what he said was that the distinction, in the case of Senator Charbonneau, was that the government asked him to do it, and that made all the difference in the world. Suddenly, it was okay. It was okay because the government asked him to do it.

Senator Stanbury: Told him! Ordered him!

Senator Frith: That is an interesting distinction.

Senator Simard: Members of the Senate asked him, not the government.

Senator Olson: The Leader.

Senator Frith: The majority in the Senate asked him to do it.

Senator Barootes: The government side in the Senate.

Senator Frith: Whatever way you want to put it, the government supporters asked him to do it.

Senator Stanbury: That makes it legitimate?

Senator Olson: So you're all corrupt!

Senator Frith: If the government supporters in the House of Commons in 1956 had asked Speaker Beaudoin to do it, it would have been fine! Well, history did not judge it that way, and history will not judge Senator Charbonneau's name that way either.

Some Hon. Senators: Hear, hear!

Senator Frith: So it is up to history now. We have a difference of opinion. I firmly believe that the names Charbonneau and Beaudoin will be linked in Canadian parliamentary history forever. I hope that they are never joined by another name.

Senator Simard: That's your opinion.

Senator Frith: Yes, that's my opinion, precisely. I will say it as often as you like. It is my opinion. It is not Senator Simard's opinion. I have already said that, and the MA students will be able to find out what Senator Simard's judgment was at the time, trying to predict history. Perhaps some thesis will be done and it will be entitled "The Simard Theory", and it will be about the one or two people who thought that what was done by a Speaker taking authority three times to do something he had no authority to do made him a hero. We will see.

Now, a couple of footnotes to history, and they concern Senator Murray. Senator Murray also considers Senator Charbonneau a hero for what he did. We, of course, consider him a villain. As I say, it is now up to history.

Senator Gigantès: An incompetent villain!

Senator Frith: A couple of names that will appear as footnotes to history will be Senator Murray, for thinking he is a hero, and Senator Flynn.

Senator Simard: And Frith!

Senator Frith: All of us, for that matter, but I think a larger footnote than any of us will be Senator Murray, for his role.

Senator Stanbury: As the lead corrupter.

Senator Frith: Senator Murray, who, of course, was the main engineer, because he was under all of the pressure from his cabinet colleagues to get this done, having promised for a period of months to do it by a fixed date.

Senator Olson: They will call him "the hit man".

Senator Frith: Perhaps Senator Murray might merit more than a footnote.

Senator Cools: He will get a chapter.

Senator Frith: Because anyone who writes this story for history will have to write how the Senate coped with the breach of law. If I may make another slight parenthetical comment here, I am using the word "law" because the rules of the Senate are made pursuant to sections 4 and 5 of the Parliament of Canada Act, in which the power is given to Parliament to pass rules which are given the force of law, specifically in section 5. Any exercise of those powers is given the force of law and is a part of the general public law of Canada and is to be taken judicial notice of without further proof. So, senator—

• (2020)

Senator Simard: When are you taking your show to Broadway?

Senator Frith: You may take it whenever you like.

Senator Barootes: Do you mind if we wait until we hear of the Frith memoirs when you retire?

Senator Frith: There's the poop scoop again—the little barking dog.

All right, back to Senator Murray. This is why I think Senator Murray will get a little more than a footnote. Let us remember that the vote has been recorded, the deed has been done, the positions have been taken. All of these things will be there for the history students forever. All of your names will be there as supporting this bill. History will decide on this. All of our names will be there as opposing it. But there is an added thing for Senator Murray—he will make a slightly bigger mark.

He will have a bigger footnote, because whatever was done must include the steps that the Senate took to deal with these corrupt seizers of power, and I am speaking of steps by way of a house order and provisional rules. We all know how those provisional rules came about. We know about the house order.

The purpose of the house order was to give the government a large package of important legislation, and it got every comma of it. The government had it all locked up. Then we turned to the provisional rules, which is our part. We know about their part—they got their part. And how did the provisional rules come about? I can give direct evidence on that, because they came about as a result of negotiations in my office among Senators Roblin, Murray, Frith and MacEachen. Senator Doody was not there. Senator Doody did not initial anything. This is Senator Murray I am talking about.

We negotiated, we talked, we conferred, we went through drafts. I had in here earlier a file so that I could see the initialled copies of the number of drafts we went through. We finally agreed.

[Senator Stanbury.]

Senator Barootes: Those drafts, were they Molson's or Labatt's?

Some Hon. Senators: Oh! Oh!

Senator Frith: Speaking of performances, there is a sharp wit, by George! You were just asking for entertainment, Senator Simard—there is your entertainer. There is the stand up, or sit down, comic.

Senator Barootes: There's the prophet from Perth!

Senator Hastings: Now, that's good!

Senator Frith: It's nice to have fun after dinner at 8:30 in the evening—

Senator MacEachen: That depends on what you had for dinner.

Senator Frith: I am enjoying it, but I must say that I would like to take this a little more seriously for the moment. I think it is very serious that the leadership agreed on a set of provisional rules. Those provisional rules were to last until prorogation. In direct breach of those rules, the two people who initialled them, the two leaders, Senator Murray and Roblin, then asked the Speaker to break those rules and to make an order in breach of them. Those were the rules that they had agreed upon, initialled, tabled, made a speech about—those were the rules they asked to be broken. They had agreed that the rules were perfectly accurate, that they represented entirely the agreement. They said: "Trust us. They will be put into the rules; they will be printed; they are now a part of the rule book." These are Senators Murray and Roblin talking. They said: "We agreed on them. They are part of the rules."

Then they wrote a letter to the Speaker saying: "Break those rules"—not just the rules of the Senate. "Don't just do something you have never had authority to do since 1867, but break a rule that we have just agreed upon." Would you not think that the Speaker would at least—and maybe he did—say: "Lowell"—

Senator MacEachen: Or Jacques.

Senator Frith: Or Jacques, yes. He would say to Jacques: "Is Lowell seriously asking me—I mean, haven't I done enough?—not only to take powers I do not have but, in the course of doing so, to break a rule you and we all agreed on just a few weeks ago? He is asking too much. I don't mind coming in to seize power that I don't have—I mean, I have got used to that." It is the first crime that hurts. After that, burglary or any other crime is a little easier. "But surely Lowell can't be serious in sending you to me, Jacques, asking me not only to seize powers that I do not have but also to do it by breaking a rule that Lowell just agreed to. Jacques, go back and tell him this is too much."

Do you think the Speaker might have done that? Do you think he might have done that?

Senator Molgat: At $1,500 a day?

Senator Frith: That is right, and just walking from the Speaker's to the government leader's is probably worth $75.80.

That is an interesting thing, because what they were really doing with Jacques Flynn was paying him, they tell me, $1,500 per day—and I do not begrudge him that—but what it all came down to, if you look at it, is that we have said consistently from the beginning that the only way they could get their way is to break the rules. We have been saying that since September.

Senator Simard: And you have been wrong since September!

Senator Frith: And indeed, that is what happened. So how come you need a high priced lawyer to come in at the taxpayers' expense and tell you the only way you can get your way is to break the law? They pay a lawyer $1,500 a day to tell you to break the law? You can do that yourself, for free. That must have been it, because that is what they did. They never did anything else but that.

But we will see. Perhaps Senator Charbonneau will stand up and say: "Yes, honourable senators, that is exactly what happened. I told Jacques to go back and tell Lowell, 'I will not go that far. After all, I am trying to protect Lowell. He is the one who initialled the rules and he is asking me to do something that means that he can never be trusted again when he initials an agreement.'"

At any rate, if Senator Charbonneau said to Jacques Flynn: "Go and tell Lowell to think again," Lowell sent word back through Jacques to Senator Charbonneau and said: "No, you think again. You do as you are told."

Senator Lucier: "You want your appointment, do it."

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

Hon. Philippe Deane Gigantès: Honourable senators, I rise on a question of privilege. I will take only a moment.

Yesterday I noticed that at the console was a faithful employee of the Senate who was abused. She was shouted at, she was bullied, and I think we all owe her an apology.

[*Translation*]

This Quebec woman who is a faithful employee of the Senate was abused yesterday!

I think we should ask for her forgiveness.

[*English*]

On motion of Senator Frith, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move 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.

THE SENATE

Friday, December 14, 1990

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
OTTAWA
K1A 0A1
THE SECRETARY TO THE GOVERNOR GENERAL

14 December 1990

Mr. Speaker,

I have the honour to inform you that the Honourable John Sopinka, 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 December, 1990, at 2:15 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

MARRIAGE (PROHIBITED DEGREES) BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-14, respecting the laws prohibiting marriage between related persons, and acquainting the Senate that they had passed the bill without amendment.

[*Translation*]

PARLIAMENT OF CANADA ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-79, to amend the Parliament of Canada Act.

Bill read the 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, December 18, 1990.

[*English*]

BROADCASTING 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-40, 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, bill placed on the Orders of the Day for second reading on Tuesday, December 18, 1990.

INTERNATIONAL SALE OF GOODS CONTRACTS CONVENTION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-81, to implement the United Nations Convention on Contracts for the International Sale of Goods.

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, December 18, 1990.

[*Translation*]

APPROPRIATION ACT NO. 3, 1990-91

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-94, An Act for granting Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991.

Bill read the first time.

The Hon. the Speaker: 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, December 18, 1990.

[*English*]

CENTENNIAL FLAME RESEARCH AWARD BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-258, respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities.

Bill read the 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, December 18, 1990

[*Translation*]

FISHERIES ACT CRIMINAL 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-74, an Act to amend the Fisheries Act and to amend the Criminal Code 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 Tuesday December 18, 1990.

[*English*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Is it your pleasure, honourable senators, that the Senate do now adjourn during pleasure to await the arrival of the Honourable the Deputy of His Excellency—

Hon. Royce Frith (Deputy Leader of the Opposition): Mr. Speaker, there has to be a motion.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that the Senate adjourn during pleasure to reassemble at the call of the bell at approximately 2:25 p.m.

Senator Frith: Honourable senators, speaking to the motion, I want to put a statement on record.

Yesterday, when reaffirming that Bill C-62 had not been adopted by due process and, therefore, regardless of its substance, is a bad bill to which Royal Assent ought not to be given, I said that I hoped no judge of the Supreme Court would appear as the Governor General's Deputy to participate in Royal Assent. I regret that the letters refer to a Deputy of the Governor General. That is unsatisfactory for the reasons I mentioned yesterday.

It is also unsatisfactory because the Governor General ought not to grant Royal Assent to this so-called "bill," but should refer it for consideration pursuant to section 55 of the Constitution Act, which reads as follows:

● (1410)

> Where a Bill passed by the Houses of Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

It would therefore be appropriate for the Senate to order that a message be sent to the Governor General's Secretary asking that the Governor General do not send a deputy to give Royal Assent but consider either withholding Royal Assent or reserving the bill for the signification of the Queen's pleasure. Given the manifest defects in the legislative process to this point, and until the motion of censure against Speaker Charbonneau has been dealt with by the Senate, an independent Governor General could not do otherwise.

If the Speaker refuses to send such a message to the Secretary to the Governor General, and the procedure set out in the motion is implemented, we on this side will not be participating in Royal Assent to a bill which we regard as invalid.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Well, honourable senators, I heard what the Honourable the Deputy Leader of the Opposition had to say about this matter yesterday, and particularly what he had to say about the role of the Deputy of the Governor General in this matter. I have, of course, taken counsel on the matter and I am assured by our legal advisors that Senator Frith's position is nonsence, constitutional and legal nonsense.

Some Hon. Senators: Hear, hear.

Hon. H. A. Olson: Honourable senators, I would like to advise the members of this chamber that I am a Privy Councillor. I was sworn into that office and took the oath on July 6, 1968. At that time I took oath and said that I would give advice to Her Majesty and Her Majesty's representatives on all seasonable occasions. So I can tell you that, whatever you do today in discouraging any representative of Her Majesty to give Royal Assent to this bill, if one comes in here, I am going to advise him, as I am duty-bound and obliged to do, that what he is being asked to give assent to is an illegal act.

Senator Cools: Absolutely.

Senator Olson: I am not going to ask him to permanently deny assent to this bill. I am going to ask him to temporarily withhold Royal Assent for this bill until the remedies that are already under way are completed—and there are several. First, the Ontario Court of Appeal has set aside two days next month for an appeal against two rulings confirming the validity of eight of the senators who voted for this bill. Those two days are January 21 and January 22. Secondly, there is a

motion before this, the upper house of Canada's Parliament, to deal with the illegalities that have been perpetrated on this place by people who apparently have no respect for law and order, and I intend to advise the representative of Her Majesty that that is an action that is not yet completed either. Therefore, it would seem that we should at least ask the representative to withhold Royal Assent to this illegal action by this house until the remedies have had time to work. There will be quite a lot of that.

There is another thing. I tell you that I have been denied my right to speak on Bill C-62.

Senator Murray: Really!

Senator Olson: I spoke on Senator Kelly's motion only. If you want to get into an argument, we will keep this going the rest of the day. I am only going to be a couple of more minutes, but I will tell you that people of Alberta who expect me to carry their views into the upper House of the Parliament of Canada have been denied that right.

Let me point out for the record that the Leader of the Government in the Senate is sitting across the way making funny faces while I am discussing the rights of the citizens of Alberta.

Senator Comeau: There are elected representatives from Alberta.

Senator Olson: I was elected five times to the Parliament of Canada, and I have been in the Senate for some time since. I should also tell you that every single one of the members of this upper house of the Canadian Parliament from Northern Canada has been denied. You heard Senator Lucier tell you that. They are the people who will be more affected than any other citizen of this country, and they have been denied, every one of them. Senator Lucier, Senator Watt and Senator Adams were denied their right to speak on third reading of this bill, and yet it is going to create a profound change in their lives. It is unfortunate, but those are the facts.

The Ontario Court of Appeal can decide on this, as Senator Frith carefully pointed out last evening.

Senator Murray: The score is three zip against you in court battles.

Senator Olson: They have completely forgotten that what we are here for is to represent the views of the people of Canada. I don't know how you are going to respond to his, Mr. Speaker, but what is going on here is unprecedented. I am telling you that what I am going to do as a Privy Councillor is unprecedented too. Do you know why? It is unprecedented that the senior people across the way from the government have told us that when you have an unprecedented situation to deal with you have to take unprecedented action, and that is what we will have to do.

Mr. Speaker, you have an obligation to advise the Deputy of the Governor General, on behalf of this house, that what he is being asked to do today is illegal because the legislation was passed in an illegal way and therefore he should not give consent. If you don't, I am going to tell him myself when he comes in here.

Some Hon. Senators: Hear, hear.

Hon. John B. Stewart: Honourable senators, I have a question for the Leader of the Government in the Senate concerning the sneaky statement he made a few minutes ago when, on the authority of unnamed advisors, he said that what Senator Frith had said earlier was nonsense.

The leader is hiding behind unnamed advisors. Who are those unnamed advisors? Did they advise the Leader of the Government that section 55 of the Constitution Act, 1867 has been repealed , that it is one of those sections of the Constitution which are no longer operative? What is he telling us, other than using pejorative language? What did his statement mean?

• (1420)

Senator Murray: Honourable senators, the honourable senator knows that if he is seeking to have legal opinions provided by the—

Senator Stewart: By the advisors whom you mentioned.

Senator Murray: —advisors tabled in this house, that that is not done in this house or in any other house.

Senator Frith: That is what makes his sneaky position so available.

Senator Stewart: You are being sneaky.

Senator Frith: He will say anything he wants without any sense of responsibility at all.

Senator Stewart: No one would believe you on the basis of your own credibility.

Senator Murray: Honourable senators—

Senator Stollery: The access to information provisions should give us the figures.

Senator Olson: Who is telling us what to do with legislation? Tell us!

Senator Forrestall: He will tell you what to do.

Senator Frith: If he will tell us, we will listen.

Senator Stollery: Who let him in the door? He is not a senator. He doesn't meet the qualifications.

Senator Gigantès: He is sloppy and lowly. That is what he is.

Senator Forrestall: When they do things that are improper, I will advise them not to do it, okay?

Senator Gigantès: Is that your kind of foul language?

An Hon. Senator: Order! Order!

Senator Stollery: First you have to be qualified to sit there.

An Hon. Senator: Order!

Senator Gigantès: And sober!

Senator Murray: I just wanted to wait until these interesting remarks were recorded for posterity in *Hansard*.

Honourable senators, we had some advance notice of the opinion—if that is what it is—that was placed on the record today by Senator Frith. He gave us some advance notice yesterday, I think it was. As I indicated, I naturally took counsel on these matters, particularly as they affect the role of the Deputy to the Governor General. While I admit that the language the honourable senator finds pejorative is my own and, a quick summary of the advice on which we are acting is that what Senator Frith has put forward is constitutional and legal nonsense. That's all.

Senator Olson: No, it is not. No, it is not.

Senator Murray: Well, these are matters that he or they may wish to argue at another time in another place.

Senator Olson: The Senate is supposed to deal with these things?

Senator MacEachen: We are here now.

Senator Murray: If Senator Olson wishes to create a disturbance or otherwise make a spectacle of himself—

Senator Olson: I want to defend the rights of Parliament.

Senator Murray: —and other honourable senators want to do the same thing while Mr. Justice Sopinka is here acting as a Deputy—

Senator MacEachen: He is accustomed to a courtroom. He knows how to handle himself.

Senator Murray: —to His Excellency the Governor General, then, of course, there is not much I can do to stop them, but my duty now is—

Senator MacEachen: You might get the Speaker to suspend the session.

Senator Olson: You should let him know that we are not ready.

Senator MacEachen: Hasn't Jacques advised you what to do?

Senator Murray: My duty is to go and accompany the Hon. John Sopinka, Mr. Justice Sopinka, the Deputy of His Excellency the Governor General, into this chamber so that Royal Assent may take place.

Some Hon. Senators: Hear, hear.

Senator Frith: Just a moment. The motion has not passed. There we go. There go the rules. Are you going to take off?

An Hon. Senator: The motion to adjourn has not been passed.

Senator Gigantès: What has Sopinka done to deserve you?

Senator Simard: You can leave at any time.

Senator Frith: Honourable senators, I don't understand that the Governor General or the Deputy of the Governor General invades the Senate. They come here as a result of an invitation. The Senate receives them on the basis of a motion adopted by the Senate.

I understand that Senator Murray has now decided to use the word "nonsense" to describe the provisions of section 55 of the Constitution. I find it quite unbelievable—and I mean that not in its modern use but in its literal use, difficult to believe—that he took advice to that effect. Of course, we do not know who these grey people are who gave him the advice. But if they were from the Department of Justice, I will say that I know people in that department and I would be very surprised if any of them told him that anything based on section 55 of the Constitution is nonsense. I would be very surprised, indeed.

Of course, that was useful. It is always useful for members of the government, when confronted by any constitutional or legal point, to say: "You are wrong. I have been told you are wrong but I am not going to tell you either who told me you are wrong or why they said you are wrong." So it is a very cheap shot that Senator Murray has just taken.

Senator Simard: You would know all about cheap shots.

Senator Frith: We are not going to take cheap shots back at him. That is simply an obvious and cheap shot for him to take now.

Let us come back to discuss the Senate. The Senate now has a motion before it that the Senate do now adjourn during pleasure to reassemble at the call of the bell at approximately 2:25 p.m. That motion has not been passed. Let it be noted that Senator Murray has walked out, saying: "I have no choice." The Leader of the Government has arrogantly stated, "I have no choice but to go out and act as if the Senate had passed this motion."

Senator Olson: It has not passed it.

Senator Frith: It is too bad that he did not manage to get his colleagues together to sign a letter asking the Speaker to allow him to go and act generally as if a motion had been passed. That would be typical, now that we see how this government works in collusion with the Speaker.

Senator Barootes: Now, that really is nonsense, isn't it?

Senator Frith: But he did not think of that. Therefore, he just got up, walked out and said, "I am not going to bother to get the Speaker to rule on this. I have decided that I am going to behave as if a motion had been passed"—a motion that is still under debate and has not been passed.

Honourable senators, at least we find the same *modus operandi*, the same arrogance, the same stance: "I, the Leader of the Government in the Senate, decide what takes place in the Senate. It is no longer done on the basis of motions. It is done through votes, in the absence of the Opposition, if necessary. It is done any way I want it to be done, and I know for sure that the Speaker is not going to call me to order for doing it." So there he goes, turns his back on the Speaker, walks out with his nose in the air and says, "That is what I am going to do."

Meanwhile, he has no authority from the Senate to behave in that way. He may have the only authority he ever seems to think he needs, and that is his own pig-headed wilfulness.

Senator Cools: Absolutely!

Senator Olson: Nobody has any right to come in here past the bar without an invitation from the Senate, and we have not passed a motion giving an invitation to the Governor General or anybody else to come in here, and we are not going to for a while, to perpetuate an illegal act? The motion was to invite the Governor General's representative into this chamber and we are not inviting him.

Senator Barootes: And who but your dear friends invited the press, the media, the television, the NDP and Liberals in here on a Thursday night? You did, you did and you did, Senator Molgat. You marched them past the bar and had them standing here sneering with you.

Senator Hastings: Where's the valium? Give him a valium.

Hon. Eymard G. Corbin: Honourable senators, I came in here today thinking that we would have before us the regular order of business. I did not have any reason to suspect that we would be asked to forego the usual order of business. I guess the government does its thing then it sends everybody else on his or her way. I came in here with a petition in my hand. It is a petition that I have been asked to present by the Hon. Maurice A. Dionne, M.P. for the riding of Miramichi in New Brunswick. He asked me to present the petition because it is addressed to the Senate of Canada. It is signed by 34 people who "object to the new universal 7 per cent federal goods and services tax adopted by the Conservative government—

• (1430)

Senator Doody: Order! On a point of order, Mr. Speaker, there is a motion—

Senator Corbin: —because it will create unjust and inhuman difficulties to Canadians. The implementation of this tax will constitute an unprecedented assault on the income of Canadians, not only by forcing them to pay higher taxes but also by confronting them with a rise in inflation, interest rates and unemployment." Four of the petitioners are called—

Senator Doody: On a point of order—

Senator Corbin: —Lawrie Murray, Ralph Murray—I have other Murrays here—Donald Murray and Wilma Murray, and the rest of the petitioners are from Lower Neguac and Tabusintac.

Senator Doody: Honourable senators, I would invite his Honour to put the motion.

Senator Frith: The debate is not finished.

Senator Doody: The honourable gentleman is reading a petition.

Senator Corbin: "This is the Canadians' last blast before this infamous bill goes through this house." I place this petition on the table. Canadians will be heard!

Senator Olson: Honourable senators, I also have a petition with 300 names on it. I am not going to read it today—

Senator Doody: Presentation of petitions has not been called. This is another violation of the rules of this house. Senator Olson, you should know better.

[Senator Frith.]

The Hon. The Speaker: We have a motion on the floor. Why don't you listen to me, Senator Olson, instead of talking about petitions? We have a motion on the floor, let us discuss the motion.

Senator Olson: Close the bars so they don't get in here.

Senator MacEachen: May I ask the Deputy Leader of the Government, what is the purpose of the adjournment motion that is now before the Senate? Is it just to adjourn for a few minutes so that we will all be ready for when the representative of the Governor General comes in, or is this motion a motion that gives authority to permit any person to cross the bar? The point raised by Senator Olson requires some clarification. Is it possible for any person, including the distinguished Justice Sopinka, to enter the Senate floor and walk in without authority? I would like to have those points clarified before we proceed further.

Senator Doody: The message read from Government House is quite clear. The representative of the Governor General will be present at the time mentioned to give Royal Assent to various measures that have passed both Houses of parliament.

The adjournment that has been requested is simply to give time for The Honourable The Deputy of His Excellency and his party to arrive here in this chamber and to give the Royal Assent, as required by the Constitution.

Senator MacEachen: I do not think the Deputy Leader has answered my question. Is it his contention that the representative of the Governor General can burst in here at any time, even in the middle of a speech, and seek to give Royal Assent, or is there some concurrence required by members of the Senate? My question is, whether there is some consent required by the Senate, and if it is so then that is an important matter. If it is not so, why would it not be possible for the Secretary of the Governor General to advise that the representative was coming at a time that would be convenient to the Senate when we had completed the routine proceedings and when we had completed the regular business of the Senate? Why has 2.30 been selected? Has it been selected by His Excellency or by Mr. Justice Sopinka? Does the Senate have anything to say about it? I am asking all these questions because the situation is quite unprecedented.

Senator Doody: The custom in this place has been that the time is established by consultation in conversation among the government leader, the deputy leader of the opposition, and the deputy leader—

Senator Olson: The rest of us want to be involved now.

Senator Doody: —of the other place. I made an attempt this morning to contact Senator Frith. I left a message for him and he was obviously too busy with other things to return my call. I did not have an opportunity to discuss this matter with him, but the time-honoured tradition in this place has been that a time is set. The deputy is advised and invited, and the representative of the government arrives. The time is established in this place and the ceremony then takes place. That had been taking place long before I came here, I suspect, and certainly

during the 11 years that I have been here. This is the first time, to my knowledge, that it has ever been questioned. The fact that there was no consultation is certainly not my fault.

Hon. John B. Stewart: Honourable senators, would Senator Doody consider inviting the Leader of the Government in the Senate to return to his seat so that he can deal with the question raised by Senator MacEachen? Clearly, this is a matter of great constitutional significance.

Senator Barootes: It is nonsense.

Senator Olson: It is not nonsense.

Senator Frith: The urologist suddenly knows all about the Constitution!

Senator Stollery: You made your mistake yesterday; now you will have to start living with it.

Senator Barootes: You would filibuster your own grandmother's funeral.

An Hon. Senator: That is a good idea.

Senator Steuart: We did that last week.

Senator Stewart: There is a serious constitutional question as to the relationship between the three parts of the Parliament.

Senator Barootes: Here we go. Another history lesson.

Senator Stewart: Senator MacEachen has asked a serious question, namely, who sets the time for Royal Assents? At whose convenience is the time appointed? I am sure that if Senator Murray were here, he would be able to tell us what those reliable advisers told him on these matters. Would Senator Doody ask the Leader of the Government, who is responsible for leading the government in this place, to return to this place and do his duty?

Senator Stollery: Honourable senators, I should like—

Senator Doody: The honourable senator knows precisely—may I answer my honourable friend?

Senator Stollery: Honourable senators, as—

Senator Doody: Is Senator Stollery interested in answers or in delay?

Senator Olson: He can speak once.

Senator Stollery: I am interested in having my point of view heard, something that I have been unable to do—

Senator Doody: Before I reply to your colleague?

Senator Stollery: —for the last several months.

Senator Doody: Well, speak to Senator Gigantès. He monopolized the time; it was not I. It was the honourable gentleman over there who took up 20-some hours with his mindless babble.

Senator Gigantès: There was lots of time left.

Senator Olson: Those are lame excuses.

Senator Doody: The Honourable Senator Stewart knows exactly what the procedure is in this place. He knows precisely how the standards have been set. He knows it far better than anyone else in this chamber. The idea of sending for the Leader of the Government to come here and to delay further and to make more noise is just another way of delaying the proceedings and trying to embarrass the Governor General and his representative.

Senator Stewart: Honourable senators, we have been told that the prevailing situation is quite unprecedented. It is in these unprecedented circumstances that these difficult questions arise. It is highly desirable that the Leader of the Government assume his responsibility and tell the Senate what has been discovered as to the correct constitutional conduct in this situation.

Senator Stollery: Honourable senators, I should like to bring to your attention the words of Arthur Meighen, a former Prime Minister of Canada, as quoted in the *Dalhousie Review*, Volume 33, in the spring of 1953:

> The sphere of discretion left to a Governor-General under our constitution and under our practice is a limited sphere indeed, but it is a sphere of dignity and great responsibility . . . residing in the Governor-General in the Dominions, there is a responsibility as great as falls to any estate of the realm or to any House of Parliament . . .

● (1440)

> Within the sphere of that discretion the plain duty of the Governor-General is not to weaken responsible government, not to undermine the rights of parliament, . . . it is to make sure that responsible government is maintained, that the rights of parliament are respected, that the still higher rights of the people are held sacred. It is his duty to make sure that parliament is not stifled by government, but that every government is held responsible to parliament, and every parliament held responsible to the people.

Hon. Herbert O. Sparrow: The Deputy Leader of the Government suggested that he attempted to telephone the Deputy Leader of the Opposition to make a deal with him. He wanted to find out if Senator Frith would accept some rules as far as this afternoon was concerned, but Senator Frith could not be reached.

Yesterday, I heard very clearly the leader on this side of the house make a definite statement. He said that there would be no deals because the leadership on the other side of the house could not be trusted. Why, indeed, would they attempt to make a special arrangement or deal today on this very issue when, just a day ago, it was stated that the leadership on the other side could not be trusted to make any arrangement because they would not follow it through?

I am tired of being lied to, and I am tired of the deceitful actions of the other side. I do not see any reason why you would expect the leadership on this side to make a deal with you today.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to answer the following question put by the Leader of the Opposition: Under whose authority may the Deputy Governor General enter this Chamber?

The Speaker has just read a message. He received a message from the Governor General that the Governor General's deputy will be here in a few minutes. The motion to adjourn is simply a request that this Chamber suspend its proceedings until such time as His Excellency's deputy arrives.

Senator Frith: Who decides?

Senator Beaudoin: The Canadian government advises the Governor General that a bill is ready for royal assent. You referred to Section 55. I have it right here. I also have a quote from a great constitutional expert, Maurice Olivier, who says on page 79 of his book: "Actes de l'Amérique du Nord Britannique et Statuts connexes 1867-1962", and I quote note 27 at the bottom of the page:

> It would be against constitutional practice for Her Majesty's government in the United Kingdom to advise Her Canadian Majesty against the views of the government of the Dominion."

This constitutional practice was established in 1929-30.

Senator Frith: That is not the point. Is it up to the Senate to decide, by means of a motion, how it wants to run its business? You say it is up to the government to decide.

Senator Beaudoin: You know perfectly well, Senator Frith, that the Crown may enter only one of our two Chambers: the Senate.

Senator Frith: As a result of our decision.

Senator Beaudoin: No, you know perfectly well that when a bill is adopted on third reading in both Chambers, the Canadian government decides when royal assent is to take place.

You know perfectly well that when a message comes from the Governor General, announcing that he or his deputy will be here at such and such a time, all we can do is adjourn our proceedings until the Crown's deputy arrives.

● (1450)

[*English*]

Senator Olson: No.

[*Translation*]

Senator Beaudoin: Let me finish, Senator Olson, I have the same rights you do in this Chamber.

[*English*]

I have the same rights that you have.

Senator Olson: Tell that to Senator Barootes! He interrupts me every time I speak!

[*Translation*]

Senator Beaudoin: We too have the right to speak. I would like to answer the Leader of the Opposition. He asks under what authority the deputy of the Governor General can come here today. It is a message of the Governor General. The Governor General is part of the executive branch and of the Canadian government.

[Senator Sparrow.]

Senator Frith: So are we.

Senator Beaudoin: The Governor General represents the Queen of Canada. Section 55, which concerns the royal sanction of bills, was the object of a constitutional convention in 1929-30 which states that Her Majesty the Queen of England should no longer intervene in Canadian affairs. I believe this section should be applied to the present situation.

As for the Leader of the Opposition's question, the adjournment does not pertain to the right of this House to authorize the Governor General to come here, when notice has been given, it pertains only to the suspension of proceedings until the arrival of the Supreme Court judge.

[*English*]

Hon. John B. Stewart: Honourable senators, I have a question for Senator Beaudoin. I did not hear exactly what Senator Beaudoin said but I believe he said that there was a constitutional—

Senator Beaudoin: How can you believe if you did not hear?

Senator Stewart: I am asking for clarification.

Senator Gigantès: He is checking with you, like a good student.

Senator Stewart: I am asking for clarification, great sir. If I recall correctly, the honourable senator said that a conference was held in 1929 applying the principles of the Imperial Conference of 1926 and that as a result of that conference, it was agreed that the Queen would not intervene in Canadian affairs. My question is: Does that apply in the case of Section 26? If not, why not?

Senator MacEachen: Honourable senators, I want to continue my questioning of the Deputy Leader of the Government in the Senate. I appreciate what Senator Beaudoin has said, but he is not able to speak for the government in this house. The person now authorized to do that is Senator Doody. I understand Senator Doody to have said that it has been the custom, when Royal Assent is to be arranged, to consult with both sides of the house to arrange the time for the Royal Assent to take place. That I understand. It is simply a matter of convenience for all concerned, so that everyone will know when the ceremony is to take place.

However, there is a more fundamental question that is quite apart from the convenience. Is it right, without the consent of the Senate, for the representative of the Governor General to walk in and say, as of right, "I am here to give Royal Assent to bills", and that we would then have to acquiesce and have no authority to say yes or no: Is that the case, or do we have something to say about the matter? I do not know the answer but I want to know the answer.

Senator Hatfield: Do you expect us to believe that?

Senator MacEachen: I do not know the answer.

Senator Hatfield: You don't know the answer!

Senator Frith: And you have been here for so long that you probably do!

Senator MacEachen: Presumably Senator Doody is contemplating.

Senator Doody: I am waiting to rise.

Senator MacEachen: I do not know whether Senator Beaudoin has moved over to tell the government what I should have known but do not know, and they do not know.

Senator Frith: Senator Hatfield knows; ask him!

Senator MacEachen: Senator Hatfield knows, but I would like the representative of the government to tell me whether it is the right of the Governor General to knock on the door, walk in and say, "I want to give Royal Assent to bills", without any consent from the Senate. That is all I want to know, yes or no.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, my understanding of the situation is that this is the Queen's chamber. We are called here by the Queen, and I feel that we cannot at any time deny the Queen's representative the right to come and inform us of various activities. We are called here by the Queen to advise the Queen, and if the Queen sends the Governor General or his representative to our chamber, we have no course of action but to admit him.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if that is the tradition, it would be interesting to know how the parallel tradition of putting the motion grew up. As long as I have been here, and as far as I know forever, Royal Assent was always done by motion. If we have no right to do anything but admit the Queen's representative, who represents one-third of the Parliament of Canada, if we have no independence in the matter at all, I wonder how the custom grew up of having a motion. Both assertions cannot be true. We do not need a motion if we have no choice in the matter, as Senator Doody has said.

Senator Doody: Is it the intention of the Opposition to deny the Governor General's representative access to the chamber? The government has set the time for the Royal Assent and has asked the representative of the Governor General to be here. I attempted to inform my honourable friend opposite. I was not trying to make a deal, as Senator Sparrow has suggested. It is a courtesy and a matter of convenience, as Senator MacEachen has said, and I will continue to attempt to inform honourable senators opposite in the future.

In the meantime, the representative of His Excellency is waiting to come in and perform the service which he is expected to perform in this chamber. If it is the intention of honourable senators opposite to deny him that right and refuse admission to the Governor General's representative, then they should say so. There is a motion before the chamber and I suggest that we put that motion.

Senator Olson: So you are stopping debate again by decree!

Senator MacEachen: Honourable senators, I appreciate the answer given by Senator Doody. It is the view of the government that the representative of His Excellency has an unqualified right to enter the Senate chamber and to give Royal Assent, even though everybody in the Senate chamber may not want to receive that representative. It is an unqualified right, and that is the view that is taken. I shall not contest that view. I simply wanted to get the view of the government. In that event, this motion does not do anything except adjourn the Senate. Why adjourn the Senate? We are here. Let him come in.

• (1500)

Senator Doody: Is it the wish of honourable senators opposite that the Deputy of the Governor General now come in?

Senator MacEachen: I have no wish one way or the other.

Senator Doody: Make up your mind.

Senator MacEachen: I am saying that, if it is his right he can decided whether or not to come in, but we do not have to adjourn the Senate and reassemble. We are here.

Senator Doody: This is the custom that has been followed in this place for a long time. I would refer honourable senators to page 69 of the *Rules of the Senate* which honourable senators admire from time to time when it is convenient. There it is set out very clearly. Please let us stop the nonsense and let the representative of the Governor General come in.

Senator MacEachen: Would you please read the rule to us so that we will understand?

Senator Doody: It says:

> Generally, the Administrative Secretary to His Excellency informs the Speaker of the Senate that the Deputy of His Excellency the Governor General will proceed to the Senate Chamber—-

It does not say that he "may" proceed or "upon invitation" will proceed. It says:

> ". . . the Deputy of His Excellency the Governor General will proceed to the Senate Chamber at a certain time and date for the purpose of giving Royal Assent to certain bills or proroging Parliament, or both."

It goes on to say:

> After His Excellency the Governor General, or his Deputy, is seated on the Throne, the members of the House of Commons are summoned.

It is quite clear that the Governor General or his representative will come to the Senate when the message is sent.

Senator MacEachen: All right. The Senate is in session when he comes. We are in session now, so let him come. Why adjourn? We are ready to receive him.

Senator Doody: I do not see any problem. If that is the only problem, then we will send for him now.

Senator Stewart: I have one more question of Senator Doody.

The words of section 55 of the Constitution Act were read earlier as follows:

> Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

Presumably the decision of the Governor General to give assent to a bill is made either on his own discretion or by advice. Could the Leader of the Government in the Senate or his deputy inform the Senate whether or not an instrument of advice has passed the Cabinet advising the Governor General to give assent to Bill C-62?

Senator Doody: I can only assume that it has, Senator.

We can keep up this charade all afternoon. If that is what you want, say so. We can tell the man to go home. Stop jerking around the Constitution of Canada, the people of Canada and the Government of Canada.

I know that you find this very amusing and entertaining because you think you are embarrassing the government. What you are embarrassing is the institution of the government, the Parliament of Canada and the people of Canada, and we will not put up with it.

Some Hon. Senators: Hear, hear.

Senator Frith: I do not find this amusing at all. I think we have clarified the position. We now understand that the government says the Senate must at all times accept the representative of the Governor General or the Governor General whenever they arrive, and that there is no role for the Senate in that at all. I find that hard to agree with, but there it is. We understand the position. The government is running this show.

The Hon. the Speaker: Gentlemen Usher of the Black Rod, will you please go and fetch the Deputy of the Governor General.

Senator Olson: I want to say one thing. All we have to substantiate this procedure is the word of one Deputy Leader of the Government.

Some Hon. Senators: Sit down!

Senator Olson: Is the Senate not to have anything to say about this? The Deputy Leader says that he can come now, but I think we need to refer to the rule book.

Senator Doody: The case is already closed.

Senator Olson: We want the mace back here. The Senate is in session.

Senator Doody: Make up your mind.

Senator Olson: There is a motion to adjourn.

Senator Frith: Did you not say that you do not need the motion?

Senator Doody: I do not care.

[Senator Stewart.]

Senator Olson: Put the mace back on the table.

Senator Sparrow: There is a motion to adjourn and we do not have the mace on the table. What did we do with the motion to adjourn?

The Hon. the Speaker: Gentleman Usher of the Black Rod, you will proceed to the House of Commons and acquaint that house that it is the desire of the Honourable the Deputy of His Excellency the Governor General that they attend immediately in the Senate Chamber.

The Senate having been informed that the House of Commons had adjourned, the Honourable the Deputy of his Excellency the Governor General retired.

The sitting of the Senate was resumed.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS ON BILL C-62

Hon. H. A. Olson: Honourable senators, I have the honour to present a few more petitions objecting to the passage of Bill C-62. I do not intend to read the names, although they come from that part of Canada where their representatives have had no opportunity to express their views in this chamber because of the illegal actions that have been taking place here for the past few weeks and days. In any event, I do not intend to go on and on. I have three petitions with 27 names on each, and one with 23 names. The petitioners pray and call upon the government to stop the introduction of the proposed goods and services tax.

Hon. Joan Neiman: Honourable senators, I have the honour to present 299 signed petitions of Canadians who oppose the GST, all residents of the Province of Ontario.

Hon. Gildas L. Molgat: Honourable senators, I have here a series of petitions which were sent to me by Mr. Robert Nault, the MP for Kenora-Rainy River. They are mainly from his constituency. They are from various towns such as Pikangikum, North Spirit Lake, Dryden, Sioux Lookout, Kenora, Pickle Lake and Atikokan. I will not read all the names but I would like to table these on behalf of the residents of that region. There are some 450 names on this list.

[*Translation*]

POINT OF ORDER

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. A point of order must me raised at the first opportunity.

Earlier this day Senator Beaudoin told us that the Parliament of Canada could be made up of the Governor General, the Senate, and the House of Commons. I have his treatise on the Constitution of Canada published in the blue collection of the University of Ottawa civil law branch of the law faculty.

On page 94, in the chapter entitled «The Composition of the Parliament of Canada», it reads as follows:

> . . . consisting of the Queen, an Upper House styled the Senate, and the House of Commons, according to section 17 of the Constitutional Act of 1867.

Honourable senators, I raised this point on an earlier occasion and sought the reference in the *Debates of the Senate* but, the index not being available, I could not find that reference. At one time I rose in the Senate to say that the Parliament of Canada is made up of the Governor General, the Senate, and the House of Commons. I was contradicted by Senator Roblin who argued that Parliament consists of the Queen herself, not the Queen of Canada or the Governor General, but Her Majesty Queen Elizabeth II, the Senate, and the House of Commons.

I think it is important to set the record straight, in accordance with Senator Roblin's teachings.

Senator Beaudoin: Honourable senators, I would simply say to Senator Corbin that quite obviously Parliament is made up of three elements—the Commons, the Senate, and the Queen. All I said was that the Queen of Canada is represented here by the Governor General of Canada.

Of course the Governor General of Canada represents the Queen of Canada who happens to be a member of the Canadian Parliament. That is all I said.

We are not going to start arguing about something like that now, are we!

Senator Corbin: That is what I was about to suggest, Senator Beaudoin. On this point of order or question of privilege, I would urge you to talk it over with your colleague Senator Roblin. If ever you should agree, tell me what your conclusion is. Thank you, honourable senators.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS ON BILL C-62

Hon. Thomas H. Lefebvre: Honourable senators, I have the honour to present a petition, signed by 61 residents of the Lac Saint-Jean area, who call on the Senate to defeat the bill on the goods and services tax.

Honourable senators, I have the honour to present another petition, signed by 35 residents of the Beauce area, in Quebec, who call on the Senate to defeat the bill on the goods and services tax.

Honourable senators, I have the honour to present a third petition, this one signed by 60 residents of Saint-André, Quebec, who call on the Senate to defeat the bill on the goods and services tax.

Honourable senators, I have a fourth petition to present, this one signed par 100 residents of St-Eugène, Quebec, who call on the Senate to defeat the bill on the goods and services tax.

Honourable senators, I have the honour to present yet another petition, signed by 60 residents of Ste-Monique, Quebec, who call on the Senate to defeat the bill on the goods and services tax.

Honourable senators, I have the honour to present another petition, signed by 48 residents of the de Nantes area, in Quebec, who call on the Senate to defeat the bill on the goods and services tax.

Honourable senators, I have the honour to present another petition, signed by 180 residents of Girardville, Quebec, who call on the Senate to defeat the bill on the goods and services tax.

• (1520)

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-FIRST REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc: Honourable senators, I have the honour to present the seventy-first report of the Standing Senate Committee on Internal Economy, Budgets and Administration.

I discussed this matter with Senator Doody earlier, and it was agreed that this matter should go forward today because the first item affects all personnel of the Senate who are not members of bargaining units. I think this will be good news for them before Christmas.

Friday, December 14, 1990

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

SEVENTY-FIRST REPORT

Your Committee recommends:

1. *Salary Adjustment—Unrepresented Employees*; that the pay scale of unrepresented employees be increased by 1.3% retroactive to April 1, 1990 and a further increase of 5.4% effective April 1, 1991.

2. *Newspaper and Periodical Subscriptions*: That further to the policy on newspaper and periodical subscriptions adopted by the Senate on September 30, 1988, it be amended so that any subscriptions taken out by a Senator will be reimbursed upon receipt of the voucher.

3. *Reorganization of the Senate Debates Branch*: That the Senate Debates Branch be reorganized so as to include the implementation of the computer-assisted transcription (CAT System).

Respectfully submitted,

ROMÉO LEBLANC
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.

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO UNDERTAKE STUDY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I give notice that on Monday next, December 17, 1990, I will move:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending the 31st March, 1991, (Sessional Paper No. 342-913).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I would like to make some comments on this, and—

Senator Doody: I am only giving notice. This will not be moved until Monday. There has to be a day's notice. I am not asking for leave.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. Gildas L. Molgat: Honourable senators, I wonder if Senator Doody could advise whether or not the Leader of the Government will be returning so that we can ask him questions.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I cannot answer that question with any accuracy. I will take as notice any questions honourable senators might have in the absence of the leader. Whether the leader intends returning for Question Period or not, I am not in a position to say at this moment.

AGRICULTURE

GATT NEGOTIATIONS

Hon. Gildas L. Molgat: In that case, I should like the deputy leader to take as notice a question I have respecting the GATT discussions, and particularly the effect of those discussions on western Canadian agriculture. Possibly the deputy leader could ask for a statement in that regard.

I am sure the deputy leader is aware that this is of great consequence to our regions.

Hon. C. William Doody (Deputy Leader of the Government): I will make an inquiry on behalf of the honourable senator.

[The Hon. the Speaker.]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

INVESTMENT CANADA ACT—REQUEST FOR DETAILS OF INVESTMENT REVIEW PROPOSALS

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 47 on the Order paper—by Senator Molgat.

RESEARCH AND DEVELOPMENT BULLETIN—AWARDING OF GOVERNMENT CONTRACTS

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 63 on the Order Paper—by Senator Marshall.

WAR VETERANS ALLOWANCE—RECIPROCAL AGREEMENTS—LISTS OF COUNTRIES

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 65 on the Order Paper—by Senator Marshall.

CANADA-NEWFOUNDLAND OCEAN INDUSTRY DEVELOPMENT COOPERATION AGREEMENT—REQUEST FOR DETAILS

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 66 on the Order Paper—by Senator Marshall.

• (1510)

[*Translation*]

NORTHWEST TERRITORIES ACT

MEASURE TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Gérald-A. Beaudoin moved that Bill C-92, an Act to amend the Northwest Territories Act, be read the second time.

He said: Honourable senators, the purpose of this bill is clear. Its adoption would demonstrate that Parliament agrees to an amendment which the Legislative Assembly of the Northwest Territories adopted recenty to extend the delay provided under the Official Languages Act for the translation and bilingual printing and publishing of its territorial laws. Under this legislation, all acts which the Territories may have adopted before January 1, 1990, which are not printed and published in both French and English by December 31, 1990, would be null and void. Unable to meet this deadline, the Northwest Territories have amended their linguistic legislation by extending the deadline until April 1, 1992. In order for this amendment to take effect, however, Section 45.1 of the Northwest Territories requires the concurrence of the Canadian Parliament. Such is the principle of Bill C-92.

Since January 1, 1990, the government of the Territories have introduced and adopted both in French and English all its new legislation. Consequently, the legislative process has been bilingual for nearly a year. Moreover, under the new provisions adopted in April 1990, the Commissioner in Council may translate all legislation in one of the six native languages now recognized as official in the Territories.

The problem the government of the Territories is now faced with is not the adoption of new legislation, but rather the translation, printing and publishing of previously adopted legislation. These pieces of legislation have now reached the stage of final review, but their updating in both languages cannot be carried out as long as their printing is not completed and their implementing regulations are not revised in such a way as to make them consistent with the new numbering and other changes. Because of the extent of these technical changes, the Territories would be unable to meet the deadline of January 1, 1990. Experts in the Secretary of State Translation Bureau, who have provided assistance to the Territories, have confirmed that the problems are real and pressing. Thanks to this fifteen-months extension, the Territories will be able to make sure that their previously adopted legislation are printed and published both in French and in English in due time.

Honourable senators, I wish to emphasize that nothing in this amendment to the Northwest Territories Act nor in the Parliament's concurrence will affect the implementation as of January 1, 1991, of the provisions of the Territories Official Languages Act to serve the public both in French and in English. Members of the public will be able to communicate with the Territories government and legislative institutions and receive services in their own language, from the head office of these institutons which will have to meet a significant demand in this language or when the vocation of the office will justify that communications and services are provides in both these languages. Services to the public will also be available in the official native languages effective January 1, 1993.

Honourable senators, perhaps I may recall that the Northwest Territories passed their *Official Languages Act* in 1984 and that services in French were funded by the federal government under an agreement signed that same year with the territorial government. Furthermore, nearly $16 million went to the Northwest Territories under an agreement for the preservation and enhancement of aboriginal languages. The secretary of State and the Northwest Territories Minister of Culture and Communications recently announced that an agreement had been reached on funding for French services for the current financial year.

Federal and territorial officials are now considering the possibility of signing a multi-year agreement on funding for French and aboriginal languages. The territorial government has made a commitment to comply with its linguistic obligations under its *Official Languages Act*. The Northwest Territories Minister of Culture and Communications, who is responsible for this legislation, and the Northwest Territories Minister of Justice, who was responsible for drafting the amendment, have both given firm assurances to that effect.

Bill C-92 will support the Northwest Territories in their efforts to protect the validity of their laws, until such time as all their laws have been printed and published in French and English. This bill illustrates the on-going co-operation between Parliament and the federal government to ensure that services will be available in French and in English, on the agreed date. This bill will also pave the way for future co-operation with the territories and the provinces to encourage greater recognition for and the availability to the public of, services in French and in English, in areas where official language minorities are alive and well. Bill C-92 is a satisfactory response to the need for the territories to meet their obligations without compromising the primacy of law and without challenging the *corpus* of territorial legislation.

This is an exceptional measure, limited both in scope and duration, which allows for the constraints of translating and printing statutes, without abrogating the principle of access to laws in French and in English and the requirement that services shall be available in both languages by early next year.

Honourable senators, I ask that Bill C-92 be read a second time and I recommend its speedy passage by this House.

On motion of Senator Molgat, debate adjourned.

● (1540)

BANK ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Efstathios William Barootes moved the second reading of Bill C-90, to amend the Bank Act (extension).

He said: Honourable senators, the bill before us is here because it has been the object of a rapid approval process in the other place. Tabled on October 25, in less than a few weeks it has made its way to the Senate for our consideration. I am pleased with the parliamentary professionalism and cooperation that has been displayed thus far, and venture to express my belief that this chamber will perform in an equal or superior manner.

Bill C-90, An Act to Extend the Bank Act, is a straightforward bill that seeks extension without substantive modification of the present Bank Act. As senators know, the Bank Act expires on March 31, 1991. Bill C-90 would extend that existing act to April 1, 1992. This extension will allow the government the time to get on with the reform of financial institutions legislation, including a revised Bank Act, as was announced last September 27.

The government has spent considerable time consulting on its proposals with the financial institutions and their associations. It has integrated these views with its continuing analysis of the needs of an evolving and dynamic market, both nationally and internationally. The process has led to a firm, pragmatic policy decision that has now been put forward in Parliament.

The exercise in re-regulation represents a balancing of individual, national, international, federal-provincial, commercial and prudential concerns that will, as a package, serve the public interest well and permit our financial institutions to get on with the job.

Cooperation between federal and provincial authorities is the most responsible way to ensure the stability and growth of our national and regional financial institutions. This would reduce the possibility of regulatory and supervisory duplica-

tion. The goal of consulting is to avoid, in practical terms and to the degree possible, the multiple regulations of federal and other institutions operating in several jurisdictions. This approach could be designed to have institutions regulated as much as possible by their jurisdiction of incorporation.

The reformation of the financial institutions legislation is complex and requires extra time to complete. Therefore, honourable senators, we are asking for this extra year of extension of the Bank Act in order to bring this new legislation into readiness.

Honourable senators, this is a very routine and innocuous bill, but if it is the wish of the Senate to follow recent custom, we would be prepared to refer it to the Standing Senate Committee on Banking, Trade and Commerce.

Hon. H.A. Olson: Honourable senators, I have been involved in extensions to the Bank Act several times. As the Honourable Senator Barootes knows, there is a requirement that this bill come back before Parliament every ten years, I believe. If it is not either extended or revised at that time with a new ten-year date put on it, then of course the banks no longer have a charter or the right to operate. We certainly do not want to hold this bill up for that reason.

I have to say this, though, that we need to have a somewhat better idea of what the government has in mind for the revision of the Bank Act than we have had to date. I know that the Standing Senate Committee on Banking, Trade and Commerce has had this proposition respecting financial institutions before it for some time. I do not want to go into all of the details, because they are large and complex. But I will say this, that the Bank of Canada is not involved in this particular bill, but there is, of course, a liaison between that bank and the chartered banks.

One such connection is that the Bank of Canada sets the so-called bank rate every week. The chartered banks are then expected to adjust their interest rates accordingly. Recently they have not been doing that in quite the same way as they did in the past.

The central Bank of Canada would set the rate up by a certain amount and the banks would usually follow within a day or two. That was always done on a Thursday, but by at least the following Monday, the chartered banks would usually have followed by making a rate change either up or down in accordance with the change in the rate of the Bank of Canada.

It is interesting to note that some of the changes that took place on the way up simply were not followed by the chartered banks. The reason for that is very simple. They could not lend money to Canadians at those ridiculous rates. Senators must understand that these banks are not obliged to move their prime rates and other rates up or down along with changes to the bank rate made by the Bank of Canada. As I said, however, the tradition has been that they usually do. A number of them, particularly some institutions which might be called near banks—organizations like Canada Trust, for example—were lending money to Canadians below the prime rate. This occurred many times in 1988 and 1989, and at various other times, which was unusual. Usually prime is the lowest rate that can be obtained even by the preferred customers.

What we need to examine, therefore, is whether or not the banking institutions, the chartered banks, which are involved here, are really performing for the benefit of the Canadian people as well as they ought to. I suggest that the people from the part of Canada that I represent believe there is a very serious problem right now. They are being bled white by interest rates and debt service charges. You get to the point where you wonder whether we need some new rules in the Bank Act, or perhaps a different attitude in administering the Bank Act. It is an enormous privilege or right that is granted by statutory authority for these people to be in the banking business. Unfortunately, Alberta has had some very bad cases in which banks were chartered and the rules regarding financial administration and security of loans were unsatisfactory. When there was a drop in the economy generally, but particularly in real estate values, those banks went broke. However, I do not want to relive that history now. I understand that Senator Barootes is to be the pilot of Bill C-90, which is an extension of the bank charters for one year beyond when they would otherwise expire. I am not sure of the date, but I believe it is in March sometime.

● (1550)

I would like to have a clear understanding of the new rules, and what the new attitude will be when dealing with Canadians in the future. It is tragically sad to see people caught in debt service charges because of the way the Bank of Canada and the chartered banks have been acting in the last few years. Many people will say that they should not have borrowed so much money, and that we have to slow down the economy. The economy cannot be slowed down much more in the farming sector than to reduce the gross price of their product by 50 per cent. In fact, it is more than that.

For example, in 1975 wheat was worth between $5 and $6 a bushel at the farm gate. Depending on quality and grade, it could be as high as $6.50 a bushel. Today, the price is $3 or less. In 1975 dollars, it was between $5 and $6 and in 1990 dollars, it is down to a little more than 50 per cent of what it was then. Because of the change in the value of the Canadian dollar, the costs of production for farmers and everyone else has gone up by approximately 300 per cent in that same period.

Therefore, Senator Barootes, I hope that you will come before this chamber and be prepared to tell us in advance what you are going to do. I do not intend to oppose the extra year needed to rewrite the Bank Act. However, I would ask you to explain without using a lot of financial gobbledegook that no one but financiers understand, and to express the government's intentions in the type of language that the people in this country understand. These are the people who are being driven off their farms and out of their businesses because of debt service charges that are way beyond reason. That is what I would like you to bring before us.

A number of times in the banking committee, I have asked why matters have been handled in this fashion and I have never received a satisfactory answer from John Crow, the Governor of the Bank. The only answer he gives is that we are attempting to reduce inflation to zero. I do not claim to be a great economist, but I have been around and watched the economy for long enough to know that, if reducing inflation to zero requires the distress that we have witnessed in the farm community during the past four or five years, it ain't worth it. It is a disaster for the grain farmers in western Canada particularly, but also for farmers in other parts of Canada. For example, in Ontario and in the Maritimes, the farm sector is having a very difficult time.

Today, I was hoping that we might have an opportunity to ask the minister a few questions about what will happen now that the GAT negotiations have collapsed. That is the talk in every village and every coffee shop. In western Canada, a publicity campaign has been going on that, "We are going to fix this after the Uruguay Round is negotiated." Everything was dependent on what happened to those negotiations that collapsed in Brussels last week. Now they have no hope at all.

The Minister of Agriculture returned to Canada and said that the government would provide a few dollars, something like 1.2 billion. Is that all? There is also supposed to be a safety net for which we have never seen details. Every time they bring it up, we have another conference to talk about it some more. There is some kind of a "growing together" plan. That is not good enough any more.

The reason I am making this speech here and now is because debt service charges are the killer, make no mistake about that. There are many other farmers and small business people who are also in difficulty, as well as those who were not prudent enough in their financial affairs to have paid off their debts as far as possible prior to the collapse.

It was in 1984 and 1985 that the collapse of international prices first occurred. There was also a drought. I cannot blame senators opposite for the drought, although it seems as though every time the Tories get in, we have a drought. It happened in the 1930s when the Tories got in for five years and it took the country a long time to get over that. However, I did not come here today to try and blame that on senators opposite. I just want you to understand that every week there are dozens of people who are driven off their farms. The federal government has always assumed some responsibility to assist in that situation, and at the moment we do not know what that assistance is.

Senator Barootes will also know that the drought is not over. There were some areas that had a good crop. There is a tear-drop shaped area about 150 miles into Alberta around Empress or Medicine Hat which extends a long way into Saskatchewan where there was no crop this year for the seventh year in succession. That is unprecedented. That means that the federal government should get on with the job of finding some unprecedented solutions to that kind of problem.

Surely this government does not intend to let that whole area of Canada go to waste. It would be sad if you did not come forward with some solution. It is not something we have to have a few more meetings about. Of course we have to do it intelligently, but why, in the name of common sense, do we have to wait month after month for an announcement to be made?

I do not want to be partisan because this matter is so important, but when there was a problem in 1985 and 1986 the government took some of the programs that were already on the books and, I admit, added some money to them. However, as soon as that money was exhausted, we did not hear any more about it. Now we no longer hear a thing about the Western Grain Stabilization Fund. The Crop Insurance program has been changed so that it is prohibitive for farmers to participate.

It is unfortunate what this government are doing, but you can change. If you do not know what is going on and do not have people here who have the guts to stand up and describe the hardships that are going on out there, then surely you should go and find out. This is the plea I am making today. I hope Senator Barootes will understand that we will be spending a lot of time on this issue until a solution is arrived at, because what appears to be the government's response to this disaster that is taking place, both in international grain markets and because of the drought, is completely inadequate to deal with the situation.

The government has said that something like $39 billion goes every year for interest charges, and that is correct. The phoney bookkeeping the government started to do in relation to separating the debt service charges from program spending is not acceptable to anyone. In any event, the government can make all the excuses it likes. The people are still suffering and they expect the federal government to participate actively and soon in some relief measures that will give those people some relief.

This sort of situation has happened before. It happened in 1935, and the people kicked the government out and elected a new one which did not solve everything overnight, but at least it tried. In my province a new Social Credit government was elected, which was such a good government that it lasted for 36 years. One of the first things that they did was to declare a moratorium on debt against a farmer's home, so that banks no longer could come along and run people off their land. I hope you do that now. Some of that legislation is still on the books of the provinces, but the federal government is not providing the leadership that is necessary.

● (1600)

Honourable senators, I have been around a bit. I was Minister of Agriculture for a few years and I was Minister of Economic Development when a lot of other things occurred. As a minister, there are some things that you cannot do, but you have to get into a thinking mode where you are more concerned about the poor and the small people who are hurting and not so concerned about what is occurring within the banks and on Bay Street. I am sure that Senator Barootes will do

that. I do not know him that well, but I know him as a senator in this place. I know that he has some sympathy. All I am doing today is giving some background on what we need to do if we are to perform our responsibilities as the representatives of the Canadian people in this chamber.

We will have to continue this discussion at another time. Therefore, I should now like to adjourn the debate.

On motion of Senator Olson, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will shortly be asking for all remaining orders to stand, if no one has any objections to that. But before I do that, I would like to discuss briefly the coming business in the Senate for the next several weeks.

As honourable senators nostalgically remember, we used to have a substantial break at Christmas time. We would like to see that happen again this year, particularly concerning the workload that all of us on both sides have experienced over the past few months. But there is quite a backlog of legislation that we should like to deal with before we finalize our sitting before Christmas.

First, I would like to propose that the Supplementary Estimates B, which I gave notice of motion on today, be referred to the Standing Senate Committee on National Finance so that they could report it back some time next week. That will enable the Senate to dispose of Bill C-94, the appropriations bill, before the end of the week. That is the supplementary supply bill, and I am told that it will be needed before the middle of January. That is the absolutely outside date, as they would like to have it before Christmas. I suppose that we would, too, because if the bill were passed before Christmas, we would not have to come back early in January to deal with it.

In addition, the House of Commons has recently sent us a number of bills, on some of which we started second reading today; others we started second reading on Tuesday. There are quite a few bills that await second reading and reference to committee. It would be my hope that we could have these bills referred to the various Senate committees by the end of next week.

To ensure that committees have sufficient time to consider these bills, I propose that when the Senate rises, that it not sit again until Monday, January 21, 1991. That would allow the committees time to work on some of these bills before the entire chamber returns.

The proviso under which these arrangements of a return date of January 21 would be made would be that the legislation that was before these committees be reported back to the Senate on or around January 21, 1991. I hope that the Senate will then give second reading to the bills that are now before it, and that we will then be able to dispose of all stages of three bills before we rise on Friday, December 21. That would involve Bills C-92, C-94 and C-90, namely, the Northwest Territories language translation bill that was introduced here today; the bank extension bill, which was introduced here today; and the appropriations bill which will be introduced on Tuesday.

If these arrangements, or something reasonably close to these arrangements, are acceptable to the Senate—I almost said "worked out"; that sounds like I am dealing and I am not allowed to deal—then the Senate will not have to return earlier. However, if the Senate cannot set some sort of arrangement as I have just described, we will have to return on January 3 to deal with the unfinished business. I am not asking for any decision of the Senate now. I am simply putting that before senators as a proposition for them to consider.

Having said that, I ask that all remaining orders, inquiries and motions stand.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, this is quite a legislative mouthful.

Senator Doody: Yes.

Senator MacEachen: We would have to examine a number of these items before we could reach any conclusions. The Leader of the Government should be forewarned that it will be difficult for us to give any commitment to pass the supply bill in all its stages by the end of next week. That, on the surface, appears to be impossible. But we will take another look at it.

Senator Doody: Thank you. Honourable senators, I ask that all remaining orders, inquiries and motions stand.

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

Hon. Senators: Agreed.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): I move that the Senate do now adjourn.

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

Hon. Senators: Agreed.

The Senate adjourned until Monday, December 17, 1990, at 2 p.m.

THE SENATE

Monday, December 17, 1990

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
THE SECRETARY TO THE GOVERNOR GENERAL

17 December 1990

Mr. Speaker,

I have the honour to inform you that the Honourable John Sopinka, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 17th day of December, 1990, at 3:30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
1 Sussex Drive
Ottawa, Canada K1A 0A1

CANADIAN RACE RELATIONS FOUNDATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-63 to establish the Canadian Race Relations Foundation.

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 Wednesday, December 19, 1990.

[*Translation*]

CANADIAN POLAR COMMISSION ACT

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-72, an Act to establish the Canadian Polar Commission.

Bill read the 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 Wednesday, December 19, 1990.

[*English*]

YUKON PLACER MINING ACT
YUKON QUARTZ MINING ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-68, to amend the Yukon Placer Mining Act and the Yukon Quartz Mining Act and to make provision for the application of certain orders.

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 Wednesday, December 19, 1990.

[*Translation*]

AN ACT TO PROVIDE FOR APPOINTMENT OF A PORT WARDEN FOR THE HARBOUR OF QUEBEC

AN ACT TO AMEND AND CONSOLIDATE THE ACTS RELATING TO THE OFFICE OF PORT WARDEN FOR THE HARBOUR OF MONTREAL—MEASURE 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-82, an Act to amend an Act to provide for the appointment of a port warden for the Harbour of Quebec, and an Act to amend and consolidate the Acts relating to the Office of Port Warden for the Harbour of Montreal and to validate certain fees and charges established pursuant thereto.

Bill read the 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 Wednesday, December 19, 1990.

[*English*]

PRIVILEGE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before Presentation of Petitions, I want to make a short statement on a matter of privilege. I understand that the Leader of the Government in the Senate has a very low opinion of my competence in constitutional law.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I was not expressing a personal opinion at all, definitely not.

Senator Frith: It was not a personal opinion, then, to call me an ignoramus; it was an impersonal opinion. Be that as it may, I prefer not to deal with it at all, but I do not want to leave the record that way. He is certainly entitled to his opinion.

I studied constitutional law with the late Bora Laskin. I am glad to say that neither in my marks nor in any of my discussions with him did he ever call me an ignoramus on the subject. I discussed constitutional law with him over the years and he never made any such suggestion. I argued cases before him in the Supreme Court of Canada and he never questioned my competence on the subject of constitutional law.

I just wanted to put that on the record and say that I am very grateful that, if I have to choose the person who thinks I am an ignoramus on matters of constitutional law, it is not Professor and eventually Chief Justice of Canada, Bora Laskin, but rather it is someone who, I suppose, thinks he is a competing authority on constitutional law, the Leader of the Government in the Senate.

Senator Stanbury: An authority on everything! A tin pot dictator!

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS RELATING TO BILL C-62

Hon. Jacques Hébert: Honourable senators, I have the honour to present a number of petitions relating to Bill C-62, which is not yet a law!

I will present them as a whole. There are 38,355 altogether. I have here, for instance, 322 petitions from Saskatchewan. Allow me to read only the note at the top of the petition:

[*English*]

> The undersigned, your petitioners, humbly pray and call upon the Senate to prevail on the Government of Canada to stop the introduction of the proposed goods and services tax.

[*Translation*]

As I was saying, there are 322 from Saskatchewan and another 9,042 from Alberta.

Hon. Eymard G. Corbin: They all say the same thing?

[The Hon. the Speaker.]

Senator Hébert: The same thing, yes.

I have another 3,608 petitions from Montreal. I have 3,192 from Ontario, and here are 51 more from Saskatchewan. Then, I have 44 from Nova Scotia, 45 from British Columbia and 50 from Newfoundland.

I also have 1,980 from Val d'Or, in the province of Quebec, 315 from Ottawa and 7,348 from Toronto.

Here are 10,076 more petitions from Quebec; 50 from the High North, in particular; 50 from Manitoba and 1,232 from New Brunswick.

● (1410)

Hon. Joyce Fairbairn: Honourable senators, I have petitions I should like to table today respecting the goods and services tax. These petitions come from the University of Lethbridge. That university has consistently produced many petitions over the past few months.

The petitions are from students, staff and others at that university. These people come from Lethbridge, Taber, Magrath, High Prairie, Red Deer, Stettler, Medicine Hat, Stirling, Cold Lake, Picture Butte, Calgary and Hillspring. There are approximately 204 petitions.

THE SENATE

CANCELLATION OF INTERVIEW—QUESTION OF PRIVILEGE

Hon. Finlay MacDonald: Honourable senators, I, too, rise on a matter of personal privilege.

It was reported on CBC's *Newsworld*—which report, incidentally, I did not see—that it had been arranged that Senator Frith and I would discuss the future of the Senate and how it would operate considering the temper and the acrimony which had arisen during the debate on Bill C-62, on a television program that was to be broadcast last Friday.

After that performance, and prior to the alleged Royal Assent last week, I said to Senator Frith, in the presence of Senator MacEachen and, I believe, Senator Olson, that I wanted to be, and I quote, "spared the ignominy of participating in any forum with him."

It has come to my attention that, in some way, someone had related my objection to appearing on that program as having something to do with an abuse of the Queen. I made no such remark in this chamber or outside of this chamber to anyone. I want to make that clear. My remarks to Senator Frith were as I have expressed them today.

It is too bad that a program on which we were to have discussed not recrimination, but the future of the Senate and how we would relate to one another, how the committees would operate, how the business of the house would be conducted, was terminated for the reasons I have just given.

Hon. Royce Frith (Deputy Leader of the Opposition): It was not terminated; you just did not appear.

Senator MacDonald: "Termination" referred to the interview.

Senator Frith: And the planned subject was discussed on the program.

ENERGY AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXAMINE AND REPORT UPON SYNFUELS PROJECT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I give notice that on Tuesday next, December 18, 1990, I will move, pursuant to Rules 45(1)(*e*) and 67(1)(*o*):

> That the Standing Senate Committee on Energy and Natural Resources be empowered to examine and report upon the Synfuels Project.

NATIONAL FINANCE

LEAVE DENIED FOR MOTION TO MOVE ORDER TO TOP OF ORDERS OF THE DAY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on Friday last I gave notice of a motion to refer to the Standing Senate Committee on National Finance the Supplementary Estimates (B). That resulted in the motion appearing as the last item on the Order Paper. In order for the committee to have possession of these estimates, I would ask the permission of the Senate to move that motion to the top of the Orders of the Day so we may make the necessary reference.

Tomorrow, I will be introducing the Appropriations Bill covering the Supplementary Estimates (B), having given notice of such on Friday. It has been customary in this place that the Standing Senate Committee on National Finance examine the Estimates and report prior to the supply bill being passed here in this chamber. In order to follow that established procedure, I ask leave to have the motion moved to the top of the Orders of the Day.

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

Some Hon. Senators: Yes.

Hon. Royce Frith (Deputy Leader of the Opposition): No!

The Hon. the Speaker: Leave is not granted?

Senator Frith: It is not granted.

QUESTION PERIOD

NATIONAL FINANCE

COLLECTION OF TAX ON ALCOHOL AT MANITOBA-U.S. BORDER—GOVERNMENT POSITION

Hon. Gildas L. Molgat: Honourable senators, I would like to address a question to the Leader of the Government in the Senate. It refers to a situation that has arisen in Manitoba. Many people have been purchasing alcoholic beverages across the border because of the substantial difference in price. Many Manitobans who have been crossing the border have been prepared to pay the duty, allowing them to bring the alcoholic beverages into Manitoba, because the price still ends up being much lower.

Because of this situation, the Manitoba government had planned to increase the provincial tax on imported alcohols for all amounts over 9 litres, and it intended to impose that tax a week ago Sunday. However, it has run into difficulties with the federal finance department. The news report I have states that the finance department officials informed the provincial treasurer of Manitoba, Mr. Manness, that Canada Customs would not be collecting the tax. My understanding is that the reason they will not be collecting the tax is that Manitoba has refused to make an agreement with the federal government on the matter of the GST.

● (1420)

How can the federal government tie in the fact that Manitoba has not agreed on GST questions with the desire of Manitoba to impose this extra tax because of a particular problem it has with regard to this import?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this is the first I have heard of this matter. Perhaps the honourable senator will grant me some time to look into it and report back.

Senator Molgat: I will be happy to make a copy of the news report. It contains some other items that relate to the question. Apparently, part of the problem is that Manitoba insists upon visibility as far as the GST is concerned, while the federal government is apparently refusing to agree with Manitoba because it does not want the GST to be visible. This is the inference in the statement.

Senator Murray: Honourable senators, one of the points we have put forward as an advantage of the GST is that it is a visible tax to be collected at the retail level from consumers. There must be something very much amiss in the report, some misunderstanding somewhere. In any case, I will try to get to the bottom of the matter and report back immediately.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have several delayed answers to questions, and I ask that they be printed as part of today's proceedings.

UNEMPLOYMENT INSURANCE

PRESENT DEFICIT

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 November 7,

1990, by the Honourable Gildas L. Molgat regarding Unemployment Insurance—Present Deficit.

(*The answer follows:*)

When the Labour Force Development Strategy was announced in April 1989, the Minister of Employment and Immigration forecast that at the end of 1982 the cumulative deficit in the UI Account would be $3 billion.

Current projections indicate that the cumulative deficit in the UI Account could exceed $4 billion by the end of 1992.

This deficit will be funded by the Consolidated Revenue Fund as stated by the Minister of Finance in The Budget Speech of April 27, 1989:

"The Government will continue as it did in the early 1980s to finance any deficits in the unemployment insurance account in difficult times when it may not be appropriate to allow premiums to rise."

EXTERNAL RELATIONS

RECOGNITION OF TIBETAN GOVERNMENT IN EXILE—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question raised in the Senate on November 8, 1990, by the Honourable Jerahmiel S. Grafstein, regarding External Relations—Recognition of Tibetan Government in Exile—Government Policy.

(*The answer follows:*)

Does Canada recognize Chinese sovereignty over Tibet?

In 1970, when Canada established diplomatic relations with the People's Republic of China, we recognized the Government of the PRC as the sole legitimate Government of China. Although Canada takes no position with regard to specific Chinese territorial claims, neither does it challenge them. In effect, it considers Tibet to be a part of China, bearing in mind China's current and long-standing control of the region.

Why does Canada not recognize the Tibetan "Government-in-Exile"?

Canada recognized the Government of the PRC as the sole legitimate Government of China in 1970, and does not challenge its position that Tibet is part of China. Moreover, Canada now recognizes only states, not Governments, and does not recognize a state of Tibet.

FISHERIES

LABOUR STANDARDS—GOVERNMENT POSITION

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 November 13, 1990, by the Honourable Jean-Maurice Simard regarding Fisheries—Labour Standards—Government Position.

[Senator Doody.]

(*The answer follows:*)

The inquiry by Senator Jean-Maurice Simard raises two issues:

First, for individuals not yet in receipt of UI benefits, the fact that working less than a full week may reduce their benefit rate once they make a UI claim; and,

Second, for individuals in receipt of UI benefits, the fact that their benefits are reduced due to earnings during their claim.

One proposal which would address the first issue is the use of a claimant's best insured weeks to establish their benefit rate, rather than their last 20 weeks, as is done currently. This proposal has been seriously considered and evaluated by the Government. Ultimately it was rejected on several grounds, among them its effect on UI program costs. It has been estimated that this proposal, if implemented across Canada, could cost more than $500 million annually.

Also, it is interesting to note that such a provision has been in effect for self-employed fishermen since 1983. Experience to date shows that it has had little, if any, positive impact on the work behaviour of self-employed fishermen in Atlantic Canada.

With regard to the second issue, that of individuals who work while on claim, there is a provision in the current program which encourages claimants to earn up to 25% of their weekly benefit rate without penalty. For example, a claimant with a benefit rate of $280 per week could earn up to $70 during the week with no adverse effect on his benefits. Earnings above this amount are deducted dollar for dollar. This provision is intended to give claimants the incentive to work while on claim to allow them to maintain their skills and contacts in the labour market.

The earnings limit has been set at 25% to balance the twin program objectives of adequacy of benefits and providing an incentive to work within the UI program. Setting the limit too high would, for many claimants make the combination of UI benefits and part-time work earnings preferable to full-time work. That would be clearly at odds with the fundamental purpose of Unemployment Insurance.

Finally, it is also important to remember that UI claimants must be available and looking for work while on claim. If a greater amount of work were allowed, it might seriously impede a claimant's job search.

EMPLOYMENT AND IMMIGRATION

BACKLOG OF REFUGEES—POSSIBILITY OF AMNESTY—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 14, 1990, by the Honourable Peter Bosa regarding Employment and Immigration—Backlog of Refugees—Possibility of Amnesty—Government Position.

(*The answer follows:*)

In 1987, this Government responded to wide-scale abuse of Canada's previous refugee determination system with Bill C-55, An Act to Amend the Immigration Act.

Unfortunately, Liberal Senators opposite chose to obstruct the passage of Bill C-55, and from May to December, 1988, while they delayed implementation of Bill C-55, the backlog of refugee claims almost doubled, thereby compounding the costs, both human and financial, and the time required to deal with the backlog.

When the Backlog Clearance Program was announced on December 28, 1988, there were some 85,000 unresolved refugee claims. It was made clear that all claimants would be treated fairly, humanely, and on the basis of the merits of their individual claims to Convention refugee status. The backlog clearance process examines the merits of each claim. Humanitarian and compassionate factors which may be involved in an individual case are also examined. Persons whose claims are determined to have a credible basis may apply for permanent residence.

The option of an amnesty was rejected at the outset of the program, and it still is; the House of Commons' Standing Committee on Labour, Employment and Immigration supported this decision. An amnesty would be unfair to potential immigrants, and their relatives in Canada, who have followed the lawful process for immigration.

To streamline processing of backlog claimants, paper screening of claims has been introduced. This process screens documentation submitted by the claimant for both credible basis and for humanitarian and compassionate (H & C) grounds; this could eliminate 20,000 panel hearings and H & C interviews. This was one of the initiatives suggested by the House of Commons Standing Committee on Labour, Employment and Immigration in its report on the Backlog Clearance Program.

The Minister of Employment and Immigration is sympathetic to the families of refugee claimants in the backlog who are separated from one another. In order to reduce waiting times as much as possible, she has established procedures to expedite the processing of dependants of backlog claimants as soon as the claimant receives a positive decision. She has also seen to it that special procedures are in place to bring to Canada, on an urgent basis, dependants of backlog claimants who are outside of Canada and who are facing life-threatening situations or who are abused or abandoned children.

Backlog claimants have had permission to work since January 12, 1989, and they may also attend school. Claimants who know that their claims are unfounded may choose to leave voluntarily with letters of introduction to visa officials abroad; their Canadian experience will be favourably considered during a guaranteed interview with a visa officer.

The estimated total of cases in Quebec is 25,537. As of October 26, 1990, 12,771 of these cases (over 59%) had been opened, 7,603 of which had also been decided. As of October 26, 1990, 6,940 cases were provisionally approved for landing, while 663 had been rejected, had opted for voluntary departure or had disappeared. Nationally, 54% the total 85,000 cases had been opened and 31% decided.

CANADIAN BROADCASTING CORPORATION

CREATION OF NEWS THROUGH POLLING—GOVERNMENT POSITION

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 November 14, 1990, by the Honourable Keith Davey and the Honourable Lowell Murray regarding CBC—Creation of News Through Polling—Conflict of Interest.

(*The answer follows:*)

1. The poll created news. Should a Government Agency, the CBC in particular, be in the business of creating news?

—Opinion polls do not create news. They report the results of interviews with various people on matters of public interest. Interviews have always been a standard form of news reporting - polling attempts to choose those interviewed to represent the general population.

2. Is it the Globe and Mail or the CBC that has a conflict of interest in this matter?

—Neither. Polling is now a standard tool for most journalistic organizations. For example, the Toronto Star and CTV have participated in joint polls; CBS and the New York Times regularly do polls together. CBC's practices in this respect are no different from other journalistic organizations.

3. Who represented CBC in determining the questions of the poll? Who represented CBC in the actual presentation of the poll? Who represented CBC in analyzing results of the poll?

Senior journalists from CBC's News Service participated with Globe journalists and an Advisory Board of distinguished academics (including Dr. George Perlin of Queen's University, Dr. Richard Johnson of U.B.C. and Dr. Sylvia Bashavkin of the University of Toronto) in determining the poll questions and analyzing the answers. The poll was checked and approved by CBC's Research Department.

4. In view of assurances we have that CBC is a cash-starved agency, how much money did CBC spend and/or contribute for this poll?

—The costs involved are part of the overall costs of programming produced to present the poll results. It has not been customary for Parliament to require the Corporation to provide details of its internal management and

administration such as the costs involved in individual program projects. The background to this custom was explained in detail in the reply to Senator Norrie's oral question of December 16, 1978, which states:

Parliament has not, as a matter of custom since the Corporation's creation in 1936, required CBC to supply, in answering Parliamentary questions, certain details of its internal management and administration. Parliament has had two reasons for following this custom: first, the independence of the CBC as a Crown Corporation, established for the purpose of producing and broadcasting, independently of political or commercial interference, programs for a national program service; and secondly, the competitive nature of many of CBC's activities. The appropriateness of the CBC providing certain categories of information has been considered on many occasions by various Parliamentary Committees and when the CBC has suggested that such information should not be made a matter of public record, its views have been accepted by them. The names of employees and their functions in relation to specific programs, their salaries or expenses, the costs of individual programs, or business arrangements are examples of details which it has not been customary to require the CBC to supply. It is open to Parliament and its appropriate Committees to discuss the policies in and the CBC have followed in this regard.

VANIER CUP

UNIVERSITY FOOTBALL CHAMPIONSHIP—TWENTY-SIXTH ANNUAL COLLEGE BOWL—RADIO COVERAGE BY CBC—GOVERNMENT POLICY

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 November 14, 1990, by the Honourable Keith Davey regarding Vanier Cup—University Football Championship—twenty-Sixth Annual College Bowl—Radio Coverage by CBC—Government Policy.

(*The answer follows:*)

1. Why did CBc radio not broadcast the November 24, 1990 Vanier Cup Match?

For some years, CBC Radio carried live coverage of the Vanier Cup. A number of reasons compelled CBC Radio to change that practice this year.

First, CBC Radio no longer carries live play-by-play coverage of sporting events on a regular basis. Television has assumed this function and, because television is a visual medium, performs it more satisfactorily. As a general rule now, CBC Radio only covers, on an exceptional basis, sporting events which are not being televised.

Second, this year's Vanier Cup match was broadcast live on TSN, the cable sports channel which is part of the basic cable service. Over 70% of Canadians now have cable in their homes; a substantial percentage of those without cable have access to it nearby; many other Canadians in remote areas receive TSN through their personal or community satellite dish receivers. The audience, therefore, for a radio broadcast would be minimal.

Third, CBC Radio's usual audience for its regularly scheduled programming at that time—programming that would be disrupted for three to four hours by game coverage—is considerably larger than the most generous estimates of the likely radio audience for the football game.

Fourth, although there would be no charge to CBC for broadcast rights to the game, there would be substantial costs to the Corporation for the necessary overtime and transmission charges.

Given these factors, CBC's officers judged that it was not possible to justify disrupting the regular schedule and listeners, and undertaking the required additional expenses, for the comparatively small number of those interested in having the game on radio.

As Senator Davey noted in his remarks in the Senate, Standard Broadcasting of Toronto assembled a temporary network of private radio stations in various Canadian communities which broadcast this year's Vanier Cup match.

EXTERNAL RELATIONS

CANADIAN COMMITMENTS—PURSUANCE OF SANCTIONS—FREEZING OF IRAQI ASSETS IN CANADA—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 14, 1990, by the Honourable Jerahmiel S. Grafstein regarding External Relations—Canadian Commitments—Pursuance of Sanctions—Freezing of Iraqi Assets in Canada—Government Position.

(*The answer follows:*)

Through the United Nations Iraq Regulations, the Government prohibited all payments to persons in Iraq or Kuwait. Also, the assets of the Government of Iraq and Kuwait, of their agencies and bodies controlled by Iraq or Kuwait were frozen.

The Regulations provide for the issuance of certificates by the SSEA to provide relief from the Regulations in instances in which it is determined that transactions were not intended to be prohibited by Security Council resolution 661 or that they were for the purpose of assisting the legitimate Government of Kuwait. A number of certificates have been issued permitting the completion of certain transactions. Furthermore, three general certificates have been issued permitting the completion of certain categories of financial transactions.

In order to assist financial institutions in Canada in determining which entities are controlled by Iraq or Kuwait (the assets of which entities are frozen) a Statement of Guidance has been issued providing a list of

entities controlled by Iraq or Kuwait and a list of entities *not* controlled by Iraq or Kuwait. In addition, certain commercial enterprises controlled by the Government of Kuwait have been permitted, through company-specific certificates, to conduct business or to make investments.

AGRICULTURE

ADVANCED GRAIN PAYMENTS—NUMBER OF APPLICATIONS

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 November 15, 1990, by the Honourable E. W. Barootes regarding Agriculture—Advanced Grain Payments—Number of Applications.

(*The answer follows:*)

As of November 30, 1990 approximately $1.2 billion had been advanced to 52,744 grain producers under the Prairie Grain Advance Payments Act. This is the most money ever advanced under this program and the largest number of participants since the late 1960s. Under the Advance Payments for Crops Act $58 million had been advanced to all crops, the number of producers involved is not yet known. Under both programs the Federal Government is paying the interest on the first $50,000 of advances for each producer by virtue of the Cash Flow Enhancement Program.

GOODS AND SERVICES TAX

COST OF ADVERTISING—GOVERNMENT POSITION

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 November 15, 1990, by the Honourable Azellus Denis regarding GST—Cost of Advertising— Government Position.

(*The answer follows:*)

Honourable senators, the reform of the Canadian sales tax system is a major fiscal initiative. It requires the cooperation and participation of the business community and the Canadian public. To ensure a smooth transition from the outmoded and damaging FST to the modern and efficient GST, the Government must actively inform businesses about how the GST will operate. Moreover, the Government has an obligation and a responsibility to explain to Canadians the need for sales tax reform as well as its impact on the Canadian economy and their everyday lives.

The importance of public understanding is a key lesson learned from other countries where similar tax systems have been introduced. Where business people and consumers have been well informed, implementation has gone smoothly.

Therefore, Honourable Senators, our advertising has been aimed at the business community to ensure that they will be ready to collect the tax on January 1, 1991, and at consumers to ensure that they understand the tax.

The results of this advertising are clearly visible: more than 400,000 people have called the Department of Finance's toll-free information line over the past year and the toll-free information line of the GST consumer information office is currently receiving up to 10,000 calls from consumers each day. In response to this public demand and to fulfil its responsibilities, the Government has also distributed over 8.5 million copies of numerous publications, including 2 million small business booklets, 4.5 million information brochures for small business and 1.8 million information brochures for the general public.

Honourable senators, the Government's advertising is effective.

Furthermore, honourable senators, I reject the Honourable Member's assertion that by not advertising the Canadian public might better understand the GST.

Making Canadians aware of the availability of information is the best way of informing them about the GST. This information, which Canadians want and need, must be easily accessible.

That is why we invested this money in our information programs on the GST.

GENERAL AGREEMENT ON TARIFFS AND TRADE

COMPARATIVE AGGREGATE MEASURES OF SUPPORT—URUGUAY ROUND—PROGRESS OF DISCUSSIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 15, 1990 and November 27, 1990, by the Honourable H.A. Olson regarding General Agreement on Tariffs and Trade—Comparative Aggregate Measures of Support; and General Agreement on Tariffs and Trade—Uruguay Round—Progress of Discussions.

(*The answer follows:*)

The Uruguay Round of Multilateral Trade Negotiations, which have been a central element of Canadian trade policy over the past four years, continues to be stalled over the issue of agricultural subsidies, with the European Community as yet unwilling to demonstrate the flexibility necessary to meet the most basic negotiating objectives of the United States and the Cairns Group of agricultural exporting nations, which includes Canada. All other areas of the Uruguay Round negotiations would likely be affected by a failure to achieve at least some meaningful progress in agriculture.

Successful resolution of the impasse in agriculture is extremely important to Canadian grain exporters. By addressing the issues of improved access for agricultural products, better disciplines over internal support and, above all, the elimination of export subsidies, we will help to remove distortions which have seriously depressed demand for Canadian grains.

We are striving for a fair and balanced result which will ensure that subsidy disciplines have an equal impact on all signators to an agreement, regardless of the mechanism by which subsidies might be administered. Canada will not agree to disciplines which might unfairly penalize Canadian exporters in relation to exporters from other countries. This is true of transportation subsidies as it is of other forms of government support.

GOODS AND SERVICES TAX

POSSIBLE DELAY IN IMPLEMENTATION—REQUEST FOR DETAILS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 20, 1990, by the Honourable Sidney L. Buckwold regarding GST—Possible Delay in Implementation—Request for Details.

(*The answer follows:*)

Minister John Hockin was quoted accurately, albeit in the case of some media reports, not completely.

What was incorrect in this story was the interpretation of Mr. Hockin's remarks by the young reporter in question.

Mr. Hockin did not say that the GST would be delayed as was reported, but rather he said, "it's hard to tell whether we might have to slip a few months . . . but I'm confident that we'll have the GST in place January One."

ENERGY MINES AND RESOURCES

ENERGY CONSERVATION—DISTRIBUTION OF BROCHURES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 20, 1990, by the Honourable Emyard G. Corbin regarding Energy, Mines and Resources—Energy Conservation— Distribution of Brochures.

(*The answer follows:*)

The package of energy efficiency-related public information to which my colleague refers were sent to all MPs and Senators in response to a request for samples of these publications made during a briefing given by Minister Epp to the Conservative and Liberal caucuses. That presentation described the existing situation in the Persian Gulf, its effects on the Canadian oil industry and product prices, and the voluntary demand restraint responses being undertaken by the Department of Energy, Mines and Resources.

All Canadians are affected by the crisis in the Gulf. Should war break out, Canadians will be asked to share the responsibility for increased demand restraint and energy conservation. Canadians are very concerned about the rising cost of oil-based products and genuinely interested in cutting their demand for these products and in saving money on energy use.

[Senator Doody.]

Senator Corbin has expressed concern over the cost of producing the materials we all recently received and questioned why recycled paper was not used more extensively. I would like to more specifically address those questions.

The Honourable Senator is correct. The letter which accompanied the package of literature on energy conservation was printed on ministerial letterhead. This letterhead is not recycled stock. It is, however, one and the same stock that he and all other members of the Senate and the House of Commons use for official correspondence.

As for why four bags of information (2 English, 2 French) were sent, that was so that one package in each official language could be used by staff members on the Hill while, in the case of Members of the House of Commons, the other packages could be used by their constituency office to respond to questions from the public.

As the Honourable Senator has suggested, the brochure "Your Fall Home Green Up" is printed on only one side to facilitate its use by local community newspapers in putting together an energy supplement. In fact, if it were not printed this way publishers couldn't use the material. This is a popular publication which has been produced by Energy, Mines and Resources since the early '80s. This is also explained in detail in the letter signed by Minister Epp which accompanied the information package.

As for the other publications, it should be noted that many were produced several years ago—in a couple of cases as far back as the early '70s. As required and appropriate, wherever possible using recycled paper and the most cost-effective printing available, they have been updated and reprinted to respond to continuing requests from the general public.

In general, it is more expensive (between 5 and 10 per cent) to use recycled paper in printing brochures such as these than to use regular paper. And that is only for regular recycled paper. Higher quality grades of recycled paper are even more expensive and are, at times, difficult to obtain in Canada. The plastic bags used in the distribution of the information packages are reusable.

Energy, Mines and Resources continually strives to design and produce its publications in the most cost-effective manner possible. Wherever and whenever possible and appropriate, the Department uses recycled paper in the final production of its publications.

GOODS AND SERVICES TAX

TIMETABLE FOR PREPARATION OF REGULATIONS

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 November 6, 1990 by the Honourable Lowell Murray and November 20,

1990 by the Honourable H.A. Olson regarding Timetable for Preparation of Regulations.

(*The answer follows:*)

First, with regard to your inquiry about the release of Regulations relating to Bill C-62, I am pleased to tell you that virtually all of these regulations were released publicly by the first of November.

This includes regulations on : FST inventory rebates, Financial services, non-taxable importations, the new housing rebate, joint ventures, rebates to charities and NPO's, and streamlined accounting, to name just a few.

In most cases, these regulations further outline details of policies which were already enunciated.

As a result, businesses have had adequate time to review the regulations and prepare for implementation of the GST on January 1, 1991.

Second, with regard to your comments on the treatment of auctioneers under the GST, I will tell you that Bill C-62 offers auctioneers flexibility in how to apply the GST, recognizing that arrangements and circumstances vary from one auctioneer to another.

Essentially, the GST will apply to auctioneers in either of the following ways:

In some cases, auctioneers will be treated as agents acting on behalf of a principal—in these circumstances, they would simply charge GST on the commission that they charge the vendor.

In other cases, auctioneers can structure their affairs so that they are treated as buying and reselling the goods—in these circumstances, the auctioneer will charge tax to the purchaser, and receive an input tax credit on the net proceeds paid to the original vendor.

It is important to note that the net effect of the GST is identical regardless of which method the auctioneer chooses to use—in both cases, only the auctioneer's commission or margin is taxed. This flexibility allows auctioneers to use the method that is easiest for them, based on how they structure their arrangements with vendors.

In recent weeks, officials from the Department of Finance have been in touch with the Alberta Auctioneers Association and are working with them to prepare material to communicate the operation of the GST for auctioneers under all circumstances.

In addition, a Senior Finance Official will be going to the Canadian Auctioneers Association National meeting on December 13 in Montreal to listen to their concerns and to advise them on the details of how the GST operates for auctioneers.

And, Revenue Canada officials have also scheduled additional meetings to work with auctioneers on a one-on-one basis to ensure they understand how the tax will apply to them.

GOODS AND SERVICES TAX

COST OF GOVERNMENT ADVERTISING CAMPAIGN

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 November 20, 1990 by the Honourable Thomas H. Lefebvre regarding Goods and Services Tax—Cost of Government Advertising Campaign.

(*The answer follows:*)

Honourable Senators, I would like to respond to Senator Lefebvre's questions regarding certain costs associated with preparing and planning for the GST.

The costs in question have been incurred by two Government Departments—the Department of Finance and the Department of National Revenue—as well as the Independent Government Agency, the Consumer Information office.

As I stated in the response to Senator Denis's earlier question regarding the cost of advertising in relation to the GST, the Department of Finance has spent or committed $18 million to date on advertising and related communications activities.

Of that $18 million, a total of $10 million was spent on the production of advertisements and the purchase of print advertising space and air time on radio and television. The remainder was spent on the production and distribution of publications and public opinion research.

Senator Lefebvre also inquired about the cost of hiring persons to answer telephones as a result of GST advertising. The Department of Finance established a toll-free information line on August 8, 1989 to provide Canadians with a direct and quick method of acquiring accurate information about the goods and services tax. Over 400,000 Canadians have used this service.

For the period of August 8, 1989 to October 31, 1990, the Department spent approximately $1 million to hire persons to answer calls on its toll-free information line and to respond to correspondence.

The Department of Finance has not committed any further funds for advertising.

The budget of the GST Consumer Information office for the fiscal year ending March 31, 1991 is $19.5 million. Of that, $7.4 million is budgeted for advertising; $6.1 million is budgeted for the production and distribution of publications; and, $2.5 million is budgeted for the staffing of phone lines.

Revenue Canada has also expended funds on planning and preparing for the GST.

As stated in the response to Senator Denis, Customs and Excise has an advertising budget for the fiscal year 1990/91 of $8.9 million of which they have spent $4.1 million. As well, in the fiscal year 1989/90, Customs and Excise spent $300,000 on advertising.

Revenue Canada operates toll-free information lines as part of an enquiries program designed to provide technical assistance to help business prepare for the GST. Monies spent on salaries and wages associated with the program total $5.6 million as of October 31, 1990. This includes all persons involved in the operation of the enquiries program, including those answering the phones.

Revenue Canada taxation will be responsible for administering the GST credit. They have had the responsibility of informing Canadians about this essential part of the GST.

To that end, Taxation has spent, as of September 30, 1990, $2.8 million on advertising. No funds have been committed for future advertising campaigns.

Taxation also operates toll-free information lines as a part of a public enquiries program. This program was expanded to accommodate enquiries relating to the GST credit. As of September 30, 1990, a total of $2.065 million has been spent on hiring staff for the division of the enquiries program that relates to the GST. This includes all staff and not just those answering the telephones.

In response to Senator Lefebvre's final question, the total amount budgeted by the Federal Government for GST related advertising is $29.4 million.

INTERNATIONAL TRADE

PROPOSED INTERNATIONAL TRADE ORGANIZATION—REQUEST FOR PROGRESS REPORT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 22, 1990, by the Honourable Jack Austin regarding International Trade—Proposed International Trade Organization—Request for Progress Report.

(*The answer follows:*)

The Canadian initiative calling for the establishment of a World Trade Organization in the Uruguay Round of multilateral trade negotiations is part of an overall package, which includes meaningful agricultural trade reform, market access liberalization, improved trade rules, agreements on trade-in-services and trade-related intellectual property and stronger dispute settlement procedures. If there is a successful overall result in the substantive areas in the Round, the prospects for a WTO or similar organizational structure are good. There is an emerging consensus among countries participating in the Round on the desirability of a strengthened institutional structure for the GATT system to implement and administer all the new agreements in a coherent manner.

AGRICULTURE

GRAIN SUBSIDIES—DISCUSSIONS BETWEEN FEDERAL GOVERNMENT AND PROVINCES—REQUEST FOR INFORMATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question raised in the Senate on November 27, 1990, by the Honourable H.A. Olson regarding Agriculture—Grain Subsidies—Discussions Between Federal Government and Provinces—Request for Information.

(*The answer follows:*)

The recently announced agreement between the Federal Government and the Province of Quebec will result in a federal contribution of $15.7 million of assistance to grain producers in that province. Combined with provincial contribution payments to Quebec producers will total more than $30 million for 1990. This agreement with Quebec was negotiated within the context of the Special Income Assistance Program (SIAP) which was announced by the Minister of Agriculture on March 29, 1990. Under this program Agreements have already been reached with eight other provinces to deliver assistance to grain and oilseed producers. For Alberta the Agreement was signed on June 28, 1990. Under this Agreement the Federal Government is contributing $89.2 million of assistance and the Province of Alberta $11 million of assistance to Alberta grain and oilseed producers. For Saskatchewan the Agreement was signed on July 16, 1990. The Federal Government contributed $238.3 million and the Government of Saskatchewan $39.1 million for direct payments to grains and oilseeds producers in that province. For all of Canada the Federal Government is contributing $450 million of assistance to grain and oilseed producers.

Further, on October 13, 1990 the Minister of Agriculture announced the Cash Flow Enhancement Program (CFEP). Under this program the Federal Government is paying the interest on the first $50,000 of cash advanced against farm-held grain under the Prairie Grain Advance Payments Act (PGAPA) and the Advance Payments for Crops Act (APCA). It is anticipated that $1.4 billion will be advanced under PGAPA and APCA at a cost of $95 million to the Federal Government.

Finally, the Federal and Provincial Ministers of Agriculture agreed at their recent meeting in Winnipeg to implement for the 1991-92 crop year, a transitional form of the Guaranteed Revenue Insurance Program (GRIP) proposed by the Grain and Oilseed Safety Net Committee. They also agreed to implement for the 1990 tax year the Net Income Stabilization Account: these programs will provide major support for grain and oilseed producers. Participation in these programs will be voluntary.

THE ENVIRONMENT

OIL POLLUTION IN THE GULF OF ST. LAWRENCE—SOURCE OF POLLUTION—DEATH OF SEABIRDS ON PRINCE EDWARD ISLAND BEACHES—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is in response to a question raised in the Senate on November 27, 1990, by the Honourable Lorne M. Bonnell regarding Environment—Oil Pollution

in the Gulf of St. Lawrence—Source of Pollution—Death of Seabirds on Prince Edward Island Beaches—Government Position.

(*The answer follows:*)

The Canadian Coast Guard is currently attempting to identify the source of the oil found on the northern beaches of Prince Edward Island. Samples taken from the beaches will be analyzed and compared with oil samples taken from the 'Irving Whale' and from the oil spilled from the vessel Rio Orinoco, which ran aground on October 16, 1990, on the south shore of Anticosti Island.

ENVIRONMENT

CONDITION OF SUNKEN VESSEL *IRVING WHALE*—PROVISION OF MOST RECENT STUDY—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is response to a question raised in the Senate on November 27, 1990, by the Honourable Lorne Bonnell regarding Environment—Condition of Sunken Vessel *Irving Whale*-Provision of Most Recent Study—Government Position.

(*The answer follows:*)

In the fall of 1989 and in August 1990, diving surveys of the barge *Irving Whale* confirmed that the barge was in good structural condition and that only a very low seepage of oil, estimated at 3 barrels per week, was escaping form the vessel's cargo tank vents. A vibrant ecosystem has developed around the vessel, thus suggesting that local pollution levels are minimal. Drill testing of the vessel's cargo tanks indicated that at least 3,100 tons of the original 4,200 ton oil cargo remain within the barge—much of the lost balance of oil having occurred at the time of the barge's sinking.

A decision on whether or not to salvage the *Irving Whale* and its remaining cargo will be made following a careful analysis of the latest available technology, and the risks and benefits of such salvage action.

NATIONAL PAROLE BOARD

RELEASE OF DANGEROUS OFFENDERS—MANDATORY SUPERVISION—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 29, 1990, by the Honourable Earl A. Hastings regarding National Parole Board—Release of Dangerous Offenders—Mandatory Supervision—Government Position.

(*The answer follows:*)

This Government is well aware that the National Parole Board is making decisions daily with the goal of affording the maximum and enduring protection to the community. Occasionally, this goal can only be reached by detaining potentially violent offenders who have demonstrated during the first two-thirds of their sentence no willingness or interest in changing their behaviour.

The direct answer to the first question is yes, the Government is indeed aware that offenders are being released when their court sentences have expired. The National Parole Board never "releases . . . men who, the Board is satisfied, if released will commit a serious offence involving harm or death to another person." Rather, when no other reasonable option is available, the Board detains such offenders until the end of their sentence when by law they are free to return to society. Further, the Government is very much aware of the results of the 1986 legislation.

Consistent with projections made before the legislation was introduced, offenders referred for detention consideration represent only five per cent of all potential mandatory supervision releases. Forty per cent of all referrals were for offenders serving sentences for sexual assault: 24 per cent for other assaults: 13 per cent for attempted murder or manslaughter: and 24 per cent for robbery.

For every ten referrals made to the Board between 26 July 1986 and 30 June 1989, five resulted in a decision to detain, two in a decision to impose a residency condition, and three in a decision to release on mandatory supervision.

In response to the supplementary question, both long and short term protection of society are the primary goals of the decisions made by the National Parole Board. Both the Board and the Correctional Service of Canada are constrained by the court-imposed sentence. Protection, and measures to ensure protection, in reality, can only be pursued during the length of the sentence.

This does not mean that once a sentence is expired the criminal justice system ceases to care. On the contrary, the Ministry of the Solicitor General attaches great importance to applying all possible efforts to address problems. Both the National Parole Board and the Correctional Service of Canada recognize the need for programs and treatment opportunities for detained offenders. Detention without proper treatment will only increase the offender's resentment and anger. In fact, after the original detention order, the Board eventually deemed circumstances to have changed sufficiently to permit restricted conditional release in 42 cases. Twenty-eight offenders were released with residency orders to half-way houses and 14 were permitted one chance on mandatory supervision. This means that if they breached their conditions of release, they would have to return to prison and not be eligible for release on mandatory supervision again before the end of their sentence. The Board certainly recognizes the efficacy of conditional release and strives to grant release whenever the risk can be managed sufficiently in a community setting.

Ultimately, the most enduring protection for society is change. Offenders whose behaviour and attitudes change

from anger to understanding, from criminal behaviour to a law-abiding life-style offer the best possible protection.

GRAIN

EFFECT OF UNITED STATES POLICIES ON CANADIAN PRODUCERS

GENERAL AGREEMENT ON TARIFFS AND TRADE

DELAY OF NEGOTIATIONS—EFFECT ON AGRICULTURAL SUBSIDIES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have responses to questions raised in the Senate on November 22 and 29, 1990, by the Honourable H.A. Olson regarding Grain—Effect of United States Policies on Canadian Producers— and regarding General Agreement On Tariffs And Trade—Delay of Negotiations—Effect on Agricultural Subsidies.

(*The answer follows:*)

The MTN negotiations in Brussels broke off following the collapse of agricultural talks. The European Community failed to demonstrate sufficient flexibility, particularly on the issue of export subsidies. In response to your specific question of November 29, the United States has maintained a strong and consistent stance in favour of major reform of trade in agriculture throughout the entire negotiating process.

Since there has been progress in other areas, the Director General of the GATT, Mr. Dunkel, has been asked by Ministers to consult informally over the next few weeks to see if further negotiations would lead to a successful outcome. We expect that all parties will wish to reconsider their positions and expectations carefully, especially the United States and the European Community.

We are naturally very disappointed to learn of the suspension of the Uruguay Round. We had great hopes for the Round and have worked at it intensively during the past four years. Canada will, of course, make every effort over the next several weeks to assist GATT Director Dunkel in finding a basis for a positive conclusion to these negotiations. Collectively and as individual nations we have too much at stake to let all the progress of the past four years in services, trade rules (subsidies, countervail, safeguards and anti-dumping), lowered tariff and non-tariff barriers, dispute settlement mechanisms and trade-related intellectual property—simply slip away from us. With respect to your question of November 22, we continue to seek a positive outcome in all areas of the MTN, including an outcome in agriculture that would eliminate or mitigate practices which currently do so much harm to Canadian grain exports.

As the Minister of International Trade has indicated in Brussels, Canada remains fully committed to continued trade liberalization including effective implementation of the FTA and other hemispheric and Asian trade initiatives. This is fundamental to our long-term growth and competitiveness.

PERSIAN GULF CRISIS

IRAQI ARMAMENTS—NUCLEAR CAPABILITY

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 November 29, 1990, by the Honourable Jerahmiel S. Grafstein regarding Persian Gulf Crisis—Iraqi Armaments—Nuclear Capability.

(*The answer follows:*)

There have been many reports in the media leading to speculation on the evolving Iraqi nuclear-weapon capability.

Currently, there is no evidence to suggest that Iraq possesses nuclear weapons.

PERSIAN GULF CRISIS

NATURE OF ALLIED MILITARY COMMAND STRUCTURE—ROLE OF CANADIAN GOVERNMENT

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 November 29, 1990, by the Honourable Jerahmiel S. Grafstein regarding Persian Gulf Crisis—Nature of Allied Military Command Structure—Role of Canadian Government.

(*The answer follows:*)

Canadian ships and aircraft have been dispatched to the Persian Gulf to contribute to international efforts ensuring the strict implementation of the United Nations economic sanctions against Iraq, and to deter further Iraqi aggression.

From the beginning of the Gulf crisis, the Government has been engaged in a continuing series of bilateral and multilateral consultations on the appropriate international responses to Iraq's unprovoked invasion of Kuwait on August 2nd. The principal forum for these discussions has been the United Nations.

On September 9th and 10th, a Naval Conference was convened in Bahrain to discuss mutual co-operation and support among the countries which had committed naval forces to the Gulf. Canada, along with the naval representatives from other nations deploying ships to the region, participated in the meetings. As a result of these consultations, it was decided that Canada could make the most meaningful contribution within the central region of the Persian Gulf.

As a member of the multi-national effort, Canada is conducting its operations in close communication and cooperation with its allies in the region. At the same time, Canada maintains independent national command and control of our ships and aircraft through modern communications systems as they patrol their area of responsi-

bility in the Persian Gulf. To ensure maximum coordination of the efforts of Canadian vessels and aircraft, Canada has established a joint-headquarters in Bahrain.

Canadian Forces deployed to the Gulf are, and will remain, under Canadian command and control. The Chief of Defence Staff, in consultation with the Minister of National Defence, has authorized appropriate and specific national Rules of Engagement and Levels of Force guidelines within the framework of Canadian government policy. These guidelines deal exclusively with self defence and the enforcement of United Nations sanctions. They are detailed rules and instructions guiding the degree of autonomy that the Air and Naval Task Group Commanders, commanding officers, and aircraft commanders have in responding to a developing situation. They are commensurate with Canada's area of operations and the assessed threat in the region. Rules of Engagement tell the commanders what they can and cannot do in fulfilling their mission. Levels of Force guidelines provide amplification so that the commanders are aware of the exact lines of their authority within the Rules of Engagement.

An essential basic premise in the Rules of Engagement is the right of self defence. A commander has the inherent right to employ such force as may be necessary to protect his command and the lives of his crew. No instruction or fule has been put in place which can be construed as limiting any of the commanding officers in the exercise of his initiative and judgement when immediate action is required for self defence.

It would be inappropriate to expand further on the exact Rules of Engagement and Levels of Force that have been approved for Canadian operations in the Gulf region. Further elaboration could jeopardize the ability of the men and women of the Canadian Forces in the region to successfully complete their assigned task. Protecting sensitive operational information is both prudent and sound, given the level of tension in the Gulf.

PERSIAN GULF CRISIS

CANADIAN FORCES—ADEQUACY OF MEDICAL RESOURCES—REPORT OF AUDITOR GENERAL—GOVERNMENT RESPONSE

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 November 29, 1990, by the Honourable Jerahmiel S. Grafstein regarding Persian Gulf Crisis—Canadian Forces—Adequacy of Medical Resources—Report of Auditor General—Government Response.

(*The answer follows:*)

The Auditor General's observations with respect to the inadequate level of medical services available in case of war must be viewed in their proper context. If one thinks of the unthinkable—all out nuclear war—then it is correct to observe that the medical facilities are inadequate. In fact, it would be unrealistic to maintain the medical infrastructure necessary to cope with such an eventuality.

Currently, the medical facilities available in the Canadian Forces represent a balance between what is needed for peacetime, and what may be needed in case of conflict.

In planning and executing operations, the Canadian Forces develop medical plans that are flexible and are adjusted to the changing circumstances.

The medical facilities available to Canadian service men and women in the Gulf area is sufficient given the level of forces that Canada has deployed.

Canada has deployed medical personnel with all our units in the Gulf area and we have entered into bilateral arrangements with other forces deployed in the area. As well, Canada has deployed two complete surgical teams to operate from the U.S. hospital ship *Mercy*.

TRANS-CANADA HIGHWAY

CONSTRUCTION OF NEW BRUNSWICK SECTION—CONCLUSION OF GOVERNMENT STUDY

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 November 29, 1990, by the Honourable Eymard G. Corbin regarding Trans-Canada Highway—Construction of New Brunswick Section—Conclusion of Government Study.

(*The answer follows:*)

I wish to table copies of the attached reports suggested by the honourable senator.

Adequate Highways: A Key to Regional Economic Development (August, 1988)

A Highway Improvement Plan for the Trans-Canada Highway through New Brunswick (May, 1989).

AGRICULTURE

PROPOSED CAVENDISH PLANT IN NEW BRUNSWICK—PROVISION OF FUNDS BY FEDERAL GOVERNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 22, 1990, by the Honourable Eymard G. Corbin regarding Agriculture—Proposed Cavendish Plant in New Brunswick—Provision of Funds by Federal Government.

(*The answer follows:*)

No formal decision has yet been taken by the Atlantic Canada Opportunities Agency with respect to assistance for the proposed Cavendish Farms potato plant at Grand Falls. Any assistance by way of an Investment Tax Credit would be automatically available to the company upon completion of its investment in the proposed facility. Assistance with respect to the water treatment facility will be considered once ACOA has received an applica-

tion from the local facility on a fee for service basis. The other assistance proposed for the plant will be from the Provincial Government.

NORTHWEST TERRITORIES ACT

BILL TO AMEND—ORDER STANDS

On the Order: Resuming the Debate on the Motion for second reading of Bill C-92, An Act to Amend the Northwest Territories Act—(*Senator Molgat*).

Hon. Gildas L. Molgat: Stand.

Hon. C. William Doody (Deputy Leader of the Government): Could Honourable Senator Molgat give us some indication of when he would be prepared to proceed with this bill?

Senator Molgat: I was hoping to have the *Debates of the Senate* so I could read exactly what Senator Beaudoin had to say. I enquired this morning when we might have the *Debates* and I could not get the answer. Once I have read Senator Beaudoin's comments, I will be prepared to proceed.

CANADIAN HERITAGE LANGUAGES INSTITUTE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Brenda M. Robertson moved the second reading of Bill C-37, to establish the Canadian Heritage Languages Institute.

She said: Honourable senators, I would like to voice my support for Bill C-37, to establish the Canadian Heritage Languages Institute, and to urge all honourable senators to do the same.

This bill now has the support of the three major parties in the other place. They are in full agreement as to its importance to Canada both at home and as a player on the international scene.

As Canadians, we have become more and more aware of the importance of safeguarding the rich linguistic heritage we are fortunate to have in our midst. The languages of our various communities are a vital legacy. They enrich the character of this country and strengthen our role and position in the modern world. They contribute to our national identity and are a vital resource in our global future.

Today, in all regions of this country, people are working to preserve our linguistic heritage. They are doing so in a quiet way, sometimes with little recognition. Although their efforts are of immeasurable value to this nation, they often work without the benefit of those professional resources that are available to other educators. These people—parents and volunteers—are struggling in the dark, so to speak, isolated from the work being done in other communities, without adequate materials and tools to effectively promote the use of heritage languages in their communities.

[Senator Doody.]

Experts, community organizations, and others working in the field have concluded that this situation must change if Canada is to rise to the challenges and opportunities of the future both at home and abroad.

They recognize that the vision of Canada as a truly multicultural society, an enlightened nation and a model for others is an imperfect and flawed vision unless heritage language learning and its promotion are brought within the scope of mainstream education.

Therefore they have called for the creation of a professional institute. Not, honourable senators, a remote inaccessible establishment, but an institute founded on cooperation and partnership. It will be a practical-oriented organization devoted not only to enhancing teaching skills, but promoting understanding of the benefits of heritage language training for all Canadians.

This is an important fact, honourable senators. Many Canadians are not yet aware of the role heritage languages play in strengthening and enriching our society.

More than 60 heritage languages are being taught to tens of thousands of students in Canada today. However, the efforts of instructors, usually parents and volunteers, are being seriously undermined by outdated and inadequate text books and educational materials.

The institute will change that. It will give language teachers the tools they need to raise heritage language training to a professional level. It will undertake the preparation and dissemination of new and appropriate materials with a distinctly Canadian orientation so that as students are learning their ancestral languages, they will also be learning Canadian values and realities.

Communities want their children to have such materials. They want their children to maintain ancestral ties, yet at the same time to participate fully in Canadian life.

As well as strengthening our linguistic heritage, the institute will seek to play a leadership role on the international scene. Already, other countries are looking closely at Canada because of our position as a leading multicultural nation. The institute will draw interest from other countries seeking progressive and innovative ways to foster the preservation of their heritage languages.

I should like, honourable senators, to outline briefly the mandate of the institute as envisaged by those experts who work in the heritage language field. This facility will not serve the needs of just a few communities; it will reach out to all communities and regions, involving many segments of Canadian society, community groups, educational institutions, corporations and various levels of government.

● (1430)

The institute will act as a clearing house, seeking to correct the uneven access to teaching resources and assist in the development of standards. It will play a vital role in improving the quality of heritage language instruction by developing more effective training methods and courses.

The government's financial support for the institute will amount to $6.5 million over five years, with a part of this support directed to an endowment fund. As a charitable foundation, the institute will raise further funds from the private sector, from community sources and from other levels of government, thereby ensuring their ongoing interest and support in its endeavours.

In summary, the Canadian Heritage Language Institute will promote and develop the field of heritage language learning in Canada. It will undertake public education, develop and disseminate Canadian-oriented learning materials, assist in the development of programs to improve standards of heritage language instruction and carry out research activities of importance to heritage language learning in general.

The institute will be located in Edmonton and will work closely with organizations, individuals and groups from across the country. It will consult with community-based organizations, educational institutions and the provincial and territorial governments to ensure that all who are concerned with heritage language learning benefit from the activities of the institute.

The institute will be managed by a board of directors appointed by the Govenor in Council on the recommendation of the minister, following extensive consultation with appropriate governments, institutions, organizations and individuals. It will be a charitable foundation which can receive financial support from the private sector and community sources, as well as from provincial and territorial governments.

The Canadian Heritage Languages Institute will present an annual report of its activities to the minister for tabling in Parliament, which will include financial statements and an auditor's report. It will be evaluated by the minister in consultation with the board, following the fourth anniversary of the passage of the Canadian Heritage Language Institute bill.

I wish to conclude, honourable senators, by reiterating that the Canadian Heritage Language Institute will be a source of pride for all Canadians. It will serve to enhance our sense of belonging to both the community and the country. It will promote cultural understanding and awareness, and encourage peoples of all backgrounds to contribute their full potential to Canada's economic and social growth in the wide range of languages that bring our world partners ever closer.

In summary, I urge all honourable senators to give their support to this bill. Our fellow Canadians from all cultural backgrounds are anxiously awaiting its passage; it is long overdue.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I know that the bill will go to a committee at some point, but I wish to ask the honourable senator two questions. First, is there any definition of "heritage languages"? Does the term include all languages spoken, for example, in Canada at the present time? Second, will the institute be empowered to support the maintenance or promotion of languages in Canada, for example, the language of the Micmacs in Nova Scotia? Would that be a heritage language? Would the institute be empowered to assist—through financial support or technical assistance—in ways to maintain and strengthen that language?

Senator Robertson: Thank you, honourable senator, for those questions. The definition of "heritage languages" has been under discussion. It has been difficult to pinpoint. In the bill itself there is not a specific definition. It is generally assumed to be all heritage languages, but not specifically the two official languages.

I am sure that in the committee we will be concentrating more on this matter, since it has already been discussed.

Relative to the honourable senator's latter question, some 53 native languages are included in this bill, although I think it is generally recognized that about three of those languages will live.

As the honourable senator is no doubt aware, three studies have been commissioned to look closely at our native languages in terms of where we will go with them and how they will be integrated. There is a provision for an additional sum of money in this bill to help specifically with our aboriginal heritage languages.

The question which is now under study by these three groups is whether or not there will be a special heritage languages centre for aboriginal people. That decision has not yet been made.

Senator MacEachen: Since it will be a matter which undoubtedly will be raised, the honourable senator may know that at the present time in Nova Scotia, particularly in the Island of Cape Breton, there are a number of active groups promoting the maintenance of the Gaelic language in Cape Breton. I could go into some detail in that regard. However, I hope that that language will be included as one of the heritage languages to be supported.

Senator Robertson: Honourable senator, all ancestral languages are included. The Gaelic language will have the opportunity to be served by this institute.

On motion of Senator Corbin, debate adjourned.

ABORIGINAL PEOPLES BILL

SECOND READING—DEBATE CONTINUED

On the order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to further the aspirations of the aboriginal peoples of Canada. (*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this particular bill has been on the Order Paper for a long while. I have been meaning to ask the Table, through the Speaker, to check it for its admissibility in this place. It seems to me, and I stand to be corrected, that there are financial implications in the bill which I think may be beyond the authority of the Senate to inaugurate. I would

appreciate it if we could have an opinion from the Table on this matter.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, in effect what Senator Doody is doing is raising a point of order as to whether or not this bill is in order.I think there should be some debate on the matter. It is possible, although I suppose in light of what has been happening recently around here, not probable that both the Table and the Chair might be interested in the views of some senators on the subject of whether or not the bill is in order; or they might just wish to decide on their own without any intervention by senators as to whether it is or is not in order.

If what Senator Doody is doing is raising a point of order, then I suppose he can adjourn the debate on that point of order. However, I think some senators on this side might like the opportunity to address the point of order. I would think that they would not want to do so until Senator Doody outlines in some detail why he thinks the bill is out of order.

Senator Doody: Honourable Senators, that is certainly agreeable. I have no problem with that. It is a bit of a departure from our usual course. Nevertheless, I will be only too happy to take the adjournment of the debate on the point of order I have raised.

On motion of Senator Doody, debate adjourned.

• (1440)

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN CHILD)—SECOND READING—ORDER STANDS

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 second reading of the Bill S-7, An Act to amend the Criminal Code (protection of the unborn child).—(*Honourable Senator Guay, P.C.*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as you know, Senator Guay has retired. Therefore, in to keep this item on the order paper, I will ask that it stand in my name.

Hon. Senators: Agreed.

Order stands in name of Senator Frith.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-FIRST REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Seventy-First Report of the Standing Committee on Internal Economy, Budgets and Administration (employees salaries; newspaper subscriptions; Debates Branch), presented in the Senate on 14th December, 1990.-(*Honourable Senator LeBlanc, P.C.* (*Beauséjour*)).

[Senator Doody.]

Hon. Roméo LeBlanc: Honourable senators, I move that this report be adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

THE ESTIMATES, 1990-91

SUPPLEMENTARY ESTIMATES (B) REFERRED TO NATIONAL FINANCE COMMITTEE

Hon. C. William Doody (Deputy Leader of the Government), pursuant to notice of December 14, 1990, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending the 31st March, 1991 (Sessional Paper No. 342-913).

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

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I indicated on Friday that I wanted to make some comments on this particular motion. Senator Doody indicated in his work plan on Friday that he would like to have the supply bill that is based upon these Estimates passed by the end of this week. That means the Standing Senate Committee on National Finance will be obligated to complete its study of the Supplementary Estimates and then report. The supply bill would then be called for second reading and be put through all its stages. I understand that is the practice we have followed in the past.

• (1450)

Honourable senators, that is a tall order for the Senate at this time, particularly in view of the fact that these Supplementary Estimates were tabled in the House of Commons on September 23 and then tabled in the Senate on November 27, a full twenty days ago. At any time since November 27 it was open to the government to move that those Supplementary Estimates go to committee for examination. We understand the government had other priorities and that it stayed compulsively with Bill C-62 and avoided bringing forward any other business, including the reference of the Supplementary Estimates to the Standing Senate Committee on National Finance.

Today, the government will have to accept the results of its priorities—that it really is a tall order, as I have stated, to have the committee examine and report, and to ask the Senate to pass the bill all in several days. This is so in light of the fact that the sums called for are not small or routine, and particularly because the sums are attached to major policy questions which deserve examination.

For example, there is a considerable sum of money involved in support of the operations of the Canadian Forces in the Persia. Gulf. We have been interested in that major question because it is apparent that, unless something very significant

occurs between now and early 1991, war is likely to break out in the Persian Gulf. It is unclear to what extent Canada will be involved and whether Canadian ground forces will be committed to the pursuit of any such war.

I must admit that some weeks ago we did have a very short debate in the Senate on the Persian Gulf. On that occasion, I think everyone who spoke sounded a note of caution to the government about its policy in that regard. Since that time I have raised the possibility of having a further discussion, in light of the resolution passed at the United Nations which is interpreted to empower that organization to apply force in the Persian Gulf situation. That certainly deserves some attention in the Senate especially now when public opinion, even in the United States, is deeply divided about American policy, and because of the significant testimony given before congressional committees of the United States concerning sanctions, and the belief, supported by eminent authorities, that sanctions ought to be given a chance to work before the United States commits itself to force in the resolution of the impasse in the Persian Gulf.

I ask honourable senators whether it is appropriate to pass over this question without asking some very important questions in committee about the direction of Canadian policy. Are we committed only—and will we continue to be committed only—to the enforcement of sanctions which, hitherto, has been our main duty; or will we be gradually drawn into the commitment of ground forces in the Persian Gulf?

Testimony given by the Director of the Central Intelligence Agency indicate that sanctions have been extremely effective in cutting off supplies to Iraq and that their main disability is the time factor. However, it will take much longer for sanctions to have their desired effects—in fact, until some several months into 1991. One wonders whether Canada ought not to be advising the American government to hold off and observe the impact of sanctions before a crucial decision is taken.

I do not intend to go into the matter further, but I believe it is a matter that we ought to examine in committee and on which we should hear some evidence as to the intentions of the government.

The press release issued by the Department of National Defence in connection with the tabling of the Supplementary Estimates is quite ambiguous with respect to what is intended. It says that the Canadian government's decision to deploy Canadian Forces to the Persian Gulf, together with its responses to Quebec's request for assistance at Oka and Chateauguay, have imposed dramatic, unforseen pressures on the national defence budget. It says that additional funds are therefore required to continue supporting Canadian Forces operations in the Gulf in their current role, and to maintain an acceptable level of general military preparedness for our forces in Canada. It also says that supporting CF operations in the Persian Gulf is currently our highest priority.

When one asks what the future holds, one is not given much in the way of guidance or information. The press release concludes with a paragraph called "Future Presence in the Gulf", and it says that Canada's future presence in the Gulf will depend on how events unfold over time, and that much of the preparatory work for any ongoing commitments which Canada may have in the next fiscal year must be carried out well in advance of actual operations.

Honourable senators, I wonder what the preparatory work is and what are the actual operations contemplated. I would certainly like the committee and the Senate to focus upon this matter and to find out where we are going. It may also be of passing interest to inquire in the committee of the activities at Oka and Châteauguay, and what the implications are, not only financially but socially and politically, as a result of the participation of Canadian forces in those activities.

● (1500)

It will be of some interest to honourable senators to know that of the total of, I think, $4.8 billion in additional funds required in these Estimates, an additional $2.5 billion is required to finance the interest costs on the national debt. Honourable senators will recall that, in the budget of 1990, the Minister of Finance announced that the deficit would total $28 billion. Indeed, the budget itself was built around that stable figure of $28 billion. We all remember the circumstances at the time, and Mr. Wilson brought in a budget with a projected deficit of $28 billion. It was fairly reasonable at the time to be skeptical, and economic analysts were totally skeptical as to the validity of that figure, particularly in view of the possibility of increased interest rates. However, the government held fast to the figure, despite steadily soaring interest rates, until finally, in September, the Minister of Finance announced a revised figure of $30.5 billion. Is that a valid figure at this particular time? What are the prospects for the future budgetary situation?

Honourable senators, I will not go much further in underlining the importance of the committee study. We do know that $257 million is requested to prepare and plan for the administration and introduction of the goods and services tax, for such things as advertising. It has been suggested that that figure is as unstable as the deficit figure projected by the Minister of Finance. A series of program cuts are proposed.

In addition to the request for additional funds in excess of $4 billion, the government is proposing, as an economy measure and parallel to the increased costs of the Gulf operation, to reduce program costs of various departments in excess of $300 million. When the President of the Treasury Board announced the Supplementary Estimates, no details were given with respect to where the reductions in program costs would be achieved. We do know that, for example, ACOA, the development agency for the Atlantic Provinces, will be affected. We also know that the Western Diversification Fund will be affected, along with a variety of other government services, but no detail has been given. These are some of the items that are involved.

Honourable senators, perhaps it is worth recalling, for the benefit of honourable senators who were not here at the time, that in 1989 a supply bill calling for supplementary spending was introduced in the House of Commons and allowed to

languish there. The House of Commons and the Senate were adjourned, and the government, first of all, exhausted its contingency fund and then financed its operations by special warrants. We took a dim view of that. We said it was a wrong policy, but we were assured by the government that their legal advisors had told them that it was a perfectly legal operation. So, one wonders why we cannot adjourn now and finance all of this by contingency fund and special warrants. It was done in 1989. We were sent packing at that time, and the government financed its operations by that method.

Has there been a conversion in the government's point of view, or is this merely a way of saying to the members of the opposition, "You have to pass this by such and such a date or we will bring the Senate back on a certain day"? I remind the government, and senators opposite, that they had an alternative in 1989 to finance these operations. I think it would be a disgrace if they did, but we have witnessed a number of disgraces, and we witnessed one in 1989, when the operations were financed by special warrants.

Honourable senators, with these very preliminary remarks, I have no difficulty whatsoever in supporting the reference of these supplementaries to the committee. They ought to have been sent several weeks ago, but better late than never. Don't find fault with us if we cannot accommodate you in a few days after you have allowed these Supplementary Estimates to languish when they could have been sent to the committee virtually three weeks ago.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Leader of the Opposition has told us that he and his colleagues have a number of matters that they wish to raise in the course of consideration of these Supplementary Estimates, matters upon which they wish to question and presumably comment. He has referred in particular to Canada's role, and the role of Canadian troops, in the Gulf crisis; to the situations at Châteauguay and Oka last summer; to the cost of servicing the national debt; and to the cost of implementing the GST. He has also referred to $300 million in reductions in program expenditures announced earlier by the government.

The best way that the Senate can expedite consideration of those matters, of course, is by passing Senator Doody's motion, and the way that the government can expedite consideration is to produce the appropriate witness or witnesses on behalf of the government so that the committee considering the Supplementary Estimates can get on with its work.

• (1510)

Therefore, I invite honourable senators opposite to let us know, through the chairman of that committee, Senator Leblanc, the matters they wish to take up and in what order, so that we can produce the appropriate witness or witnesses on behalf of the government.

We do this in the hope that honourable senators opposite will be able to see their way clear, after consideration of these supplementary estimates, to report back before Christmas and let us have the supply bill, as is usually done.

[Senator MacEachen.]

If they cannot do so, then Senator MacEachen has correctly identified the alternatives that the government faces. There is the matter of invoking the provisions respecting Governor General's Warrants. There is also the possibility, the high probability, of having the Senate come back after the holiday to deal with the Estimates and with the supply bill, or some combination of both of those alternatives.

The only other point I wish to make is that, in considering what the situation should be after Christmas, it is not simply a question of passing the supply bill and one or two other bills that the government wanted passed this week. It ais also a matter of moving a number of bills now before the Senate, or that are expected to come before the Senate very shortly, to committees, so that the committees can do their work during the first few weeks of January. It would be our intention to allow that to happen and thus bring the Senate back rather later in January, if we have then succeeded before the holidays in referring a number of these bills to committees.

Hon. John B. Stewart: Honourable senators, I wonder if the Leader of the Government in the Senate would clarify a point. Perhaps I did not hear the leader correctly, but as I understood what he said, he regards it as an available option to the government to run down the contingency fund, Vote 5 of the Treasury Board, and then, assuming that Parliament has not made a specific appropriation as requested in Supplementary Estimates (B), to have resort to Governor General's Warrants in the situation where Parliament is not available to deal with the request.

Is the leader saying that the deadline before the government will have resort to this alternative approach is January 3? When will the government shift off the course it is proposing this afternoon and resort to the course of action which it found acceptable, legal and constitutional in 1988-89?

Senator Murray: We have not placed a deadline before the Senate. Senator Doody indicated the other day the circumstances in which the government would propose an early return of the Senate versus a later return of the Senate after the Christmas holidays.

I have not worked out the date, and I must say that my colleagues have not given me a date on which it would be acceptable to use Governor General's Warrants. My recollection is that one may not use them within a certain number of days of a sitting—-

Senator Stewart: Two weeks.

Senator Murray: —of Parliament. So if the Senate were to adjourn on Friday next, December 21, then two weeks from then would be January 4. That would be the day on which it would be in order to use Governor General's Warrants.

Senator Doody: Honourable senators, may I suggest—

The Hon. the Speaker: Senator Doody, should I not put the question?

Senator Doody: Yes, Your Honour. You are absolutely correct.

The Hon. the Speaker: Then it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Sylvain:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending the 31st March, 1991. (Sessional Paper No. 342-913).

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

ADJOURNMENT DURING PLEASURE—ON DIVISION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I suggest that the Senate do now adjourn during pleasure to await the arrival of the Honourable the Deputy of His Excellency the Governor General at approximately 3.25 p.m.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as I stated before, a suggestion is a euphemistic way of describing a motion, and if there is such a motion, I speak to that motion as I did on Friday. I will not repeat what I then said. My submission to the Senate today is exactly as it was on Friday last.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): And our opposition is the same.

Let me again refer to one question raised by Senator MacEachen and a number of others on Friday last; that is whether, when we receive a letter from Rideau Hall advising us that the Deputy of His Excellency is coming to the Senate for the purposes of giving Royal Assent to certain bills, it is necessary for us to issue an invitation, as it were, or to grant leave to the representative of the Crown to come to the Senate.

The government states that that is not necessary and that this is the Crown's chamber and that the representative of the Crown, the Deputy of His Excellency the Governor General, does not need an invitation to come to the Senate.

Further, in my experience here, what we have done in the past is not to move a motion to invite the Deputy of His Excellency into the chamber. The only motion has been one of convenience to honourable senators; that is, to adjourn, sometimes to the call of the bell, to await the arrival of the Deputy of His Excellency the Governor General.

In any case, I shall go in a minute or two to greet him, as I have done in the past, and as my predecessors have done in the past, and the Black Rod will conduct us in here at approximately 3.30 p.m.

Senator Frith: On a point of order on the motion, I understand the position, and I am glad that the government has made its position clear. Apart from the form, whether or not it is a question of an invitation, the substance of the matter is whether or not the Deputy of the Governor General arrives here as a result of a motion that we will adjourn in order to have the deputy or the Governor General appear. That is the essence of the question, and that is the essence of the difference between the government and the opposition—at least the essence of the difference between Senator Murray's position and my position. Perhaps when we have a chance to do some research, we may be able to bring it again before the Senate, not on a point of order but in the form of an inquiry or, if necessary, on a point of order.

• (1520)

The Hon. the Speaker: Honourable senators, in answer to Senator Frith, I must say that we have started doing some research going back to 1867, and I will have something to say about that later.

Senator Frith: I will be glad to hear what you have to say.

The Hon. the Speaker: The Deputy to the Governor General having arrived, is it your pleasure, honourable senators, to adjourn during pleasure to await his arrival in this chamber?

Some Hon. Senators: Agreed.

Senator Frith: For the reasons said, on division.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable John Sopinka, 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 Assistant Deputy Chairman of Committees of the Whole, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

> An Act to amend the statute law in relation to war veterans (*Bill C-87, Chapter 43, 1990*)
>
> An Act to apply federal laws and provincial laws to offshore areas and to amend certain Acts in consequence thereof (*Bill C-39, Chapter 44, 1990*)
>
> An Act to amend the Excise Tax Act, the Criminal Code, the Customs Act, the Customs Tariff, the Excise Act, the Income Tax Act, the Statistics Act and the Tax Court of Canada Act (*Bill C-62, Chapter 45, 1990*)
>
> An Act respecting the laws prohibiting marriage between related persons (*Bill S-14, Chapter 46, 1990*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

• (1540)

The sitting of the Senate was resumed.

BUSINESS OF THE SENATE

ADJOURNMENT—POINT OF ORDER

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): Honourable senators, I have a brief point of order for the record regarding the motion to adjourn.

On several occasions—and let me pick last Friday as an example—when the Deputy Leader of the Government has moved, as he did not have to do today, that all remaining orders stand, I have pointed out that that is a motion and should be made and put to the Senate for debate and agreement. The motion to adjourn should then be put.

I checked the blues of last Friday. They do not reflect that, although I thought I did make the point. I have not checked the *Minutes of the Proceedings*, but I ask that the *Minutes of the Proceedings* and the *Debates*—but particularly the *Minutes of the Proceedings*—reflect the fact that the motion to stand remaining orders and the motion to adjourn are two separate motions.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, December 18, 1990

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

Prayers.

THE CONSTITUTION

PROPOSED SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—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:

ORDERED,—That a message be sent to the Senate to acquaint Their Honours that a Special Joint Committee of the Senate and of the House of Commons be appointed to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee: such Members on the part of the House of Commons to be designated upon report of the Striking Committee no later than three sitting days after the adoption of this motion, which report shall be deemed concurred in upon presentation;

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed available by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the House of Commons is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

ATTEST

Robert Marleau
The Clerk of the House of Commons

Honourable senators, when shall this message be taken into consideration?

On motion of Senator Murray, message placed on Orders of the Day for consideration on Friday, December 21, 1990.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS ON BILL C-62

Hon. Jacques Hébert: Honourable senators, I have a number of petitions to present on behalf of 2,633 Alberta residents. The first reads:

[*English*]

Honourable senators, I have the honour to present petitions signed by residents of communities of Alberta who ask the

Senate to reject the goods and services tax bill. These people live in such communities as Warner, Calgary, Milk River, Edmonton—

Senator Simard: Why not just table them?

Senator Hébert: Why don't you be silent and obey your leader?

In any case, there is a total of 2,633 people who signed these petitions. These people were not listened to by the government.

[*Translation*]

INTERNATIONAL ASSOCIATION OF FRENCH-SPEAKING PARLIAMENTARIANS

TABLING OF ELEVENTH ANNUAL REPORT

Hon. Fernand-E. Leblanc (Saurel): With leave of the Senate, honourable senators, I have the honour to table in both official languages the Eleventh Report of activities of the International Association of French-Speaking Parliamentarians, Canadian Section.

[*English*]

OFFICIAL REPORT

CORRECTION

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, before Question Period, I should like to advise the Senate that yesterday, during the course of an exchange with Senator Stewart of Antigonish-Guysborough on the subject of Governor General's warrants, I misstated the relevant provision of the Financial Administration Act. I should like to correct the record now.

I do not have yesterday's *Hansard*, but I believe I stated yesterday that the Governor General's warrants could not be used for 14 days following the adjournment of Parliament. I went on to calculate that, assuming an adjournment of the Senate on December 21, the warrants could not be used until January 4, 1991. That was incorrect. The 14-day provision relates to the return of Parliament; in other words, Governor General's warrants cannot be used by the government 14 days prior to the return of either house. I will simply read the relevant section, section 30(5) of the Financial Administration Act, which states:

> For the purposes of this section, Parliament shall be deemed to be not in session when it is under adjournment *sine die* or to a day more than two weeks after the day the Governor in Council made the order directing the preparation of the special warrant.

I wrote to Senator Stewart regarding this matter this morning and advised him of this and also that I would be attempting to correct the record this afternoon.

QUESTION PERIOD

AGRICULTURE

COLLAPSE OF GATT NEGOTIATIONS—EFFECT ON WESTERN GRAIN PRODUCERS

Hon. H. A. Olson: Honourable senators, for a number of days I have been wanting to ask the Leader of the Government in the Senate what the government intends to do regarding the complete collapse of the international grain market and the consequent disaster that has fallen on the grain producers of western Canada.

I know I received some kind of written reply to a question I put forth on November 29, when it appeared that the GATT discussions were going to collapse. The reply I received deals with the government's response as of November 22 and November 29. However, honourable senators, now that those discussions have collapsed, and in spite of the fact that Director General Dunkel has called for a resumption of meetings—without specifying them, he has suggested that there might be some meetings in January, the basis of which we are not clear on—I wonder if the Leader of the Government in the Senate could tell us what hope the grain producers in western Canada have now that these talks have collapsed.

● (1410)

STATEMENT OF CANADIAN DELEGATION TABLED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can do no more than to table, which I am prepared to do, a statement by the Canadian delegation at the conclusion of the Brussels session of the Uruguay Round trade negotiations. I would also repeat what has been stated by a spokesman for the government; namely, that we were very disappointed to learn of the suspension of the MTN talks in Brussels. We had great hopes for the Uruguay Round. We have worked at it intensively for over four years. While there was important progress in many areas, the failure to overcome differences with respect to agriculture, particularly given the lack of flexibility on the part of the European community, caused the breakdown. Officials will now attempt to determine whether there is a basis for further meaningful negotiations during January and February. Mr. Crosbie remains hopeful on this point, as he indicated in media interviews today. Canada remains fully committed to continued trade liberalization, including effective implementation of the Free Trade Agreement with the United States and other hemispheric and Asian trade initiatives. This is fundamental to our long-term growth and competitiveness.

Hon. H.A. Olson: Honourable senators, that is some kind of reply, but it is no answer. I asked what these producers can now look forward to and who is to blame. The grain producers in the United States and in the European Community are looking at returns from several sources, including the treasury, of prices that are at least double and, in many cases, 300 or

400 per cent more than Canadian producers can look forward to.

So far we have had indications from the Deputy Prime Minister that he is going to attend another meeting or two, but there is nothing solid. In view of the other problems, such as the monetary policy that is bleeding farmers white and taking everything they have through no fault of their own, can the minister not give us some hope as to what these people can look forward to? Can they not have some support from the Government of Canada with respect to this disastrous problem?

Senator Murray: Honourable senators, it is obvious to the honourable senator, as it is to me and everyone else, that what we need first is an agreement under the GATT which will end some of these subsidy wars that are creating such havoc in agricultural markets. We are continuing to work toward that end, and there is nothing more I can say on that point.

The senator is also aware, because I have referred to it on several occasions in this house, of discussions between the federal government and the provinces relating to both short-term arrangements and the longer-term safety net for farmers, which have made good progress. There was a meeting in November and another in December at both the official and ministerial levels. I have no further information to offer on those meetings at the moment, but I shall ask Mr. Mazankowski whether there is something further I can bring into the house over the next day or two.

Senator Olson: I take it that what the Government Leader has just said is that the farmers in this country will have to wait until the subsidy wars are over before his government intends to take any action. I hope that that is modified somewhat by the Minister of Agriculture when he finally comes forward and says something about what will happen.

We have heard about a lot of fluff, which might be taken for discussion, but no action. Some of these producers are reaching the stage where they cannot live on fluff any longer. A lot of them are being run off their farms on to the road allowance, if senators know what I mean. In town we say that you are run out of your house on to the street. In rural areas, you are run off on to the road allowance.

This is no academic matter. I am talking about the real facts of life out there. Can the minister now give us some indication of what the Prime Minister meant two or three years ago, when he declared that the government would not abandon the farmers to this international subsidy war? Is that all the hope the minister is ready to give to the grain producers of western Canada? Is he only prepared to say that we will probably have to fluff around a little more until the subsidy war is over? Surely he has something more positive to say than that.

Senator Murray: Honourable senators, as I have indicated, I will ask Mr. Mazankowski whether he has anything further to report on this matter. If so, I will bring it forward during oral Question Period before the holidays.

Meanwhile, if the honourable senator wishes to engage in debate, I suggest that he take advantage of an early opportunity to do so. It should not, however, be done in the course of oral Question Period.

Senator Olson: I would be happy to take advantage of a debate if I were sure that the minister would be here to answer the questions. By my recollection, I have placed three or four motions on the order paper dealing with farm policies, disasters in western Canada and various other related matters. The minister was just not here when those subjects were brought up and we did not get any answers. We did not even get the decency of a reply to our questions.

Honourable senators, I am not the one being hurt. I receive a little pay from being a senator and I can get along, but I know a lot of people who cannot. They would like to know a little more positively what is going to happen. Could some arrangements be made to have the Minister of Agriculture appear in this chamber so that we can put those questions to him? Apparently none of the Conservative members from Alberta want to ask him questions on the floor of the other place.

Producers are getting tired of this situation. They are not only getting tired of it, they cannot stand it any more. Surely there is more hope than what we have heard thus far. Surely the minister could do more than just complain that we are having a debate at the wrong time. We will have a debate. Will the minister appear later on when some of those orders will be debated—at some time, I hope, before the Senate adjourns—so that we can get down to the substance of this problem?

Senator Murray: Honourable senators, if Senator Olson wishes to speak to one of those inquiries, I will undertake to examine what he has to say and either personally, or through a colleague, bring in a statement in the debate on behalf of the Minister of Agriculture.

CANADIAN WHEAT BOARD

GRAIN SALES LOSSES—MAINTENANCE OF INITIAL PRICES—GOVERNMENT POSITION

Hon. H.A. Olson: Honourable senators, press reports released in the last two or three days state, in effect, that the Canadian Wheat Board has lost, or is in the process of losing, between $700 million and $900 million on the grain sales for the current crop year. Could the minister ask his cabinet colleagues to give a commitment that they are at least intend to maintain the initial price where it is, notwithstanding that it is half of what it was 12 years ago in terms of 1977 or 1975 dollars?

● (1420)

We are talking about 1990 dollars. In 1975 dollars, grain rpoducers received between $5 and $6 a bushel. Now they are getting somewhere around $3 or a little less for the same quality in 1990 dollars.

Can the Minister find out whether or not the farmers can at least have the comfort of knowing that the government will not reduce the price still further.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will obtain what information is available at this time on that question.

Senator Olson: This is ridiculous, honourable senators. The Minister acts as if he does not go to cabinet meetings. Surely this has been discussed in cabinet. To come here and say, "Well, I don't know about this and I don't know about that", isn't quite good enough.

I used to go to cabinet meetings, and when there was a great tragedy in the country for one sector or another, we discussed those things. For the minister to come here now and say that he does not know anything about it is incredible. I cannot believe that he does not know what the government's attitude towards this problem will be. Surely he can tell us now.

I have been through this exercise before. We raise these important questions with the government leader, and then that is the last we hear from him for days about these problems. The only thing that changes is that it gets worse the next time. Is the minister telling me that he does not know what is going on, or is he saying that the cabinet does not discuss these things?

Senator Murray: Honourable senators, I cheerfully confess that I am not in a position to reply in detail to every one of my colleagues on all the programs and policies in the respective departments. I try to give such information that I can be reasonably confident is current and accurate. However, I think the course of prudence on my part is to take questions such as those put today by Senator Olson as notice, and to obtain the information and bring in a written reply.

I have also indicated that, if he wishes to take part in one of the Notices of Inquiries that he has already put down, I undertake, on behalf of the government, to listen to what he has to say or to read it in *Hansard* and to come back here and address the issues that he raises in the course of the debate. More than that, I cannot do. There is only one member of the cabinet sitting in this chamber, and he cannot be expected to answer in detail for each of his colleagues.

Senator Olson: Finally—I should never say that, but I do once in a while. One is never really sure, Senator Roblin, whether the government leader might say something that prompts another supplementary question. I am not sure about that at the moment.

In any event, I think the Minister should give an undertaking. The calendar on the desk indicates that it is December 18th and we may not be sitting next week. Perhaps we will; I am not sure.

There are some people out there who would like to know what the government's attitude is now. Can the Minister give us an undertaking that he will come back with some positive replies and answers to the questions I have asked today? Will he come back with that tomorrow?

I do not know whether the government leader has to go to a cabinet meeting this afternoon. I will raise a number of questions this afternoon or before we adjourn today. I would like him to give us an undertaking that he will come here with some information that is positive, and will give some hope to the people whose plea I am making on the floor of the chamber today.

Senator Murray: Honourable senators, the Honourable Senator Olson knows that I cannot undertake to bring in a reply to a particular question on a particular day.

Senator Olson: I used to do it all the time.

Senator Murray: My honourable friend used to do it all the time. That is not to say that he was able to honour those undertakings for reasons that he knows as well as I do.

I should tell the honourable senator that I will be here tomorrow. I will not be here on Thursday afternoon, but I will be here on Friday. I will do my best to obtain answers to the questions that he has asked.

Meanwhile, I think I should place on the record of the house something of what the government's record has been in dealing with questions asked by honourable senators. Going into today's sitting there were 24 outstanding questions that remained to be answered by way of delayed replies. Since September 25, the government has brought in 92 delayed answers to questions. Anyone who has sat here for any length of time will appreciate what an outstanding record that has been and what a sharp constrast it is with the situation—

Senator Olson: You have lots of staff. That is not a great record.

Senator Murray: —we faced when the honourable senator was Leader of the Government in the Senate.

Senator Olson: When the "honourable senator" that you are talking about was Leader of the Government in the Senate we kept track, too. We anticipated the questions that the opposition would ask 90 per cent of the time and had the answers in front of us. That is the record of the "honourable senator" whom you talk about. I kept track of it.

What we have now is somewhat better than what we had a few minutes ago. The Leader of the Government has given an undertaking to come into the chamber with some replies. For that I am grateful. I will report that to the people who are vitally interested in this matter.

THE SENATE

PROCESS AND PROGRESS OF LEGISLATION—VALIDITY OF DELAYS—GOVERNMENT POSITION

Hon. Herbert O. Sparrow: Honourable senators, I have a question for the Leader of the Government in the Senate. The Prime Minister, the Honourable Harvie Andre and the Honourable Otto Jelinek, on more than one occasion, have stated publicly that the Senate has no constitutional, legal or moral right to delay, amend, or defeat legislation passed by the duly elected House of Commons. I want to know if this is the official government interpretation of the Constitution and if it is the interpretation of the Leader of the Government in this chamber.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Prime Minister, Mr. Andre and all ministers are well aware of the provisions of the Constitution concerning the Senate. With the exception of amendments to the Constitution and the question of originating money bills here, the powers of the Senate are virtually equal to those of the House of Commons.

The question that arises always in these cases—and we have debated it on numerous occasions in the past couple of years—is whether in 1990 it makes sense and is appropriate for an appointed body to exercise to the full the powers that were accorded to it in the Constitution of 1867. The question is whether honourable senators opposite want a ninteenth century or a twentieth century Senate.

Hon. Royce Frith (Deputy Leader of the Opposition): It could have been amended in 1982. You know our present Constitution was amended.

Hon. Roméo LeBlanc: There are ninteenth century senators on the other side.

Senator Murray: As I indicated, I thought that a useful compromise was made some years ago when the so-called Hayden formula was adopted providing for pre-study of bills, with the opportunity to make improvements, changes and amendments in those bills even before they left the House of Commons; that is to say, without the polarization and confrontation that is involved in amending those bills after they arrive here. However, that is a subject for debate.

I want to assure the honourable senator that we are all aware of what the Constitution provides, but there are also conventions to be observed. One of the conventions that had been observed until recently is that the Senate found ways other than confrontation to play a useful role in the legislative process.

● (1430)

Senator Sparrow: Honourable senators, I would like the Leader of the Government to try, if he possibly can, to answer the question which I just asked. It is whether the Senate has the constitutional, legal or moral right to delay, amend or defeat legislation. The Prime Minister and the other ministers I mentioned have been telling Canadians that we do not have that right. I am asking the Leader of the Government in the Senate today if he believes, and so, whether he will inform this house—or at least inform me—that he believes that we have those rights. Without talking about making sense, creating delays or about anything that went on previously, I ask the question because it is important. If this house has a duty to perform, then it is within those constitutional bounds. Please answer my question.

Senator Murray: Honourable senators, the Senate's moral rights are, of course, always a matter of judgment, opinion and debate. The Senate's legal and constitutional rights are spelled out in the Constitution Acts of 1867 and 1982 when the amending process was agreed to.

The honourable senator purports to quote from statements made by the Prime Minister and other ministers to the effect that the Senate, he says, has no constitutional, legal or moral right to do certain things. I would like to see those statements.

Senator Sparrow: I wonder if you could try to answer the question. Do you believe, as Leader of the Government in this place, that the Senate has a constitutional or legal right to delay, amend or defeat legislation? That is the question I am asking. Do you say that, yes, it has that right; or do you say, no, it does not have that right?

Senator Murray: Honourable senators, I have just said what the Constitution Acts of 1867 and 1982 provide—

Senator Sparrow: That is not my question.

Senator Murray: I am bound by the Constitution, as is the honourable senator.

Senator Sparrow: I am asking you what your opinion is. Do you believe that the Senate has a constitutional right? I am frustrated, and you can see it. On television and in the print media the Prime Minister and Harvie Andre have been quoted as telling Canadians that we do not have the constitutional, legal or moral right. Are you defending that position? If we do not have that right, then what in the hell are we doing here?

Senator Murray: The honourable senator is misstating the position of the government on that matter. We cannot take a position which is contrary to the Constitution.

I stated in reply to the honourable senator a few moments ago that the Constitution Acts of 1867 and 1982 provide that the Senate has constitutional powers virtually equal to those of the House of Commons, except in respect of originating money bills and amending the Constitution, with respect to which we have only a suspensive veto.

Senator Sparrow: Honourable senators, will the Leader of the Government in the Senate make it clear somewhere or other that it is improper and basically lying to the Canadian people when the statement is made that we do not have the constitutional right to amend or defeat legislation?

Senator Murray: Honourable senators, I am unaware that such a statement has ever been made by the Prime Minister or by Mr. Andre.

Senator Sparrow: Bring some more lies to us any time you like; we are getting used to it.

CANADIAN WHEAT BOARD

DETERMINATION OF INITIAL AND FINAL PRICES—PRAIRIE GRAIN ADVANCE PAYMENTS ASSISTANCE—GOVERNMENT RESPONSE

Hon. Efstathios William Barootes: Honourable senators, I have two questions to ask of the Leader of the Government in the Senate. They relate to what my friend from Alberta, Senator Olson, referred to when he asked a question concerning the prices set for grains in this country by the Canadian Wheat Board. I ask the minister to tell us, or to find out for us

whether this is something which is decided in cabinet, or if it is something which is decided entirely by the Wheat Board itself.

I got the impression that the honourable senator felt the cabinet should be discussing the initial and final prices to be paid for grains to producers in the west. However, I thought it was the duty and responsibility of the Wheat Board itself to make that determination. I should like to know who makes that determination.

The second area that was of concern to the senator, and to all of us, is provision for alleviation of the short-term fiscal problems which some producers, particularly in western Canada, are facing today. What short-term arrangements may be made to assist them?

Senator Olson's question and his comments left me with the impression that your answer is that the producers in western Canada must stand still and wait and see; that, I believe, was the term he used. I would like to know whether or not that is correct. I was informed—and perhaps you can confirm this—that the Prairie Grain Advance Payments Act has been supplying some $1.2 billion of assistance to grain producers in western Canada.

Senator Olson: You cancelled that a couple of years ago.

Senator Barootes: The first $50,000 is interest-free, and the remainder will bear interest. This amount pertains to 52,744 grain producers. I believe the same conditions apply to a lesser extent to the Advance Payments for Crops Act, which pertains to eastern farmers.

Would the Leader of the Government in the Senate confirm whether or not those are actual facts and if that is the short-term alleviation that may be available to our producers in the west?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there has been an agreement between the federal government and the provinces in the last little while on some short-term measures. It is for the purpose of obtaining further details on this and related matters that I have taken Senator Olson's questions as notice. I have also undertaken to participate, or have a colleague participate, on behalf of the Minister of Agriculture in the debate on any inquiry that Senator Olson puts down on this matter.

Hon. Herbert O. Sparrow: Honourable senators, I have a supplementary question. The honourable senator asked who makes the decision as to the amount of the initial payment.

Senator Barootes: The payment for grains to producers.

Senator Sparrow: I would like to have the answer to that question as well.

Senator Barootes: My question was this: Does the cabinet determine that or does the Wheat Board determine that?

Senator Sparrow: Yes, indeed, that was the question. The Honourable Charles Mayer, on behalf of the government, announced the initial price. I would be interested in that answer.

[Senator Barootes.]

ADVANCE PAYMENTS FOR CROPS AND GRAIN—
REINSTATEMENT OF INTEREST-FREE PROVISIONS IN ACTS—
GOVERNMENT POSITION

Hon. Daniel Hays: Honourable senators, I should like to direct a further supplementary question to the Leader of the Government in the Senate.

This MATTER was discussed as hypothetical at the time, but is no longer hypothetical. Under the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act, the interest-free provisions were removed by Bill C-36. They have now been reinstated on an *ad hoc* basis, as described by Senator Barootes. Those payments are welcomed and much needed for prairie grain producers. Will they be treated differently in terms of our trade relationship with the United States and under the GATT than they would have been treated if the legislation had never been passed, and the interest-free loans were a matter of right?

• (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will seek to obtain a statement on that matter.

OFFICIAL REPORT

CORRECTION

Hon. H. A. Olson: Honourable senators, before the Orders of the Day are called, I would like to make a very serious correction to *Hansard*.

Last Friday, December 14, 1990, at the bottom left-hand column on page 4864, I said:

> Is the Senate not to have anything to say about this? The Deputy Leader says that he can come now, but I think we need to refer to the rule book.

The *Debates of the Senate* then continues as follows:

> **Senator Doody:** The case is already closed.
>
> **Senator Olson:** We want the Mace back here. The Senate is in session.

There was no motion passed by the Senate to adjourn. Senator Doody is then reported as having said:

> **Senator Doody:** Make up your mind.
>
> **Senator Frith:** Did you not say that you do not need the motion?
>
> **Senator Doody:** I do not care.

Then, at the top of the next column it reads as follows:

> **Senator Olson:** Put the Mace back on the table.

No one was authorized to take the Mace off the table. There was no motion to adjourn, but I saw someone come and take the Mace off the table. He had no business to do it and I told him so. The record then goes on as follows:

> **Senator Sparrow:** There is a motion to adjourn and we do not have the Mace on the table. What did we do with the motion to adjourn?

That was a perfectly legitimate, logical question to put at that moment. Then the Honourable the Speaker said:

> Gentleman Usher of the Black Rod, you will proceed to the House of Commons and acquaint that house that it is the desire of the Honourable the Deputy of His Excellency the Governor General that they attend immediately in the Senate Chamber.

That is all it says up to that point. It then goes on as follows:

> The Senate having been informed that the House of Commons had adjourned, the Honourable the Deputy of His Excellency the Governor General retired.

Honourable senators, that is not what the "blues", which I have here, say. Right after the Speaker directs the Black Rod to proceed to the Commons, the "blues" read as follows:

> **Senator Olson:** Your Honour, I wish to advise you that I am a Member of the Queen's Privy Council of Canada. I took the oath and was sworn in to that office on July 6, 1968.—

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Dispense.

Senator Olson:

> —My name is H. A. Olson. At that time I took an oath that I would give advice to her Majesty the Queen of Canada upon all seasonable occasions.

Honourable senators, that is not in *Hansard*. I went on to say:

> Today we have a situation where we believe that Her Majesty or her representatives have not been given all the advice that is necessary to deal with the situation that is before us today.
>
> For example, Bill C-62 was allegedly passed, but it was not; it was dealt with illegally in the upper chamber of the Parliament of Canada. There is no question in the minds of about 50 per cent—

I think I should have said "49 per cent"—

> —of the members of this chamber that that is the case. Law and order were set aside and the Speaker, in collusion with the government, bulldozed Bill C-62 through this chamber.

Honourable senators, that is what I said but that is not in *Hansard*. It is not where the people can read it. I went on to say—and I have to get this recorded properly:

● (1450)

> We do not ask you to permanently stop this important tax bill, but we ask you to withhold Royal Assent on this bill, or to refuse Royal Assent until the remedial actions that we have already initiated are dealt with. There are several.

Senator Barootes: Rave on!

Senator Olson:

> One of them is, of course, the fact that there are eight senators in this chamber whose qualifications, and the fact that they could be appointed over and above the 104, are in question. That matter has been referred and an appeal has been accepted by the Ontario Court of Appeal. They have set aside two days next month for an appeal against the rulings. Those dates are January 21 and January 22, 1991.
>
> The second thing that we have initiated is a motion that is still before this chamber to censure the perpetrator of this illegal action, namely Senator Charbonneau, who was acting in the position of Speaker. We have not yet completed the consideration of that motion.
>
> Therefore we believe that you should withhold Royal Assent until we have completed dealing with these remedial actions that are now only partially underway.
>
> I should advise you also, as one of the Queen's Privy Councillors of Canada, that I was present in this chamber when members of this upper house of Canada's Parliament were denied their right to speak; their ancient and undoubted right to come before this chamber of Canada and give their views. I, for example, have been denied my right to speak on third reading. All of the members from northern Canada have been denied their right to speak on third reading of this bill. Although this bill would have a profound effect on the lives of northerners, their representatives here have not even had an opportunity to speak.
>
> Therefore, I suggest to you that you withhold Royal Assent until the Court of Appeal of Ontario, and perhaps even the Supreme Court of Canada, can discover whether or not Section 26 of the Constitution of Canada was complied with. That should at least be completed. We have our remedies; we are not asking you to provide a remedy for these illegal situations. They have already been initiated but they have not yet been completed.
>
> Therefore, I have to say to you that I believe that you should withhold Royal Assent on Bill C-62, which deals with a major change in the taxation of Canadians. I realize, of course, that it is an unprecedented action, but we have been advised by the government supporters that, when you have an unprecedented situation, you need to take unprecedented action to deal with it.
>
> Therefore, I suggest that you refuse, for now—not permanently, but temporarily—Royal Assent to this bill until we have completed the remedies that I have just described to you.

Now, honourable senators, all that has been left out of *Hansard* for Friday, December 14. It then goes on from there to say:

> The sitting of the Senate was resumed.

Honourable senators, who has the right to decide that things should be taken out? First of all, we have to find out who it is who believes they have the authority to take the Mace off the table before the Senate is adjourned. I do not know who has that authority. Who has the right to strip out a whole page of *Hansard*? I do not think anybody has that right, but that is what they did.

The reporters were here and recorded my remarks exactly as they were delivered. Why have they been taken out? Who has the right to decide what goes into *Hansard* and what does not go into *Hansard*? Nobody. Nobody has that right.

Therefore, honourable senators, I request or demand, whichever is the right word, that *Debates of the Senate* for Friday, December 14, be reprinted and that everything I said on that day be reinstated in that volume. It was a "fix" by somebody, and I think it is despicable. I thought we had seen the absolute new low in corruption last week, but now, when they even try to fix the record, it gets worse. It gets worse day by day. Who is guiding this? Surely, the house leader ought to have picked that up right away, because he had a few things to say in there. Senator Murray made a little speech right on the floor of the chamber at that time about the House of Commons being adjourned.

Above everything else, honourable senators, surely we have a right to have an accurate record and it is not. There are things missing from it. How did they get left out? We have it all recorded here in the "blues". The reporters took it all down very faithfully. Somebody out in the back there, or in the front, or somewhere, decided that they would strip that page out. Why? It happened. It is a fact.

I will tell you something else: The missing part had better be reinstated and the whole of the Volume reprinted. Perhaps it would be a good idea to do things honestly and in an upright fashion, for once. If it is not fixed, I intend to bring it up every day for the next ten years!

Senator Doyle: Oh, no!

Senator Olson: I am here until October 6 in the year 2000. It is just preposterous and outrageous that some people here think they can fix *Hansard*, so that it does not even record what was said. I want it fixed. I have that right.

Senator Buckwold: Find out who did it.

Senator Olson: We will find out who did it eventually, but those who did it should hang their heads in shame. They have no right to interfere with the *Hansard*, the record of this place. Who authorized that my remarks be stripped out of *Hansard*?

In any event, I do not want to turn this into a debate or a speech today, but everyone in this place knows that it is wrong to do things like that. Therefore, I will wait until tomorrow to find out who was in charge of doing this. It is so preposterous. I do not know anyone who has the right to take one word out of *Hansard*, let alone a whole page. It is unprecedented. Perhaps these guys opposite have become so completely immune to obeying the law that they think they can just thumb nuff their noses in the face of law and order, because this is the worst I have ever heard.

I do not know whether the Speaker thinks he has the authority to fix *Hansard*. He is supposed to be one of the senior officers around here. I will have more to say about that when the motion of Senator Stanbury comes up, but this is a new low and I want this action fixed, repaired, or remedied. I tell you, I am just not going to stand for it.

Some Hon. Senators: Hear, hear!

[Senator Olson.]

Hon. Royce Frith (Deputy Leader of the Opposition): Do you have no comment, Senator Murray?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no comment because I have no information on the matter. Period.

Senator Frith: Well, that's a comment.

Senator Olson: I will give you the information. Here are the "blues". I am not going to give them to you; you can obtain a copy. Here is the *Hansard* that does not have the remarks in it.

Senator Murray: Your seat is over there, Senator.

Senator Olson: Here is the *Hansard* where they are not printed, and here are the "blues" where they are!

Senator Murray: Your seat is over there. Pray resume your seat there.

Senator Olson: Don't say you do not have any information, because you have access to the right information.

Senator Murray: Honourable senators, it is not the Leader of the Government or, to the best of my knowledge, anyone on this side who is in charge of the reporters and the editing and production of *Hansard*. I received the document at the same time the honourable senator did. I had not noticed that his intervention, at an inappropriate time, was omitted from *Hansard*. I am not at all sure that it is appropriate that it be carried by *Hansard* since it was delivered during what was expected to be the Royal Assent ceremony.

Senator Olson: There was no adjournment of the Senate.

Senator Murray: I beg the honourable senator's pardon, but the Deputy to the Governor General was here and the Black Rod had been sent to the House of Commons to invite the members of the House of Commons to come here, or to acquaint them that the Deputy of His Excellency the Governor General was here waiting for them, and that is not a time when debate proceeds or honourable senators make speeches.

• (1500)

Senator Olson: I know that for evil to prevail it only takes good men to do nothing. If we do nothing, you will get away with this kind of garbage day after day. We know you will continue to violate the rules and continue committing unlawful acts, yet you stand there and say we are being mischievous or something, because we are asking you to stick to the rules.

I can tell you that I do not intend to stand by and do nothing about the outrageous things you have done, and I know that my colleagues feel the same way.

CANADIAN HERITAGE LANGUAGES INSTITUTE BILL

SECOND READING—ORDER STANDS

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-37, An Act to establish the Canadian Heritage Languages Institute.—(*Honourable Senator Corbin*).

Hon Eymard G. Corbin: Honourable senators, I am going to ask that this matter stand today. Yesterday's *Hansard* is not available, so I have not had the benefit of reading the speech given by the Honourable Senator Robertson. I, therefore, beg to stand this matter for another day.

Order Stands.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon.Nathan Nurgitz moved the second reading of Bill C-79, to amend the Parliament of Canada Act.

He said: Honourable senators, Bill C-79 has been discussed by the leadership on both sides of the house. I will simply highlight a few of the features of the bill, the most significant being that this bill brings about amendments to the organization and structure of what is known in the House of Commons as the Board of Internal Economy. These amendments are essentially housekeeping in nature.

The bill also brings about amendments that allow the board to make bylaws governing the use of and accounting for funds, goods, services and premises provided by Parliament. The bill brings about amendments which grant the board "exclusive authority" to determine the propriety of use by members of money, goods, services and premises made available for carrying out their parliamentary functions, and to issue opinions to members of the House of Commons on these matters. An amendment was added in committee that requires the board members to take an oath of fidelity and secrecy. When I address the bill as it affects the Senate, that is something which I hope to remember to point out, as we did not ask for it and therefore it is not provided for in this bill.

Another amendment requires a judge, rather than a justice of the peace, to hear requests for the issuance of a criminal process against a parliamentarian. This is a higher level of judicial consideration for the obtaining of search warrants, intrusive devices and things of that nature.

The special committee of the House of Commons adopted a provision that permits a peace officer investigating a parliamentarian to seek an opinion from the board at his or her discretion. If an opinion is received, it must be given to the judge, who must then consider that opinion in deciding whether to issue process.

Some senators and some members of the House of Commons were concerned that police forces do not understand the parliamentary rules governing MPs' and senators' budgets, and consequently do not always appreciate the difference between administrative and criminal issues regarding house or Senate budgets.

The significant provisions of Bill C-79 that affect the Senate are as follows: There is now in legislation the recognition of the Committee on Internal Economy, Budgets and Administration established by the Senate under its rules, along with some statutory authority, and let me mention at the outset that in the interpretation of "Board of Internal Economy", it means the Standing Senate Committee on Internal Economy, Budgets and Administration. That is the committee chaired by our colleague, Senator LeBlanc.

That committee will have the power to make bylaws governing the use of and accounting for funds, goods, services and premises provided by Parliament. It will also grant to the committee "exclusive authority" to determine the propriety of use by senators of money, goods, services and premises. It also has the authority to provide opinions to senators on matters.

If a senator is in doubt as to the propriety of what he is doing, he can refer the matter to the Committee on Internal Economy, Budgets and Administration for an opinion. That opinion, in the event of subsequent proceedings, would go before a judge. If someone laid an information against a senator for theft, and there was an opinion from the committee saying what the senator did was perfectly within that senator's rights, the judge would see that opinion.

An amendment was made in the House of Commons which requires a judge, rather than a justice of the peace, to hear requests for the issuance of a criminal process against a senator. That is a higher level of judicial hearing. It is not so much a matter of a law for the rich and a law for the poor, a law for everyone and another law for parliamentarians, but really a matter of a little special care because of reputations and things of that nature.

A peace officer can seek the opinion of our committee as to whether, in the opinion of that committee, a wrong has been committed. That opinion, if obtained by a peace officer, must be given to the judge when he is considering whether to issue process.

Like the Members of the Board of Internal Economy of the House of Commons, members of the Senate committee are not liable; that is, there is immunity.

Honourable senators will be pleased to know this because only three weeks ago, solicitors for Southam News issued a Statement of Claim against our committee and named all 12 members, including someone by the name of Robert Wood. I am sure they meant Senator Dalia Wood. In any event, I point out that the new legislation, if passed, gives immunity to anyone sitting on the committee.

The bill only deals with funds, goods, services and premises provided to senators to carry out their duties. This is quite different from theft from the Library of Parliament or fraud committed against the Parliamentary Restaurant. The bill simply deals with our own staff, the various budgets we have—the discretionary budgets and research budgets.

Upon receiving a complaint, a police force may verify with the committee whether the allegation appears to contravene our rules. The bylaws and opinions of the Board of Internal Economy of the House of Commons and the Senate Committee on Internal Economy, Budgets and Administration should assist the RCMP or any other police force in assessing whether

to proceed further, and on what basis. In fact, other jurisdictions go a lot further than any of the propositions raised in Bill C-79. I want to be clear on that. I think this is much less than is provided for in other jurisdictions. The Library of Parliament has done a comparative study of many other jurisdictions, and I will cite some of its examples.

● (1510)

In the United Kingdom the police do not attempt to execute searches without proper persmission. If the Speaker of the house of Commons deemed it advisable to permit one, the matter would be referred to that house, or, in the case of the House of Lords, to the House of Lords for consideration first. In Switzerland, authorization of the two chambers of the federal assembly is necessary in order to commence any kind of proceedings against a legislator. In Sweden, charges cannot be laid against a member for actions as a member without the consent of their Parliament. Procedures require a prosecutor to submit a written request to the Speaker, who will submit it to the chamber for a vote before proceedings can be taken. In Denmark, no legislator can be charged or imprisoned without the consent of their Parliament. In France, during a session of Parliament, no member may be charged or arrested in criminal matters without the authorization of the house of which that person is a member. In France, Greece, Germany and Belgium the consent of the Speaker is required to conduct searches.

Honourable senators, Bill C-79 in no way intends to establish rules for the Canadian Parliament similar to the other jurisdictions I mentioned. They are far more modest. The ability of our internal economy committee to issue bylaws on the use of members' funds and services and the requirement of police forces to solicit information based on those by-laws as part of the preliminary investigation before initiating court processes is meant only to help police confirm probable cause and to determine the merits of the allegation in terms of the breach of the rules of the respective house.

Honourable senators, I am sure most parliamentarians do not want to hide behind special laws, nor do we want to protect those who might want to break those laws. However, in this day and age of intense media scrutiny and the implied guilt that goes along with something as simple as a search warrant or even a police investigation, we are only aiming to protect reputations from unfair attacks. Members of both the House of Commons and this chamber have felt that media coverage of many events, including the coverage of the movement of this bill through the two houses, has not been fair, which demonstrates the ease with which either an MP's or a senator's reputation or motive could be questioned.

This bill arrives in the Senate chamber after considerable review and debate in the other place. It was studied and concluded in the absence of political partisanship. It has had a considerable amount of public discussion, and it is my sincere hope that the same responsible review can be conducted in this chamber. For the record, I would like to read one quotation from the Commissioner of the Royal Canadian Mounted Police who said, in the committee of the other house:

[Senator Nurgitz .]

> . . . as the commissioner of the RCMP, I am absolutely delighted with all the work that has been done, with all of the attempts towards self-regulation, with all of the attempts to clarify the privileges and the disbursements which members of Parliament have entitlement. I think all of that will go a long way to clarifying the issues of concern.

In conclusion, honourable senators, in a day of high levels of public cynicism toward elected and appointed officials, I think it is important to pursue initiatives that can open the system, give guidance to parliamentarians and increase the level of understanding and appreciation of the duties and responsibilities we all have.

I might mention that the two opposition parties in the House of Commons agreed to speedy passage of this bill. It only had about an hour and a half of debate both at the reporting and third reading stages in the other house. It is my intention—and Senator LeBlanc and other senators may speak to this—that the matter would be referred to either the Standing Senate Committee on Legal and Constitutional Affairs or Senator LeBlanc's Committee on Internal Economy, Budgets and Administration. In any event, I pass this on for your consideration. Thank you.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wonder if I may ask the honourable senator a question. As an observation before I ask my question, I think it would be highly desirable for the Senate to give this bill careful scrutiny to remove any public impression that members of parliament or senators are creating special privileges for themselves. Although I attempted to listen as carefully as possible, I am not clear in my own mind about the protections or clarifications that will exist with respect to a senator or member of the House of Commons yet which are not available to an ordinary citizen of this country. Are there any, and, if so, what are they and what is the justification for them?

Senator Nurgitz: Honourable senators, I would like to review the matter and outline the differences. One that comes to mind is which level of court would hear an application, for example, for a search warrant or any other kind of criminal process. This bill requires that it not be heard by a justice of the peace. It is a higher level court process. If I can justify that, a more serious crime must be tried at a higher level court. One might consider that to be something that the ordinary citizen does not receive.

The ordinary citizen, Senator MacEachen, would not have an opportunity to go to someone and ask "Is what I am doing wrong?" There is no safeguard on this, but if an honourable senator were to undertake a project of some kind using Senate funds—we have a discretionary budget for various matters—he or she could go to the Internal Economy committee and obtain an opinion. It is well within his or her purview to do that. I do not know where a citizen can go somewhere to determine whether their actions tomorrow or the next day ought to be free of criminal prosecution.

Those are two matters that come to mind, but I would like to think about the matter again. I think it is a matter that the committee will have to consider, because we ought not to be looking toward establishing ourselves as either elitist or special.

Senator MacEachen: I thank the honourable senator. I will read his remarks, and we will have a chance to follow up on these matters in committee and on third reading.

Hon. Gildas L. Molgat: Honourable senators, I have had a quick look at the bill, and I have some questions that revolve around the responsibilities of the Rules and Procedures Committee of this place. It seems to me that the responsibility may straddle the Internal Economy Committee and the Rules Committee. Clearly, if it is a financial question it is the responsibility of Internal Economy; on the other hand, if it is a question of rules and procedures, then it will fall under the other committee. For example, some time ago there was a request by the RCMP for a warrant in this place. The matter was referred to the Rules Committee, which is presently conducting a study in this regard. I wanted to point out that straddling of responsibilities.

Hon. Roméo LeBlanc: Honourable senators, I do not intend to impede the progress of this legislation. The Internal Economy Committee had extensive consultations with respect to the bill when it was being worked on before the summer break.

However, since there are some modifications, I think it would be useful if I took the adjournment so that we could consult ina non-partisan way and come back after we have done so.

On motion of Senator LeBlanc, debate adjourned.

● (1520)

BROADCASTING ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Norman K. Atkins moved the second reading of Bill C-40, respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication.

He said: Honourable senators, it is a pleasure for me to have the opportunity to propose second reading of Bill C-40, the new Broadcasting Act.

Canada needs a new Broadcasting Act and its consideration in this chamber is long overdue. I say that because the current Bill C-40 is the result of a lengthy process of public consultation and policy development that has been going on for at least five years.

This legislation was born out of the process of public participation that began with the establishment of the Task Force on Broadcasting Policy, under the co-chairmanship of Gerald Kaplan and Florian Sauvageau in May of 1985. After more than a year of broad public consultation, study and research, the task force submitted its report and recommendations to the government in September of 1986. The recommendations of the task force were then studied in the House of Commons Standing Committee on Communications and Culture. That committee also held extensive hearings and produced a number of reports which substantially support the recommendations of the task force.

After the submission of the standing committee's report, new broadcasting legislation was introduced for the first time in the House of Commons in June of 1988 as Bill C-136. That bill received third reading in the House of Commons on September 28, 1988. It was introduced and given first and second reading in the Senate, after which it was referred to the Standing Senate Committee on Transportation and Communications on September 30, 1988, where it died with the dissolution of Parliament. Senators will recall that the election was called the next day, October 1, 1988.

On October 12, 1989, the Honourable Marcel Masse reintroduced the legislation as Bill C-40 in the House of Commons. It received third reading in the other place on December 5, 1990. It is therefore only after an exhaustive process of public participation and parliamentary debate over a period of more than five years that this important legislation has come before the Senate.

Honourable senators, the bill we have before us is, in principle, fundamentally consistent with the recommendations of both the Kaplan-Sauvageau task force and the standing committee. In those cases where the standing committee's recommendations differ from those of the task force, the legislation reflects the committee's views. Now, although there are some lengthy technical changes that have been incorporated into the current legislation that were not included in the original Bill C-136, the bill that is now before the Senate as Bill C-40 is substantially the same legislation that was before the Senate on September 30, 1988 as Bill C-136.

The investment in time and effort that has been made in the development of this legislation over a period of more than five years, involving literally thousands of Canadians—from those directly involved in the broadcasting industry to special interest groups that are concerned about broadcasting to the many individual Canadians who took the time and trouble to make their views known to the task force, the standing committee and to their representatives in Parliament—is evidence of how fundamentally important broadcasting policy is to our country. It is certainly clear after more than five years that new broadcasting legislation is needed and is, indeed, long overdue. It is now incumbent upon us to respond to the clear need for it and to do so expeditiously, so that Canadians may finally begin to experience the benefits that will flow from the legislative reform in which so much time, effort and resources have been spent.

Honourable senators will see that the legislation is divided into three parts. Part I sets out the legal definition and establishes the broadcasting policy for Canada. The policy outlines in general terms the roles and responsibilities of private and public broadcasters and includes the CBC's mandate. Part II sets out the CRCT's mandate as the independent regulator of the broadcasting system. Part III continues the CBC as the national public broadcaster, establishes its corpo-

rate structure and sets out the objectives and powers of the corporation.

In broad terms the legislation is designed to respond to virtually unanimous conclusions that emerged as a result of the extensive process of public participation and policy development that I described a few moments ago. Those conclusions were that the 1968 Broadcasting Act is badly outdated and that the choice of Canadian programming and Canadian broadcast media is inadequate.

The new Broadcasting Act responds to and addresses both of those conclusions. It recognizes and permits the CRCT to regulate those new broadcasting technologies that were not even contemplated when the existing legislation was enacted in 1968. It incorporates concerns for human rights and for the need for better representation of women and minorities that were not addressed in the earlier legislation.

In addition, the new legislation is designed to protect and strengthen cultural sovereignty by ensuring that a broader range of better Canadian programming choices is available to all Canadians. Both of these objectives are important, but the second is of particular concern because it is the programming that directly affects and influences individual Canadians. It is the content of what Canadians see and hear on their broadcast media that is at the heart of all broadcasting policy. To quote the 1965 report of the Fowler Commission: "The only thing that really matters in broadcasting is program content; all the rest is housekeeping".

Broadcasting policies, broadcasting laws and technology do not often concern the vast radio and television audience. Programming, on the other hand, competes for our attention daily. Its presence is pervasive and because of its unique ability to provide shared experiences simultaneously to a large number of people in many different locations, its social and cultural impact is enormous. In a democratic society, a diversity of information sources is an important right of every individual. This concept is reaffirmed in the policy section of Bill C-40, which states clearly that a range of broadcasting services in English and in French shall be extended to all Canadians.

Most Canadians already enjoy a wider range of broadcast services than is available anywhere else in the world, but the great majority of their programming is of foreign, primarily American, origin. Diversity means choice. Bill C-40 recognizes that Canadian programming must form a vital and significant part of programming mix. Accordingly, without limiting the availability of other programs, this bill includes measures that will ensure that Canadians have the opportunity, among all of the viewing options available to them, to choose top quality, competitive Canadian programs.

● (1530)

Bill C-40 addresses these important objectives in several ways. First, it recognises the enormous contribution of public broadcasting to the creation and exhibition of all forms of Canadian programming. I re-affirms the role of the Canadian Broadcasting Corporation as the primary instrument of broadcasting and cultural policy in Canada. The CBC's mandate is refocused to emphasize that its programming should be predominantly and distinctively Canadian, reflecting Canada and its regions to national and regional audiences. For the first time, the CBC journalistic, creative and programming independence are written into law.

In addition, this legislation responds to a recommendation first made by the Caplan-Sauvageau task force and subsequently endorsed by a standing committee of the House of Commons that the phrase "national unity" be removed from the mandate of the CBC. Bill C-40 removes the obligation to ". . . contribute to the development of national unity . . ." from the legislative mandate of the corporation and replaces it with an obligation to ". . . contribute to shared national consciousness and identity . . ." As I indicated, this is a change that originated with the recommendations of the task force report which recommended that: "The provisions that the national broadcasting service be predominantly Canadian in content and character, and that the service provide for a continuing expression of Canadian identity, should be left intact in new legislation. The provision that the national service contribute to the development of national unity should be rescinded and replaced by a more socially oriented provision, for example, that the service contribute to the development of national consciousness."

That recommendation was endorsed by the all-party standing committee of the House of Commons in its sixth report which said:". . . there must be no suggestion in the Act that the CBC has any obligation to serve as a propagandist, even for a cause as legitimate as national unity.

Hon. Royce Frith (Deputy Leader of the Opposition): Did you say it was adopted by an all-party committee?

Senator Atkins: Yes, it was.

Senator Frith: Unanimously?

Senator Atkins: Yes. What happened, Honourable Senator Frith, was that it was raised at second reading; that is when the whole national unity argument came forward.

It may also be worth noting that the former Chair of the CRTC, and now Chair of the Citizens' Forum on Canada's Future, Mr. Keith Spicer, the President of the CBC, Mr. Gérard Veilleux, and the Chairman designate of the CBC, Mr. Patrick Watson, all expressed a preference for the new wording in their evidence before the standing committee.

No one could disagree with the proposition that the CBC, as a national institution, should be a unifying force in the country. However, a legislative mandate for the CBC which is capable of being misunderstood, or worse, of being perversely interpreted, is clearly unacceptable.

Canadian unity cannot exist without a sense of shared national consciousness and identity. The new wording of the CBC's mandate will encourage it to foster Canadian unity through the development of a shared sense of national consciousness and identity but without evoking the spectre of programming bias that is suggested by the use of the phrase "national unity".

The CBC should be expected to help build this country in the best way a public broadcaster can: by reporting as accurately, honestly and objectively as it can and by helping Canadians in all regions share in our diverse culture and heritage. That is the mandate that this legislation gives to the CBC.

The mandate of the CBC, as contained in this bill, calls upon the corporation to continue to lead in providing authentically Canadian programming choices in both official languages. But the bill also recognizes that the responsibility for Canadian programs is not the CBC's alone, and this leads to the second point.

The bill makes it clear that private broadcasters are also expected to contribute significantly to the creation and presentation of Canadian programs. This is an important change. It recognizes the contribution that the private sector has made and must continue to make in the fulfilment of national broadcasting policy.

To this end, the Canadian Radio-Television and Telecommunications Commission is provided with a broader range of regulatory instruments to exercise its supervision of private broadcasters—to make it both more flexible and more effective. It is given a new, less intrusive, but perhaps more meaningful way of implementing programming objectives by way of performance incentives.

The bill also recognizes the unique contribution which cable and other distribution services are making to Canadian broadcasting. In defining a role for these services, the bill acknowledges that they can and should, where appropriate, contribute to Canadian programming. For this reason, the bill provides the CRTC with the power to mediate disputes between broadcasters and cable distributors so that conflicts can be resolved in the public interest.

Thirdly, the bill provides for the creation of alternative programming services so as to ensure that the broadcasting system can offer the kinds of programs Canadians have said they want but which would otherwise not be available because of their non-commercial nature and the high cost of television production.

Turning now to the matter of technology, as I noted earlier, the Broadcasting Act urgently needs updating to ensure that it encompasses all forms of broadcasting, and to ensure that the CRTC has the jurisdiction to regulate the broadcasting of programs to the public, regardless of the technology that may be used for transmission of the programs. To achieve that end, the wording of the bill has been made technology-neutral. What does this mean?

The current Broadcasting Act ties the definition of broadcasting to a particular technology: "over-the-air transmission". Yet we all know that today, the vast majority of Canadians receive broadcast programs by cable and satellite. Some of these programming services are not even directly available over-the-air, and some are available only in return for payment.

To render the legislation technology-neutral Bill C-40 re-casts the legal definitions in the Act so that they speak to the transmission of programs to the public, without regard to the technology that may be used. It specifically provides for the exclusion from licensing of those activities that are not essential to the achievement of the broadcasting policy set out in clause 3 of the bill.

This technology-neutral approach will permit broadcasters to use whatever technologies they may wish, including technologies other than over-the-air transmission, for the delivery of programming. At the same time, it will allow others to use traditional broadcasting technologies, for non-broadcasting purposes, without being caught up in broadcasting regulation.

A technology-neutral Broadcasting Act will foster continued technological development. It will encourage broadcasters to make use of the most effective means of transmission available. And it will facilitate the introduction of new delivery systems such as high definition television, digital transmission and pay-per-view services.

With respect to human rights issues: since the current Broadcasting Act was passed in 1968, many changes have occurred in Canadian society. The passage of the Charter of Rights and Freedoms and the further implementation of bilingualism and multiculturalism policies have created a new awareness of the need to ensure that broadcasting legislation and the broadcasting system reflect the Canadian social reality. These important issues were highlighted both by the report of the Caplan-Sauvageau Task Force on Broadcasting Policy and by the Standing Committee of the House of Commons.

Bill C-40 responds to those important concerns by including specific provisions in the broadcasting policy statement recognizing the great diversity of Canadian society and the need for the broadcasting system to reflect that diversity.

● (1540)

The bill acknowledges that English and French language broadcasting operate under different conditions and have different requirements. It requires the CRTC to regulate the broadcasting system in a manner that recognizes those different requirements.

The bill also includes, for the first time, specific provisions for programming that reflect Canada's aboriginal cultures and for programming that is accessible by disabled persons.

Other aspects of the current Broadcasting Act which need updating relate to the operation and accountability of the CBC and CRTC. These two agencies, the national broadcaster and the regulator, are central to the implementation of broadcasing policy and their relationship to the government and to Parliament must be clear and unambiguous. The bill changes the operations of these two organizations in several ways.

With respect to the CRTC, the bill gives the Governor in Council the power to issue policy directions to the CRTC. It also changes the commission's structure and decision-making to make it a more open and regionally-sensitive body.

The power to issue broad policy directions to the CRTC will clearly establish the government's role in setting general guide-

lines for the broadcasting system on broad policy matters. This power has been a matter of some controversy, yet it has been recommended time and time again as a legitimate and appropriate government prerogative since the late 1970s.

In addition, it is important to recognize that the power to issue policy directives is not an unfettered power. The legislation limits this power in several important ways and provides for an open public process to prevent its use for any inappropriate purpose.

First, directions may only be issued in respect of broad policy and regulatory objectives. They cannot be issue in respect of a particular licensing application, nor can they have retroactive effect. Furthermore, the minister must consult with the CRTC before issuing an order and then publish the order in *The Canada Gazette* and table the order in Parliament, where it would stand referred to a committee for 40 days before coming into effect. Thereafter, the minister must again consult with the commission before formally issuing the direction.

At the same time, the government has retained a limited power to review CRTC decisions. It must be clearly understood that this power is quite different and is complementary to the power to issue policy directions. Without this power of review, CRTC decisions would, in some respects, be effectively beyond appeal.

The power to review CRTC decisions exists, without any limitation, under section 23 of the current act. Bill C-40, on the other hand, limits the review power to cases where a CRTC decision departs from the fulfilment of the policy objectives.

Senator Frith: What policy objectives?

Senator Atkins: Those are the ones that are stated.

Senator Frith: Who makes the policy objectives?

Senator Atkins: They would be made either through the CRTC or through government general policy.

Senator Frith: Only if they depart from their own policy? How could that be?

Senator Atkins: There can only be an appeal if they depart from the policies of the CRTC and the government objectives.

Senator Frith: The government objectives. So the government controls the commission.

Senator Atkins: The limited powers provide a necessary opportunity for the public, and the government of the day, to question CRTC decisions on matters of policy and law without being put to the expense and delay that is involved in court action. But Bill C-40 will also change the commission in other ways.

The bill restructures the commission, bringing more openness, accessibility and greater regional sensitivity to its public hearing process. The CRTC decision-making will be decentralized so that panels of commissioners appointed to public hearings across Canada will no longer only hear the matters before them, but will also make the decisions on those matters.

[Senator Atkins.]

Under the existing legislation, where public hearings are required on licensing or other matters, the chair may designate a minimum of two of the ninteen commissioners to hear the evidence. However, present legislation provides that in those cases the actual decisions are still made either by the nine member executive committee, in consultation with the members who heard the evidence, or by the full commission. In short, commissioners who have not heard any of the evidence are entitled to make the decisions. This so-called "collegial" approach to decision-making is contrary to one of the fundamental principles of procedural fairness and natural justice—the doctrine that only those who have heard the evidence on a matter are equipped to pass judgment on its merits—the principle of, "they who hear, decide." The CRTC's practice of collegial decision-making was the subject of critical comment in the sixth report of the Standing Committee of the House of Commons, which recommended as follows:

> Decisions on applications should be made by the Commissioners who hear the applications. As a result, the Broadcasting Act should eliminate those provisions requiring that decisions concerning the issuance, amendment and renewal of licences be made by all full-time members only, in consultation with part-time (non voting) members.

Bill C-40 incorporates that recommendation. However, because the commission's broadcasting mandate requires that its decisions reflect national policies and objectives, the bill requires that panels of commissioners shall consult with the full commission to ensure consistent interpretation of broadcasting policy and regulations.

This combination of decentralized decision-making, with mandatory consultation, provides for an appropriate balance between, on the one hand, a more open, accessible and efficient regulatory process, and on the other hand, consistent interpretation of policies by panels of commissioners operating all across Canada.

In the same spirit, the establishment of regional offices of the CRTC, provided for in this legislation, will foster a greater sense that all Canadians have access to the commission and that the commission is aware of regional issues and concerns.

As to the CBC's operations and administration, Bill C-40 brings three important changes. It restructures the CBC's senior management by separating the quite different functions of president and chief executive officer from those of the chairman of the board of directors. This is common in most large private-sector corporations and is equally appropriate for the CBC.

Honourable senators will be aware of the fact that one of Canada's most distinguished broadcasters, Mr. Patrick Watson, was designated more than a year ago for appointment to the new post of chairman of the corporation. The passage of this legislation will permit this appointment to proceed, and will enable him to fully assume this important responsibility on behalf of public broadcasting in Canada, for which he is so eminently well qualified.

Consistent with the bill's recognition that French and English language broadcasting operate under different conditions and may have different requirements, the bill establishes standing committees of the CBC's board of directors to deal with matters related to French and English language broadcasting.

The legislation stipulates that the committees both be headed up by the chairman and president of the CBC, and that the board itself will determine the nature of their functions and the scope of their activities. It is important to recognize that these committees will function only as committees of the board and that their recommendations will be subject to the approval of the full board of the corporation.

● (1550)

Apart from these requirements, however, the legislation does not stipulate how these committees shall be constituted, nor from what regions or language groups their memberships must be drawn. In choosing their members, therefore, the board is free to make both committees as broadly representative of both official languages and of all regions as it deems appropriate, thereby fulfilling the purposes of the legislation while at the same time using these committees as a means of building new bridges of understanding, cooperation and mutual support between the French and English language networks and services.

In addition, the bill clarifies the nature of the CBC's accountability to Parliament by bringing under the Broadcasting Act measures previously found in other legislation. To balance these measures, the bill stipulates for the first time as a matter of law the CBC's journalistic, creative and programming independence.

Honourable senators, the broadcasting system operates in a rapidly changing environment and legislation plays an important role in regulating that environment. When legislation is out of date the result can mean lost opportunities and even financial losses. Without question, this bill will strengthen the Canadian broadcasting system and the presence of Canadian programming within that system in many ways.

Clause 3 of the bill states that radio frequencies are public property, but it goes on to state that, whatever the method of transmission, broadcasting provides a public service "essential to the maintenance and enhancement of national identity and cultural sovereignty".

It further states that the Canadian broadcasting system should "serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada."

At a time when broadcast technologies are bypassing national borders and program production costs are escalating enormously, a trend has emerged toward programming for global audiences. Too often the result of this trend is programming which is specific to nowhere and which is devoid of identifiable cultural values. The challenge for the Canadian broadcasting system will continue to be to provide programs which speak to Canadians as a people, which communicate our shared values and identities and which reflect Canadian society in all its rich diversity and regional distinctiveness.

To respond effectively to this challenge, Bill C-40 calls upon all elements of the broadcasting system to contribute to the fulfilment of Canadian broadcasting policy. The bill clarifies the roles of all the players in the broadcasting system, both private and public, and states clearly their responsibilities toward the creation and exhibition of Canadian programming.

Honourable senators, it is now time that this important legislation be considered by the Senate to provide us with a broadcasting law that will better serve the needs of all Canadians.

Some Hon. Senators: Hear, hear!

On motion of Senator Davey, debate adjourned.

PRIVILEGE

Hon. Stanley Haidasz: Honourable senators, I wish now to rise on a question of privilege. Over the past several days we have witnessed many breaches of privilege of senators. I believe that the privilege of every member of this House is paramount.

The chairman of the Senate Standing Committee on Legal and Constitutional Affairs has planned a meeting of his committee when the house adjourns, and since s he is eager to get on with the work of that committee, I would like to dispose of my question of privilege as quickly as possible.

Honourable senators will please turn to the *Minutes of the Proceedings of the Senate,* specifically to item number 16 of the Orders of the Day, which is one of the topics of my speech, and to item number 3 under Motions—

Hon. C. William Doody (Deputy Leader of the Government): Will the honourable senator permit a question at this point?

Senator Haidasz: Yes.

Senator Doody: Honourable senators, there is a motion on the Order Paper in Senator Haidasz' name which deals with a direction to the Standing Committee on Legal and Constitutional Affairs. Is this the—

Senator Haidasz: That is one of the topics of my question of privilege. Since the chairman of the committee wants to begin the meeting of the committee as soon as possible, I do not want to wait until we get down to that item—

Senator Doody: The honourable senator cannot bootleg his motion in under a question of privilege. His motion will have to be dealt with under the heading of "Motions". The honourable senator has already tried to do that. He has a question of privilege on the Order Paper today which was called yesterday.

Senator Haidasz: I will then continue with my question of privilege.

Senator Doody: That order was stood, as was the Honourable Senator Haidasz' motion which was called yesterday. He

is now trying to bootleg his motion in under a second question of privilege.

Senator Haidasz: Honourable senators, I continue with my question of privilege. As I mentioned, it has to do with the items on the Order Paper, but, in particular, with the way in which I was treated. I consider that my privilege was breached.

As honourable senators will note from what I have said and from what is on the record, this item has sat since adjournment of the debate by Senator Neiman on November 29, some three weeks. The matter it deals with is an issue of privilege that affects all defence of privilege in the Senate pursuant to Rule 33. In order to freshen our memories, I wish to read into the record Rule 33 which states:

> When a matter or question directly concerning the privileges of the Senate, of any committee thereof, or of any senator, has arisen, a motion calling upon the Senate to take action thereon may be moved without notice and, until decided, shall, unless the debate be adjourned, suspend the consideration of other motions and of the Orders of the Day.

That the matter raised is prima facie in the field of privilege can hardly be contested. Therefore, the adjournment itself and the duration of the adjournment on such a motion of appeal to the Senate on a profound question of privilege itself impugns privilege. I seek the remedy of abridging this adjournment, making room for other debate, or putting the motion contained in this item to a vote. It is not closure that I seek but, rather, an abridgement of adjournment. I claim that failure to do so continues to offend the privileges of all honourable senators.

The violation of privilege here is the inadequate and delayed application of provisions for privileged questions under Senate Rule 33. Privilege violation requires that all members of the Senate give it attention and timely decision with whatever remedy is appropriate.

All parliaments in free democracies are founded essentially on such privileges. That is why every member of a legislative body must support the timely resolution of questions of privilege. The offended privilege of one affects the collective privileges of all members. Without a solid defence of the rights and privileges of legislators, the entire edifice of Parliament is soon in ruins. Without the stable shoreline of accountability to Parliament, a ruler, a despot, a potentate, even a prime minister or his cabinet can pass whatever laws they demand without regard to whether they are just or whether they will imperil national security. Germany learned that lesson a half century ago.

● (1600)

There is evidence that the government may prorogue very soon; so soon that these pressing questions bearing on the very foundation of Parliament in Canada are threatened by neglect. In addition, the committee whose proceedings occasioned the original motion to instruct, the Standing Senate Committee on Legal and Constitutional Affairs, resumes deliberations in a scheduled meeting today after this chamber rises. Therefore, I cannot stress too much the importance of turning our definitive attention to the issue of privilege to instruct a committee.

On November 29 privilege failed once again to be accorded the immediate and sustained attention it deserves. Our Senate Rule 33, standing along with Rule 2 in defence of privilege, was neutralized by the adjournment of debate on the very motion that rule provides for. Similar motions for appeal to the Senate on questions of privilege raised by other members are being suspended, deferred or even improperly adjourned. Indeed, it is clearer every week that privilege, in general, with its attendant Rule 33, is either misunderstood or misapplied.

Our latest example is the mistaken belief of certain senators that the right to vote may legitimately pre-empt the right to debate. We had an example of that last week. It should be eminently clear that each of us has a first right to speak on any legislative matter before us. It is that which is the foundation of Parliament as we know it.

Bourinot, as early as 1916, starts off his Chapter X by reaffirming the inalienable right of a member to partake in debate. The enactment of legislation follows upon the debate process, including an adequate committee process. Voting does not push it, as the cart the horse. Voting begins only where debate leaves off; otherwise, this is not a Parliament. In a free democracy, a Prime Minister should not get away with saying, simply, "Read my lips."

For my part, I wish to focus on the one recourse by which this house normally follows "order and decorum", to quote Rule 15, in order to settle matters of privilege in a dignified and timely manner. That one recourse is provided for in Rule 33, as I said. I shall offer a most compelling argument that Rule 33 means that a motion to appeal to the Senate, as a body, for recourse in a *prima facie* case of privilege is always receivable, that it supports the presumption that a *prima facie* case exists, and that it provides for its immediate attention in order to settle mainly one question.

The question to be settled, if the pertinent motion carries, is simply whether the *prima facie* case is borne out in fact; that is, it is a *bona fide* case of privilege. Such a determination should be the stated aim of the motion in the first place. Should a *bona fide* question of privilege be decided in the affirmative, an acceptable remedy is, of course, immediately incumbent on the house. That should go without saying. In short, the motion of appeal to the Senate does not seek a remedy as its primary goal; its first objective is to settle that privilege is the question.

In the debate on the motion for appeal itself, it is only to be decided whether the house accepts the presumed *prima facie* case as presented and whether it accepts the proposed manner of deciding it. This is akin to the stage where a justice of the peace hears preliminary circumstantial evidence from a plaintiff and decides whether or not to lay an information.

I will argue that debate on this motion of appeal to the Senate is not adjournable since nothing else of business can take place until it is generally agreed or not that the question *prima facie* relates to privilege. The basis of argument is that

the putative breach in privilege is more dangerous to the nature and functioning of Parliament than any other issue, including order, decorum or national security.

Lastly, I shall argue that the most suitable form of appeal to be moved under this rule, especially if the first attempts are not successful at obtaining due consideration, let alone remedy by a shorter course, is to resolve into a Committee of the Whole to consider orders and customs of the Senate and privileges of Parliament.

Honourable senators, a matter of privilege is manifestly of first order significance since it directly affects the validity of the entire parliamentary process and raises the question of just how free is a democracy. If privilege is ignored or run roughshod out the door, the pith and substance of our Confederation and our constitutional law is entirely called into question. Moreover, the strength and freedom of our country, as we sing it in our national anthem, is undermined.

Privilege is of so unique a character that, without its proper understanding and its proper defence, the entire structure of Parliament comes crashing down. Privilege is unique in that all authorities agree on the precedence questions of privilege must have.

Questions of breach of privilege must necessarily gain attention over all other parliamentary business, including, as I said before, issues of national peril, because when left in abeyance, these questions undermine the very nature of Parliament and legislative authority. One obvious reason is that open disregard of Parliament and its privileges assuredly places the nation in peril. Under such conditions, very bad laws may be passed, having seditious effects throughout the whoof and fabric of the whole country, sowing the seeds of civil strife and even war.

The Mother of Parliament is the model upon which Canada was founded in 1867. Based on that model, it is for this upper house, acting as the highest court in the Confederation, to settle questions and doubts of parliamentary privilege. The House of Lords does that. Section 33 of the BNA Act, a section never amended, is one of the guarantees of this role of the Senate. At the Opening of each session of the Canadian Parliament, the Senate Committee of the Whole is named with the mandate "to consider Orders and Customs of the Senate and Privileges of Parliament." These words are not empty; that is one mandate that is real.

• (1610)

An evident breach of privilege requires of this house a continual hue and cry. In an hour of need such as this, history would read our failure to raise a hue and cry as tacit acquiescence to our own dissolution. Permission for the demise of this genuine parliamentary body would mean gross dereliction of duty as statesmen and women in a free and democratic society. True legislators cannot sit or stand idly by with the whole foundation of Canadian Confederation bound up in, or made hostage to, the wiles of a particular government.

Even filibustering legislation is not a proper answer to unparliamentary manoeuvres of a government. After all, a filibuster is a legitimate answer to disagreeable legislation legitimately debated and voted. But without proper and timely restoration of broken privilege, the votes and passage of all of the legislation before us, whether or not it is disagreeably flawed, is not legitimate. There is no order present, in truth, because there is no real Parliament here until the *prima facie* cases, at least, of broken privilege are settled. Privilege, honourable senators, cannot lightly be surrendered. It is a crime to neglect it. It is contempt of Parliament to breach privilege.

In the other house, down through the centuries of Parliament, many misguided questions turned out to be fatuous or, in any event, not of privilege. This may have threatened the preeminent regard which privilege should always be accorded. Precisely to defend the centrality of privilege in the powers of Parliament, the practice was established—when there was doubt—of deferring to the Speaker for a ruling as to whether a putative breach was *prima facie*. Whereas representatives of the Commons could not necessarily be relied upon to understand the Parliamentary process, the Speaker, at least, was invariably a learned man, very experienced with these matters, and generally sober-minded.

That history has led to the practice in the House of Commons, cited at paragraph 84(1) of *Beauchesne*, fifth edition. In that house, the very receivability of a question on a putative breach of privilege automatically requires the determinate ruling of the Speaker as to whether the matters adduced pertain to privilege. The Speaker's practice has generally been to acknowledge many such questions, since privilege can never be taken lightly.

Moreover, there remains a principle, though rarely needed, of course, that the Speaker's ruling on a *prima facie* breach of privilege may be appealed to the whole house.

Hon. Jean-Maurice Simard: On a point of order, I would like to ask Senator Haidasz—and perhaps Senator Frith could confirm it—whether this speech is part of the work-to-rule strategy of the opposition.

Hon. Royce Frith (Deputy Leader of the Opposition): I am not part of this.

Senator Simard: Is this what is termed "work-to-rule?"

Senator Haidasz: Not at all; it is, rather, my own question of privilege.

Senator Doody: This is the second one. You have one on the order paper.

Senator Haidasz: Under Rule 33 I have a right to speak to it.

Bourinot tells us that this can happen under a substantive motion of the house. *Maingot* refers to it on page 222-223 of his treatise on Parliamentary Privilege, and remarks on page 230 that repeated efforts can be made to raise a question of privilege.

Senator Frith: "Honi soit qui mal y pense".

Senator Haidasz: With regard to the special role of the Speaker, the situation in the upper house has always been essentially different. Historically, the Lord Chancellor, or the

Speaker in the Senate, has always been one among peers. Every senator is entitled, "Honourable", to denote something of his or her equal footing in privilege vis-a-vis all members, including the Speaker. British Peers are also always titled, and not necessarily because they are landholders with a pedigree.

There remains in the upper house of Parliament, in its unadulterated form, the principle of presumption of competence, and of innocence, as it were. Nowhere is this more clearly, or centrally, visible than in the presumptive receivability of any claim that privilege has been broken. A Speaker's ruling on the matter is never required. His opinion may be requested, but that opinion is neither a ruling nor a precedent.

A senator is entitled "Honourable". That term expresses a central reality; namely, that any complaint by a senator as regards his or her privilege is to be presumed serious, and founded in fact. To presume otherwise is to dishonour him, and again to break a privilege, even where he was mistakenly offended in the first place. In this house, the Speaker's opinion that an issue does not appear to be *prima facie* a breach of order is always subject to an appeal to the Senate. How much more so is a breach of privilege, and of honour?

Senator Charbonneau had an opinion on October 4, as recorded in the *Debates of the Senate* at page 2342, regarding the receivability of Senator Frith's motion to appeal to the Senate as a body. This was one "honourable" opinion, and nothing more. It is not the least binding on anyone else other than the holder of that opinion until he is persuaded otherwise. Settlement of the question, whether the claims of Senators Frith and Stewart, and now numerous others, are in fact pertinent to privilege, certainly does not rest with the "Honourable" Senator Charbonneau. It rests with the appeal to the Senate, which was why Senator Frith reminded us of Rule 33 On October 4, when he registered that appeal.

Even the lesser goods of order and decorum, which our Rule 15 upholds, are "subject to an appeal to the Senate", as Senator Charbonneau himself quoted. Well, we all agree that order and decorum are certainly goods; but they are far lesser goods than privilege itself. Parliament, even disordered parliament, is founded on privilege.

Historically, the whole of Parliament and the common good are anchored in the principles of common law. A first principle of this foundation is that sometimes it is necessary to raise what I mentioned earlier, a "hue and cry", at least upon the evidence of a felony. Overt and wanton breaches of privilege are indeed "felonious", as the term was invented to describe disreputable public acts by a peer, in abuse of his own privilege. Equally felonious is the abuse of another peer's privilege. Felony was a serious accusation to make, so it was important to know, first of all, if one had standing as a Peer who could thus be capable of abuse of his own privilege. In other words, he could not abuse what he did not have.

● (1620)

For this reason, among others, it is necessary to know in clear terms who is a peer; that is, in Canada, who is a legitimate senator? Because, if one does not know with certitude, then the press might either insult the privilege that does in fact belong to an appointee, or one may be accorded privilege that does not belong to one—which is an abuse of the privileges of those who accord it. Both of these ills can have very destructive, even seditious, effects. As I speak these words, for the good of all, I risk breaking the privileges of eight senators, but that is a risk to my own honour, which must be protected by appealing to the whole Senate.

One of the responsibilities of legislature, as mentioned by the Supreme Court in the 1989 *Daigle* case, for example, is that we perform a "normative task" in defining the terms of enacted legislation and in clarifying the legislative will behind it. These "norms", required by justice, are not established when the legislative will in this house has questionable legitimacy.

The express will of this assembly, as presently constituted, has already negatived amendments to major flaws, and may yet enact certain immoral principles of bad law. Are those laws to stand, against contest, when courts are reminded of the doubtful makeup of the upper house which enacted them?

Surely, the "norms" required by the highest justices in Canada, to interpret the laws we pass, ought not to be made relative merely to the opinion of one judge or another whether this house is or is not validly constituted. Norms are based on solid ground, or they are nothing. To build a law on quicksand, or even what appears to be quicksand, is actually to encourage duplicity and fraudulence in the populace to suit the law to their own ends.

Citizens seek only the security of our Confederation against piratage and usurious debt incurred on the international accounts, a debt that is out of control through mismanagement and through craven currying of international financial credit. The resistance of citizens to being saddled with the credit-debt, which it is the responsibility of their government to shelter them from, may seem self-centred, but it is a passive resistance, and an effective one. However, arrest them for it, and the harvest of thorns will reveal what sort of seeds are sown by laws foisted by a despotic authority. It was wisely to avoid civil wars that Parliament was invented in the first place. The adage of civility has to be, "Let's talk."

I do not say, honourable senators, that bad laws cannot pass when the legitimacy of the legislative will is beyond question. The collective prudence of this or the other house can always be questioned. Former section 251 of the Criminal Code is a case in point. Nineteen years after its enactment, during which time only one conviction stuck, that section was found by the courts to be too uneven to be constitutional. The abortion law based on Bill C150 in 1968 and 1969 paved the erosive way to abortion on demand, a demoralization of Canadian youth, and a devastating population implosion whose economic effects have brought us to an unmanageable deficit and public debt. The loss of a continental war could not have hurt us so badly. That was the end result of parliamentary imprudence.

We may expect that sooner or later these lessons will be learned, and hopefully, the errors will be rectified. However, it

does not take a very long stretch of logic to see how the abuse of a parliamentary system, like the abuses orchestrated in Germany in the latter 1930s by a will that did not shrink from the illegitimate use of extraordinary powers, can lead to the complete sedition of a free democracy.

For our part, in this house, we have evidence from not one but numerous senators that there are at least *prima facie* cases of privilege begging for settlement. Just read the Orders of the Day! Before even that, we have several allegations of privilege which it is our duty to assess for any *prima facie* claim on our attention. It is necessary to turn, therefore, to Rule 33 for guidance in the appeal to the Senate as a body, for settlement, pursuant to section 33 of the BNA Act, and the tradition of parliament. This is most appropriately done through the convocation of a Committee of the Whole. Debate, at least, on such motions for appeal under Rule 33 must take pre-eminence.

As senators, and members of the highest Bar in Canada, having all the privileges attendant thereto, we have lately exhibited a deeply disturbing complacency about privilege, whenever we failed at the very least to use our best judgment as a body as to whether there are *prima facie* cases of privilege that need deciding. This complicity, in its dereliction and its apparent intent, is shameful. It is like submitting to Royal Assent the ditty, "I fire an arrow into the air, and where it lands I do not care".

Honourable senators, it is this complacency I must disown, and I must call all of the senators on both sides of the house, including the people described as the putative appointees, to rouse themselves from their slumber and bring what authority we have, as the highest Bar in the land, to bear upon settling our contested privileges.

In the final analysis, it is not for the Supreme Court of Canada to determine a matter of fundamental privilege, or even the legitimacy of appointments, since the courts have the function only of interpreting and thereupon enforcing the laws enacted by this legislature. When the court is unable to render a reliable interpretation of some legislative matter, it refrains from expressing a binding judgment, and invites Parliament to specify the norms required.

Again, in the *Daigle* case of 1989, the Supreme Court of Canada clarified the legal question of whether or not the child before birth is to be understood as properly belonging to, or included under, the term "everyone" as used in the Charter of Rights and Freedoms in section 7. They described the final recourse of Parliament to be, in this matter, a "normative task".

Furthermore, as I have mentioned in the recent past in this chamber, Parliament's proper legislative power is understood to be plenary. It is over-riding. It may invoke the "notwithstanding" provision to enact laws even outside of the commonly interpreted scope of the Canadian Charter of Rights and Freedoms. That power is very great, and of course very dangerous if unjustly applied.

• (1630)

But Parliament's check and balance against its own plenary powers are invested finally in the debates, deliberations, and Royal Assent of this very house. It follows that the Canadian legislature does not take its final authority, or even its final norms from the courts, including the Supreme Court of Canada.

It is equally true that the BNA Act, which was in any case not framed in its entirety by the Canadian legislature, can admit of no final interpretations by the Supreme Court of Canada. That responsibility devolves to the upper house itself. Section 33 of the BNA act makes that clear enough on its own, as it reads:

> If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

This very house made a clarifying decision in 1877—on March 19, to be exact—a date easy to recall for many of us, as it is the Feast Day of the Patron Saint of Canada, Saint Joseph. In that decision, section 26 could not be applied as it was this fall without offense to privilege, to honour, and to legitimate, consensual authority.

That is the very reason that questions of privilege in the Senate are ultimately to be settled by the Senate, as Section 33 states it. This is the best guarantee of fairness, truth, and authority built on more than shifting sand. In the Senate rule book, we have an appropriately numbered rule to provide for this necessity. Corresponding to the BNA Act, Section 33, the Senate Rule 33 states:

> "When a matter . . . concerning the privileges of the Senate . . . has arisen, a motion calling upon the Senate to take action thereon may be moved without notice and, until decided, shall . . . suspend the consideration of other motions and of Orders of the Day."

Honourable Senators, in this excerpt from our rule book, I have purposely left out the stated caveat that debate may be adjourned. That is because the phrasing of this caveat is rather ambiguous, and requires thoughtful study. The key to understanding its intent most clearly is to focus on the clause "until decided, shall suspend the consideration of other motions". What is to be so pre-eminent that "until decided" it may not be pre-empted by anything else is, of course, the question of privilege itself. It should be noted that among the actions which Rule 33 requires to be suspended until a question of privilege is settled is simply "other motions". Motions to adjourn are such "other motions". They are suspended, with some qualification.

For clarity, it must be remembered that the motion to take some action in respect of a privilege question is not a motion to effect the desired remedy, even if the desired remedy is conditionally mentioned in the motion. In the first instance, a motion is put to raise a *prima facie* case of privilege, and to have this question of privilege decided in an appropriate manner, such as by resolving into a Committee of the Whole

to consider "Orders and Customs of the Senate and Privileges of Parliament".

The motion is in fact an "appeal to the Senate" to accept a *prima facie* point of privilege. It is based on the BNA Act, and parliamentary practice. It also comports with Rule 15 for "Order and decorum".

Such a motion, because it pertains to all-important privilege, and because it is moveable without notice, according to Rule 46 (i), could arguably be moved without a seconder. Seconders usually require some notice, and in any case the possibility exists that a particular senator's privilege has been shamefully offended by all other members who have an interest in not seconding his motion for consideration. It would be an unparliamentary injustice to prevent him from moving to present his case for a hearing.

The point is, it is a receivable motion, because even if the Speaker does not recognize the grounds for a *prima facie* case, the motion itself is the very "appeal to the Senate" which always pre-empts the opinion of one senator, including the Speaker, and refers judgment to the whole House. It presents a matter of privilege, for which there is at least the unadulterated presumption of truth, whose burden of disproof is thus upon the Senate.

Such a motion is, nonetheless, a debatable motion; and of course it is subject to rejection in a vote or a division. But even its rejection at one point does not prevent its being raised as a receivable motion again after a short time. Again, this is made clear by Joseph Maingot on page 230 of his *Treatise on Privilege*.

For that reason alone, it behooves the Senate to make effective use of its capacities in the Committee of the Whole on "privileges" to settle once and for all whether a recurring matter is privilege at all, and if so what its remedy should be. If it comes out that the matter is not of privilege, then the appellant would hardly be so daring as to raise it again in a motion. If he did, debate would soon put the matter to rest, as it then had a precedent to draw upon, namely, the pertinent accepted finding of the Committee of the Whole.

Honourable Senators, on Thursday afternoon, November 29, after just such a motion had been put by myself on a pressing and very important question of privilege — a motion to have the matter of privilege settled by its proper means, a Committee of the Whole—Senator Neiman made the honest assumption that debate on such motion, like any other, may be adjourned, which it should not, except for pleasure. Allow me, honourable senators, to argue this point.

The adjournment of debate, by Senator Neiman's motion, or by Senator Doody's motion of November 7, was not by "leave-taking" from the rules. It was by a voice-vote, which, of course, I did not "Yea". In the latest case, however, the aegis of Rule 33 should more clearly have been understood, as I went so far as to mention the rule to back up my motion. Perhaps in that case some of us wondered whether we were already undertaking to present arguments to the case itself on whether, in fact, the *prima facie* question were borne out.

[Senator Haidasz.]

Senator Neiman began to present arguments against the merits of my claim from privilege to instruct our committees as the need arises. With all respect, she was not contesting that the raised question is *prima facie* a question of privilege. Therefore, barring any other supportable objections, such as to the proposed manner of proceeding, this motion should already have carried. As it stands, it has yet to be voted upon.

• (1640)

In this particular example, the premature debating of the merits of the case may have been encouraged by my own substantial words to introduce the *prima facie* case and the pertinent motion. Unfortunately, I felt obliged to say all that I did to present the *prima facie* case without doubts to honourable senators in light of the short shrift that privilege claims had been receiving in this house. In presenting the *prima facie* case, I was adducing much of the evidence for the substantive trial of privilege in order to get the attention which such a matter deserves.

In any event, a motion to adjourn the debate is a motion which Rule 33 is supposed to suspend until the question is decided. If it were not so, Rule 33 would be superfluous.

My argument here is that Rule 33 makes no sense at all unless it has more authority than merely stating the obvious procedure on a motion. Why should it say that other business of the house is suspended until the appellant's privilege question is decided if debate can be adjourned even before the house determines that the question of privilege does not exist? If the presumption is for its existence, how can the decision whether to accord a given question its bearing on privilege be delayed?

Honourable senators, let us pay careful attention to these distinctions. When a senator appeals to the body of the Senate that a privilege has been transgressed, unless substantial and proven objections are raised against it, it is to be presumed that there exists a *prima facie* case. The motion to be heard ought, therefore, at least to be put, unless it contains other objectionable conditions. Barring these, the motion would be expected to carry.

After carriage of the motion of appeal, it remains then, and only then, to decide the case of privilege in a manner appropriately set out or implied in the motion; that is, it remains to take the appropriate action as a house, which in many cases will be to immediately discuss the merits of the case and decide whether the *prima facie* is in fact a *bona fide* case of privilege. Our Rule 33 clearly implies that this action should be undertaken immediately, or absolutely as soon as possible, and again with qualified adjournment.

This trial, as it were, is the place at which the merits for or against the already presumptive *prima facie* case are argued and decided. A most appropriate court for the purposes would be a Committee of the Whole called "Privileges". Such a committee format has the advantage of permitting senators to speak and reply more than once to the merits. It records a report and returns it to the Senate chamber, in which its

recommendations are decided. This is the goal, then, of the provisions of Rule 33.

The proceedings in such a committee could produce a detailed study of the authorities and comprise a significant entry in the *Minutes of Proceedings*. Its findings would, therefore, constitute a body of reliable precedent which is always helpful in determining future *prima facie* questions.

Indeed, this action, analogous to a trial of privilege, is substantially the whole action provided for by Rule 33. "Until the question is decided", whether the *prima facie* case is in fact a *bona fide* case, all other business of the house is suspended. That makes eminent jurisprudent sense as well since, until evidence to the contrary is established, an honourable senator is presumed to have a case. The justice required of a timely remedy to his or her complaint, therefore, prevents the conduct of anything that belongs to the "Routine of Business" as it is named in Part II of the Senate Rules, for example.

But, to repeat, it also means that the actual appeal to the Senate, the motion to take action to settle the case's validity, is not simply adjournable.

Properly speaking, Rule 33, with the appeal to the Senate on privilege, is a special escape provision from the "Routine of Business", as required by a *prima facie* case of privilege. Debate on such a motion may indeed conclude with the failure of the motion to carry, but the overriding obligation to defend one's own and all others' privileges require that one not adjourn the debate on this motion. Such is not a debate like any other belonging to the "Routine of Business". Privilege itself gives it special status, as acknowledged in the words of Rule 33.

In the process of debate on the motion of appeal to the Senate, it is true that other senators may attempt to establish by proofs that there is no *prima facie* case; but they should avoid prejudicing the case by rebutting anticipated merits or arguments of the case of privilege. Until it is convincingly established that there is not a *prima facie* case, it is the prerogative of the appellant to see the debate continue until at least the question is put on his motion to proceed.

Thus, with but slight qualification, debate at this stage could not be adjourned without offending a putative privilege. The putative breach of privilege is presumed *prima facie* until proven otherwise. That is what shows "honour" to honourable senators.

It may be asked what, then, can possibly be a legitimate interpretation in the light of privilege of the additional words in Rule 33, "unless the debate be adjourned"?

Senator Doody: How long does the honourable senator intend to keep this up? Would he care to tell us?

Senator Haidasz: Not much longer.

Senator Doody: Thank you.

Senator Haidasz: This brings us to the one qualification. Unless an adjournment were necessitated for pleasure regarding the clock, the settlement of the first step of accepting or rejecting as a body, the raised question of privilege as *prima facie* ought not to be adjourned.

Consider, in the first place, honourable senators, what this rule would amount to if it made no allowances for adjournment for pleasure. It is true that reasonable persons will forego sleep and food in the event of a national emergency. Privilege is of paramount importance for Parliament, even in the face of national perils. Its acceptance in the house as *prima facie* should suspend all further business, unless the appellant agrees otherwise, including sleep and other usual comforts. But one man's stamina or insomnolence ought not to overbear another's. Therefore, adjournment of a very limited kind would support good order and decorum.

• (1650)

Honourable senators, my main point is that the *prima facie* acceptability of a question of privilege is not deflectable. If adjournment is moved without demonstrating the existence of real contest to that *prima facie* acceptability, except to observe the clock, it should be considered in contempt of privilege.

Without this interpretation, Rule 33 is immaterial and of no effect to defend Parliament's first cornerstone, privilege. We have an example of that effect. On October 4, Senator Frith's and Senator Stewart's claims of privilege—on behalf of us all, no less—were deflected only by handcuffing Rule 33. It is instructive to review what authority the Speaker at that time used.

Beauchesne, an authority primarily focusing on the procedure in the House of Commons, in its fifth edition, citation 84 at page 25, is quoted:

> Once the claim of a breach of privilege has been made, it is the duty of the Speaker to decide if a *prima facie* case can be established . . .

But this authority is pertinent only in the House of Commons, where it befalls the Speaker to make such rulings. Opinions of that senator who occupies the Chair in this house have no pre-eminence over the role to be played by the opinions of all other senators, which is why in this house we address one another collectively, rather than addressing the Chair.

Nonetheless, at that time Senator Charbonneau took up an interpretation of our Rule 15 on "preserving order and decorum", which he said was not prevailing at the time, to force the straightjacket of *Beauchesne's* citation 84 upon this house, the Senate. As a result, order and decorum certainly did not prevail.

The justification given was that:

> Otherwise you would have to accept that the moving of a motion under Rule 33 would not be subject to any point of order and remain in the absolute discretion of any member even if the motion was futile and not based on a *prima facie* case.

However, it is precisely because of the pre-eminence of parliamentary privilege that such appeals may be made, even where the honourable senators making them believe them to be of substance when the rest of the house does not.

Here we give honourable senators the benefit of the doubt, when their recognized persons stand up and raise questions of privilege. I must emphasize here that the recognition of the senator's person is a first requirement for our constitution as a legislative body, for once that is established by valid appointment, it is all that is required that a member stand to hold the floor and speak.

When a senator's person is recognized, there is a presumption of "honour". Rejecting that presumption, especially where it bears upon a member's raised questions of privilege, is like suggesting that the defendant of an unjust accusation ought not to be heard in court—where his innocence will be presumed—unless what he is defending is more than trivial. Those accused of resisting a thief by disturbing the peace would thereby be denied trial, since the charge is minor. The claims of the innocent, the travesty they suffer and the dignity they defend would be deemed too trivial to defend against wrong. That is what happens when a senator's claim on privilege is presumed "uninteresting" or "not pressing".

Senator Doody: Has the honourable senator finished?

Senator Haidasz: If I may, I will add a quote taken from Joseph Maingot's classic, *Parliamentary Privilege in Canada*. He reminds us, at page 162, of the following:

> As regards the Senate, s. 33 of the British North America Act provides "If any question arises respecting the qualification . . . the same shall be heard and determined by the Senate".

This house was never constituted to be a bastion of partisan allegiances, outmoded or as fresh as a fad, since its members do not have to fear loss of cabinet posts or even constituency seats. It is difficult to understand, therefore, even with the temporary party agenda still embraced by its more recent appointees, even perhaps with profound loyalties to the government that placed them here, how one side of this house might not recognize its parliamentary duty to settle questions of privilege which are bound to affect them just as surely as they now affect others.

Honourable senators, I must return to my earlier remarks that, without the interpretation I have been adducing for Rule 33 in support of the principle that privilege is pre-eminent, it becomes a voided rule. To void such a rule requires far more than the edicts of a senator occupying a seat. In fact, it requires the report of a committee on rules and orders and much debate.

Again I say that Rule 33, we would like to maintain, is inviolable, as it specifically defends privilege. If it is not void, then my interpretation is that it carries weight. I beseech honourable senators, therefore, to hear me out patiently.

Senator Doody: What?

Senator Haidasz: The motion under debate—

POINT OF ORDER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I rise on a point of order. The honourable senator has been on his feet for an hour and a half or longer, and he has yet to raise a question of privilege. He is raising a point of order. He is upset because the last time he tried to raise a question of privilege, it was adjourned in someone else's name.

If the honourable senator wants to object to that, he can ask that a vote be proceeded with. But this is just spurious and wasteful of the time and privileges of the Senate. I ask the honourable gentleman to take his seat.

Some Hon. Senators: Hear, hear!

Hon. Stanley Haidasz: Honourable senators, as I mentioned at the outset, I rose on a question of privilege—

Senator Doody: There is no privilege.

Senator Haidasz: Well, that is not for you to decide right now. You have to hear me out—

Senator Doody: Then let us decide it.

Senator Haidasz: We have to go into Committee of the Whole—

Senator Doody: Does the honourable senator really think that he will get any sympathy from the members of this chamber for what he is trying to do? Everyone knows that he is trying to move a motion under the guise of a question of privilege which is not a question of privilege. It is a question of order. Will he please sit down and let us get on with the business of the day?

Senator Haidasz: Honourable senators, I therefore conclude. I must repeat, though, what I said at the outset. I am very concerned about the evidence, occasioned by the reception of a motion to adjourn debate on appeals of broken privilege to the Senate, that this house has not properly understood or applied in recent months. This is supported by Rule 33, Senator Doody. This is, for me, the earliest opportunity to raise this matter, as I am again the object of privilege broken by misapplication of Rule 33, as I was on November 29.

MOTION TO RESOLVE SENATE INTO COMMITTEE OF THE WHOLE NEGATIVED

Hon. Stanley Haidasz: The adjournment of debate on an appeal on privilege on November 29 last was taken against Rule 33 and therefore against the privilege of all senators to be guaranteed a timely treatment of their own questions of privilege. Therefore, honourable senators, I move, and I know that it does not have to be seconded, pursuant to Rule 33—

Senator Doody: It does have to be seconded.

Senator Haidasz: It does not.

Senator Doody: It is a motion.

Senator Haidasz: This does not have to be settled by you now.

Senator Doody: Well, it will not be received.

Senator Haidasz: I move that:

This House do now resolve itself into a Committee of the Whole so as to settle, by a report to the Senate in Chamber, whether

(a) it is a matter of privilege, as I have described it, to settle the truth of a question of privilege, upon invoking Rule 33 and moving to convoke a Committee of the Whole, as I did do on November 29 at 15:40 hours, with merits to be presented to such a committee, when there is evidence that the question of privilege had been raised on occasion previously without receiving due or timely consideration before the House;

• (1700)

and whether

(b) such a motion strictly requires no notice, nor a seconder;

and whether

(c) debate on such motion is mandatory, or else the principle acceded, as I have described the necessity;

and whether

(d) debate on the motion, because of privilege putatively in breach, does not admit of adjournment, expect for pleasure;

and whether

(e) Rule 33 entails that proceedings and debate in the Committee of the Whole, if convoked pursuant to such a motion of appeal, may not be adjourned except for pleasure, or if taken by "leave of the house", or if moved or seconded by the appellant(s), provided the putative privilege affects only the appellant(s) themselves, and not the general privilege of the Senate;

and if the affirmative is found on any of these principles, that the remedy of allowing the use of Rule 33 in the manner I have described it, or suitably qualified by the Committee, be recommended by the report of the same Committee of the Whole, forthwith.

Honourable senators, I will end my remarks on my Question of Privilege this afternoon. In view of the fact that the chairman of the Senate Legal and Constitutional Affairs Committee wants to proceed with matters affecting Bill C-43, I remind honourable senators that on October 25 I moved the following motion:

That an obligatory instruction be given by this House to the Senate Standing Committee on Legal and Constitutional Affairs, to give particular study to the individual flaws of Bill C-43 as identified, for instance in my speech on June 26; and

That the Committee give full study and call expert witnesses to address all issues that are cognate to the Bill including the legal, constitutional, ethical, sociological, and scientific implications of this Bill, and to consider appropriate amendments to Bill C-43.

I thank honourable senators for their patience.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this motion is not receivable under Rule 24 which states:

A motion made in the Senate, but not seconded, shall not be debated or put from the Chair.

The whole exercise has been wasted. The time of the Senate has been wasted, the honourable gentleman's time has been wasted, and the patience of his colleagues here has been sorely tested.

Senator Haidasz: Honourable senators, if, according to Senator Doody it is an absolute rule that my motion has to be seconded, Senator Buckwold is the seconder.

Senator Doody: Great! And you don't want to sit tomorrow night.

The Hon. the Acting Speaker: It is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Buckwold that this house do now resolve itself into a Committee of the Whole.

Senator Doody: Dispense.

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

Some Hon. Senators: No.

The Hon. the Acting Speaker: Those in favour?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Those opposed?

Some Hon. Senators: Nay.

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

LEGAL AND CONSTITUTIONAL AFFAIRS

MEETING OF COMMITTEE CANCELLED

Hon. Nathan Nurgitz: Honourable senators, I pointed out to Senator Haidasz at 3.15 this afternoon that the Legal and Constitutional Affairs Committee was quite prepared to sit at that time. I had a motion prepared to seek the approval of the Senate for sitting, so we could get on with determining the witnesses Senator Haidasz would like. He refused the offer and, instead, chose to do what we have heard here today.

I wish to advise honourable senators that the committee will not sit because of the delay.

INTERNATIONAL SALE OF GOODS CONTRACTS CONVENTIONS ACT

SECOND READING—DEBATE ADJOURNED

Hon. Donald H. Oliver moved second reading of Bill C-81, to implement the United Nations Convention on Contracts for the International Sale of Goods.

He said: Honourable senators, this is the first opportunity I have had to rise in this place to make some remarks. I had

intended to say a great many things about my view and impression of this chamber. In view of the hour, and in view of my knowledge that there are others who also wish to speak before the hour of 6 o'clock, I would like to reserve my comments and remarks for some other time and move directly to Bill C-81, about which I would like to make a few remarks. I will also summarize those remarks and not go into them in the detail that I had originally intended. I would be pleased to meet with anyone wishing to have the benefit of the more detailed remarks on Bill C-81 at any time and at their convenience to go into the matter in more detail.

Honourable senators, basically Bill C-81 permits the government to implement, for federal agencies, an international treaty which will simplify international sales transactions for both exporters and importers. The convention came into force on January 1, 1988 and the convention was adopted under the auspices of the United Nations in Vienna in the year 1980. Already there are a number of countries or states that are trading partners of Canada that have become party to the convention, namely, the United States, France, Italy, Germany and China.

The convention governs the formation of contracts for the sale and the rights of the seller and the buyer arising from such a contract. It applies to contracts of sale of goods between parties who have their place of business in different states. These states are contracting states, or when the rules of private international law lead to the application of the law of a contracting state.

By offering this uniform regime, this United Nations Convention responds to the needs inherent in the increase of transactions of international sale of goods by bringing greater certainty with respect to the laws applicable to the formation of the contract of sale and to the rights of the seller and the buyer, and thereby facilitates trade between nationals of different states and fosters a more equitable rapport between the parties to a contract.

Considering the increase in international sales of goods and the legal disparities between the states in this field, the convention is a welcome factor of unification.

There are a great number of organizations that support this agreement. In particular, the Canadian Bar Association, the Canadian Chamber of Commerce, and the Canadian Exporters Association all support Canada's accession to the convention. In addition, experts of civil law and common law have judged the convention compatible with Canadian law.

Canadians deal with companies or individuals abroad, including states where the commercial law is very different from ours, if not sometimes incompatible. The choice of applicable law may become a difficult item of negotiation, especially when the other party wants to impose its own domestic law. The convention offers the possibility, by this new regime, of a neutral legal regime acceptable to both parties.

The federal implementing act, Bill C-81, will allow all federal entities, even those situated in provinces that have not implemented the convention, to benefit from its provisions.

[Senator Oliver .]

Moreover, it ensures that federal entities are governed by a uniform regime for the international sale of goods. Already in Canada, eight provinces and one territory have adopted the legislation to implement the convention. Those provinces are Ontario, Prince Edward Island, New Brunswick, Nova Scotia, Manitoba, Alberta, British Columbia, Newfoundland and the Northwest Territories. The others are considering implementation.

• (1710)

In short, the adoption of a bill for the implementation of the Convention on contracts for the international sale of goods would allow federal entities—that is, departments, departmental corporations and agent crown corporations—to benefit from the advantages of the Convention if they so wish. This will benefit a great number of transactions since the Convention applies to states with whom we have most commercial trade. I commend, therefore, this bill to this house.

Hon. John B. Stewart: Would Senator Oliver deal with a couple of short questions? Did I understand Senator Oliver to say that the province of Quebec has not agreed to the Convention? There would then be one other province. What province would that be?

The second question is: Would the effect of this proposed statute be to alter indirectly rights which persons would have under the ordinary law prevailing in provincial jurisdictions?

Senator Oliver: The answer to the first question, honourable senators, is that there are two provinces and one territory that have not yet signed—Saskatchewan, Quebec and the Yukon. They support the Convention, and have indicated that they will implement it as well.

The answer to question number two is that there is a provision in Bill C-81 for those jurisdictions or those parties who do not wish to use the new regime to contract or opt out. So that the laws of a particular province or state can prevail, if that is the wish of the two contracting parties.

Senator Stewart: When you say "two contracting parties" do you mean private persons?

Senator Oliver: I mean the buyer and the seller.

Senator Stewart: Yes; I understand.

Hon. Royce Frith (Deputy Leader of the Opposition): Does the absence of support from the province of Quebec have anything to do with the fact that they have a different system—that is, they have the civil code as distinguished from the common law system?

Senator Oliver: I do not think it does, because legal scholars both in civil law and common law have passed upon this legislation and have indicated that there is no reason in civil law why they should not support it. In fact, my information is that Quebec agrees with the Convention and will be passing the appropriate legislation in due course.

On motion of Senator Frith, debate adjourned.

APPROPRIATION BILL NO. 3, 1990-91

SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-94, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991.

He said: Honourable senators, the bill before you today, Appropriation Bill No. 3, 1990-91, provides for the release of the whole of Supplementary Estimates (B) for 1990-91, amounting to $1.857 billion. The total spending authority identified in Supplementary Estimates (B) is just under $4.8 billion. The difference, representing statutory items, includes an item of $2.9 billion to cover the increase in public debt charge, which is practically the entire difference.

Supplementary Estimates (B) includes major voted items of, first, $350 million to National Defence—mostly to support Canadian troops in the Persian Gulf.

Second, $257 million to prepare and plan for the goods and services tax.

Third, $116 million to develop the Mobile Servicing System as part of Canada's contribution to the Space Station.

Fourth, $114 million to Agriculture Canada, primarily to provide assistance to farmers hard hit by depressed commodity prices.

Fifth, $108 million to enable the government to distribute $2.4 billion in GST credits to some eight million lower and modest income Canadians, and to provide information to consumers.

Sixth, $104 million to Canada Mortgage and Housing Corporation for loan losses associated with the Assisted Rental Program portfolios and for 1990-91 interest charges arising from delays in loans coming under repayment by clients.

Honourable senators, Supplementary Estimates (B) were tabled in the Senate on November 27, 1990, and referred to the Standing Senate Committee on National Finance yesterday. This bill is in the standard form and the list of Supplementary Estimates (B) forms a schedule to the bill.

I understand, honourable senators, that every effort will be made to provide information and witnesses to the committee whenever that committee requests them. I ask that the committee deal with this matter as expeditiously as possible.

There is one other thing. I have with me—and this may be of interest to senators—the Estimates tabled to date for 1990-91 and the supply to date for 1990-91. I would ask that they 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 they form part of the permanent records of this house.

(*For text of document see Appendix, p. 4920.*)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, concerning the point made by the Deputy Leader of the Government, I understand what he has said. Is it his intention to stand the bill until the committee reports on it, or to send it to committee after it is examined in connection with the Supplementary Estimates, which, as he has indicated, are the schedule of the bill. The previous practice has been to deal with the bill when the committee has reported on the Supplementary Estimates. Is that the intention?

Senator Doody: That had been my supposition. I assumed that it would be handled as we have handled it previously. The Estimates are in the committee and the committee will examine the Estimates and report back. If the Senate then finds it agreeable, the committee report will be accepted and the Supply bill will go forward after that.

Senator Frith: We should then adjourn the debate and leave it on the order paper until they report.

Senator Doody: We have done that before, as well.

Senator MacEachen: Then I will cooperate and adjourn the debate.

The Hon the Acting Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

On motion of Senator MacEachen, debate adjourned.

FISHERIES ACT
CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Gérald J. Comeau moved second reading of Bill C-74, to amend the Fisheries Act and to amend the Criminal Code in consequence thereof.

He said: Honourable senators, I welcome the opportunity to offer a few comments on second reading of Bill C-74, an Act to amend the Fisheries Act. This bill is an important government initiative. The bill not only stands on its own with its measures to conserve Canada's fisheries resource but also supports and complements the government's long-term strategy for the fisheries and the environment. It is part of the Atlantic Fisheries Adjustment Program and the government's Green Plan.

When passed, this legislation will make significant changes to the legal and enforcement regime needed for the proper management and control of Canada's valuable fisheries and fish habitat.

The government is acutely aware of the importance of setting out adequate structures that will help keep the fisheries resource healthy and viable.

[*Translation*]

Senator Comeau: In its present form, the fisheries legislation is general in scope. Its purpose is to regulate the use of Canadian fish stocks by commercial, sport and native fishermen as well as protect fish habitat and prevent the pollution of such.

The legislation was originally adopted in 1868 and was modified and revised at least 41 times since. The result is a mosaic of clauses, some containing outdated or redundant provisions. More importantly, the legislation is not severe

enough for offences dealing with fishery management and habitat protection. The provisions on regulatory enforcement are anemic, and the entire legislation is severely lacking regarding the statistical data collection and management powers. Moreover, the present legislation is inadequate as far as several of the constraints put on use by the modern management of fisheries and habitats are concerned.

The changes contained in Bill C-74 reflect the determination of the government to preserve the health and vitality of the Canadian fish industry. What is proposed in this bill is not so much a complete overhaul of the Fisheries Act as a means of better preserving the fish stocks by addressing a number of pressing problems.

● (1720)

[*English*]

Bill C-74 proposes an increase in penalties for fisheries and habitat violations. It proposes tightened provisions for gathering statistics on fisheries. It strengthens management and enforcement processes. Bill C-74 also provides for clarification and refinement of regulation-making powers and the repeal of outdated or redundant provisions.

Approval of Bill C-74 will support and complement the government's long-term strategy for the fisheries—a strategy aimed at conservation and longer-term stock rebuilding by focusing on increased deterrence, effective enforcement and responsive management.

When passed, the provisions included in Bill C-74 will allow the courts to better match the punishment to the offence, taking into account all the circumstances.

Bill C-74 also proposes measures to enhance the quality of the statistical information that supports all fisheries management.

For a natural resource such as the Canadian fishery, management requires more complete knowledge of what is happening to the resource, the size of the fish stock, trends in the populations of the fish stock, and, of course, the impact of fishing on the fish stock population.

[*Translation*]

The changes contained in Bill C-74 will provide the strong legislative base needed to obtain the data used to estimate fish stocks and to devise good mechanisms for regulatory control.

Moreover, these changes clarify the regulatory-making powers concerning fishery management, particularly as they relate to observers, local closures and minimum size of catches.

[*English*]

Before Bill C-74 was drafted, extensive consultation took place with representatives of the industry, the provinces, and with individuals across the country to devise the best possible legislation.

Officials from the Department of Fisheries and Oceans carried out briefings with industry advisory groups. Both the Atlantic Regional Council and the Pacific Regional Council support the overall thrust of the amendments, and much of their advice has been incorporated into Bill C-74.

[Senator Comeau.]

During these consultations, the message was repeated that something be done so that penalties for fishing violations are something more than "just a cost of doing business". In other words, penalties that will be a real deterrence for those who continuously commit fishing violations should be introduced.

The second message delivered by fishermen and the industry is that Parliament must send a message to the courts that fishing violations are serious and that they can have lasting effects on the resource.

What is proposed in Bill C-74 for general domestic fishing offenses is an increase of the maximum penalty from the current low level of $5,000 to $100,000 on summary conviction, with an option to proceed by indictment and with a maximum fine on indictment of $500,000. For second and subsequent offenses there would also be the provision for one year's imprisonment on summary conviction and two years on indictment.

As to fish habitat and pollution prevention offenses, there is a proposed penalty regime of $300,000 on summary conviction for alteration of fish habitat, and up to $1 million on indictment. In addition, there are imprisonment options of six months imprisonment on summary conviction or three years on indictment, again for second and subsequent offenses.

Another important aspect of fish habitat management is the need to secure from developers plans and specifications of their works or undertakings. Failure to provide such information currently brings a fine of up to $5,000 on summary conviction or $10,000 for second and subsequent offenses under the current act. The penalties for this offence under the proposals in Bill C-74 would be up to $200,000 on summary conviction, with an imprisonment option for second and subsequent offenses.

[*Translation*]

For all offences relating to fishery and habitat management, the Bill gives the courts power to impose new orders, forcing the offender, for example, to do community work, to publish the facts, or to assume clean-up costs.

Courts can also impose suspended sentences. These mean that if the person does not abide by the probation order, he or she will have to serve the original sentence.

Holders of fishing licences must be held responsible for any offence committed while exercising the privileges granted by the license. Accordingly, the holder of a fishing licence will now be responsible for any offence committed on board of a boat covered by the licence.

[*English*]

These are examples of the tough, new provisions included in Bill C-74. A renewable resource needs careful attention and judicious management. Through these amendments to the Fisheries Act, the government is taking the steps that count to enshrine in law the basic principles of conservation and habitat protection.

While efforts must continue in the area of policy and practice, it is of paramount importance to have laws that

reinforce and complement our efforts to conserve and manage the resource.

Conservation and the need to deter illegal fishing and over-fishing involve difficult choices in the short term, but we have an overriding commitment to resource management and to sustaining the economic benefits of a well-managed fishery.

This bill received all party support in the other place. I hope that honourable senators will consider this bill expeditiously so that its provisions can become law when the 1991 fishing season starts on January 1.

Hon. John B. Stewart: Would the honourable senator deal with a question? I noticed that in his remarks Senator Comeau concentrated on the new higher penalties which are to be available to the courts. He said that these higher penalties are necessary in order to enable the Minister of Fisheries to manage the resources as well as to protect the marine environment. Would it be correct to conclude from the emphasis of his remarks that the powers of the Minister of Fisheries with regard to the management of resources and the protection of the marine environment remain virtually unchanged, but that the regulations made under these powers will hereafter be backed up by what the honourable senator regards as far more adequate penalties?

Senator Comeau: There are no major changes to the powers which the minister previously held. A great deal of consultation has been undertaken with regard to the proposed amendments. It is proposed that the penalties be increased quite substantially in order to send a message to the courts so that those involved in the fishing industry, especially those who benefit the most from it, that is, the fisherman, will be assured that fishing violations will be stopped. However, it is also a strong message from Parliament to the courts that our fish stocks and our habitat must be protected.

On motion of Senator MacEachen, debate adjourned.

● (1730)

[*Translation*]

NORTHWEST TERRITORIES ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Tremblay, for the second reading of the Bill C-92, An Act to amend the Northwest Territories Act.—(*Honourable Senator Molgat*).

Hon. Gildas L. Molgat: Honourable senators, I regret I was unable to proceed with the debate yesterday, but I did not have the *Debates of the Senate*. I have them now, I read them and I also read the debates in the other place. I am quite prepared to proceed with this bill.

There is some urgency indeed because if we do not pass this bill now some legislation concerning the Northwest Territories that have not yet been translated will remain inoperative. For the benefit of Northwest Territories residents, I think it is essential that we do so now.

But one or two questions remain to be answered. It has been suggested that there has been an extension. I must confess that I did not find anything factual in that respect. I hope that in committee the sponsor of the bill will be able to indicate whether such is the case or not.

The other question raised has to do with funding for translating the bill. I hope the federal government will continue to provide strong financial support to the Northwest Territories to complete that work. I think it is essential that the federal government participate and maintain the agreement which had been made before concerning the translation. I believe the agreement is due to expire soon. So we would have to make sure that the federal government will provide full financial support and agree to the proposed 15-month extension so that the translation work be completed.

So I would ask the sponsor of the bill to give us the assurance in committee that there will be no problem on the financial side.

There is another point I would like to raise in this respect and that is the desire of the Northwest Territories to promote their aboriginal languages. I believe that here again, we should ask the federal government to provide for a long-term agreement. Their situation is unique, because of the number of aboriginal languages. I am told, for instance, that three languages are commonly used in their legislative assembly. Everything is translated into three languages. Considering that here we occasionally have problems with two languages, I think it is impressive that they, in those remote regions, can accommodate four. All bills, it seems, are translated and the proceedings may be either in English, French or Inuktituk. They have simultaneous translation.

In addition, the Northwest Territories often use five other languages: North and South Slavey, Dogrib, Chipewyan and Kutchin. A member may decide to use one of those languages during a debate, and he may ask for a translation, not necessarily of the bills but of any text arising from the bill, and local people who need information and want a summary of a bill can ask to have it translated in those languages. Here again, I think it is important for the federal government to support these efforts by the Government of the Northwest Territories to make the public better informed. As you know, the population is spread over an immense territory. It is therefore essential for people to have access to government decisions in their own language.

I want to ask Senator Beaudoin whether he could look into this—I am especially thinking of the funding aspect—and give us the assurance that the federal government will continue to support the translation work being done.

The Hon. the Speaker: Honourable senators, if Senator Beaudoin speaks now, this will have the effect of ending the debate on second reading.

Hon. Gérald Beaudoin: Honourable senators, to Senator Molgat's next question, I reply that I did ask the officials concerned if there had already been an extension. I was told that there has never been an extension. It would be the first.

On the second point raised by Senator Molgat, honourable senators, I can tell you that the officials of both governments are currently looking into the possibility of coming to an agreement on the financing of French and Native languages. Both gave firm assurances concerning this. I do hope, as you certainly do, that the financing will prove adequate for future legislation.

Third, on the issue of Native languages, if I understood correctly the gist of the text which was brought to our attention, financing is assured for the French, English and Native languages. That is all I can say for the time being. I may deal again with this later on the third reading. That is all I have to say for now.

Senator Molgat: Honourable senators, would it be possible to ask the minister or an official of the Department to appear before the committee which will be dealing with this bill and to be in a position to provide this information about financing. I suggest that this question has major significance for the Government of the Northwest Territories, and since the previous agreement is about to expire, it would be advisable to have this aspect made clear to them.

Senator Beaudoin: Honourable senators, I will certainly pass on this request to the proper departmental officials.

Would it be in order to move a motion for this bill to be referred to the Standing Committee on Legal and Constitutional Affairs?

Motion agreed to and Bill read the second time.

REFERRED TO COMMITTEE

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

On motion of Senator Beaudoin, bill referred to the Standing Committee on Legal and Constitutional Affairs.

[*English*]

BANK ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Barootes, seconded by the Honourable Senator Comeau, for the second reading of the Bill C-90, An Act to amend the Bank Act (extension).—(*Honourable Senator Olson, P.C.*).

Hon. H. A. Olson: Honourable senators, I have completed my remarks on this order. Therefore, it can go to the next stage, which I presume is referral to committee.

Hon. Sidney L. Buckwold: Honourable senators, I thank Senator Olson for his interjection. However, as Chairman of the Standing Senate Committee on Banking, Trade and Commerce, I should like to make a few comments on the bill. I should like to compliment Senator Barootes for his usual reasoned and restrained presentation of the government's thinking on Bill C-90.

[Senator G.]

Hon. Royce Frith (Deputy Leader of the Opposition): You had to spoil it with that adjective. Take out the word "usual".

• (1740)

Senator Buckwold: I refer to his comment that this is a very routine and innocuous bill.

Senator Frith: Famous last words.

Senator Buckwold: It may be routine and innocuous but, although it will obviously be referred to committee, I think it is worthy of a few comments from those of us interested in financial institutions.

I would remind honourable senators that the Standing Senate Committee on Banking, Trade and Commerce spent several months in a detailed study of financial institutions, during which ministers appeared as witnesses along with representatives of the major financial institutions—the "four pillars" that we refer to in the financial field. Over and above presenting their own personal point of view, all of those representatives had the same message, which was that it was important for the government to get the legislation that had been promised onto the order paper and to proceed with their program.

What we see in Bill C-90 is another delay. This simple or innocuous bill says that the Bank Act will not expire as the present legislation would demand on March 31, 1991, but that it will be extended for another year. If by any chance the Bank Act expired in 1991, as I have indicated earlier, it would cause a chaotic situation, although I am sure the government would soon have some means of carrying on with financial institutions. I think all members of this institution should be aware that there are broad implications in this whole question of the regulation of financial institutions. I would even recommend that the committee report, which was well received by all parts of the industry, be re-read. Part of the report indicates the importance of letting all the institutions know where they stand.

The legislation introduced by Senator Barootes means that amendments to the Bank Act are to be postponed for at least another year. It is important that legislators and the industry itself should have an overall picture of what is happening to the financial industry. Banks should know; trust companies should know; insurance companies should know; stockbrokers should know—the four pillars of the financial community—how they fit in. I think all of us would agree that that is necessary.

Since 1985 when it issued the Green Paper, the government has emphasized the importance of having that legislation coordinated and of bringing in an overall policy for financial institutions. Time after time, the Minister of Finance has indicated that legislation is ready to go. Insurance companies are waiting with bated breath for the legislation. Trust and loan companies are anxiously wanting to know where they fit in. That also applies to stockbrokers. Last, but probably most important, banks have to know their relationship to other financial institutions. They want to know who will own them; and they want to know what the ownership requirements will

be. They also want to know about ministerial responsibility, provincial regulations and about harmonization with the provinces. They want to know about all the major aspects of trying to develop a policy for financial institutions that is in the best interests of the country economically, and of the depositors who are involved with these financial institutions.

Honourable senators, without delaying the chamber too long, I feel it is important to put on the record that it is essential to have that kind of coordinated approach to financial institutions. There are 3,000 financial institutions in this country which represent over $1 trillion worth of assets. In the interests of those people who entrust their life savings to financial institutions, it is important that we have that kind of an approach.

In suggesting that this legislation go to committee, it is important to recognize that witnesses from the Department of Finance should be able to answer the questions that will be asked by the committee as to when we will be able to tie in the uniformity and coordination of the regulations.

The industry has told me that, until there is that overall picture, the situation will be difficult for them. I have talked to members of the financial community who feel that an umbrella type of legislation should be available so that each of the so-called "four pillars" would know how they fit into the financial scene in this country.

Although, as Senator Barootes says, the bill is routine and innocuous—and in itself, I suppose, it might be looked at in that way—I think the overall implications are very serious. What is also important is the fact that it is another delay which gives the government another year to fulfil their promise of 1985, contained in the Green Paper, that they would have financial policy that would fit into the financial requirements of the banking and financial community as it approaches the next century.

I note that Senator Barootes said that the government would be prepared to refer the bill to the Standing Senate Committee on Banking, Trade and Commerce. I would hope that he would follow his own direction and so move.

Hon. Efstathios William Barootes: Honourable senators—

The Hon. the 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 would thank Senator Olson and Senator Buckwold for their remarks. Obviously their concerns can be best answered in committee by hearing from the appropriate witnesses.

I would, therefore, move 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 Barootes, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 4915*)

THE ESTIMATES, 1990-91
SUPPLY, 1990-91

EXPLANATORY TABLES

ESTIMATES TABLED TO DATE FOR 1990-91

	TO BE VOTED	STATUTORY (in thousands of dollars)	VOTED
Main Estimates			
Budgetary	$44,314,283	$103,278,804	$147,593,087*
Non-Budgetary	206,789	163,269	370,058
	$44,521,072	$103,442,073	$147,963,145
Supplementary Estimates (A)			
Budgetary	$ 550,852	-	$ 550,852
Non-Budgetary	-	-	-
	$ 550,852	-	$ 550,852
Supplementary Estimates (B)			
Budgetary	$ 1,841,442	$ 2,902,400	$ 4,743,842
Non-Budgetary	$ 15,197	-	$ 15,197
	$ 1,856,639	$ 2,902,400	$ 4,759,039
TOTAL ESTIMATES TABLED			
Budgetary	$46,706,577	$106,181,204	$152,887,781
Non-Budgetary	221,986	163,269	385,255
	$46,928,563	$106,344,473	$153,273,036

* Numbers differ due to rounding.

SUPPLY TO DATE FOR 1990-91

Two Appropriation Acts have been approved in respect of Estimates for 1990-91:

Supply Approved to Date:

Appropriation Act No. 1, 1990-91 granted Interim Supply for the 1990-91 Main Estimates equal to an initial allocation of 3/12ths for all Votes plus 51 additional proportions	$12,969,848,294.15
Appropriation Act No. 2, 1990-91 granted Supply for the balance of Main Estimates for 1990-91	$31,551,223,241.85
and	
Supply for the whole of Supplementary Estimates (A), 1990-91	$ 550,851,998.00
	$45,071,923,534.00

Awaiting Approval:

Supply for the whole of Supplementary Estimates (B), 1990-91	$ 1,856,639,306.00
TOTAL	$46,928,562,840.00

THE SENATE

Wednesday, December 19, 1990

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

Prayers.

PETRO-CANADA PUBLIC PARTICIPATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-84, respecting the privatization of the national petroleum company 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 on Friday, December 21, 1990.

[*Translation*]

CANADA PENSION PLAN

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-260, an Act to amend the Canada Pension Plan (spousal agreement).

Bill read the 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 Friday, December 21, 1990.

AN ACT RESPECTING A DAY OF MOURNING FOR PERSONS KILLED OR INJURED IN THE WORKPLACE

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-223, an Act Respecting a Day of Mourning for Persons Killed or Injured in the Workplace.

Bill read the 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 Friday, December 21, 1990.

[*English*]

OFFICIAL REPORT

CORRECTION

Hon. H. A. Olson: Honourable senators, yesterday I rose on a serious question of privilege because a large part of the proceedings of this House were left out of *Hansard*. I intend to pursue this matter until I get an answer. I want to know who was responsible for that.

When reading over the "blues" of yesterday's proceedings, I noticed that I said I would bring this matter up for the next ten years if I did not get an answer. I was exaggerating a little, but I intend to bring the matter up until I do receive a satisfactory answer. I want to know who it is in this chamber who believes they have the right to strike out a whole page of *Hansard*.

The Deputy Leader of the Government knows that when a senator does not know to whom to direct a question, the question lands in his lap. Therefore, I should like him to investigate this matter and get an answer for me.

I can also tell you that I have one or two other plans in mind in case this one fails.

Some Hon. Senators: Oh, oh!

Hon. C. William Doody (Deputy Leader of the Government): I will certainly undertake to make the inquiries on behalf of Senator Olson. I will check with the Table and with those who are responsible for printing to see if I can trace the origins of the dastardly deed.

Hon. Romeo LeBlanc: Honourable Senators, some of the points made by Senator Olson I too was trying to make in the other official language as a proud Privy Councillor. Obviously I will be interested in the explanation that will be provided. However, I was interrupted—and I make no reproach to the Leader of the Government for it—when he announced that the other place had adjourned. However, I think it is important to know why the remarks of Senator Olson and myself suddenly evaporated into thin air.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS ON BILL C-62

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I found a petition that I had not tabled earlier against the GST from people in the Kingston area. There are approximately 25 names on each of the four sheets, totalling, therefore, approximately 100 names.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS ON BILL C-62

Hon. Jacques Hébert: Honourable senators, I have the honour to present a series of petitions signed by 4,884 residents of Montreal. I will simply read the text of the petition, which is very brief.

To the honourable Senate of Canada:

The undersigned citizens of the Dominion of Canada now avail themselves of their ancient and undoubted right to present a grievance common to your petitioners, in the certain assurance that your honourable House will therefor provide a remedy.

They humbly sheweth

That the new universal federal 7 per cent goods and services tax approved by the Conservative Government, will create serious and undue hardship for Canadians; that introducing this tax constitutes an unprecedented attack on the incomes of Canadians that are already far too low, not only because it obliges them to pay higher taxes but also because of the resulting increase in the cost of living due to the inflation, higher interest rates and higher unemployment that will be a consequence of the new tax.

Therefore, the undersigned, your petitioners, humbly pray and call upon the Senate to reject this new goods and services tax.

As in duty bound, your petitioners will ever pray.

This petition was signed by 4,884 residents of Montreal, petition the government will obviously never consider.

Hon. Arthur Tremblay: Honourable senator, what is the date on this petition?

Senator Hébert: Just a minute. The petition is dated November 20, 1990.

[*English*]

Hon. Stan Waters: Honourable Senators, I also have a petition to present; it is from about 300 good citizens of Alberta who all oppose the GST. The opposition continues unabated. The petitions are dated over the last two months. Thank you, honourable senators.

Hon. Charles Turner: Honourable senators, I have the honour to present 97 petitions signed by 1,997 residents of London, Ontario, southwestern Ontario and parts of British Columbia who are opposed to the goods and services tax. They think it is a bad tax and are opposing it.

Hon. Peter Bosa: Honourable senators, I have approximately 1,600 names on petitions which I would like to table. These petitions humbly pray and call upon the Senate to prevail on the Government of Canada to stop the introduction of the proposed goods and services tax.

Hon. Joyce Fairbairn: Honourable senators, I too have some petitions I would like to table. They come from a variety of places in western Canada. I have 150 names from Rosetown, Saskatchewan; Fiske, Saskatchewan; Calgary, Alberta; Biggar, Saskatchewan; Wardlow, Alberta; Sylvan Lake, Alberta; Edmonton, Alberta; Swift Current, Saskatchewan; Saskatoon, Saskatchewan; Calgary, Alberta; Ladysmith, British Columbia; Claresholm, Alberta; Kindersley, Saskatchewan; Flaxcombe, Saskatchewan; Grande Prairie, Alberta; and a number from Kelowna, British Columbia. They all express their opposition to the GST.

• (1410)

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Nathan Nurgitz: 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: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

NATIONAL REVENUE

GOODS AND SERVICES TAX CREDIT—PAYMENT OF FEDERAL SALES TAX BEFORE THIRD READING OF BILL C-62—GOVERNMENT POSITION

Hon. H.A. Olson: Honourable senators, I have in my hand a photocopy of a cheque from the Department of National Revenue, together with an explanation of the changes. The letter is to a taxpayer and it states:

Based on the information you have provided, we will be able to determine if you are entitled to receive the proposed goods and services tax credit (GSTC). The Government of Canada is proposing to introduce this new credit to help offset all or part of its proposed goods and services tax for low and modest income families. The GSTC will be sent to qualifying taxpayers four times a year.

We have allowed you a federal sales tax credit of $169.35, based on the information available.

Your refund includes $4.28 of refund interest.

On the other side is the breakdown of how they arrived at that amount. Of course, it lists the person's income, which was a modest $5,200 and a number of other things. Under an item entitled, "Federal Sales Tax Credit", there is the amount of $169.35, and there is a photocopy of the cheque for $169.35.

My problem with this letter is that the cheque is dated December 11. At that time, the corresponding bill had not had third reading, and it certainly had not had Royal Assent and proclamation. Although the cheque is dated December 11, it was received by the recipient of the goods and services tax credit on December 13, two days after it was dated, and also the day before third reading in this chamber.

Senators opposite may take this matter lightly, but this is an unlawful procedure.

Hon. Royce Frith (Deputy Leader of the Opposition): They are not interested in the law; it's just a joke, look at them laughing.

Senator Olson: I want to tell you something else. Do not say, "That is the way things were always done," because it is not the way things were always done. I had the responsibility of being the Minister of Agriculture for approximately four and a half years or so.

Hon. Efstathios William Barootes: You have told us that many times before.

Senator Olson: I also had the responsibility of being the Minister of Economic Development for approximately four years. I want to tell you what happens.

Hon. Jean-Maurice Simard: Did you say that was your problem? What is your question?

Senator Olson: Wait one minute; I will get to it. This is a breach of the law of Canada. There is no authority that I can find. That is why I did not bring the matter up yesterday, because I did some research on this question to find out when the Parliament of Canada had amended the Excise Tax Act in such a way that it would authorize the Minister of National Revenue to issue refunds under the Excise Tax Act.

Senator Barootes: How did you get such confidential information?

Senator Olson: You surely do not mean that the amending of the laws in this country is now confidential?

Senator Barootes: You acquired a person's income tax return and information concerning his income. That is confidential.

Senator Olson: You should be quiet, because this is serious. I have been through this before, honourable senators, a number of times. When I was in the government and someone wanted to have a payment made out of the Public Treasury, the first thing I did was find out whether or not the government had authority to make such a payment. I told the senior officials in the departments which it was my honour to run, "Go and find out whether or not we have authority to make this payment. If we do not, the first thing we will do is go to Parliament for an amendment that will give the government the authority to make such a payment." But that was not done in this case.

Honourable senators, this is so serious that I cannot understand the levity over there. My question to the minister is: Will you look into this matter and find out how many more cheques the department has sent out? I have only one here, but I know of a dozen more people who have received this payment, what is called "a tax credit to offset the proposed goods and services tax." That is the explanation given in the letter that came from the Department of National Revenue.

This raises a lot of questions. If the government does not intend to obey the law, how can they expect anyone else to do so? One thing that is absolutely fundamental is that the government does not have the authority to spend one nickel out of the Treasury unless it is authorized by Parliament.

Senator Simard: What are you going to do about this? What are you going to do?

Senator Olson: That is the most outrageous question. "What are you going to do about it?" On the other side they say, "We do what we damn well please. Never mind what the law is."

Senator Simard: Talk, talk, talk.

Senator Olson: I can see that the minister is not smiling quite as widely as he usually does, because you have done an unlawful act. You had no right to send money to this taxpayer or to anyone else until it was authorized by Parliament. On December 11, 1990, it was not authorized by Parliament. If you do not think that is serious, then why in Heaven's name do you expect the people of Canada to obey the law when the government does not? It is absolutely frustrating to see the government act in this fashion.

I should like to ask the minister if he is aware that the GST credit was paid out to a lot of Canadians long before the bill was passed and authorized by the Parliament of Canada. I should also like to ask him whether or not the act has been proclaimed yet. I know that you had some trouble on Friday with respect to Royal Assent. I was not here on Monday because I had other important public business to attend to. However, if the act has not been proclaimed, it is not the law of this land. A proclamation is required and, in addition, the government is required to publish the regulations to enforce the law when it is proclaimed. At least that used to be the law in Canada. I do not think you have done that.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I think you are wrong about that.

Senator Olson: One thing that is absolutely certain is that you had not done it by December 11 when this cheque was mailed out. I will give my honourable friend a copy of it. When I copied the cheque, I put a piece of paper over it so you could not identify the Canadian taxpayer. I would not want any discriminatory action to be taken against this taxpayer in southern Alberta. I hope you do not follow that kind of rotten route, but I would not put it past you.

I hope the minister has some explanation as to why this government can pass out taxpayers' money before authority is given by Parliament. After you answer that question, I would like to ask you a few questions concerning the Minister of

Finance's announcement that saying he has some amendments to the GST when it was passed only the day before yesterday.

I do not want to ask the Leader of the Government to give an answer off the top of his head or wherever it will come from, but this is an extremely serious matter. I hope the honourable minister will look into it and at least apologize to the Canadian people. How does the government expect other people to obey the law when they act in this fashion?

Senator Murray: Honourable senators, I have listened carefully to what the Honourable Senator Olson has stated. I am reading very quickly through the documents he has been kind enough to send to me across the floor.

These documents relate to the personal income tax return of a taxpayer for the previous taxation year.

Senator Frith: It has to relate to income in order to determine if he is entitled to a credit.

Senator Murray: It is for the taxation year 1989.

Senator Olson: But there is a tax credit of $169.

Senator Murray: I know that. I am coming to that. There is a statement that says that on the basis of this taxpayer's 1989 return, the government will be able to—note the future tense—determine if he is entitled to receive the proposed—note the adjective—goods and services tax credit. It goes on to say that the Government of Canada is proposing to introduce this new credit to help offset all or part of its proposed—note the adjective—goods and services tax for low- and modest-income families. The GSTC will be sent to qualifying taxpayers four times a year.

Senator Olson: Read the next part.

Senator Murray: I am reading the next sentence. It says:

> We have allowed you a federal sales tax credit . . .

That is the old tax, Senator Olson. That is not the new GST. The letter continues:

● (1420)

> We have allowed you a federal sales tax credit of $169.35, based on the information available.

Sure enough, there is a form here on the 1989 Notice of Assessment, and one of the categories is "federal sales tax credit". I do not have the taxpayer's return, of course, but it appears on the Notice of Assessment that he or she has been allowed a credit of $169.35. That is a credit in relation to the old tax, not the new tax.

Senator Barootes: A simple apology will do!

Senator Olson: Honourable senators, how anyone can read these documents and come up with such a convoluted answer is completely beyond me. It says right here, and the leader read it—

An Hon. Senator: What is the date?

Senator Olson: December 11.

Senator Simard: That is the only thing you have right!

Senator Olson: It says, "We have allowed you a federal sales tax credit of $169.35, based on the information available." The information available is very simple. It says in the preceding paragraph that the Government of Canada believes that this individual is entitled to that credit because of the goods and services tax.

Senator Murray: Honourable senators, the document makes a clear distinction. In the first paragraph it refers to the "proposed goods and services tax credit" and, indeed, to this taxpayer's entitlement to the goods and services tax credit, which is based on the information in his or her 1989 return.

Senator Olson: That's not what it says.

Senator Murray: It then deals with a federal sales tax credit. It is the federal sales tax that is being replaced by the GST, and taxpayers, up until now, have been entitled to a credit. The category is right there in the Notice of Assessment, federal sales tax credit. I am quite confident that the honourable senator is quite mistaken in his interpretation. However, I shall have my interpretation and his looked at by the Department of National Revenue, and I shall bring in a reply tomorrow or the next day.

Meanwhile, I can only say that I hope the honourable senator engages a competent chartered accountant to do his own tax return.

Senator Olson: Honourable senators, that is the most preposterous attempt at escaping that I have ever heard, and the honourable senator knows that very well. These two pieces of paper came in the same envelope along with a cheque.

An Hon. Senator: A what?

Senator Olson: A cheque. That is one of those things that looks like a cheque, feels like a cheque and cashes like a cheque.

I want to tell the minister one other thing: This particular taxpayer is a senior citizen who has no claim on any excise tax. Let us get technical here; it is not a sales tax that we are talking about, but an excise tax. That is what the Minister of Finance is talking about in his notice of a Ways and Means Motion that was issued today. In that notice he indicates that it is expedient to amend the Excise Tax Act and other legislation respecting implementation of the goods and services tax. So let us not kid ourselves about the terminology. The explanation is completely clear, that that $169 credit is because of the proposed GST, and it is clear that it was issued before we had given authorization to make payments on the proposed GST.

● (1430)

PAYMENTS OF FEDERAL SALES TAX CREDITS—DATE OF AUTHORIZATION

Hon. John B. Stewart: Honourable senators, I have a general question dealing with the same matter but not, of course, related to the set of facts mentioned by Senator Olson.

Would the Leader of the Government tell us when authorization was obtained by any department to begin issuing bills or cheques to those eligible for the sales tax credit? I do not mean

authorization by Parliament but subsequent authorization by warrant, or whatever type of document is required.

Could he tell us also when any department first issued bills, cheques or tax credits based on Bill C-62? These are simply factual questions; I do not expect the minister to have the answers in hand today.

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

GOODS AND SERVICES TAX

AVAILABILITY OF TABLED DOCUMENT

Hon. Sidney L. Buckwold: Honourable senators, my question is for the Deputy Leader of the Government. He tabled a document further to the GST as sent in by the government. Could details of what is contained in that paper be given to us? I am not sure whether this is a Ways and Means Motion along the lines I exposed last week or something else. Is it a long document? Could it be read?

Hon. C. William Doody (Deputy Leader of the Government): I do not have it here with me. I do know, however, that it has been tabled and I will try to get it from the Table. However, I am sure the Table will make it available to you, senator, because all documents are available to every member of the house once tabled.

Senator Buckwold: I am quite prepared to accept that, if members will be given a copy as soon as possible. I am most interested in seeing what changes the government is proposing to the Ways and Means Motion, which was sneered at by people on the other side when it was first announced.

Senator Doody: It is being done now, senator.

THE ECONOMY

EFFECT OF CANADA-UNITED STATES FREE TRADE AGREEMENT ON EMPLOYMENT IN CANADA—GOVERNMENT POLICY

Hon. M. Lorne Bonnell: Honourable senators, could the Leader of the Government in the Senate tell us what the government proposes to do to find jobs for the 226,000 Canadians who have lost their jobs because of the Free Trade Agreement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think the honourable senator is mistaken in attributing these job losses to free trade. I think it is fair to say that the vast majority of those job losses would be an outcome of the slowdown in economic activity, indeed, the recession, in which the country now finds itself.

Senator Bonnell: The Canadian Labour Congress has indicated that it believes that is the number of jobs lost due to the Free Trade Agreement. The minister says that that is not the case. I am prepared to accept that the figure may be just 200,000.

[Senator Stewart.]

What is the policy of the government with regard to finding employment for all of those unemployed people?

Senator Murray: Honourable senators, I think the honourable senator also neglects to mention the tens of thousands of jobs which have been created in this country in the past five or six years. Employment has risen in record proportions. While jobs have been lost in the normal course and in the course of the present recession in which the country finds itself, a great number of jobs have been created all across the country during the past six years. In fact, during the past six years, many, many more jobs have been created than have been lost in the current recession.

Senator Bonnell: Honourable senators, that may all be true because I have no statistics to question that information' but I do know that approximately 70 per cent of the people of Prince Edward Island are unemployed.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): They are probably mistaken. They are not really unemployed. Is the government telling them that they really are not?

Senator Bonnell: Maybe the government intends to hire all of these people as tax police for the GST; I heard that suggestion. I understand they are putting in $87 million worth of computers in Hull. Maybe they can all move to Hull, before Quebec separates, and get jobs there. What is being done for the 17 or 18 per cent of Islanders who are unemployed? What kind of jobs will be provided for them besides the 400 GST jobs coming to Summerside? What is the government doing to help the people of Prince Edward Island find employment?

Senator Murray: Honourable senators, I just had the opportunity to review the statistics that I was referring to in a more general way a few moments ago. The fact of the matter is that, within the past two years, employment—employment!—has grown by 200,000 in this country. So, although unemployment has increased, there has been a very considerable increase in employment and job creation in this country.

Now, if the honourable senator wants to consider the situation in Atlantic Canada, again, the fact of the matter is that, since this government took office, the Atlantic Canada unemployment rate has fallen by 3.8 percentage points, from 16.8 per cent to 13 per cent, still far too high but—

Hon. William J. Petten: I want to ask the Minister where, which province in Atlantic Canada?

Senator Murray: I am talking about Atlantic Canada in general.

Senator Corbin: That is not a province.

Senator Murray: No. I do not have the province-by-province statistics. They are published by region, and I am giving the honourable senator the latest figures that I have for the region from which he comes.

Senator Bonnell: I can give you the latest figures by province. In Newfoundland, the unemployment rate is over 18 per cent, close to 20 per cent. In Prince Edward Island, it is

between 17 and 18 per cent. So, take those two provinces. I think New Brunswick did have a slight drop in unemployment in the last month, and perhaps Nova Scotia had a drop as well, maybe because they sent them all off to the Gulf. However, what is the government doing for Prince Edward Island and Newfoundland, those two parts of Atlantic Canada that are regionally poor, that need employment so that the people can have some income to support their wives and families? What is the Government of Canada doing to help, besides cutting back on shared-cost programs such as education, health and welfare?

Senator Murray: Honourable senators, I will be very glad to bring in what I hope will be a brief and concise but persuasive report from the minister responsible for the Atlantic Canada Opportunities Agency, because I think he would want to inform the honourable senator of the considerable private-sector investments that have been made possible through the incentive programs of ACOA in Prince Edward Island and in the other Atlantic Canada provinces. Further to that, I think he would want to inform the honourable senator of the investment of federal funds in economic development agreements with all of those Atlantic Provinces, and the stimulus that these are providing for investment and job creation in that region.

Senator Petten: Did I understand the Minister to say he would bring in that information, broken down by provinces?

Senator Murray: Honourable senators, I can certainly bring in that information from ACOA on the basis of each province, yes.

Senator Petten: Thank you.

Hon. Herbert O. Sparrow: Is the Leader of the Government indicating that the greater employment in this country is good news for the unemployed people? Are those people who have lost their jobs supposed to be really happy that there have been 200,000 jobs created? I think that is a problem that we are facing in this country—and I am not making a speech, I might add. Of course, we have far more employed people now than we had 20 years ago, but what of the unemployed?

INCREASE IN BANKRUPTCIES—GOVERNMENT POSITION

Hon. Herbert O. Sparrow: I want to digress just for a minute to ask another question. I noticed in the paper today that bankruptcies in the Ottawa area have soared 82 per cent this month over the previous year. The statistics indicate that, for the Ottawa area, the total number of bankruptcies filed to date is 49,423, which is an increase of 82 per cent.

• (1440)

Those people who have gone bankrupt are probably not accounted for on the unemployment rolls because families are affected by bankruptcies, not just individuals.

The Minister of Finance dismissed the surge in bankruptcies as a "natural phenomenon". Would the Leader of the Government explain to me what a natural phenomenon is as it relates to bankruptcies increasing by 82 per cent?

Mr. Wilson also said that, despite government figures suggesting the opposite, the situation is not as bad as it was during the 1981-82 recession. It seems to me that is another outright lie to the people of this country. In any event, what difference does it make whether it was worse in 1981-82? What difference does that make to those people today who are going bankrupt or who are unemployed? How can the government justify making comparisons to the 1981-82 recession when we now have children eight or nine years of age living at or below the poverty level?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Senator Sparrow contests the accuracy of the statement that the bankruptcy situation is not as bad today as it was during the 1981-82 recession.

Senator Olson: That is what everybody else is saying!

Senator Murray: As a matter of fact, Senator Sparrow has said that it is a lie to state that the 1981-82 situation was worse. Well, we shall see. I will be happy to bring the relevant statistics to the Senate in due course.

His second question was really related to his first when he talked about bankruptcies being a natural phenomenon. The economy is not static. Firms go out of business, but new firms are created every day.

Again, if the honourable senator will examine the facts—and I will assist him by bringing some of those facts to the Senate in statistical form—he will see that the number of new firms that have opened in Canada over the past two years—including new firms created in the past year or so through taking advantage of the new possibilities opened up by the Free Trade Agreement—is far, far higher than the number of firms that have gone out of business or that have gone bankrupt in this country.

Senator Sparrow: The Leader of the Government said that I said today's situation is not worse than the situation in 1981-82. I did not mean to say that. I simply asked what difference it would make if the situation were better or worse now than it was in 1981-82. Is the government comparing everything to the bad times of 1981-82? We are in a serious recession now.

I am not suggesting for one minute that the situation is not better today than it was in 1981-82, but what has that to do with the fact that people are going bankrupt and have to live below the poverty line? What consolation is it to the thousands of bankrupt businesses and individuals that new businesses have started up? If the leader is telling us that the economy is growing because of these new businesses, that is wrong. We have seen a decline in business activity over the past three quarters. These new businesses that have come on-stream have not increased the economic activity of this country.

Why is the leader saying that those who have gone bankrupt or those who are unemployed because of business bankruptcies should not worry because there are new businesses that have started up? The government is saying, "You people who have gone bankrupt or who are unemployed, suffer and enjoy it."

Senator Murray: Honourable senators, I think the only way to settle this argument is to bring in the latest figures on new job creation and new business creation in this country, as opposed to the number of bankruptcies that the honourable senator is referring to. He says that the creation of new businesses is cold comfort for those owners and employees of firms that have gone out of business. Again, I remind him that the economy is not static.

Senator Olson: It is not very good, either!

Senator Murray: There are definitely fewer blacksmiths in the country today than there used to be, but there are many new occupations that have created wealth in the country.

Senator Sparrow: Why, then, is the economic input-output going down?

Senator Murray: It is not.

Senator Sparrow: It has gone down in the last three quarters.

Would the Leader of the Government be prepared to tell the Canadian people that the government is sad and sorry about the number of bankruptcies? Will the government say, "Yes, we are sympathetic with those who have gone bankrupt; we are sympathetic with those who have become unemployed. We would like to do something about that"? That is not the situation. There appears to be no sympathy for those who have become unemployed or who have gone bankrupt. The government says that it is happy with the creation of new businesses, but "to hell with the people who have gone broke."

Senator Murray: We are doing far better than that. We are following a policy, and have been since 1984, of creating confidence in Canada's economy.

Senator Frith: Come on!

Senator Olson: What a load! It is incredible that you would say that.

Senator Murray: That policy has created unprecedented levels of investment and job creation in this country. Further, we are following a policy which we are confident will bring interest rates down. There is a major contribution we can make to the stability and prosperity of this country.

Senator Sparrow: The Minister of Finance stated not long ago that the government made the recession in order to slow down the economy. Is the leader now saying that is not the case?

MIGRATION OF CANADIAN MANUFACTURING FIRMS—EFFECT ON INDUSTRY—GOVERNMENT POSITION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I noted that the Leader of the Government, in answering Senator Sparrow's questions a moment ago, stated that he thinks this government is creating confidence in the economy. Those were his words. He also stated that there is unprecedented investment in this country. In an earlier answer he made a comparison between openings of new businesses and closings of others.

[Senator Sparrow.]

I wonder if the leader will attempt to get us some harder data on those assertions, in the context of the statement made by the Canadian Manufacturers' Association yesterday, I believe—

Senator Molgat: And the Chamber of Commerce.

Senator Frith: Yes, the Chamber of Commerce. They said that the net is not positive as far as the manufacturing industry is concerned and that, in fact, according to the statement as I heard it, manufacturing firms are leaving—not closing down, but simply leaving—Canada for good.

The CMA and the Chamber of Commerce said that they expect in a downturn of the economy there will be some change in manufacturing output, but they did not expect that the manufacturing industry would be as seriously damaged by this government's policy as it has. It made direct reference to this government's policy, as did the president of the Small Business Association.

When giving us the figures to establish that unprecedented confidence in the economy has been created by this government, and that unprecedented investment has been the result of this government's policy, could the minister tell us how that compares with what the Canadian Manufacturers' Association and the Chamber of Commerce seem to think is the exact opposite?

● (1450)

Hon. Lowell Murray (Leader of the Government): Honourable senators, the CMA and other business bodies are of the view, which is understandable, that something must be done to bring interest rates down faster than they are falling now—as if the solution to that was entirely political. Second, they think that we should have fought harder and done more to decrease the deficit. There are broader considerations there which we have had to bear in mind at all times. I think we have done a good job with the deficit. Nevertheless, that is the difference in perspective between the government, on the one hand, and these organizations or their spokesmen on the other.

I have statistics here relating to investment in Canada over the past few years. Among the major OECD nations, our rate of economic growth between 1984 and 1989 was second only to that of Japan. I see that business investment in new machinery and equipment has climbed by 65 per cent in real terms since the 1984 election, and that business spending on construction machinery and equipment is expected to climb by 10 per cent this year. Statistics Canada, in an October survey, found that Canada's larger companies plan to increase their level of capital spending by 13 per cent next year, and so it goes.

I will also endeavour to obtain some up-to-date figures not only on job creation but on the creation of new firms in this country, on the one hand, and bankruptcies, which was referred to by Senator Sparrow, on the other. I think the statistics will show that the entire picture remains a positive one for the Canadian economy.

Senator Frith: Honourable senators, it would be a good idea if the Leader could find a way to circulate these figures as

widely as possible for the comfort of the unemployed and also for the comfort of the Manufacturers' Association and the manufacturing industry, which, in spite of what he describes as unprecedented investment and confidence in the economy, are apparently leaving the country in unprecedented numbers.

UNEMPLOYMENT—LOSS OF JOBS TO UNITED STATES AND MEXICO—GOVERNMENT POLICY

Hon. M. Lorne Bonnell: Honourable Senators, I have a supplementary question. When the Leader of the Government provides the answer to that previous question, will he also put forward government policies to correct the problems of unemployment and people leaving this country for either Mexico or the United States to build their factories? Why are all of these bankruptcies, both corporate and personal, occurring? What does the government intend to do to assist those people? Don't give us a bunch of numbers. Tell us what you are going to do about it.

Hon. Lowell Murray (Leader of the Government): I have already undertaken to bring in, for the benefit of Senator Bonnell, information on the activity of the Atlantic Canada Opportunities Agency in Prince Edward Island, and its activity in providing assistance to private sector investment and its cooperative efforts with the government of Prince Edward Island in the field of economic development. I regret if the honourable senator does not feel he is sufficiently well informed on those matters. We will try to rectify that.

Senator Bonnell: I know about ACOA, but ACOA does not do everything. It helps out certain new industries, but what do you intend to do for those who are going bankrupt, and about the poverty in Prince Edward Island? What is the government going to do about that?

BANK OF CANADA

MONETARY POLICY—DIFFERENCE BETWEEN CANADIAN AND U.S. INTEREST RATES—GOVERNMENT POSITION

Hon. H.A. Olson: Honourable senators, I should like to address another question to the Leader of the Government on a subject in which he has taken a deep and abiding interest, that is, the bank rate. I will provide a small preamble so that Senator Kelly will not get after me.

The Federal Reserve Board in the United States announced last night that it was cutting the key interest rate, that is, the discount rate, down to 6.5 per cent. In Canada that amount is now 12.01 per cent. So the two rates are almost 600 basis points apart. There was a time when the two were coming closer together, but now they will continue to go further apart. I want to know what the government intends to do to bring those interest rates down.

The reason that the Federal Reserve Board gives for decreasing its rate by 50 basis points in one week is that it acted, and I quote, "against the background of weakness in the economy, constraints on credit and slow growth in the monetary aggregates", in other words, the money supply. I was wondering if the government could provide us with some hope that, since the United States has lowered its rates, that Canada will too, or are you afraid that there will not be enough people to put up all the money you need to borrow? I would hope that the minister could give some hope to those people who would like to see interest rates go down. They have wanted for months to see them come down, and I grant him that they have come down a little, but there are countries in the western world that believe they should be coming down much faster than that has been happening in Canada.

I know that the minister agrees with that policy because, at 2 o'clock every Thursday afternoon, he advocated that interest rates should be brought down. I hope he will use his skill and knowledge to help those who are fighting these debt service charges now.

Hon. Lowell Murray (Leader of the Government): Honourable senators, I never disagreed with the honourable senator when, from this side of the house, he pointed to the international conditions that were affecting Canadian interest rates. I also pointed out at the time, which I maintain here today, that some of the wrong-headed policies of the Canadian government, including the National Energy Policy—

Senator Olson: Did you say "wrong-headed"?

Senator Murray: Wrong-headed.

Senator Olson: Of the present government?

Senator Murray: Of the government of 1981-82, including the National Energy Policy, had exerted upward pressure on interest rates. That was documented in the annual report of the Governor of the Bank of Canada at the time.

All I can say to the honourable senator's question today, as I said earlier, is that the trend line is definitely downward as far as interest rates are concerned. That is also the case for the inflation rate. The inflationary pressures seem to be abating.

Senator Olson: What about the GST?

Senator Murray: Obviously there will be a temporary blip in inflation as a result of the implementation of the GST; and, while there are problems on the horizon, such as oil prices as a result of the crisis in the Gulf, the underlying trends are downward, leading us to a realistic expectation that interest rates will continue to decline. We shall see tomorrow, and on subsequent Thursdays, what the extent of that decline will be.

Senator Olson: Honourable senators, the minister knows very well that the monetary policy in this country is the responsibility of the government. It is announced every Thursday by the Governor of the Bank of Canada. I understand that. I think the law was changed in 1961 or 1962 after the Coyne affair, making the Minister of Finance responsible for monetary policy. I am asking him if we can expect interest rates to start coming down at a reasonably rapid rate, instead of squeaking down 6, 8 or 10 points a week, when they have gone down 50 basis points in one week in the United States?

• (1500)

Senator Murray: Honourable senators, I am in no position to speculate on that.

Senator Olson: Tell us what is the government's policy, that is all I am asking.

Senator Murray: Honourable senators, the government is confident that, as inflationary pressures abate so, too, will interest rates go down.

Senator Olson: What a lousy answer.

NATIONAL REVENUE

GOODS AND SERVICES TAX CREDIT—REQUEST FOR DETAILS

Hon. Azellus Denis: Honourable senators, when we were talking about the GST, there seemed to be a sense of scandal from the government when it stated that we were delaying the credit to those people who were entitled to it. The credit is for those who earn from zero to $30,000. If I understand correctly, the maximum is $380 for a couple or for a family.

A taxi driver told me that he was supposed to receive $95 for three months. I assume the credit is divided into three. Therefore, it is $100 for his wife and himself and he will receive one third of the credit he qualifies for in one year.

What is the big scandal about delaying a three month payment of $50 to a wife and $50 to a husband? Those who earn $29,000 a year, which is the maximum that can be earned to qualify for a credit, will receive $100 a year or $200 a year. Will we know how many hundreds or millions of people will receive almost nothing for three months, because of those credits which are so precious, according to the government?

If the husband earned $25,000 a year, I would like to know how much the couple would receive for three months.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think I can obtain for the honourable senator the average amount of the credit for taxpayers in certain income categories. I think I can do that, and I will be glad to bring that information in.

Meanwhile, I may say in answer to inquiries that have been made earlier, more than 5 million GST credit cheques have now been printed and turned over to Canada Post for distribution to recipients following the granting of Royal Assent on Monday. Mr. Jelinek, the Minister of National Revenue, has stated that all cheques will be in the mail by Friday, December 21, and the payment of the GST credit will be completed as promised prior to the introduction of the GST on January 1, 1991.

Senator Denis: What is the average amount of money that each family will receive for a three month advance on the credit that family is entitled to for the whole year? If I understand correctly, those credits are paid three times a year.

Senator Murray: Four.

Senator Denis: Four times a year? That is worse. The most a family could receive is $380. If we say it is $400, that means $200 each for a year. For those who earn only $5,000 a year it could be a little more. However, those who earn $20,000, $25,000 or more are entitled to a credit. How many millions of those whose credit was delayed will receive $100 or less?

[Senator Murray.]

Senator Murray: Honourable senators, I can obtain that information and I shall do so. I do not understand why the honourable senator is opposed to paying this credit in quarterly instalments. I doubt very much that the recipients—

Senator Perrault: It's just flimflam.

Senator Murray: —of the credits—which does not include Senator Perrault—would agree with your position on that matter, Senator Denis.

Senator Denis: Those Canadians who will receive a credit every three months will not get a fortune.

Senator Murray: No.

Senator Denis: A taxi driver told me that he will receive $95 for three months. Is that enough when compared to the 7 per cent that will be paid on all the goods and services he will consume in a year? It's chickenfeed.

Senator Murray: It may be chickenfeed to the honourable senator, and even to his taxi driver, or to Senator Perrault. However, there is a good deal of interest being shown in the GST tax credits. The appropriate comparison is between the amount of money that that taxpayer is likely to pay through the GST and the amount of the present federal sales tax that is hidden in the price of goods that taxpayer buys. All those things have been calculated and I will bring forward as much information as there is on that subject. I am sure the honourable senator will be favourably impressed.

GOODS AND SERVICES TAX CREDIT—SYSTEM OF DELIVERY—GOVERNMENT POSITION

Hon. Raymond J. Perrault: My name was mentioned by the Leader of the Government in the Senate and I am flattered by the attention.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Because you were interjecting from your seat.

Senator Perrault: I want to ask the Leader of the Government in the Senate if he can cite one expert source in Canada which will verify his contention that somehow this is manna from heaven for the disadvantaged in this country. All of the churches told us in testimony, and unfortunately the leader did not attend any of the meetings, that we cannot compensate the less advantaged people in society for the amount of money we will tax out of them as a result of the GST. This is unconscionable flimflam, that is all it is. It's part of a marketing plan or a merchandising plan.

The United Church of Canada and the Roman Catholic Church told us that there is no way we can properly deliver those credits to the people who really need them. Of course, they do not know anything about this area at all. Only the Leader of the Government is privy to this knowledge.

I ask the Leader of the Government in the Senate to name one source in Canada which will approve this flawed system of

delivery of credits to the people of this country. We have heard quite enough of this unctuous response on the part of the Leader of the Government.

Senator Murray: Well, honourable senators, I do defer to the churches when it comes to manna from heaven. However, with regard to the goods and services tax credit, let me say that the appropriate comparison is between what the taxpayer is now paying, albeit hidden in the price of many goods through the federal sales tax, and what that taxpayer will be paying on the goods and services tax, less the tax credit. If he took the trouble to study the figures, my honourable friend would find that taxpayers at the lower end of the income scale are better off under the goods and services tax with the credit than they were when paying the existing federal sales tax on the price of many products that they now buy. I can bring those calculations in, and I will do so.

If the honourable senator is looking for expertise on the matter, I will bring in the testimony of various people, whom I am sure he will respect, who believe that the goods and services tax credit is indeed the way to go in terms of alleviating the burden of those taxes on lower income people.

• (1510)

Senator Perrault: Yes, in theory, it may be the way to go, but we have been reminded on a continuing basis by those who testified before our committee that it is impossible to develop an efficient delivery system. There are some people, for example who will suffer real disadvantages because they are unable to spell, and in this year in which we are attempting to gain more literacy in this country. There are some who are not even able to do basic paperwork. There are many people who will not receive cheques because they are members of a mobile group, people in transit or people who are wandering throughout society, trying to find economic advantage. These are the people who will not receive any benefits at all.

I urge the Leader of the Government to read the testimony which was given before the committee. Those who testified said that, in net terms, these are the people who will suffer because these credits are really an illusion.

Earlier, the leader said that we are not in a recession at all. In effect, he was saying that jobs are being created all over the country. Is this part of the spin-doctor technique of the Conservative Party to try to convince us that black is white? I think we need the research material which the leader said he has available. Will he please table it in the house?

Senator Murray: Honourable senators, we are in a recession. I have not denied that we are.

In order to balance the assertions that are coming from the other side of the chamber, I felt it appropriate to place on the record something of the achievements in the Canadian economy in the past five or six years so far as investment, economic growth and job creation are concerned. The facts are there. If the honourable senator wishes to deny them, then that is his problem.

The fact of the matter is that we have had almost unprecedented prosperity over the past five or six years. It was inevitable that there should be a slow-down. We are now in a recession. The responsibility of the government now is to turn its attention to recovery from this economic recession as quickly and effectively as possible. What that involves, among other things, is getting the rate of inflation and, therefore, interest rates down so that we can spur economic recovery.

Senator Perrault: I do not want to get into a debate here. I will put the subject on the order paper so that we can have a proper discussion on it.

THE ECONOMY

EFFECT OF CANADA-UNITED STATES FREE TRADE AGREEMENT ON EMPLOYMENT IN CANADA—GOVERNMENT POLICY

Hon. Raymond J. Perrault: When the Canadian Labour Congress tells us that it can identify over 105 companies that have left Canada so far to go to Mexico or the United States, and that we have lost over 200,000 jobs since the free trade deal came into effect, I earnestly urge the Leader of the Government to bring forward the facts and figures regarding the companies that have established themselves there during that period of time so that we can get a balanced view of things.

On occasion the Leader of the Government will rise in his place and say, "I have the names of two companies that have opened as a result of the free trade deal". Does that match the over 200 that the CLC alleges have left this country never to come back again?

The Leader of the Government has said that there has been a great deal of job creation. However, labour makes the point that there has been a vast increase in jobs created in the service sector. Is it wrong? Often, these are very low-paying jobs paying around $5 or $6, while the jobs we have lost ran at about $16 or $17 per hour.

Will the Leader of the Government lay it out before us and say, "These are the new jobs that have been created since the free trade deal came into being. This is the average salary being paid. This is the number of women who have found employment, and this is the number of men"? Let us see exactly what has been happening since the trade deal came into effect. We would like some reassurance that, at the end of the tunnel, there will be a bit of a rainbow instead of a disaster.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): On two occasions recently I have placed on the record the names of a number of companies that have located here or expanded here precisely in anticipation of the opportunities being created by the Free Trade Agreement. I did not pretend that the list was exhaustive or complete. The list was read into the record by way of illustration.

The second point I wish to make to the honourable senator is that the Free Trade Agreement is to be phased in over a ten-year period. The objective of the Free Trade Agreement is to obtain secure access to Canada's largest market for our

products and to make our economy more competitive and successful. We have every confidence that those objectives will be achieved over time, which is why we have allowed for a ten-year phase-in of the Free Trade Agreement.

NATIONAL REVENUE

GOODS AND SERVICES TAX CREDIT—DELAY OF CHEQUES

Hon. Azellus Denis: In terms of the delay of credit cheques, something which the government says is scandalous, will the Leader of the Government tell us tomorrow when the first credit cheque is to be sent to a family of two earning $15,000 per year? I would like to be able to tell the people how long their cheques will be delayed because of what occurred in the Senate.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the delay was one of several weeks. As I recall, it had been the intention to send those cheques out at the end of November. In the event, they will all be out by this Friday, December 21.

I will endeavour to obtain information concerning a family of two earning an income of $15,000 per year. I will bring that information into the house as soon as I can. Unfortunately, I will not be here for Question Period tomorrow. However, I will be here on Friday.

Hon. Herbert O. Sparrow: Honourable senators, on the same subject, during the discussion of one of the amendments on the GST bill I presented the Leader of the Government with a breakdown of the credits which will be sent to people earning less than $30,000. The Leader of the Government and others have stated that those people will be better off under the GST. The figures I gave to the Leader of the Government were supplied by the Department of Finance. They show that a person earning $28,050 will receive a $5 rebate over the course of one year. That works out to $1.25 per quarter. The leader has indicated to us today that those people will be better off under the GST. For the life of me, I cannot understand how a person earning that amount of money and receiving a rebate of $5 per year can be better off under the GST.

Senator Murray: Honourable senators, let me bring the entire table in so that the honourable senator can examine it.

Hon. Royce Frith (Deputy Leader of the Opposition): But is it your own conviction that they are better off?

Senator Murray: My statement today was that the people at the lower end of the income scale are better off, the appropriate comparison being payment of GST minus the tax credit, versus payment of the federal sales tax—

Senator Frith: What do you mean by lower end of the scale?

Senator Murray: The lower end of the income scale.

Senator Frith: What is that, precisely?

Senator Murray: Let me bring the table in and we shall see. Senator Sparrow says there is an anomaly for people earning about $28,000, that if the tax credit is so small they could not possibly be better off. Let me bring the table in so that we can discuss it.

[Senator Murray.]

● (1520)

HEALTH AND WELFARE

HOSPITALS—CLOSURE OF WARDS—REQUEST FOR INFORMATION

Hon. Raymond J. Perrault: Honourable senators, we have in this country a hospital crisis. I am not blaming the federal government for the state of affairs here, but I know that in the province of British Columbia wards are being literally closed down because hospitals are running such huge deficits. One of our leading hospitals has a $7 million annual deficit. I know that this will be of interest to Dr. Keon, and I presume he knows the situation that exists in British Columbia and in other provinces as well.

It seems so tragic that in a life-and-death service of the kind offered by our hospitals and our medical profession—and I believe we are served well by our medical profession— a situation should actually exist where, in some provinces, some of our leading hospitals have closed down entire wards. Is it a shortage of doctors, nurses, or just a lack of funding? If it is a lack of funding, is the federal government in consultation with the provinces to see whether there is any way in which the situation can be alleviated?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must confess that I am unaware of the particular situation in British Columbia to which the honourable senator has referred. I shall ask my colleague, the Minister of National Health and Welfare, whether he has anything to report on the matter. I do not have the figures, but I think the honourable senator will find that the Government of Canada contributes very considerable amounts to British Columbia—

Senator Perrault: No question.

Senator Murray: —through the hospital and health plans and that these amounts have been increasing at a fairly rapid rate, certainly faster than our program expenditures in this government.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have several delayed answers to questions, and I ask that they be printed as part of today's proceedings.

NEW BRUNSWICK

PROPOSED LAKE GEORGE PROJECT—ENVIRONMENTAL PROTEST—REQUEST FOR STATUS REPORT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question

raised in the Senate on October 19, 1990, by the Honourable L. Norbert Thériault, regarding New Brunswick—Proposed Lake George Project—Environmental Protest—Request for Status Report.

(*The answer follows:*)

Environment Canada has reviewed the environmental aspects of this project and is satisfied that the equipment proposed for the control of air emissions from the intended facility is appropriate. As well, with no liquid effluent from the process, no water quality problems would be expected. In addition, with good operating practices in conjunction with the controls, no significant environmental or health impact would be imposed in the area around the intended plant site.

NATIVE AFFAIRS

OKA CRISIS—ROYAL COMMISSION OF INQUIRY—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question raised in the Senate on November 6, 1990, by the Honourable Len Marchand, regarding Native Affairs—Oka Crisis—Royal Commission of Inquiry—Government Position.

(*The answer follows:*)

The Government remains committed to addressing the land issue at Kanesatake.

Prior to last summer, the Government was involved in negotiations with the community of Kanesatake and the Municipality of Oka. Although the events of the summer of 1990 placed these negotiations on hold, the Government proceeded to purchase the land in question—97 acres including the Indian cemetery.

Since the peaceful conclusion of the standoff on September 26, the Minister of Indian Affairs and Northern Development met with community leaders on several occasions, urging them to propose a negotiation team representative of the divergent interests within the community. The Minister also met with the Honourable Christos Sirros, his Quebec counterpart, on November 2 to arrive at an agreement with respect to the composition of our negotiating team. The Federal Negotiator, Mr. Bernard Roy, has been meeting with team members in order to initiate discussions at the earliest possible moment.

The first formal meeting of the bargaining teams representing the Federal Government, the Government of Quebec (and the municipalities of the village and parish of Oka), and that of the Kanesatake Mohawk coalition took place on Thursday, December 6, 1990.

The purpose of this meeting was to agree on process. That having been accomplished, the substantive negotiations will begin in earnest. It is anticipated that the parties will meet two days each week, commencing the first week in January. I also emphasize that whatever agreement is drafted during these talks, its acceptance must be, and will be, subject to ratification by the entire community of Kanesatake.

With regard to the question of an inquiry, on October 22, 1990 the House of Commons unanimously agreed "that the subject matter of the events at Kanesatake and Kahnawake during the summer of 1990 be referred to the Standing Committee on Aboriginal Affairs". The Standing Committee has begun the preparatory work for this study.

ENERGY

CANCELLATION OF SCOTIA SYNFUELS PROJECT—GOVERNMENT POSITION

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 November 20, 1990, by the Honourable Allan J. MacEachen and the Honourable Finlay MacDonald regarding Energy—Cancellation of Scotia Synfuels Project—Government Position.

(*The answer follows:*)

On November 20, 1990, the Honourable Senator asked several questions concerning the proposed Scotia Synfuels project in Cape Breton. The Honourable Senator asked if I could throw any light on the decision conveyed to Mr. Gillespie concerning his proposal. The decision conveyed to Mr. Gillespie was very simple. After extensive analysis by two separate Government Departments, it was concluded that the project as presented is fundamentally uneconomic. Even if the Cape Breton Investment Tax Credits were made available to this project, a similar amount of federal assistance would be required in order to financially strengthen the project to a level where private sector interests would also be attached to invest their own money in the venture. The Government has worked with Mr. Gillespie for a very long time with the hope of bringing this project to fruition. However, in spite of our best efforts, it was concluded that it would not be in the best interests of Canadian taxpayers to risk hundreds of millions of dollars, when the private sector was not willing to share this risk, for the creation of 136 direct jobs in Cape Breton.

This decision was not taken lightly, and it was certainly not taken at the bureaucratic level. This was a decision taken by the Minister of Industry, Science and Technology. The Minister of Finance, and the Minister of Energy, Mines and Resources also reviewed the project and support the decision taken.

Mr. Gillespie asked for Cape Breton Investment Tax Credit assistance on June 2, 1988. Between 1988, and November 1990, officials of Industry, Science and Technology Canada and Energy, Mines and Resources worked closely with Mr. Gillespie and his representatives in an effort to fully develop the project. The technology surrounding the project and the potential of using Cape

Breton coal were such that every effort was given to the project proponent to demonstrate the economic merits of the project. A process lasting for 2 1/2 years.

Mr. Gillespie has met on many occasions with senior officials within the appropriate Government Departments and the results of those meetings were faithfully passed on to the appropriate Minister. The basic concerns expressed concerning the project's economics and of the lack of private sector participation were well known by Mr. Gillespie. Solutions to these concerns were not produced for officials and it therefore seems unlikely that they would be produced for Ministers.

The Minister responsible for Industry, Science and Technology welcomes a meeting with Mr. Gillespie, provided officials are given the documentation he suggests would shed new light on the issue.

EXTERNAL AFFAIRS

ARMS REDUCTION AGREEMENT—LIMITATION AND DESTRUCTION OF SURPLUS ARMS—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 20, 1990, by the Honourable Jerahmiel S. Grafstein regarding External Affairs—Arms Reduction Agreement—Limitation and Destruction of Surplus Arms-Government Position.

(*The answer follows:*)

Canada fully supported the requirement to destroy surplus arms under the terms of the Treaty on Conventional Armed Forces in Europe (CFE), signed on November 19. Canada and the other signatories placed maximum limits on their holdings of certain types of conventional military equipment, and agreed to destroy any holdings of equipment above those ceilings which were present in the zone of application of the Treaty on November 19. Treaty limited equipment include combat aircraft, attack helicopters, tanks, armoured personnel carriers, and artillery. The CFE zone of application comprises continental Europe, including USSR territory west of the Ural Mountains. The Treaty permits on-site verification of the destruction of each piece of treaty limited equipment.

Supplementary Question

If the Honourable Senator, in speaking of surplus equipment, is referring to types of treaty limited equipment for which a signatory's holdings on November 19, within the zone of application, exceed that signatory's maximum entitlement, then it would be a breach of the Treaty for signatories not to destroy this surplus.

[Senator Doody.]

THE CONSTITUTION

APPOINTMENT OF EIGHT SENATORS—EFFECT ON COMPOSITION OF REPRESENTATION IN HOUSE OF COMMONS—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 22, 1990, by the Honourable Jerahmiel S. Grafstein regarding the Constitution—Appointment of Eight Senators—Effect on Composition of Representation in House of Commons—Government Action.

(*The answer follows:*)

There has never been any real uncertainty surrounding the validity of the appointment of senators. Three court judgments have confirmed there is no uncertainty as to these appointments. Therefore, the government sees no need whatsoever to undertake a reference to the Supreme Court of Canada on this point.

Similarly, there is absolutely no merit or basis for the opposition's view that there is now uncertainty regarding whether Parliament is properly constituted for purposes of being able to pass legislation or for any other purpose. Therefore, there is no need to refer any question on this to the Supreme Court either.

As a result of the valid Senate appointments, there is, however, real uncertainty as to whether New Brunswick is entitled to an extra member in the House of Commons. This question may be one which should be referred to the Supreme Court of Canada and that option remains available. However, there is no urgency involved and in the meantime the government is proceeding to obtain the view of the New Brunswick Court of Appeal.

It is the understanding of the federal government the constitutional requirement for proportionate representation of the provinces in the House of Commons is not absolute. Since section 51A of the *Constitution Act, 1867* operates "Notwithstanding anything in this Act" it would appear that the additional member can be added without upsetting the constitutional rule in section 52 regarding proportional representation.

[*Translation*]

LAPRADE FUND

REQUEST FOR UPDATE ON UNANSWERED QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked on November 29, 1990 by the Honourable B. Alasdair Graham respecting the Laprade Fund.

(*The answer follows:*)

A number of years ago, the federal government made a commitment to build a heavy water plant in the Trois-Rivières region. In 1978, owing to a reduction in market demand, the construction of the plant was shelved. A Special development fund, called the Laprade Fund, was estabied under the Conservative government in 1979 from

the resulting $200 million in savings in order to offset the loss of existing and potential jobs in the region.

The original purpose of this fund was to finance capital projects in the energy sector. For a number of reasons, however, including the scarcity of viable projects in this sector, the fund was used primarily to support community and municipal infrastructure projects. From 1980 to 1984, the Liberal government issued $112.7 million in grants under this fund. From 1984 to May 1987, when the Special Program for the Laprade Region was officially launched, no grants were issued under the fund.

The present budget envelope of the Special Program for the Laprade Region is $91.44 million.

When the new program was set up in 1987, the fund had a balance of $87.3 million. In 1989, Treasury Board authorized an increase in the program envelope to $91.44 million.

The budget of $87.3 million represented the unexpended balance of the Laprade Fund as at 1984.

The funds available under the Special Program for the Laprade Region have all been committed. ISTC will have financed 163 industrial and tourism projects and 10 industrial development funds in the Laprade Region under this assistance program.

The Special Program for the Laprade Region is directed exclusively at the so-called "Laprade Region", which comprises the federal ridings of Saint-Maurice, Trois-Rivières, Berthier-Maskinongé-Lanaudière, Richelieu, Champlain, Drummond, Lotbinière, and Richmond-Wolfe as well as portions of Frontenac and Portneuf counties. The areas affected by the loss of existing and potential jobs owing to the decision not to build the Laprade plant, namely Trois-Rivières and its surroundings, served as a basis for setting the territorial boundaries for the application of the program.

In general, the program criteria include, among others, the creation of permanent jobs, the incentive value of assistance, commercial viability and the net economic benefits for the region and for Canada. Projects had to focus on industrial, manufacturing, processing or tourism activities. Infrastructure projets were also eligible. The Special Program for the Laprade Region was designed specifically to supplement the financial assistance provided under regular federal and provincial programs, to facilitate the implementation of projects whose scope, degree of risk or exceptional character went beyond the limits of regular departmental programs, or to provide financial support for projects not associated with other established programs.

It was not until October 1986 that the department was asked to set up a new program framework for the balance of the Laprade Fund. Unlike the approach prior to September 1984, which focused primarily on community and municipal infrastructure projects, the new program developed by ISTC was designed to encourage the establishment of new businesses and activities in order to have a structuring effect on the regional economy and to enhance the vitality and increase the productivity of the various existing industries.

Prior to 1986, ISTC was not involved in the administration of the Laprade Fund. We believe that the Fund was administered directly by the Treasury Board.

The terms and conditions of the Program allowed the ministers, at their discretion, to broaden the scope of the program in order to make eligible other sectors, activities or types of projects, or to increase the level of assistance beyond the maximum set for specific projects when warranted by special conditions.

The ministers responsible for the Laprade Fund had an immediate knowledge of the regions and their economic situation. They also had been briefed on each of the projects for which they subsequently requested an increase in contributions. These decisions by the ministers were based on the socioeconomic spinoffs of projects, their importance to the region and their driving effects. In communicating their decisions to the department, the ministers also transmitted the arguments justifying their decisions.

[*English*]

TRANSPORT

AVIATION SAFETY—STATEMENT EMANATING FROM DRYDEN INQUIRY—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 29, 1990, by the Honourable Gildas L. Molgat regarding Transport—Aviation Safety—Statement Emanating from Dryden Inquiry—Government Position.

(*The answer follows:*)

It would be inappropriate for the government to comment directly on a matter currently being addressed by an inquiry.

While the overall numbers of person-years in the Aviation Group has slightly decreased, the vital areas such as air carrier inspection and technical inspection have not been affected by this reduction. In fact strength in these areas has been increased since economic regulatory reform.

The civil aviation system in Canada continues to operate with a safety record which is among the best in the world.

COPYRIGHT ACT

IMPLEMENTATION OF SECOND PHASE—EDUCATION EXEMPTIONS—GOVERNMENT POSITION—REQUEST FOR ANSWER

Hon. Lorna Marsden: Honourable senators, I wonder if I could ask Senator Doody if he knows when the answer to my

question concerning copyright will be coming. I have a stack of letters awaiting that reply. If it is coming very soon, I would like to know.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall make an inquiry and try to find out for the honourable senator.

BROADCASTING ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Castonguay, for the second reading of the Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication.—(*Honourable Senator Davey*).

Hon. Keith Davey: Honourable senators, I want to begin by congratulating my friend, Senator Atkins, for his excellent examination of Bill C-40. He is right; it has taken five years to come this close to fruition. Yesterday the senator graciously provided me with a copy of his speech, for which I am most grateful.

I am, of course, far less enthusiastic about this broadcasting bill than is Senator Atkins. I must confess that I found it passing strange that Senator Atkins did not once mention the CBC cuts, but perhaps that is because the bill predates those cuts. I must confess at once my commitment to public broadcasting in general and to the CBC in particular. I would like to quote something that was written 20 years ago, almost to the day, in the Senate committee report on mass media. We said:

> The CBC is a national communications medium in a country that has no national newspaper. It is the only truly national broadcasting enterprise in Canada, offering service to all but a tiny minority of Canadians in both official languages. It has striven to develop Canadian talent, to reveal Canadians to one another, to strengthen the fabric of Canadian society—and for all these things we can only be grateful to the CBC as an entity quite unlike any other in the world.

Just a little further along in the same report, we said:

> One thing that stays firmly in our minds as a result of our explorations of Canada's mass media is that the CBC is so fundamentally a part of Canada's communications that it could not be removed or substantially weakened without a very wide ring of repercussions through the rest of the media, and through our society.

Of course, that is exactly what has happened—$108 million in cuts and 1,100 jobs lost in the heart of a deepening recession. I am sure that we all have at hand the document which is entitled, "CBC announces restructuring and expenditure reductions." It is worth reading if you have not read it. Rather than go into great detail about the cuts, I thought I would refer honourable senators to the best story that I have seen on the matter, and it was put out by *The Canadian Press* the other day. I shall not quote it at length, but allow me to give honourable senators a feeling of what it is about. It reads, in part:

> About 5,000 emotionally charged demonstrators marched through the streets of Windsor, Ont., on Sunday to protest the closure of the city's CBC station.
>
> 'This is Windsor, and we're sick of getting shoved around,' shouted Mayor John Millson over the din of the crowd.
>
> Elsewhere this weekend, more than 5,000 people rallied in Rimouski, Que., to protest the closure of its CBC station, while about 500 protesters gathered in sub-zero temperatures in St. John's, Nfld.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): If there is anywhere that they need a Canadian voice, it is in Windsor.

Senator Davey: Exactly. Later on it says in the article:

> 'Local issues deserve local coverage' and 'No news is NOT good news', read the placards of chanting Windsor demonstrators . . .
>
> The Rimouski demonstration featured performances by Quebec singers and attacks of the Conservative government . . .
>
> Radio-Canada stations in Rimouski, Matane and Sept-Iles, all in the eastern part of the province, were closed . . .
>
> In network cuts, Newfoundland lost local service in Corner Brook and Goose Bay, along with the locally produced program, *Land and Sea*.
>
> Some protesters in St. John's described the cuts as 'cultural genocide.'

I hope that, honourable senators, gives you some flavour of the stories. These are horror stories and they are all about us. What is the next awful thing that will happen to the CBC? Will we see the demise, for example, of CBC *News World*, which has been a remarkable success? It is Canada's first all-news network and has an annual budget of a tiny $20 million, and it has produced 24 hours of news each day since it began in July, including 100 hours per week of original programming. It has turned out 450 hours of live event coverage and more than 100 live special reports on any number of events. It convinced cable companies, including Quebec cable companies, serving almost 6 million householders across the country, to use *News World*. So it is a great success, with a budget of only $20 million. Let us hope to heaven that it is not destroyed in the process.

● (1530)

Let us also hope that CBC Radio is not destroyed in the process. CBC Radio is, I think, generally recognized as state of the art, non-commercial broadcasting, and yet it is already being hacked away. The CBC is an institution in a country, honourable senators—and I have said this so many times—which has too few national institutions. What has just hap-

pened to the CBC makes me feel sick and disgusted. I think it is an absolutely immoral situation.

My lifelong love affair with the corporation is not without travail, and I would like to talk about two cases in point. The first is Mike Duffy writing in the Ottawa *Sun* on December 11. He says here:

> Memo to Rick Salutin and other trendy lefties:
>
> This will come as a shock, but neither Brian Mulroney nor members of the PC caucus buy your theory published in Conrad Black's *Saturday Night* that the CBC and the *Globe and Mail* are in a right-wing conspiracy with the Mulroney government. Tories here believe Knowlton Nash is a dangerous radical, the *G & M*'s Geoff Simpson is proof there is no shirt too young to stuff, and what they say about Mrs. Frum is unprintable. The only one in Ottawa I've met who buys your line is Liberal Sen. Keith Davey who should know better.

Well, Duffy, not for the first time, is wrong on both counts. First of all, I never had any discussion of this matter, ever, with Mike Duffy, and yet there is a reference to me speaking to him about this. That is simply not the case. Secondly, the fact is that many Canadians—and I am one of them—believe that, at the time of the Meech Lake Accord, there was, in fact, an unholy alliance, an unspoken unholy alliance, between the Progressive Conservative Party, the *Globe and Mail* and the CBC. Mike Duffy might not believe it, but he kids himself—and you kid yourselves if you do not know that a great many Canadians all over this country believe it. It is a widely-held opinion and it remains. Never mind Rick Salutin.

Let me refer to an article by the managing editor of *Equinox* magazine, Andrew Nikiforuk.

Senator Frith: What do you mean, "never mind Rick Salutin"? Do you not mean "in addition"?

Senator Davey: Yes, I do. I could read something from Roy MacGregor. I have lots of stuff to read, but this is one you probably have not seen.

Senator Barootes: Read George Bain in *Maclean's*.

Senator Davey: I do not often read George Bain. I do not often read *Maclean's*, but I will certainly take a look at it. George Bain is probably being critical of the corporation, right?

Senator Atkins: No.

Senator Davey: No? Then I am wrong. I thought he would be. In any event, let me quote this. It is interesting stuff.

> No matter how experienced CBC's political reporting crews may be or how many times they interviewed Clyde Wells, the fact remains that the television network effectively served as a propaganda arm of the government during the Meech Lake debate.

Senator Simard: They did not.

Senator Davey: Well, that is your opinion. You probably will not like the rest of the column. It goes on:

> As Roy MacGregor, a columnist with The (Ottawa) Citizen and journalist of rare integrity, noted several times during the Meech debate, the CBC became the Prime Minister's best friend by employing politically charged words and displaying Meech-like body language—"the emphasis, shifts, discomfort, the facial expressions that plead desperately for the passage of the Meech Lake accord."
>
> The CBC also surrendered the most important tools of the trade: tough questions and clear thoughts.

I could go on with the rest of the article, but I will not take your time to read it. It is all there.

There is another example of the *Globe and Mail* and the CBC rallying around the flag, and I refer to a public opinion poll done by the *Globe and Mail* and CBC News on October 9, 1990. I have talked about this before in Question Period and I will have something more to say about it. Here were the numbers: Liberals, 37 per cent; NDP, 34 per cent; PC, 16 per cent. I should like you to listen to the artistic way in which Hugh Winsor of the *Globe and Mail* told the story of the poll:

> Deeply unhappy with government policies in general and disillusioned with today's politicians, the Canadian people have focused their anger on the Conservative government of Prime Minister Brian Mulroney, which continues its steady slide in public esteem, according to the latest Globe and Mail-CBC News poll.
>
> The drop in support reflects renewed and deep concerns about economic issues, but also comes at a time of historically high cynicism and dissatisfaction with politicians in general, especially those currently in office, and a decline in respect for national institutions.
>
> Although Canadians across the country are disenchanted with the federal government, it is least unpopular in Quebec, where there is still some appreciation for Mr. Mulroney's leadership.

Let us look at the numbers in Quebec. What were they? Liberals were at 32 per cent; the NDP at 26 per cent; and the Conservatives at 24 per cent.

Still dealing with this poll, I should like to quote one of the most esteemed journalists in the Press Gallery, and I refer to Roy MacGregor. In referring to this particular poll, he said:

> It should be the CBC's business, however, when the impression given off by the editorial line of its newspaper partner is very much that the national malaise was reflecting back on Mulroney, not that the prime minister was himself the malaise.
>
> An editorial even ridiculed the temptation "to pin the blame for all this on Mr. Mulroney." In the *Globe*'s opinion, "the impression is less of a people unhappy with a particular government than of a people that would be unhappy with *any* government that asked it to make rational, tough decisions."

> This, of course, is the prime minister's own line: he is merely a lightning rod for dissension that doesn't know where else to go.
>
> This is one version of reality; another might like to talk about truth and integrity.
>
> Still, it is part and parcel of the CBC-*Globe* poll, and for the public broadcaster to be linked with such private bias merely to cut the cost of polling in half is not—in the opinion of one taxpayer, anyway—worth the price.

As a result of that poll, I asked some questions of our friends opposite, and I should like to review some of the answers that I received. The first question was:

> The poll created news. Should a Government Agency, the CBC in particular, be in the business of creating news?

I received back this absolutely incredible answer from Senator Murray:

> Opinion polls do not create news.

Right. I have been involved with polling over the years and it has been my experience that opinion polls always create news. I cannot believe the response that I got saying that opinion polls do not create news.

Senator LeBlanc: He did not believe it either. He obviously answered the wrong question.

Senator Davey: The next question was:

> Is it the Globe and Mail or the CBC that has a conflict of interest in this matter?

The answer that I received back said:

> Neither. Polling is now a standard tool for most journalistic organizations. For example, the Toronto Star and CTV have participated in joint polls;

The answer goes on, talking about CBS and the *New York Times*. It does not occur to these people that the *Star*, CTV, CBS and the *New York Times* are all private enterprises. They are not government agencies like the CBC. So I think this was quite an inaccurate answer.

The next question was:

> Who represented CBC in determining the questions of the poll?

The answer I received here was:

> Senior journalists from CBC's News Service participated with Globe journalists . . .

Honourable senators, that is not terribly informative. The next question was:

> In view of assurances we have that CBC is a cash-starved agency, how much money did CBC spend and/or contribute for this poll?

● (1540)

The answer to that was:

> The costs involved are part of the overall costs of programming produced to present the poll results.

[Senator Davey.]

That causes me to ask what the CBC's priorities are. We are taking away $108 million but apparently will continue to subsidize these kinds of polls. I find that most unsatisfactory.

The other day Marcel Masse said, when commenting on the cuts, that:

> —only a Communist government could have saved the CBC from the massive cuts announced this month.

The cuts will total $108 million for the CBC, but listen to this, and I am referring to an article headed "Computing Devices steeped in defence":

> The company contracted to build a $1-billion communications system for the Department of National Defence—
>
> -

That contract was announced just weeks before the announcement respecting the $108 million in cuts for the CBC.

The article goes on to state:

> Established in Canada in 1948, Computing Devices is a subsidiary of Control Data Canada Ltd., which in turn is fully owned by U.S. computer-maker Control Data Corp.

Well, one would almost expect that. We can spend $1 billion on a communications system for the Department of National Defence, yet we cannot afford $108 million for the CBC. It makes one wonder.

I have other concerns I will raise when this bill is referred to committee, as I am sure it will be. I hope Senator MacDonald will agree with that.

There is to be a split board of directors, a French board and an English board. That is something Senator Hays and others will want to discuss. We will also talk in total futility about the CBC's perennial request for a five-year budget, and we will also ask what is wrong with the national unity clause, which has always prevailed.

Honourable senators, the national unity clause is to be replaced by "shared national consciousness". What on earth does that mean? That sounds like something Gerry Kaplan thought up, or something Lucien Bouchard thought up.

Senator LeBlanc: Or Keith Spicer or Jack Webster.

Senator Davey: In any event, that does not sound Canadian, and when this bill is referred to the committee, I am sure we will want to talk about that in detail.

The President of the CBC is, as honourable senators know, Gérard Veilleux. Mr. Veilleux is a brilliant career public servant. He is worthy of our respect. Patrick Watson is waiting for the passage of the bill to take up the position of chairman.

I must confess that Patrick Watson is a very good friend of mine. He is, in my judgment, very special and certainly is worth waiting for.

In notes on the professional biography of Patrick Watson, it states:

> By the mid-1970's, it had become almost commonplace for columnists and critics to refer to Patrick Watson as "the best television interviewer in the business," (The *Toronto Star*). "Peerless—there is no better man at this

> job anywhere," said the Toronto *Globe and Mail*. "A winning professional host," The *New York Post*. "Soft-spoken, stubbornly intent on clarity, quick to spot contradictions, Watson can be a charmingly devastating interviewer": The *New York Times*. "Polished, articulate," said *TIME*. "Simply the best anchorman in New York," The *National Observer*.

That biography goes on and on. I personally believe that Patrick Watson is a treasure.

A late, great friend of mine, Judy LaMarsh, was ahead of us when, as Secretary of State, she suggested to the government of Mr. Pearson that Patrick Watson would make an ideal President of the CBC. Mr. Pearson did not buy that, but Watson is now much older and much wiser. I honestly believe that Patrick Watson can do a great deal to help rebuild the CBC.

Because of these cuts, the big winner will be the private broadcaster. I have worried about private broadcasters all of my life. I can quote from the Senate committee report entitled *Mass Media* Volume 1, and this quote still stands up 20 years later. That reads as follows:

> For many years, the Canadian Association of Broadcasters has been the voice of private broadcasting in Canada, and we were particularly interested in what this organization had to contribute to our study of broadcasting and its place in the fabric of Canada's mass media. With reluctance, we were driven to conclude that the private broadcasters, no matter how sophisticated their individual thought, seem by group interaction to achieve a level perhaps best described as neanderthal.

Obviously, there are exceptions. I am sure my colleague, Senator MacDonald, is one of the exceptions. Let us be clear; he knows more about broadcasting than the rest of us put together. I also think of Allan Waters, a most enlightened broadcaster, but by and large, the mentality of the CAB, when officials of that organization appeared before the committee 20 years ago, was to circle their wagons in front of the Peace Tower. I suggest that is still the mentality that prevails today.

Not much has changed, except now there are scores of millionaire owners. I wonder why I ever left the business in the first place when I look at the number of millionaire owners.

I should like to quote from a recent issue of *Marketing*, and particularly from an article which refers to the TV members of the $10 million club. According to the CRTC, there are 17 privately-owned TV stations in Canada that took in more than $10 million in advertising revenues for the year ended August 31, 1988. On top was CFCF TV Montreal, with $17 million; CHAN, Vancouver, $17 million; CFTO, $17 million; Hamilton's TV station, $13.5 million; City Television, $13 million. The list goes on.

In a sense, I suppose that is what private enterprise is all about. However, I am reminded of Kevin Phillips' book, which I am sure some of you will be reading, or should be reading. That book is entitled *Reagan's America*. He says that the 1980s were a capitalist's blowout. He says that the rich got richer while literally everybody else paid the price. He said that "cleaning up will be the task of the 90s".

• (1550)

That task, as it relates to broadcasting, will not be easy. Jeffrey Simpson has written about this on several occasions. On this particular occasion, he states the situation rather well. He says:

> In all its years of regulating private broadcasting, the CRTC has never revoked a television licence. Nor has it considered competing bids for licences at the time of renewal. The private broadcasters have merrily assumed that they could endure periodic slaps on the wrist while making the minimum commitment to Canadian programming.

None of which concerns me as much as the attitude that so many private broadcasters have toward their audience.

First, there is a consistent gravitation toward the lowest common denominator programming; and, worst of all, most of this lowest common denominator programming comes from the good old United States of America. That should worry the CRTC. In fact, I sensed from some of the things that Senator Atkins talked about yesterday that perhaps it does worry the CRTC.

This government has a penchant for everything American—everything from the Gulf war to the National Football League and from free trade to Open Skies. This government tends to regard with great respect everything American. I would like to do something which I am sure is most unsenatorial. I may not even be allowed to do it. I would like to quote myself from *Hansard*. First I would like to quote Mark Starowicz, who is a CBC journalist. This is one of the most moving quotes on broadcasting I have ever heard. He says:

> Throughout the high Arctic, and in hundreds of remote communities in the north, it is now common to tune into Detroit's Channel 2 each night to have the *Eyewitness News* Team unfold the list of mayhem, arson and drug violence that comprises television news in one of America's most-violent cities. Some 1,000 remote Canadian communities, one million viewers are served by a Canadian company which distributes a package of Canadian and American stations by satellite to local cable operations. In this way, northern residents can watch any of four Detroit stations and catch a feature explaining how to sterilize a needle to avoid AIDS, and how to get on the waiting list for a Crack clinic; after a Budweiser commercial, the rush-hour traffic report paints a picture of choked freeways and A-weather warns that an inch of snow is expected to create even more chaos. In this way, an evening of TV viewing in the North begins without anyone finding the matter incongruous anymore.

The next quotation is my own.

> Here are some facts which most of you should know: The average Canadian spends 24 hours a week watching television. Canadian children—yours and my grandchildren—by age 12 have spent 12,000 hours watching televi-

> sion. That is more time than they spend in school. Only 28 per cent of what is available on Canadian TV is Canadian. Ninety-eight per cent of all Canadian television drama is American.

Think of it! Ninety-eight per cent!

> What really goes on? For openers, our kids, who I think matter most, in fact, know more about American history than they do about Canadian history. The sad thing is that all of this is happening because some of us were fair and allowed it to happen. The American program became the name of the game.

Could it get any worse? Yes, it could get worse, honourable senators. In the current issue of *Marketing* the private broadcasters, god help us, are now saying that they intend to change their priorities and, believe it or not, they intend to become more marketing oriented. As someone who is interested in the media, when you talk to newspapermen and you ask them to describe what they are trying to do, they talk about their community. But when you talk to a broadcaster, he always talks about his market.

Senator Frith: And there is more commercial time available—at least permitted—on Canadian television than there is on American television.

Senator Davey: Correct.

Senator Frith: The regulator permits more here than in the United States.

Senator Davey: Then that has changed the policy in the United States. I intended to talk about this, and I did not. President Reagan appointed a young man named Fowler to be head of the radio-television commission in the United States.

Senator Frith: The FTC.

Senator Davey: I am embarrassed to say that Fowler is a Canadian, and his policy was no regulation of stations, programs or anything. There was a rape of children's programs. It is a scandalous situation. That matter may have been addressed in the United States and it may have turned around.

Senator Frith: It may be more recent, then.

Senator Davey: All of which allows me to say a word about the great cable rip-off. Never, honourable senators, has so much money been made by an industry that contributed so little. There cannot be any doubt about that. The June 25, 1990 issue of *Marketing* headlined a cable story entitled "Cable Told: Fight 'greedy parasite' image". That is not perception, that is reality. I often thought that a fundamental mistake made by our friend Jack Pickersgill, when cable was in its infancy, was not to nationalize cable. Had we nationalized cable, we would not have these cutbacks in the CBC. It would be in great shape.

It is possible to have some sympathy for the cable industry.

> Canadian cable television companies expect to learn this week—possibly as early as today—the outcome of their appeal to the federal cabinet of a ruling that, collectively, will cost them about $50-million a year in copyright payments.
>
> Although they were expressing some optimism about the impending decision yesterday, it was also clear that they think it will be something of a miracle if the cabinet does, in fact, reduce the copyright tab or change the ruling in some other way.
>
> The biggest obstacle . . . has been the free-trade agreement with the United States. "There is a perception (in cabinet) that the U.S. would retaliate on the trade front if the copyright decision were changed".

I would have liked to have talked about community access in cable, but I have taken up too much of your time. I would like to say a few more things.

Senator Atkins provided a first class analysis of how the CRTC would now be structured, and I must say most of it is a progressive set of ideas—a more flexible aboriginal broadcasting policy, recognition of the great diversity of Canadian society and a need for their broadcasting system to reflect that diversity, more and better cable programming, and broadcasting contributing more to Canadian programming. I hope Senator Atkins will forgive me if I quote something he said yesterday. He said it so well:

> To render the legislation technology-neutral Bill C-40 re-casts the legal definitions in the Act so that they speak to the transmission of programs to the public, without regard to the technology that may be used. It specifically provides for the exclusion from licensing of those activities that are not essential to the achievement of the broadcasting policy set out in clause 3 of the bill.
>
> This technology-neutral approach will permit broadcasters to use whatever technologies they may wish, including technologies other than over-the-air transmission, for the delivery of programming. At the same time, it will allow others to use traditional broadcasting technologies for non-broadcasting purposes, without being caught up in broadcasting regulation.
>
> A technology-neutral Broadcasting Act will foster continued technological development. It will encourage broadcasters to make use of the most effective means of transmission available. And it will facilitate the introduction of new delivery systems such as high definition television, digital transmission and pay-per-view services.

● (1600)

In all of these things we have to be mindful of our great neighbours to the south who are poised, I am sure, to take a more aggressive position on our broadcasting.

Honourable senators, the CRTC has acquired new leadership. Keith Spicer is gone on gossamer wings to save us all from Satan's power, and I do not think any of us should hold our breath. Here comes the newcomer, David Colville, aged 45, with an extensive background in communications and government. Before coming to the CRTC, he spent 12 years as senior policy adviser on communications to the Nova Scotia government and appeared before the CRTC on many issues.

He also spent six years working in the telecommunications industry for Maritime Telegraph and Telephone Co. Ltd. of Halifax and with Bell Canada.

I recall a much earlier Broadcasting Act when I was the new boy in the Senate. The late Allister Grosart advanced the case, and he and I came to the same conclusion that, in those days, it was a requirement for anyone who was appointed to any broadcasting agency, or having anything to do with the broadcasting industry, not to have been involved in any way in broadcasting. That struck me as being nonsensical, and it struck Allister Grosart as being nonsensical. Of course, today we have appointments such as Mr. Colville, who clearly knows his way around. Yesterday, he introduced a new FM radio policy which would boost Canadian content. That is good. However, it will allow more advertising, and that is not good. Yesterday, the industry was delighted. Today things have changed, and an article in the *Globe and Mail* states:

> FM programmers concerned about Canadian-content quotas
>
> The increase in the minimum amount of Canadian content, to 30 per cent from 20 per cent for most popular music stations, has some programmers worried about meeting that quota with quality product.

Some things never change.

Honourable senators, do you remember when Pierre Juneau was the first person to introduce additional Canadian music content? It was a great move forward, but broadcasters by the score said that it would not work, that it cannot happen and that it was impossible. Of course, it did work and it was successful. However, it is interesting to see the same type of people bringing the same arguments forward.

I hesitate to conclude my comments on this bill on a sour note. Honourable senators should know that under Bill C-40 the Cabinet will not only be able to continue to review decisions by the CRTC, but will have the power of issuing policy guidelines to the CRTC. It is true there are several alleged safeguards in the legislation. This is the stuff that appalled André Bureau, it appalled Pierre Juneau, and it appalls all of us. We really worry about Canada's broadcasting future being left in the hands of the Canadian who could not shoot straight. Do we really want Otto and Lowell and Mike and the boys being responsible for what will be done in the area of broadcasting in Canada? I am sure it is of concern to my friends on this side, and I hope it is something that we will look over.

Finally, I refer to what I regard as an oversight in Bill C-40. I wish to quote Bernard Ostry, Chairman and Chief Executive Officer of TV-Ontario, who has urged parliamentary support for a pan-Canadian educational television network in response to increasing demands on Canada's educational system. I will not read the long press release, but it is something that I think would be very much in the interest of this country. Public television in Canada, and certainly TV-Ontario, which is what I watch most often, is an excellent service. Expanding those services into an educational television network, particularly since technically it would not be a particular problem, is something the CRTC should look at and consider most seriously.

I had not intended to speak at such length. Honourable senators, let us be clear that it is about time we updated our broadcasting act, and maybe this is it. However, I have serious misgivings about much of this act, and I am literally devastated by what has happened at the CBC.

In any event, I hope this bill will go to committee where it can be examined in some detail.

Senator Frith: Honourable senators, I wish to echo something Senator Davey said in closing. I support the principle of this bill, which I understand to be an updating of the Broadcast Act. If there is any area in which technology and other developments have changed at a very fast rate, it certainly is in broadcasting and telecommunications generally. Therefore, right away there is a clear justification for attempting to keep pace with technological developments in the Broadcast Act.

There have also been certain political developments and political attitudes towards the role of the regulator and how arm's length a regulator should be. This is generally on the subject of regulations, not only in broadcasting. How responsive must regulators be to political realities, as governments must be responsive to political realities? I agree that all those facts, developments and questions justify a regular revision to the Broadcast Act, or any legislation dealing with broadcasting and telecommunications.

However, I have a number of particular reservations. Generally, a number of interested people I know in the industry have said to me that this is not a very good act; that is has a lot of weaknesses, but that it is better than nothing. I hope when the witnesses appear before the committee in support of the legislation they will convince us that it is better than nothing, because it is not always so that any something is better than nothing.

Because we support the principle of this bill, I agree with Senator Davey that we should give it second reading and that it should then go to committee where we can deal with the questions he raised which concern me, and which were raised in the House of Commons and elsewhere.

Hon. Daniel Hays: Honourable senators, I have a few brief comments because I have a special interest in Bill C-40. Following on the very good explanation on the thrust of the bill by Senator Atkins and the comments by Senator Davey, I would like to highlight some points of concern, and perhaps either Senator Davey or Senator Atkins will comment on them at this second reading stage. My concerns involve the controversial items of this legislation. As I understand it, there will be a change in the mandate of the CBC. This legislation will soften the role of the company to promote national unity. I am particularly interested in any comment that either Senator Atkins as the sponsor or Senator Davey as the spokesman for our side can make as to their feelings on whether or not the CBC has been hampered in any way by that mandate, particu-

larly as it applies to the kind of comments I hear from both the English and the French networks.

• (1610)

The other controversial item that was explained by Senator Atkins, but which I would like to put to Senator Davey for comment, deals with the division of the board into two groups, French and English and the wisdom of such a move. In fact, he spoke highly of the chairman to be when this legislation becomes law, assuming that it is passed. I understand that the chairman to be, Mr. Patrick Watson, is very unhappy with that provision. I wonder whether that unhappiness is shared by Senator Davey. As it now stands, the CBC board meets as one, and it reflects the French and English languages of Canada.

For purposes of clarification, honourable senators, I am speaking at the second reading stage. I do not intend to speak long, but I raise these questions which may or may not be commented upon further by speakers who have preceded me.

The other thing that I think we should look at carefully in the context of Bill C-40 is: What does the current chairman and president have in mind for the CBC, in light of the recently- announced cuts in regional broadcast centres, including the elimination of some regional broadcast centres? I think that question should be asked in the context of what was done by their predecessors. I am thinking in particular of Pierre Juneau, who made many policy speeches in which he outlined what he thought the corporation should do, as did his predecessor, Al Johnston. To my knowledge Al Johnston's speeches were under the rubric of touchstone, and each of them premised a future of the CBC on funding five-year commitments. They would plan around those five-year funding commitments. Each of these gentlemen had ambitious programs for the CBC in ways in which they thought they could improve the service and its role of bringing us together through a common broadcast system.

The changes to the CRTC should also receive close attention. In fact, I believe this point was commented upon in a very thorough way by Senator Atkins. I did not hear Senator Davey say anything on that point, and perhaps he could elaborate at this stage on those proposed changes to the CRTC. I would appreciate it. Whether or not these questions are commented upon by speakers who have preceded me, I raise them as matters that we should all be concerned about, and that should prompt us all to take a special interest in Bill C-40.

Hon. H.A. Olson: Honourable senators, I do not want to speak very long about this bill, either. I have been trying to find at the beginning of the bill where it outlines the objectives of the CBC. The bill begins with:

> Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

and then it goes on to give the short title, which is the Broadcasting Act. The bill goes into Part I, which is the general part, which deals first with the interpretation, and nowhere does it indicate the corporations objectives. At one time it was written in the act that the objective was to promote unity in Canada. Perhaps this government is now looking at things in such a way that that is no longer an objective of the Broadcast Act, particularly that portion of the act that deals with the Canadian Broadcasting Corporation.

In Part III on page 25 it says under "*Interpretation*":

> This Part shall be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers.

Perhaps Senator Atkins can tell us where that part of the act is? Perhaps he could explain to us whether or not he believes that what is contained in Bill C-40 will deliver better national unity than we have seen over the past few years.

I remember that when I first came to Parliament in 1957, the budget of the Canadian Broadcasting Corporation was about $10 million. Of course, that was when television was just beginning. It was not everywhere, but there were quite a few stations around. Now the budget for the corporation is approaching $1 billion. If you add the commercial revenue, it is well over $1 billion, and that means that the budget is 110 times what it was when the corporation began.

If you consider that the objective of the corporation is to promote national unity, you have to consider the results. Does anyone believe that there is more national unity in Canada today than there was 34 years ago? I do not believe so. I know that at that time there were some problems involving the Official Languages Act, Bilingualism, the B and B Commission and with a number of other things. Today we spend $1 billion per year, a hundred times more than the budget of the corporation when it began, and apparently the unity of the country is less strong or more fragile, whichever term you like, after all the expenditures since it began.

It is not very popular to get up in this place and mention such things, but if we are to spend that much of the taxpayers' money, we should at least be able to look at the consequences or the results and say, "Well, I guess they are doing a pretty good job." Certainly they are not doing a good job in Quebec. Today, there is a larger percentage today of people in that province who want to separate from Canada than there has ever been in the past. I am not blaming the CBC for all of it because I think the actions of this government have made a major contribution to that situation as well. However, it does prove to me that the CBC has not been successful. Goodness knows, it has sure used up enough money. There is no other department that comes anywhere near having 100 times as much money now, regardless of all the inflationary factors, as it had in the late 1950s.

• (1620)

Senator Simard: What are you suggesting?

Senator Olson: I am suggesting that we get some results for our money; that is all. Is that a good objective? When I looked at this, I thought maybe the government was feeling sorry that it was a failure and that many of the great agencies like the CBC, or crown corporations in government, were really failing

in getting the results that the people of Canada expect. Just look around the country. I will tell you something about western Canada. They do not feel terribly united today, either. We know the Reform Party is the fastest growing political party in Canada, and the reason is very simple. Westerners have come to believe, for whatever reason, that they are not getting a fair deal in Confederation. I ask myself, if the CBC was so successful over these past 30 or 40 years, how did that happen?

So, these are the results that we expect. I am sure that Senator Atkins is prepared to explain to us, in great detail, what the Canadian Broadcasting Corporation intends to do with this new Broadcasting Act, especially phase 3, and tell us how that will promote unity in Canada far better than has happened before. I do not know. Perhaps he is not prepared to do that. If he is not, then I will have to take an interest in this bill, although this is really not my field.

Senator Simard: You must be supportive of the bill, then.

Senator Olson: Why do I have to be supportive of the bill?

Senator Simard: The way you are talking now.

Senator Olson: I would like to see some results. I will tell you, there is not another organization in Canada that could have 100-fold inflation in that space of time and then, looking at the consequences, find out that it has been a total failure. I want to be careful about this, because I am not blaming the CBC completely for the disunity in the country. The government today bears the responsibility for most of that. However, if our money was to be well spent, surely they should have made some contribution to having a higher level of unity in the country.

The unfortunate thing is that Canadians, looking at this situation from every part of the country, believe that exactly the opposite is true. This country is less unified than it has been at any time in the past 35 years; there is no question in my mind about that. All of the polls show that. If you talk to the people in western Canada, you will discover that they believe that. Apparently, 60 per cent of the people in Quebec believe that. So, what are we getting for all this money? A billion dollars is a pretty healthy amount of money.

Senator Barootes: Do you think they should have reduced it by more than $108 million, then?

Senator Olson: I think they should have cleaned up their act. I do not care if it takes a little or a lot of money. This government seems to believe that the only way to clean up the act so that we can get some unity in this country is by reducing the money to the agencies that are supposed to be promoting unity. Well, maybe that is one way. That does not seem to help, though. Some of you may have got the notion that I am against this bill.

Senator Barootes: We do not know. Tell us what you would do. You just seem to want to talk.

Senator Olson: Look, a silly part of what you are doing here is that every time I get up to make a speech, somebody says, "Well, what would you do?" The people of Canada do not really care what my policy is. They want to know what the government's policy is. If you do not care, why do you keep asking? You do not seem to know, either.

As I said a few moments ago, there might be some people who think I may be against this bill, but I will not know whether I am for it or against it until I have had an explanation of what it is intended to do. I am sorry, but the speech that was made by Senator Atkins yesterday did not persuade me that we would have an important improvement in the unity of this country as a consequence of passing this bill. All I am asking, honourable senators, is that you try to persuade us with some real, down-to-earth common sense and not just say things like, "We are going to give them great freedom of expression." They have had freedom of expression until they pretty nearly ripped this country apart. I am not necessarily talking about the CBC, but certainly this government. We need to improve that. I hope that Senator Atkins will seriously try to tell us—after all, he is piloting the bill through this chamber—what it is in the bill that will be a useful service for Canadians who want this country to be strong and unified into the future.

Hon. Roméo LeBlanc: Honourable senators, I do not intend to speak at length, and I apologize to Senator Atkins, whose speech I missed because I was involved in something else. However, I would not want to be thought of as having approved wholly of this piece of legislation if I do not object to it going to committee. I think it needs improvement and I suspect it is only in committee, by hearing witnesses, that we will be able to suggest some changes.

I might say that I have serious misgivings about the splitting of the board of directors of the CBC into French and English components. I think that there are very few places in this country where people who share common interests, such as public broadcasting, can, in fact, come together. Personally, I am forever grateful that, at a time in my life when I was trying to learn something about broadcasting, my next door neighbour in the office was James N. Minifie and, on the other side of the corridor was Knowlton Nash. I certainly think I would have missed a lot if I had not worked with those gentlemen, as I worked with Morley Safer in London.

This idea of having groups of directors of a corporation who very quickly become captive of the vested interests of the head of broadcasting in Montreal or Toronto worries me a great deal because there is already too much of a tendency in that area. I think that, if there is one thing we must regret in the reductions that the CBC has suffered in the last while, it is, in fact, that we will increase the dependency on Montreal and Toronto as broadcasting centres, and we will be losing the very important training ground that is provided by local stations such as Matane, Rimouski, Moncton, Windsor and so on. If you look at the list of distinguished graduates of these small stations, you will find that what you have is a group of journalists who learned a great deal because they had to do a great variety of things in broadcasting. However, that is an area on which I would want to ask questions in committee.

I have not had occasion to check very carefully as to what was meant by the greater sensitivity to regional aspirations. I

hope very much that the bureaucracy is not hiding the idea of regional panels and covering them with some generally-acceptable varnish or vernacular which consists of being more sensitive to native or aboriginal peoples, and so on. If, in fact, what we are talking about is a breakdown of the CRTC into regional panels, physically and geographically, then I again have very serious misgivings about the disappearance of a plateau of understanding and of common policy which an organization like the CRTC should represent, and we will want to have more questions answered about that when we get to committee stage.

Hon. Norman K. Atkins: Honourable senators—

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

Senator Atkins: Honourable senators, from the comments that have been made by a number of senators in this place today, it is clear that there will be many questions facing the Standing Committee on Transportation and Communication. Frankly, I look forward to that opportunity because I think, from some of the comments that I have heard from some of the senators, that there is some misunderstanding of some of the clauses and of the composition of the bill.

• (1630)

First of all, I should like to say that I did not read the article that Mike Duffy wrote in which he referred to my friend, Senator Davey, but I am certainly glad to hear someone else is the victim of journalistic licence, as I have been over a number of years.

Senator Davey talked about the CBC 20 years ago, and the expansion that has taken place during those 20 years. Clearly, there has been a tremendous expansion of the CBC over the past 20 years. In that regard, Senator LeBlanc talked about Atlantic Canada and regional interests. As a former New Brunswicker, I can remember that we used to argue that the CBC should have a base station in New Brunswick. The only thing we were able to get was an affiliated station out of Saint John. All regional coverage came from Halifax. That is the way it remains, although they have developed, to some degree, broader services out of Fredericton, but not a main TV station.

Senator Olson talked about the $1 billion that is being spent on the CBC on an annual basis.

It is also quite true that I did not mention the cuts to the CBC. I did not mention them, quite frankly, because I do not think the cuts have anything to do with Bill C-40. The bill would not have changed one comma from the time it was first tabled in the other place until it came before the Senate, regardless of what cuts were announced. That matter is a matter of fiscal responsibility and the budgeting of the CBC is something that is independent of the CBC and dealt with by Parliament through the budgetary process. There is no question that the CBC is facing a difficult fiscal challenge.

I want to make it clear that I am a strong supporter of the CBC, and always have been. I believe that the kind of services that have been developed over the years are in the interests of this country. Much has come about as a result of the services that have been provided by the Canadian Broadcasting Corporation.

The fact of the matter is that, in the circumstances in which we are living in 1990, the government has placed a demand on the management of CBC to make these cuts. The cost of production has escalated by an incredible amount. Inflation has taken over to the point where the CBC, if no restraint were put on spending, would not only run into trouble this year, but in years to come.

It is also correct to say that advertising sales are down. One can argue that that is because they do not have a good sales staff, or that could simply be because of the circumstances in which we find ourselves. I think one would find that the private stations are facing the same difficulty with regard to sales as well.

There are other factors that have forced the CBC into making the kinds of cuts it has announced. Again, I say those cuts did not have any influence on the development of the bill that we now have before us.

If it has taken five years to get the bill to this stage, one can appreciate the number of questions and arguments and the philosophy that relates to the development, not only of the bill, but the manner in which the CBC operates.

One can talk about the proposal in Bill C-40 respecting the changes in the executive of the CBC. These changes were announced well over a year ago. They have decided to have a chairman, as well as a president and chief executive officer.

Respecting the subcommittees of the CBC, one should understand that on each subcommittee, the English committee and the French committee, the chairman and the president will be represented. It does not mean that on the French committee there will only be francophones and that on the English committee there will only be anglophones. There will be a mix. I think the argument can be made that this integration will be helpful to the board, because ultimately the final decisions made regarding policy will be made by the overall board, and any decisions or recommendations that come from the subcommittees will then have to be dealt with at the board level.

By the way, another thing honourable senators should keep in mind is that while the government is not providing the funding the CBC wants in order to prevent these cuts, the government is still giving the CBC more money than it gave last year. It simply has not given it enough to cover the costs of inflation and operations that would be required to sustain the level of operation that the CBC has been used to.

Senator Davey mentioned Meech Lake and the bias he perceived the CBC had in favour of the government's position on that issue. There are many in the country who do not feel that way. I have heard this point made before, but again, in my experience in politics over the years I have found that when we thought we were mistreated by the media, those on the other side thought exactly the same.

Senator Davey: It was always us!

Senator Atkins: We always thought we were the ones being hard done by.

I suspect that if you were to analyze media coverage of any political event, you would find that coverage more balanced than originally thought.

Senator Davey referred to the *Globe and Mail*. I would defer to my colleague, the former Editor-in-Chief of the *Globe and Mail*, to defend the editorial position of that newspaper. In terms of the general news coverage, I am not sure that Senator Davey is right. I have to say that Jeffrey Simpson admitted he was in favour of the Meech Lake Accord, and that his bias was shown on the Editorial Page. Turning to the front page is a matter of judgment.

• (1640)

Getting back to the CBC, someone talked about their fiscal responsibility—

Senator Frith: You are probably the only person who reads the editorials and then turns to the front page.

Senator Atkins: I admit that I do not always read the front page, but I have a lot of respect for Jeffrey Simpson. When I can read him, I do.

Getting back to the CBC and its fiscal planning, as I understand it, the CBC has been working on a five-year plan; but what is incorporated in this bill is the responsibility for the CBC, on an annual basis, to put forward not only a general plan but a fiscal plan for the operations of the corporation. I think that will make it more responsive to its requirements with respect to the resources needed to operate its services.

We talked about public broadcasting versus private. I have long been on the periphery of the broadcasting business, having being involved in politics, as have Senator Davey, Senator Frith and others here. I have always marvelled at how private sector stations can do such a good job with a lot less money. While I have a lot of sympathy for the CBC and the requirements it needs to operate its organization, it seems to me that while Senator Davey and others may say that the quality of programming is not as good in the private sector, in Atlantic Canada I think ATV does a better job than the other network covering the news in that region. From my point of view, having watched both stations, regardless of the fact that I room with one of the previous owners of one of the stations in Atlantic Canada, I feel that they have done a better job overall than the CBC, and with a lot less money.

Of course many people have said, as did Senator Davey, that the private sector is now enjoying tremendous profits while the CBC is operating at a tremendous deficit. I think if you ask most of the television station operators today, Senator Davey, they are not doing that well at this moment in time, although one cannot argue that they have not done well during the period since their licences were originally granted to them. The other factor is capital appreciation, which has been substantial.

I know of a private station in Hamilton that has had difficulty in a tough market in recent times. The owners are trying to sell that station because of certain circumstances that were decided through the CRTC, and the fact of the matter is that they are having a hard time selling it. So there are many circumstances that relate to the fiscal success of any operation, including those in the private sector.

The CBC, in its cuts, did protect the national network and the regional networks. It zeroed in on local broadcasting, which affected a number of stations in Atlantic Canada and Ontario. That is unfortunate because I believe that the more media outlets in this country, the better the opportunity for Canadians to receive Canadian content, whether you are talking about public affairs broadcasting, news or whatever else is going on. It seems to me that while the stations have been closed to the extent that they will not be producing local television, we can only hope that the CBC, in rearranging its process of delivering its services, will give priority on a regional basis which will acknowledge that these stations provided a service at the local level.

Senator Olson raised the question of national unity, and I got a feeling from his comments that not only will we be taling about Bill C-40, but that we will be throwing everything but the kitchen sink into the discussion. When this bill goes to committee we will get into some interesting discussions on the question of the mandate of the CBC and the fact that this bill removes the obligation to contribute to the development of national unity.

Senator Olson: That has been removed?

Senator Atkins: That clause has been removed. It has been replaced with this obligation clause: "contribute to the shared national consensus and identity".

Senator Olson: What does that mean?

Senator Atkins: I think it broadens the mandate, but I do not think it takes away from the responsibility of public broadcasting to provide a responsible service to Canadians. Clearly, the CBC should be expected to help build this country as best a broadcaster can—by reporting as accurately, honestly and objectively as it can and by helping Canadians in all regions share in our diverse culture and heritage. That is the mandate that this legislation, by my interpretation, gives to the CBC.

As I mentioned yesterday when Senator Frith raised the question, throughout the preparation of this bill and Bill C-136 this issue did not arise until the committee had reported unanimously and the bill was returned to the house for second reading.

Senator Frith: Just this year?

Senator Atkins: Just this year.

Senator Frith: The cabinet control I asked about or the national unity?

Senator Atkins: The national unity. So I know it is a matter of concern, and I think there will be the opportunity, when this bill goes to committee, to have a constructive discussion on it. We will have the opportunity to have a number of witnesses appear before the committee, who, as you say, can broaden our

insight as to the evolution of the reasons for the replacement of those two clauses.

Senator Hastings referred to the CRTC and the decision-making process. As I interpret the bill, the idea is that there would be a regional office in which there would be someone representative of the CRTC. But when the CRTC is dealing with an issue, the chairman has the authority to appoint a panel which will include two people from the region and one additional person as a non-full-time employee. It is called "they who hear, decide". The idea behind that is that whoever appears before the CRTC on this panel can hear the presentation and can then consult with the full CRTC board, but they ultimately make the decision. So you reap the benefit both ways. You cover regional concerns and interests, which can be coordinated through the national policy of the CRTC so there are no conflicts. This will be a more effective way to address the concerns and interests of the regions while making solid decisions of behalf of the CRTC.

Again, this is an area where I assume there will be further discussion. Quite honestly, when I examined the concept, it made a lot of sense to me and I think it is a move in the right direction.

● (1650)

Senator Davey mentioned his concern with regard to programming. Bill C-40 concentrates on the programming side. He also referred to children's programs. I would remind him that his classmate, Judy LaMarsh, headed up a commission in Ontario on violence. In the present context, all Canadians have to be concerned about what we are seeing on television and when we are seeing it. That commission's report goes back to the mid-1970s. It seems to me there is a time when we should re-examine those types of issues. With all the new opportunities for delivering programming in this country, there are a number of sources that are taking a great deal of liberty with what they are putting over the air.

The Broadcast Act was originally passed in 1968. Now, there is satellite delivery and cable. When I was reading the bill, Senator Davey, it occurred to me that now when you run a campaign and your leader is in Vancouver and you want to hold a big event in Ottawa, it can be delivered by satellite without violating any regulations that are set out by the CRTC. That amendment will benefit people who are responsible for campaign responsibilities. I am using that only as an example. There are many other examples that could be used.

Senator Hays mentioned the CRTC and the way in which it responded to what are called "policy guidelines" that come down from Cabinet to the CRTC. I know there is a lot of suspicion and concern that this is bringing undue governmental influence on the CRTC, its policies and its directions. In fact, what is built into this bill are certain mechanisms that prevent that from happening. It makes it possible to raise any red flags or concerns if the public or politicians seem to think that there is undue pressure on the CRTC to do something that would be a violation of principles, or whatever. The mechanism is that these policy directives or guidelines have to be referred to the appropriate standing committee of the

[Senator Atkins.]

House of Commons and have to be posted in the *Canada Gazette*. After 40 days, then the Governor in Council still has to go back to the CRTC. Therefore, there are safeguards built in.

As I mentioned to Senator Frith yesterday, I wish to remind honourable senators that this is not a new idea. These amandments have been talked about and debated going back to the mid 1970s when Madam Sauvé was the Minister of Communications. I am told that, on more than one occasion, she attempted to bring forth amendments that would allow for this type of policy amendment to be made between the Governor in Council and the CRTC. I know that can be placed in a very partisan debate. Whenever one talks about broadcasting and licensing, one is bound to get into a situation where there is a perception or a perceived notion that the government is influencing either a policy on the CRTC, or that it wants a different situation out of the CRTC with regard to licensing.

With regard to licensing, the Governor in Council still does not have the influence to make any direct changes in a CRTC decision. The only thing that the Governor in Council can do is request that the CRTC re-examine its decision or, at the most, change the criteria in which they made that decision and then review it under those new conditions.

I know there has always been some concern that there could be a direct influence on the CRTC to give a licence that would benefit someone it preferred. However, in this act, I think that would be somewhat difficult to achieve. Certainly, it could not be achieved without one heck of a lot of public debate.

Senator Davey mentioned educational television. I agree with him. On the one hand, just by being updated, I hope this bill provides opportunities to allow a number of things to take place that would be more difficult to implement under the old act. The whole notion of educational television in this country seems to make a lot of sense to me. I would argue that it should be done not only under public broadcasting. I am not so sure that the private sector does not have some responsibility in providing some of this programming in the future.

Honourable senators, I realize that this is not a simple bill. As I said, any bill that takes five years to come through this system to second reading in this chamber bears many implications that will have to be addressed in committee. The bill is a sound bill and when it gets to committee there are a lot of clauses and sections in the bill that will be more fully understoo$%$%d. At that point, honourable senators will have an opportunity to raise their concerns and, I hope, get the appropriate answers to justify the composition of Bill C-40.

● (1700)

Senator LeBlanc: Honourable senators, I notice that Senator Atkins carefully avoided getting into the discussion of whether or not the CBC should be in the newsgathering business, something which I always thought was one of its responsibilities. In fact, it has joined with the *Globe and Mail* in news fabricating by the use of polls. I therefore ask the question: Will the honourable senator prevail on those with whom he is in contact to make sure that when we get to

committee, the evasive answer that was provided to Senator Murray on the cost of these poll operations will be clearly fleshed out, and will he make sure that we get the information? The mythology has grown that the corporation is at arms' length, but in reality it is out of reach. So I hope that before we begin committee hearings that information will be provided. Will Senator Atkins undertake to do so?

Senator Atkins: Honourable senators, I shall certainly use whatever influence I have to get the information that senators wishes to have with regard to these kinds of inquiries. I think such matters are important to the discussion.

Senator LeBlanc: Thank you.

Senator Olson: Honourable senators, Senator Atkins referred to a place in the bill where they have dropped the part about the CBC being responsible for promoting national unity. While he was speaking, I have had a chance to find several places in the bill where it talks about "freedom of expression and journalistic, creative and programming independence" and so on. It indicates in paragraph 3(1)(b) that the Canadian Broadcasting system should be "a public service essential to the maintenance and enhancement of national identity and cultural sovereignty." However, that does not apply simply to the CBC, but to the whole broadcasting system.

Senator Atkins: I would agree with you.

Senator Olson: Yes. In three or four other places that I could find, we have the same comment. I do not know why they had to beat it to death. Subclause 46(5) on page 31 reads:

> The Corporation shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence.

In another place, on page 25—

Senator Doody: Question.

Senator Olson: —subclause 35(2) reads:

> This Part shall be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence . . .

That phrase is in the bill in at least four places that I have found in the past 15 minutes, but there is nothing about the corporation having the responsibility to promote national unity, except for what the honourable senator has said. I cannot find what he said in the bill, and perhaps he can tell me where to find it.

Senator Atkins: Honourable senators, the honourable senator is referring to the specific bill. I did not take my quotation from the bill. That was my interpretation of what that clause means.

Senator Hays: Honourable senators, Senator Atkins, in his final comments on second reading, was frank in acknowledging that the sums allocated to the CBC have been less than the rise in inflation or in constant dollars, reflect a declining amount. Whether or not the CBC bargains collectively or independently with its workers, the reality is that it is not possible for it to maintain a service with less money or with a declining constant dollar amount. I also have in my mind an image of the president of the corporation, Mr. Veilleux, who when pressed became very angry recently before a committee. In fact, I think it is fair to say that he lost his temper with the members of the committee—

Senator Stewart: That is not the first time either.

Senator Hays: —on the matter of the corporation being responsible for the closure of some regional stations.

Strictly speaking, this matter does not relate to Bill C-40, but the honourable senator has commented on it, and I think it was fair for him to do so. Would the honourable senator comment further and acknowledge that the recent closures and the necessary restructuring of the corporation will not be a matter internal to the corporation but a matter forced or imposed upon it by the allocation of government monies? While those monies may have exceeded the amount of the previous years, in constant dollars they are becoming less and less.

I should add that one must acknowledge, and I hope the honourable senator will, that much of what CBC Radio Canada does is non-commerical.

Senator Doody: Question.

Senator Roblin: Ask your question.

Senator Hays: It is a difficult matter, and I would ask honourable senators to be patient, because I want to be very clear in what I am saying. It is a matter of great political concern. I come from the city of Calgary, and the closure of the CBC regional office there was important enough to bring out thousands of people at the request of the Mayor of Calgary. So I think a few minutes in this chamber to put a proper question on a point that Senator Atkins has raised at second reading debate is not unreasonable.

So to continue: The non-revenue generating services of the CBC involve radio, services to remote areas and so on. Is it not clear from the course of events that the declining or the lesser presence of the CBC is not something internal to the corporation but rather something that comes from the outside; namely, the declining allocation of government revenue to operate the service?

Senator Atkins: Honourable senators, I would be less than honest if I did not say yes. However, I think there are other considerations. We are in a difficult economic environment right now, but that may change.

Senator Olson: Wilson has admitted that to us.

Senator Atkins: That may mean that the capital funding that goes to the CBC may buy more in a year's time. They may be looking for other ways in which they can generate some revenue to trade off for some of the losses that they are experiencing in advertising sales at the moment. As I mentioned in my earlier comments, the CBC will have the responsibility under this bill to present an annual proposal. I see that provision as having pluses and minuses. It will depend on how they define their objectives, on how they are prepared to address the challenges they face on a fiscal basis and on how

they convince the government in better times to put more money into the corporation.

Motion agreed to and bill read second time.

• (1710)

REFERRED TO COMMITTEE

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

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

INTERNATIONAL SALE OF GOODS CONTRACTS CONVENTION BILL

SECOND READING

On the order:

> Resuming the debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Kinsella, for the second reading of the Bill C-81, An Act to implement the United Nations Convention on Contracts for the International Sale of Goods.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have not had an opportunity to study this bill closely, nor to study the speech made by Senator Oliver yesterday, but he has given me some of the briefing material that he used in that speech. The background to the bill is in what is technically called private international law, or the subject of conflict of laws, which all lawyers study; it being, I suppose, when you think about it, an obvious problem. If you have a contract entered into between parties that are in different countries and a dispute arises as to the contract, what law is to apply? We actually sometimes used to put clauses into the contract to say what law would apply in that event.

The subject in this particular case, the question of conflict of laws, of course, applies to estates and contracts and can apply in torts and many other branches of the law, but the branch we are concerned with here is the sale of goods. The growth of international trade and business has, of course, resulted in an increase in problems between countries relating to the question of conflict of laws. Many Canadian law firms have offices in more than one country. So the problem is the problem of choice of law, as it is called in that field.

The scheme in this case is to have a convention that would apply certain rules to the interpretation of contracts where conflict arises, with specific reference to sale of goods. The scheme is not to invoke the convention, a scheme that sometimes applies, for example, with respect to arbitration. One can put a clause in a contract that invokes the role of the Arbitration Act in the settlement of disputes under the contract. In this case, it applies, but gives the parties an opportunity to opt out, if they wish.

The questions that I have, from not having done a careful study but from having had the benefit of the material that Senator Oliver gave me—and I thank him for that—are several, and I am sure there are others that can be settled in committee. I am not exactly clear as to what is meant by "the parties". I take it from the press release, and the other material that I have seen, that it does not necessarily apply to private parties but applies to governments when they are involved in such contracts, and may apply to certain other parties. The question of "parties" is a term of art in the sense that the word "party" has a specific meaning in the context of "parties to a contract".

There is also the question of the application of Section 92(13) of the Constitution, which assigns legislative jurisdiction to the provinces over the subjects of property and civil rights. That obviously, of course, would be taken into account, and has been taken into account, and I think the operation of this legislation is to make Canada a party to the international convention. There are already 26 countries that are party to the convention, but in our federal state, we, of course, have to involve the provinces also and they would have to implement the legislation so that it could apply in their legislative and legal jurisdictions. According to my count, from the material Senator Oliver gave me, almost all of the provinces have enacted the necessary implementing legislation to apply the convention as soon as it comes into force in Canada. The exceptions are the Province of Quebec and the Yukon Territory.

Clearly, the principle of this bill deserves support and I personally will be interested to hear the explanations given, just out of professional curiosity, as to how it will actually apply and in what specific situations it will be helpful.

I therefore support adoption of this bill at second reading and expect that Senator Oliver will move, when it receives second reading, that it be referred to committee. The only question then remaining is, which committee? One could refer it, on its title, to Foreign Affairs, to Banking Trade and Commerce, or to Legal and Constitutional Affairs. It seems to me, from the material I have read, that its essence, its pith and substance, as the constitutional lawyers say, is probably closest to Legal and Constitutional Affairs because the bill is dealing really with the question of the sale of goods, which is a legal question and, in the international sense, is not dealing with what is called public international law but private international law. Both the sale of goods and conflict of laws are subjects that every lawyer has to study; they are strictly legal questions. If some other committee would prefer to take it—such as Banking, Trade and Commerce—because of the load in Legal and Constitutional Affairs, we would have no objection, but I really think the appropriate committee is Legal and Constitutional Affairs. We will not fight or filibuster any suggestion to the contrary, however.

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

Hon. Senators: Agreed.

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 Oliver, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

CANADIAN RACE RELATIONS FOUNDATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Noel A. Kinsella moved the second reading of Bill C-63, to establish the Canadian Race Relations Foundation.

He said: Honourable senators, mindful of the hour, I rise to make a few comments on Bill C-63. It seems somewhat propitious that, during this season, which many Canadians mark by special reflection on the importance of peace and goodwill, honourable senators have before them a bill to establish a national race relations foundation. This honourable chamber, no less than the other place, rejects racism and all forms of racial discrimination. Both individually and collectively, we are unequivocal in opposing racism as an ugly and dangerous form of behaviour which has no place in Canadian society.

● (1720)

Over the years many honourable senators have been in the forefront of the struggle to eliminate racial discrimination in Canada. With the indulgence of honourable senators, I wish to take this opportunity to salute the Honourable Louis-J. Robichaud, under whom I was privileged to work and serve in New Brunswick when Senator Robichaud, then premier, and some of his colleagues—and some of those are here in this chamber, such as Senator Thériault and others—enacted and gave support to our then provincial anti-racial discrimination legislation.

The codification of human rights acts across Canada, including the Human Rights Code of New Brunswick, was enacted under the government of then premier, now Senator, Hatfield. It was also my honour to serve with Premier Hatfield then—Senator Hatfield now—and many of his colleagues, who are also sitting in this chamber. I also want to salute the pioneering work that the Honourable Senator Haidasz has done over the years, particularly when he was serving as the minister responsible for multiculturalism.

Honourable senators, two years ago, Parliament unanimously passed Bill C-93, which was the world's first Multiculturalism Act. The bill before us today, an act to establish the Canadian Race Relations Foundation, is situated, by the preambular paragraphs of the bill, within the context of the Canadian Multiculturalism Act and also in relation to the United Nations Convention on the elimination of all forms of racial discrimination, the Charter of Rights and Freedoms and also the Japanese Canadian Redress Agreement.

This bill before us today is part of the promise and of the hope reflected in the Canadian Multiculturalism Act. It also forms part of another significant initiative, the Japanese Canadian Redress Agreement, which recognizes the injustices of the past and points to the need to prevent their re-occurrence. The National Association of Japanese Canadians was instrumental in negotiations that led to the Japanese Canadian Redress and the announcement of the Canadian Race Relations Foundation.

Honourable senators, race relations in this country have been of increasing importance and concern to all Canadians. The Race Relations Foundation will help Canadians to address one of the major issues we face today: The elimination of all forms of discrimination in Canadian society.

[*Translation*]

Multiculturalism dates back to before Confederation, with the aboriginal people. Since the earliest days, generation after generation of people from all over the world have wanted Canadian citizenship over any other one. Those people, who are part of our past and present, have striven to help build this country.

[*English*]

Today, and every day, we must never forget that we are all citizens of the first nation in the world to enshrine the multicultural character of its society in law. Both as a philosophy and as a program, multiculturalism is recognized as a positive and progressive force in our nation-building efforts. In such a society there is no room for racism and discrimination. It behooves us to respond to the call to action against racism and racial discrimination, and to show vision, leadership and commitment.

Our challenge to fight discrimination must be met with measures to promote institutional change, public awareness and education. It calls for political will at all levels of government and, above all, the support of ordinary Canadian women and men who must be supported with information, knowledge and education programs.

Honourable senators, the Canadian Race Relations Foundation is an essential element in this process of change. The support of all parties in the other place and the cooperation, support and goodwill shown towards this bill in legislative committee are clear indications that this initiative is welcomed by all.

The foundation will achieve its vital mandate through development, sharing, application of knowledge and expertise in order to contribute to the elimination of all forms of racial discrimination in Canada. It will serve community groups, policy makers, business and labour organizations, researchers, private and public institutions and the general public in the most balanced and effective way possible.

Honourable senators, it will be unique in meeting a rapidly growing need for reliable and credible research, education, resources and statistics, and will act as a clearing house for much needed information.

[*Translation*]

Honourable senators, the Foundation will directly respond to two concerns, the concept of racism and its practice. Some of the most experienced people of this country will undertake

research to uncover the actual extent of this problem and help uproot the false premises and the myths that underlie racism.

The Foundation will not work in an ivory tower. On the contrary, its research will generate concrete interpretations within easy reach of all groups concerned with racism.

[*English*]

By working in partnership with the best resources on race relations available in Canada, the foundation will promote a healthy, harmonious and model society. It will keep pace with social change, providing the information, resources and support required by groups and organizations working in the field of race relations.

The independence and unique makeup and mandate of the foundation give it a capacity for the development of knowledge and sharing of ideas, which no existing program or organization can offer in this area. It will be independent from the government and, therefore, will be able to advise the government and others from an informed and neutral perspective.

The foundation will meet the growing need for information and knowledge and promote networking and cooperation, which will increase the effectiveness of community organizations. Nevertheless, it will not replace or compete with community organizations and special interest groups in their advocacy role on behalf of their constituencies.

• (1730)

Honourable senators, the mandate of the foundation ensures that research and related efforts are directed against all racism and racial discrimination, including discrimination against our first citizens—Canada's native community.

The timely legislation now before us obliges the foundation to provide facilities and access to its services throughout Canada. The foundation will take all necessary measures to provide access to its services in every region, either on its own or in collaboration with existing organizations and institutions.

The bill before us is clear about the purpose of the foundation. It is to promote throughout Canada the development, sharing and application of knowledge and expertise in order to contribute to the elimination of racism and all forms of racial discrimination in our society.

The foundation will be incorporated federally as a charitable organization and will start its work with a solid funding base. The federal government is establishing an endowment fund of $24 million, half of which is contributed in the name of the Japanese Canadian community in commemoration of the injustices suffered by Japanese Canadians during and after the Second World War.

[*Translation*]

Honourable senators, we Canadians have never been indifferent, willing to accept inequities, polarization and unhealthy divisions within our communities. We know that the social cost of any injustice toward minorities is very high.

With a lot of courage and self-confidence we have chosen wisely to correct the injustices of the past and to move forward. The Canadian Race Relations Foundation will be a major milestone on the road to the future.

In this continuum, the Foundation is also concerned with the present. There could be no better time to reaffirm our multicultural nature. There could be no better time to reject the arbitrary divisions within mankind and to concentrate on a fundamental truth.

[*English*]

Honourable senators, in a publication entitled "Human Rights in Canada: A Focus on Racism" by Dr. Daniel Hill, the former Ombudsman of Ontario, I find him quoting a former Premier of Ontario, at page 42, where he states:

> People of good will and serious intent must break the silence. They must do so in action as well as word.
>
> Human rights and human dignity in Canada as elsewhere in the world have not been and are not likely to be realized by lofty rhetoric even when enshrined in a constitution. They are achieved by those relentless forces of social change and by our timely response to them. It is a question of giving substance to words by taking positive, constructive action.

Honourable senators, I submit that the creation of the Canadian Race Relations Foundation is a positive, constructive step, and invite you to support this bill.

On motion of Senator Hébert, debate adjourned.

CANADIAN POLAR COMMISSION BILL

SECOND READING—DEBATE ADJOURNED

Hon. James F. Kelleher moved the second reading of Bill C-72, to establish the Canadian Polar Commission.

He said: Honourable senators, I rise today to speak in support of Bill C-72, an act to establish the Canadian Polar Commission.

Much has happened during the past year in the community of circumpolar nations on a variety of fronts.

The mixed commission established under the agreement between the Government of Canada and the Government of the Union of Soviet Socialist Republics on cooperation in the arctic and the North, held its first meeting in Ottawa, November 19-22, 1990.

The cooperative agreement which launched this mixed commission was signed by Prime Minister Mulroney and Soviet Prime Minister Ryzhkov in Moscow on November 20, 1989. While in Leningrad on November 23, 1989, the Prime Minister announced the government's intention to create a Canadian Polar Commission.

Additionally, Canada has been a significant facilitator for the establishment of the International Arctic Science Committee, with participation from the eight Arctic nations.

Acting on these initiatives clearly demonstrates this government's commitment to promote and disseminate knowledge in and about the polar regions.

Two reports "Canada and Polar Science" and "The Shield of Achilles" recommended the creation of a Canadian Polar Commission.

The decision to create a Canadian Polar Commission was the result of extensive consultations and discussions with the territorial governments, aboriginal people, private enterprise, research institutes and universities.

The commission will monitor the state of polar knowledge, including traditional and aboriginal knowledge, in Canada and elsewhere.

It will promote development of such knowledge by cooperating with various organizations in the determination of scientific and other priorities.

The commission will also encourage Canadian organizations, institutions and associations, both private and public, to support the development and dissemination of such knowledge in respect of the polar regions. It will provide information about polar research to Canadians and Canadian organizations, institutions and associations, as well as a comprehensive Canadian polar information system managed by the commission.

Increased access to polar knowledge will enhance Canada's international profile as a circumpolar nation by fostering international cooperation.

Cooperation can address issues such as resource development, legal and jurisdictional questions, security concerns, and global environmental problems.

The commission will also provide support for the publication of studies on polar subjects, as well as recognize achievements and contributions in polar matters.

It will initiate, sponsor and support conferences, seminars and meetings.

● (1740)

The commission is not intended to be a funding body for basic scientific research. The two reports I mentioned before strongly recommended against this since Canada already has such institutions.

The commission will receive core funding of approximately $1 million annually from the government. It may also enter into contracts with government departments, industry, territorial governments and universities to undertake studies on matters relating to the Arctic.

The commission's legislative mandate will be primarily that of an advisory body. It will provide such advice to the Canadian government at a senior level. It may recommend steps to be taken by the federal government to improve the relevance and effectiveness of Canadian polar research. The commission will report on these matters to Parliament through the Minister of Indian Affairs and Northern Development.

The activities of the commission shall be managed by a board of directors consisting of up to 12 members, including a chairperson and two vice-chairpersons, to be appointed by the Governor in Council, on the recommendation of the Minister of Indian Affairs and Northern Development. Persons appointed to the board of directors must have knowledge that will assist the commission in the furtherance of its purpose, and membership will include northerners and will reflect the ethnic, linguistic and regional diversities of Canada's polar regions. The commission must quickly become a respected source of advice and assistance for all Canadians and Canadian institutions interested in polar research.

The board shall establish such offices in Canada as the board considers necessary for the furtherance of the commission's purpose. It was recommended that the location of the commission's offices be determined in light of the commission's mandate and responsibilities.

One of the commission's main tasks is to promote polar knowledge within federal ministries, national granting councils and other national bodies, and to act as a source of advice to the federal government. The commission needs an office in the national capital region to pursue its mandate effectively. Moreover, the commission will establish at least one other office at a place north of 60 degrees north latitude to facilitate contact between the commission and Canada's diverse polar research community. It will also ensure that the commission's presence in the north is an effective presence, a presence which seeks, and is available for, input from northerners. The commission will hold at least half of its board meetings at a place north of 60 degrees north latitude.

Prompt consideration and passage of Bill C-72 is one very useful contribution we can make to enhancing Canada's role as a leader among circumpolar nations.

Honourable senators, I am advised that during its passage in the House of Commons this bill received support from all parties. Amendments were made during the committee stage, and it received unanimous support at third reading.

Senator Frith: That can be a red flag around here.

Senator MacEachen: That is often not a mark of excellence.

Senator Frith: It awakens our interest in a negative way.

Senator Kelleher: I am sorry I have waved such a red flag during my maiden speech.

Senator Frith: I did not mean it to be provocative, just informative.

Senator Kelleher: I would never suggest, Senator Frith, that you are anything but a delightful person.

Senator Frith: You have not been here long enough, I am afraid.

Senator Kelleher: With that statesmanlike gesture, I shall rest my case.

On motion of Senator Frith, for Senator Watt, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that all remaining orders, motions and inquiries stand.

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

Some Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, December 20, 1990

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

Prayers.

[*Translation*]

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—HOUSE OF COMMONS MEMBERS—MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that I have received from the House of Commons the following message:

> ORDERED,—That a Message be sent to the Senate to acquaint Their Honours that the names of Mrs. Bertrand, Mr. Blackburn (Jonquière), Mrs. Browes, Miss Campbell (South West Nova), Messrs. Duhamel and Edwards, Ms. Hunter, Messrs. Littlechild, Nicholson, Nystrom, Ouellet and Reid have been appointed to serve on the Special Joint Committee on the Process for amending the Constitution of Canada.
>
> ATTEST
>
> Mary Anne Griffith
> for *the Clerk of the House of Commons*
> Robert Marleau

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Jacques Hébert: Honourable senators, I wish to table petitions against the GST, what else!

First of all, I have a number of petitions with the names of 1,755 Ontario residents. They are dated December 15, 1990.

Since Senator Tremblay is always concerned about the age of our petitions, this one is dated December 15, 1990. In other words, it is quite recent.

I have other petitions signed by 278 residents of Alberta who, of course, are against the GST. That is as many people as those who sided with the government.

Finally, I have a petition signed by 1,708 residents of the Province of Quebec who are also against the GST.

[*English*]

Hon. Peter Bosa: Honourable senators, I have received some petitions which I would like to table. They are from citizens of the province of Ontario, who humbly pray and call upon the Senate to prevail on the Government of Canada to stop the introduction of the proposed goods and services tax. There are about 1,700 names on the 72 sheets of paper comprising the petitions.

Hon. Lorna Marsden: Honourable senators, I have some petitions which I have received from citizens of the provinces of Ontario and New Brunswick. I am afraid I have not counted the number of names, but there are several hundred. They, too, call upon the Senate to defeat the goods and services tax.

OFFICIAL REPORT

CORRECTION

Hon. H. A. Olson: Honourable senators, yesterday I raised a question of privilege because a page or two had been stripped out of the *Hansard* for December 14. At that time I asked the Deputy Leader of the Government to look into this matter with a view to rectifying the situation. As yet, he has not reported to me.

I would advise the deputy leader that this situation must be corrected before the official *Hansard* is printed—that is, the bound text. The copies we receive on our desks every day are more or less drafts.

I would like the deputy leader to know that I am not particularly interested in identifying somebody whom we could reprimand or crucify, but the problem has to be corrected, and it cannot be corrected until we have an admission that a mistake has been made, and a commitment that the deleted material will be included when the official bound editions of the *Hansard* are printed. I am not saying that we can allow anybody to modify *Hansard* on some whim or another. I just want it clearly understood that I want that situation corrected. I want what the reporters took down put back into the *Hansard*.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I undertook yesterday to make an inquiry on behalf of Senator Olson. I have done that. I have asked the Table to prepare a report for us. Of course, Senator Olson could have done that for himself. He has as much right as I do to ask the Table for such a report. Nevertheless, out of courtesy, the request was made of me and I passed it along. I am sure the reply will be forthcoming shortly.

Senator Olson: I hope so. Thank you.

SEASON'S GREETINGS

Hon. Sidney M. Buckwold: Honourable senators, before we get to Reports of Committees, I should like to extend my warmest greetings to all my colleagues on this festive season. I wish all of you a good New Year. I do so in my capacity as the most popular member of this chamber—at least on one side.

BANK ACT

BILL TO AMEND—FOURTEENTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED

Hon. Sidney L. Buckwold, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

THURSDAY, December 20, 1990

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

FOURTEENTH REPORT

Your Committee, to which was referred the Bill C-90, An Act to amend the Bank Act (extension), has, in obedience to the Order of Reference of Tuesday, December 18, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

SIDNEY L. BUCKWOLD
Chairman

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

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

PENITENTIARIES

ACCESS OF MEMBERS OF PARLIAMENT—TWENTY-NINTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

Hon. Nathan Nurgitz, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

THURSDAY, December 20, 1990

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 inquiry of the Honourable Senator Hastings calling the attention of the Senate to the erosion of the long standing right of access of Members of parliament to federal penitentiaries and the final loss of that right in 1987, in obedience with the Order of Reference of Tuesday, January 23, 1990, considered the inquiry and now reports back.

Your Committee heard from the Commissioner of the Correctional Service of Canada and received independent legal counsel. Counsel advised that the most appropriate course was to confer the right of access to penitentiaries for Parliamentarians by an amendment to the *Penitentiaries Act*, and your Committee concurs in this advice.

[Senator Buckwold.]

Senator Hastings introduced Bill S-19, "*An Act to amend the Penitentiary Act to reinstate visitation privileges of Members of Parliament*," on November 14, 1990, and your Committee is supportive of his action.

Respectfully submitted,

NATHAN NURGITZ
Chairman

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

• (1410)

Senator Nurgitz: Honourable senators, I am inclined to say at the next sitting, as would be normal, but I assume it would please Senator Hastings to have this report adopted now, with the Senate's consent. The report speaks for itself. It needs no other consideration.

A reference was made to the committee. We are reporting back on that reference. The conclusion reached on the reference is that the committee is supportive of Senator Hastings' actions in introducing Bill S-19. One could consider the matter concluded.

Senator Frith: Then, with leave, move the adoption of the report.

Senator Nurgitz: Honourable senators, with leave I move the adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

NORTHWEST TERRITORIES ACT

BILL TO AMEND—THIRTIETH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Nathan Nurgitz: Honourable senators, I have the honour to present the thirtieth report of the Standing Senate Committee on Legal and Constitutional Affairs respecting Bill C-92, to amend the Northwest Territories Act.

THURSDAY, December 20, 1990

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTIETH REPORT

Your Committee, to which was referred the Bill C-92, an Act to amend the Northwest Territories Act, has in obedience to the Order of Reference of Tuesday, December 18, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NATHAN NURGITZ
Chairman

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

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

BUSINESS OF THE SENATE

MOTION FOR ADJOURNMENT—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, regarding tomorrow's sitting, I will be moving that the Senate meet at 9 o'clock in the morning rather than at 2 o'clock in the afternoon. Certain senators have indicated that it would be much more convenient for them to catch flights if they could get out of here early in the day.

If honourable senators agree, I will move that the Senate meet at 9 o'clock in the morning and sit until approximately 12 noon. If these two bills are given third reading, we will then have Royal Assent.

If that is agreeable, I will move the motion. If it is not, we will meet at 2 o'clock. Therefore, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Friday, December 21, 1990 at 9 o'clock in the forenoon.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to adjourn the debate on this motion until later today so that I can have an opportunity to consult with my colleagues. After I have done that I will ask that the matter be brought forward.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Frith, seconded by the Honourable Senator Perraull, that further debate on this motion be adjourned until later this day.

Is it agreed, honourable senators?

Motion agreed to.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray will not be present in the chamber for Question Period. I will be pleased to take as notice any questions honourable senators wish to ask.

SEASON'S GREETINGS

Hon. H.A. Olson: Honourable senators, I noticed that Senator Murray was not here today. I know he has other cabinet responsibilities to attend to from time to time. I am probably the senator who has asked the most questions during the past year, so I would like to take the opportunity to wish my colleagues on both sides of the house a happy holiday season.

Some Hon. Senators: Hear, hear!

OFFICIAL REPORT

CORRECTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to take this opportunity to correct an error in the *Hansard* of Tuesday, December 18 on page 4915. When I introduced the Appropriation Bill No. 3, I told the Senate that the difference between the voted amount and the statutory amount consisted of $2.9 billion to cover the increased public debt. I learned this morning in committee that the amount is actually $2.5 billion. The other $400 million is for various other statutory items that are scattered throughout the Estimates.

[*Translation*]

CANADIAN RACE RELATIONS FOUNDATION BILL

SECOND READING—DEBATE ADJOURNED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Castonguay, for the second reading of the Bill C-63, An Act to establish the Canadian Race Relations Foundation.

Hon. Jacques Hébert: Honourable senators, Canadians have always been proud of the high esteem in which their country is held around the world. There are many reasons for this extraordinary reputation Canada enjoys.

About ten years ago, I had summed them up in this way. You will see that a great many things have changed over the past ten years and that our reputation has been tarnished a bit. In short, here is what I was able to write in a book published in 1980.

> First of all, contrary to most Western nations, we have no colonial past to be blamed for, nor any ambition for power or conquest; we could have built the bomb but we refused; we are more the victims of the multinationals than their partners; we follow old democratic traditions and we respect human rights; we are not really racist; we get along as well as can be expected as Canadians of various ethnic origins; without being as friendly as we

> could, we have nevertheless opened our borders to a great many immigrants and refugees, and our financial contribution to international development, alth gh inadequate, is certainly not insignificant.

Well, if we were to look at everyone of these points, we would realize that a great many things have changed over the past ten years. What about our "old democratic traditions" when the most basic rules of this House have been trampled upon since the infamous date of October 4?

I wrote then that we were getting along as well as could be expected as Canadians of various ethnic origins. I could write that in 1980, it is not quite true today.

I said in 1980 that we had opened our borders to vast numbers of immigrants and refugees. This is still true as far as immigrants are concerned but our attitude to refugees in recent years has become very much like the selfish attitudes of other rich countries.

As for our financial contribution to international development, it has dropped steadily over the years.

What I find most surprising is that in 1980, I was able to write that we were not particularly racist.

In ten years that has changed. Instances of racism have become so common that the media no longer bother to report them. And yet, immigrants, refugees and even Canadians who belong to visible minorities can tell you about their experiences in this beautiful country that for a long time was an oasis of social tolerance. Racism can sometimes be subtle when it is suspicious, or it may be the obvious contempt expressed in discrimination. It is becoming increasingly widespread, not only in big cities like Toronto and Montreal but even in small communities with ethnic minorities.

The Canadian Charter of Rights and Freedoms, enshrined in the Canadian Constitution, prohibits racial discrimination as well as discrimination on the basis of colour and national or ethnic origin. If Bill C-63 offers a way to reinforce this principle, we should support this bill, in the hope that the Canadian Race Relations Foundation is established as soon as possible.

Let us hope this foundation will not be just a façade, one more meaningless initiative to soothe the conscience of governments.

There are already many volunteer agencies that fight racial discrimination, especially in our large cities. The Canadian Race Relations Foundation should not remain aloof from these organizations but work with them, in close co-operation.

We also believe that the 22 members of the board provided under the bill should be men and women with a keen awareness of racial discrimination, representing each of the 10 provinces and the Northwest Territories and Yukon. It is unfortunate that at the legislative committee stage, the government refused to accept an amendment that would have guaranteed this representation. Perhaps our own committee could consider doing so.

At least, the 22 members of the board of the foundation should not be chosen on the basis of political allegiance, as has so often been the case since 1984.

• (1420)

[*English*]

Honourable senators, the mandate of the Canadian Race Relations Foundation is a very large one. The foundation will not be able to do everything at once, thus the importance of having a very representative team that will set up the priorities and goals. If this foundation is to have credibility it must, from the start, create links with the grassroots: those who live with racism in their everyday lives and those who try to eliminate it. These are the crucial partners the foundation must have if it is to live up to its mandate. The Canadian people will be watching very closely and will be expecting results, and so will senators on this side.

Our country cannot afford another facade organization. What we need is a solid base: an organization that listens, promotes and circulates information: one that takes race relations seriously.

We all have a major role to play if we seriously want racism to be eradicated. The new foundation should be there to help us better understand the fears so many have when confronted with something new. It must be there to help us find solutions for the problems of today, and it must also be there to prevent problems for tomorrow.

Canada needs to face the growing issue of intolerance and racism. When the economy is going downhill, as it obviously is now, people somehow need to find a scapegoat. It is sad to say that it is often the person who does not talk or look like us who gets the backlash. It is not fair but when panic takes over, tolerance and compassion are hard to sell. We only have to look at what has been happening in this country in the last year between anglophones and francophones, between native people and white Canadians, and the recent shameful events involving anti-semitism or hatred toward coloured people.

[*Translation*]

Canada cannot survive, much less prosper, without the massive contribution of immigrants and refugees. These men and women, who hope to become citizens of our country—sometimes one wonders why—will come mostly from the Third World. They will enrich us by the ways in which they are different, by their traditions and their culture. However, if this vital operation is to be successful, we must open our hearts and minds to these differences, and that is why we are counting so much on the initiatives to be taken by this new foundation.

[*English*]

The new Canadian Race Relations Foundation will be established in Toronto, a city that has already major problems to solve. As Desmond Morton wrote in the *Ottawa Citizen* of October 31:

> . . . the multicultural myth has become a secular religion. The faith is bumping into reality.
>
> Toronto's black community feels pain. As the recession deepens, blacks feel their "last hired, first fired" status.

They remember youngsters gunned down by the police. They take little comfort from a few representatives in symbolic positions. Academic freedom is a front-parlor theory to people who don't find many professors in their mirror.

Piling up policies for racial tolerance and employment equity makes little difference to people who figure they will never be accepted and, with a deepening recession, have the evidence to prove it.

We have a problem.

Because of such a touchy situation we will have to play a watchdog role and see to it that the foundation does not concentrate its efforts on the city in which it will be established.

We will also have to make sure that whoever forms the group, or wherever it is situated in Canada, all must be able to receive help from the foundation in trying to solve race relations problems anywhere in our own country. That is why the Liberal opposition in the other place wanted the executive board to represent all of Canada.

[*Translation*]

In a word, honourable senators, we need new ways to stop the wave of racism that is spreading across our country. Let us educate upcoming generations while there is still time, so that they will grow up in a society that is not torn by racial tension as is unfortunately the case in so many other countries.

Establishing a Canadian Race Relations Foundation is one way. Let us hope it will help us build for the future of our country, a future that promises to be uncertain and difficult. Thank you, honourable senators.

[English]

Hon. Noel A. Kinsella: Honourable senators—

The Hon. the Acting Speaker: I wish to inform the Senate that if the Honourable Senator Kinsella speaks now his speech will have the effect of closing the debate on second reading.

Senator Kinsella: Honourable senators, I shall be very brief. I concur in the expression of the important points raised by my honourable colleague, Senator Hébert. I trust that, upon approval of the motion for second reading, the bill will be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

Motion agreed to and bill read the second time.

[*Translation*]

REFERRED TO COMMITTEE

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

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

[*English*]

CANADIAN POLAR COMMISSION BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Kelleher, P.C., seconded by the Honourable Senator Muir, for the second reading of Bill C-72, An Act to establish the Canadian Polar Commission and to amend certain acts in consequence thereof.—(*Honourable Senator Watt*).

Hon. Willie Adams: Honourable senators, I do not know if this bill will be passed this week or not. Senator Frith adjourned the debate in the name of Senator Watt yesterday. Could this order stand in his name until after the new year? Senator Watt would like to know what is going to be done with the bill.

• (1430)

Hon. Royce Frith (Deputy Leader of the Opposition): Will Senator Watt be back tomorrow?

Senator Adams: No, he will not be back until after the new year.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I appreciate Senator Adams' intervention. Naturally we would like to deal with the bill as quickly as we can. However, if there is some assurance that it will be dealt with shortly after we come back after Christmas, that will be fine.

Order stands.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator MacDonald (*Halifax*) for the second reading of the Bill C-79, An Act to amend the Parliament of Canada Act.—(*Honourable Senator LeBlanc, P.C. (Beauséjour)*).

Hon. Roméo LeBlanc: Honourable senators, in moving second reading, Senator Nurgitz told us that Bill C-79 "arrives in the Senate chamber after considerable review and debate in the other place." That is almost an understatement.

In fact, your Standing Senate Committee on Internal Economy, Budgets and Administration had been monitoring with interest the proceedings of the Special Committee of the House of Commons. From the moment that Bill C-79 was made public, it was apparent that those parts of it applicable to the Senate would need amendment to reflect the Senate way of doing things. May I remind honourable senators that we are not an administrative clone of the House of Commons.

As it stands before you, the bill contains an independent grant of statutory power to the Standing Senate Committee on Internal Economy, Budgets and Administration that is not explicitly expressed to be subject to the direction and control of the Senate itself. Even as chairman of what would become a powerful body of this house, I would not recommend such a state of affairs to the Senate. I believe that this will require an amendment.

More importantly, many members of your committee and many other senators have been aware for quite some time of a need for legislation that codifies and modernizes the internal administration of this institution. Your committee, therefore, commissioned the drafting of proposed amendments to Bill C-79 that would reflect these needs. I call these the "Senate amendments".

Amongst other things, the Senate amendments would expressly subject the Standing Senate Committee on Internal Economy, Budgets and Administration to the direction and control of the Senate in the exercise of its new statutory powers. They would allow the committee to sit and act as an intersessional authority. As senators know, this can sometimes cause a hesitation in making decisions during periods of long breaks. They would also codify the right that the Senate shares with the other place to prepare its Estimates, transmit them to the government and have them tabled with the government Estimates.

It is important to note that the Senate amendments do not ask for powers for the Senate over and above those enjoyed by the other place. They simply ask for the same powers, reformulated where necessary to reflect our way of doing things.

The possible Senate amendments were made available to several members of the other place in the course of the passage of Bill C-79 through the committee and through the house itself. For whatever reason, the house did not incorporate these amendments, although some members of the committee have said that these amendments should be done by us to ensure that everything is in order.

● (1440)

In any event, the amendments can be moved when the bill is sent to committee. That, of course, brings me to the question of which Senate committee is best suited to consider Bill C-79. Three committees have competing claims to the closest connection to the subject matter of this bill. As was indicated by Senator Nurgitz yesterday, as the bill now stands, its criminal law content invites a reference to the Standing Senate Committee on Legal and Constitutional Affairs. Yesterday, Senator Molgat reminded us that the Standing Committee on Standing Rules and Orders also has an interest in the bill. However, as I have pointed out, the Standing Committee on Internal Economy, Budgets and Administration has been actively involved with this bill for almost six months and that committee will have to administer the elements contained in the bill if it is enacted. Furthermore, the Senate amendments referred to, such as those establishing an intersessional authority and codifying the right to prepare estimates, all relate to matters within the jurisdiction of the internal economy committee.

Honourable senators, for those reasons I would suggest that honourable senators consider a reference to the Standing Committee on Internal Economy, Budgets and Administration but, as you see, I have no imperialistic ambitions in this matter.

There is no doubt that Bill C-79 responds to needs, needs that were especially felt in the other place. However, we have needs too, a number of which can be met by adjustments to this bill.

Some Hon. Senators: Hear, hear.

Hon. H. A. Olson: Honourable senators, at the outset I would say that I agree with Senator LeBlanc that the Senate is not an administrative clone of the House of Commons and that we should make some amendments to the Parliament of Canada Act so that that fact becomes apparent to some members of the House of Commons who seem to think that we have very few rights. The most outstanding example of that is what we have seen here in the last few days—an attempt to bring the views of real Canadians to the attention of the Parliament of Canada as they relate to Bill C-62.

I am also aware that there are some Senate amendments in Bill C-79, none of which are particularly and specifically related to the comments I want to make today. However, I do think some other Senate reforms are absolutely vital. There has been a lot of talk about reforming the Senate in one way or another but I think the most important reform would be to make the Senate relevant to real Canadians. At the present time, I do not think it is. I think we have substantially improved that image over the last four months but I think we have a ways to go yet. I believe we have to understand, far better than we have to date, that this upper chamber in the Parliament of Canada must start listening to the real people in the real world and to act accordingly when debating provisions so that that is manifest in this chamber. I am talking about reforms that can be made by senators themselves, individually if they will.

Honourable senators, we already have two federal commissions studying the Constitution and there are at least three provincial ones. They may not all be in existence at the present time but there have been announcements by some premiers in various provinces to the effect that they are going to set up some constitutional commissions to deal with changing the structures by which we govern ourselves; namely, the Constitution, the power that provincial governments have, the power that the federal government has and various other things. I am not arguing that these commissions are unimportant but I can tell you that we must not try to carry on as if we are members of some exclusive "gentlemen's" club. I hope that is not offensive to the ladies or the females who are here. Perhaps I should say is like some "gentlemen's club including a few ladies" and let it go at that. Unfortunately, that is the image most Canadians have of the Senate.

I remember a speech made by Senator Molson, who I wish were here today. During that speech he pleaded with the Senate that we should not have all this controversy but that we should get back to the way we used to do things. Not me. I think the greatest disservice we could do to the Canadian people is to say that we are going to get back to this "high-class gentlemen's club" image.

Honourable senators, we must understand that we need to be relevant and that means senators should go forth from this place and talk to the people they "represent". I know that some members opposite resent that word too. I am referring to the people who expect us to carry their real problems into the upper chamber of the Parliament of Canada. I hope that we can raise that image.

Many senators do not understand, and certainly in the Parliament of Canada you never hear about it, but there is a depression in my part of Canada. It is not a recession; it is a severe depression that is just as bad as the depression we had in the 1930s. Yet, elected members from that part of Canada never say a word; not a peep in the House of Commons. The Senate has a very important job to do and I do not care how boring, irritating or frustrating I am in pursuing that objective, I am going to do it because I believe I have an obligation to do it. If the people in the other place are going to abdicate their responsibilities to make known to the Parliament of Canada the severe conditions that exist in their part of Canada, then we in the Senate have an obligation to do it. I hope that senators on both sides of this chamber recognize that this is a Senate reform that ought to be made now.

Honourable senators, I stand here day after day and I know that I annoy some of my colleagues on the other side because I ask questions. I am always asking what the government intends to do about a monetary policy that is severely hurting the people in my part of Canada through no fault of their own. They did not borrow more money and they did not meet the conditions that the Governor of the Bank of Canada talks about, for lowering interest rates, while he continues stripping them of all the monetary resources they have through the high interest rates. No one on the other side has said a word about that and not one of the so-called "elected representatives" in the other house is saying a word. That is what hurts.

The suggestion, of course, is always that we should have an elected Senate. Honourable senators already know my view about that. If there is not a change in the attitude of senators and if they do not start doing their jobs, then I do not think it will make much difference, especially if senators behave in the same way as those people in the House of Commons. I believe that if senators were elected they would carry the views of the people to the floor and try to meet the concerns being expressed. There is this party discipline that they talk about in the House of Commons, where you cannot criticize the government or the Prime Minister; otherwise you get kicked out of the P.C. caucus. That is what happened earlier this year to two members from Alberta. I think it should change.

● (1450)

If you do not think there is a depression going on in this country, why don't you come out and see? For a recession to be technically described as such apparently requires a decline in the overall output for two quarters. I can tell you that, in the part of Alberta I come from, and all over Saskatchewan and most of Manitoba, it is in fact, a depression. That is where there are four quarters of economic decline. We have had that situation for a very long time. It seems to me that, at least during Question Period, there should be a few more senators participating in trying to find out what the government's plans are to deal with it. We have not seen that happen. I know, when I ask the Leader of the Government questions from time to time, that I will not get a perfect solution. In most cases, I do not even get an answer. Sometimes I get a reply, but only because I insist that we at least have some mutterings out of him. I used to sit there in his position and I know that you do not have a perfect solution to every problem that comes up. There are a few of us on this side that ask questions but unfortunately there are not enough in this chamber taking part from both sides. We all ought to have some concern about the people out there who are going through the most severe economic and social conditions that they have seen, perhaps, at any time.

I tell you, there are all kinds of places that I know of in southeastern Alberta and Saskatchewan that are worse off than they were in the 1930s, and the reason is simple: They have set up their lifestyles and their economic activities in such a way that they have to have some cash flow, and that has just dried up. I intend to make another speech later on today, if we ever get to that order, but that is what has happened. Moreover, it is not only in Saskatchewan and Alberta that we are having these problems. The welfare rolls in Canada have never been so full. Provincial governments are saying they cannot afford it.

What do people do when they run out of welfare payments? They go to the food banks. We know that in places like Toronto, Calgary, Edmonton and Regina the food banks cannot keep up. Why? Well, it is because the recession or the depression is deeper and more severe than it has ever been. That is why. I ask myself: What do you do after you have tried welfare and you cannot get any more there and after you have gone to the food banks and they say, "Sorry, we do not have any more food"? You go to the soup kitchen. Are we going to keep letting this situation deteriorate until the soup kitchens get overwhelmed by applicants so that even they cannot contend with the problem?

Honourable senators, I hope that this Senate is going to recognize that it has a responsibility. When you ask questions in this place, as I said a minute ago, it is not just simply because you think the government is going to come up with a response. It also carries the message to the government of this country that there are some difficulties in various places.

I know something else, too. I know that the people out there, whether they get perfect answers all the time, want to know that somebody here at least recognizes that they have some problems and is willing to do something about them, or at least to try. The government can do as much or as little as it likes, but I can guarantee you that there are lots of people who do not believe that the government cares any more. We have to carry this message to the government day after day, week after week, and month after month because people get some comfort at least from knowing that there is somebody who can articulate their problems to the government and to the Parliament of Canada.

I plead with you because it is not being done. Sometimes we spend 30 minutes, sometimes 40 or 50 or 60 minutes, trying to describe, at least in one of the houses of the Parliament of Canada, how bad it is out there, and the government goes on as if it is not so. The minister gets up here sometimes and parrots the words of the Minister of Finance: "Well, you know, we have to fight inflation so we are going to keep the interest rates up. We had to cool off the economy so we adopted a monetary policy that cooled it off." They certainly cooled it off all right, but I do not want to get in to those arguments at this particular time.

The point I am trying to make on Bill C-79 is that there are some reforms to the Senate that ought to be made. We have to change our attitude and it should be done now. Every senator on both sides of this chamber should assume their responsibility to the people of Canada to carry those messages in here so that the government members are aware of them. From the answers that we get, I really do not believe they know. What is worse—and I probably should not say this—is that, if they do know, they do not care, or at least they are not prepared to take any remedial action. Are we going to let Canadians starve, be actually, physically short of food when there are enormous quantities of it all over this country? We are not short of wheat. We have no shortage of soybean or canola seeds.

Senator Buckwold: Or milk or chicken.

Senator Olson: We have all sorts of ingredients to make sure that people all over this country have an adequate diet. Surely, we can do that for other things, too, to complete the requirement about food, clothing and shelter.

I was only ten years old during the problems back in the 1930s, but I remember very clearly what happened when we went through that severe depression. We had another one in 1981 and 1982 as well, but there were enough reserves around so that we could handle it. Now the government says they do not have any more. Their monetary policy is one of the main reasons why they do not have any more. The budget is being soaked up to the tune of $39 billion every year just for interest charges alone. That is what is happening.

Honourable senators, I said I was only going to be a few minutes, but I hope that, when we are considering the Parliament of Canada Act, we will quit talking about these "ivory tower" wonderful things that you are going to do about Senate reform. The first thing we can do is be relevant. Let us be relevant to the people's needs, recognize what is going on in the country and at least indicate that we understand it. Then we can start to work on the problems. Unfortunately, at the present time, there is not enough going on in this chamber to indicate that we even understand, or believe, recognize or have even heard of the depression that is occurring in certain parts of this country.

I talked about the farmers on the prairies. I think there are some fishing villages on the east coast that are just as badly off. At least they have one advantage that will carry them for a little while, and that is that they are under the Unemployment Insurance Commission, which farmers, of course, are not. However, it is not going to be long until that has expired for many of them. There are people in the cities—hundreds, thousands of people—being laid off every day. You can hardly pick up a paper without reading of people being laid off, whether it is Air Canada laying off 2,900 or Imperial Oil laying off 4,000 people across this country or somebody else. So, we are into it. We are into a depression. Honourable senators, I think it is time we started talking about what these people need. The solutions will not be easy, but in the name of common sense, we should at least indicate to people that we know what is happening out there.

• (1500)

I hope that honourable senators will agree that we need to make this place more relevant. I am not sure we need any amendments to Bill C-79 to do that, although that bill relates to amendments to the Parliament of Canada Act. I think a change of attitude is required and that individual senators must take on the responsibility of being relevant and listening to the people of Canada.

In closing, let me say that we should not set in place rules that will make it difficult for senators to do their job. Senators need to leave Ottawa and go out and talk to the people. They should go into their homes, if invited; they should talk to the people in the coffee shops. I do that.

It is said that grown men are not supposed to cry, but that is what I feel like doing when I hear about people being run off their land because they cannot afford to make their mortgage payments. Honourable senators may think I am being over dramatic, and perhaps I am, but I want to get honourable senators' attention.

When I say we should not make it difficult for senators to do their job, I am referring to amendments that will penalize senators if they are not in the chamber each and every day compared to those who are. To do the greatest service to the greatest number of Canadians, we need to go out and talk to them. Then we will see what is really taking place in the country.

So, honourable senators, I do not think we should change the rules and make it a penalty if a senator is trying to do his job. We need to be relevant. I hope some honourable senators will change their attitude so that this can come about.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if nobody else wishes to speak at this time I should like to adjourn the debate. There are a number of amendments that have been suggested. I think our caucus would like a chance to discuss them before proceeding further.

On motion of Senator Doody, debate adjourned.

BUSINESS OF THE SENATE

MOTION FOR ADJOURNMENT—DEBATE CONTINUED

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to make an instalment-type

statement on the motion to adjourn. I do not want to spring this on the Deputy Leader of the Government, but I wonder if he could tell us where we stand respecting the menu he laid out for us last week, particularly with regard to the three bills that he wanted passed before the Christmas adjournment. As I understand it, two of those bills are ready, and the third, the appropriations bill, has been referred to committee, the committee has held a meeting on that legislation and has developed a plan for the future respecting that legislation. However, as I understand it, the report of the committee on that legislation will not be before the Senate tomorrow.

I also believe that all other legislation the deputy leader wanted referred to committee has been referred, or is on the path to referral. Therefore, I should like the deputy leader to tell us, before we deal with the adjournment motion, what his plans are. Could the leader tell us today what the plans for the adjournment will be?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, does the work plan of the National Finance Committee envisage that committee reporting back before the middle of January?

Senator Frith: I noted that the plan is for the committee to meet again on January 7, I believe, or at least during the week of January 7. That is the tentative arrangement, subject to arranging for witnesses. As I understand it, if witnesses are available, it plans to complete its hearings on the legislation by the end of that week. That means the committee's report could be tabled in the Senate during the week of January 14.

Senator Doody: That sounds reasonable. Let me see if I can make the necessary connections. Can I presume that will include third reading?

Senator Frith: Third reading debate could start when the committee report is dealt with.

We are not unmindful of the fact that January 15 is a Tuesday. That date was mentioned in the committee, and also by the deputy leader. My understanding is that the report on the bill will be ready and that we can deal with the legislation during the week of January 14. If we sit on January 14, I suppose that is when the report will be tabled.

Honourable senators, as I said, I want to give Senator Doody a chance to look at where we stand so that he can evaluate the situation respecting the Christmas adjournment. When he can give us some news on that, we can dispose of this motion.

On motion of Senator Frith debate adjourned.

FISHERIES ACT
CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Teed, for the second reading of the Bill C-74, An Act to amend the Fisheries Act and to amend the Criminal Code in consequence thereof.—(*Honourable Senator MacEachen, P.C.*)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I adjourned the motion for second reading in the expectation that after I had read the speech by Senator Comeau and other material, including the speech given by the minister in the House of Commons, which I have done, I might have something useful to add.

I find I have not reached that objective; therefore, I think it would serve the interest of all by allowing this bill to go to committee.

Hon. Gérald J. Comeau: Honourable senators—

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

Senator Comeau:— I would be pleased to refer this bill to committee so that any questions senators have can be answered.

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 Comeau, bill referred to the Standing Senate Committee on Fisheries.

• (1510)

YUKON PLACER MINING ACT
YUKON QUARTZ MINING ACT

BILL TO AMEND—SECOND READING

Hon. Noel A. Kinsella moved the second reading of Bill C-68, to amend the Yukon Placer Mining Act and the Yukon Quartz Mining Act and to make provision for the application of certain orders.

He said: Honourable senators, I rise to speak briefly to Bill C-68, which is of major importance to the people and the economy of the Yukon. Basically, the bill reflects the needs of the Yukon of the 1990s, with the rising aspirations of its peoples, the increasing importance of its natural resources and the growing awareness of the environment and its unique vulnerability.

Fundamentally, honourable senators, Bill C-68 confirms the authority the government always felt it had. The bill establishes through the Yukon Quartz Mining Act the authority to withdraw from mineral disposition Crown lands in the Yukon Territory for public purposes. It also makes some minor changes to the withdrawal provisions contained in the Yukon Placer Mining Act in order to ensure that the government's intention is not in doubt. The bill goes on to provide for its application retroactive to February 13 of this year, which was the date on which the minister responsible for Northern

Affairs announced the government's intention to bring this legislation forward in the other place to take effect on February 13, 1990.

Bill C-68 conclusively establishes the government's right to manage Crown lands in the Yukon Territory for the benefit of all Canadians. Responsible management of public lands in the Yukon is of critical importance to the prosperity of the people who live there now and those who will live there in the coming century.

In June of this year, honourable senators, the Minister of State for Indian and Northern Affairs spoke in the other place about the land claims of the native people and the importance of the government's clear authority to manage lands in response to those claims. I would like to outline the importance of this authority to the territory's leading industry, namely, mining. Many may not realize the full importance of the Yukon mining industry. Frankly, honourable senators, I did not realize, until studying the briefing documents on this bill, that mining in the Yukon is a major industry now and will be into the 1990s and beyond. The estimated value of mineral production in the Yukon in 1989, honourable senators, was $540 million, which is an increase of $48 million over the previous year. That is a remarkable achievement for a region of this size.

Two hard rock mines and approximately 220 placer mining operations produced lead, zinc, silver and gold in 1989. Mining companies and prospectors explored more than 60 properties looking for further deposits of these minerals as well as nickel, copper, platinum and other minerals. With the record established by the mining companies and continued growth, we can look forward to mining playing a leading role in the economy of the Yukon in the future.

Placer gold operations have produced more than 12 million troy ounces of gold since the first records were kept over 100 years ago. Today most of the placer mining operations are small, family enterprises. However, last year this industry produced more gold than at any time since 1917. Because mining is the leading industry in the territory, stability and certainty are necessary for continued investment and growth. It is essential that the mining industry knows which areas are open for exploration and staking.

On February 12 of this year, the day before the minister's statement, the Federal Court struck down certain aspects of the government's authority to manage Yukon lands. This impinges on the government's programs to set aside land for future use; for example, the designation of lands selected for the settlement of Indian land claims. The negotiations for land claims are central to the future of the territory. In the 1990s and into the 21st century the Yukon's natural resources must continue to contribute to the economy and provide benefits for its people. As the economic base of the territory broadens to encompass mining, tourism, the fur industry, fishing, small manufacturing and transportation, the government must be able to carry out its responsibilities regarding the use of land. Those responsibilities include allocating lands for public use, such as rights of way, air strips and public facilities.

The Yukon Quartz Mining Act and the Yukon Placer Mining Act must unequivocally recognize the authority of the government to allocate lands for public purposes and to decide in the public interest whether lands are available for the disposition of mining rights. These amendments should have little effect on the exploration and staking activities of the mining industry. The practices followed before the court ruling will effectively continue. Those who wish to stake mining claims will, as they have in the past, simply contact the mining recorder's office to determine the status of the lands they are prospecting. The mining recorder's office maintains comprehensive information on the rights available.

Honourable senators, this bill is part of the government's program to ensure that, in the 1990s, public policy fosters the aspirations, prosperity and unique way of life for the people of the Yukon. I believe this bill contributes to that and the amendments are necessary, particularly in light of the court decision to which I referred.

Honourable senators, this bill deserves the support of this chamber, and I invite you to consider the same. Thank you, honourable senators.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the essence of this bill, or at least an important element of it, is the question of land claims. For that reason I consulted my colleague Senator Adams, who represents the adjoining or neighbouring territory of the Northwest Territories in our chamber. He feels that little can be added to the debate at second reading; therefore, he has authorized me to suggest that the bill go to the committee on aboriginal peoples for consideration. It may be that it will need to be looked at by another committee, but he seems to feel that the essential element is land claims and that that committee would be well equipped to deal with that aspect. Of course he also suggested we support the bill at second reading, subject to it being referred to that committee. Therefore, we wait for that motion before it goes to third reading.

Senator Kinsella: Honourable senators—

The Hon. the Acting Speaker: If the honourable senator speaks now, he will have the effect of closing the debate.

Senator Kinsella: Thank you, honourable senators. I concur with the honourable Senator Frith. I think the matter arose as a result of a stake that was claimed on lands that were part of lands under consideration as part of comprehensive native land claims in the Yukon. I think the committee Senator Frith indicated is the appropriate committee.

Motion agreed to and bill read second time.

• (1520)

REFERRED TO COMMITTEE

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

On motion of Senator Kinsella, bill referred to the Standing Senate Committee on Aboriginal Peoples.

AN ACT TO PROVIDE FOR APPOINTMENT OF A PORT WARDEN FOR THE HARBOUR OF QUEBEC AN ACT TO AMEND AND CONSOLIDATE THE ACTS RELATING TO THE OFFICE OF PORT WARDEN FOR THE HARBOUR OF MONTREAL

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Michel Cogger moved second reading of Bill C-82, to amend an Act to provide for the appointment of a Port Warden for the Harbour of Quebec, and to amend and consolidate the Acts relating to the office of Port Warden for the Harbour of Montreal, and to validate certain fees and charges established pursuant thereto.

He said: Honourable senators, I rise to offer a few words of explanation about Bill C-82. I realize everyone is very anxious to hear about the wardens for the Harbour of Quebec and the Harbour of Montreal. At this point in time, I will let honourable senators know about those two gentlemen, who are fine people.

One reason I am particularly delighted to support this bill is that it is the result of a recommendation of the committee on Scrutiny of Regulations, which I have the honour to co-chair with a Liberal member from the other place. For those of you who are not too familiar with the workings of our fine committee, Senator Rizzuto, Senator Bolduc, Senator Beaudoin and Senator David are members of this very exciting committee. It normally meets at 8:30 in the morning and offers breakfast, coffee and muffins. That is the way we get a quorum.

It is indeed delightful to know that when we get together, pay attention to regulations and make recommendations to the government, such recommendations are not always lost in the bureaucratic machinery, but periodically result in some legislation, as indeed is the case with Bill C-82.

[*Translation*]

The goal of the bill is to increase the efficiency of the administration of the port wardens by the Board of Trade of Montreal and la Chambre de Commerce de Québec. It will also remove archaic features of the legislation, which date back to 1882 for the port of Montreal and 1871 for the port of Quebec.

I should point out that the port wardens at the port of Montreal and the port of Quebec are unique in Canada. Their individual legislation and responsibilities which link them to the Board of Trade of Montreal and la Chambre de Commerce de Québec, pre-date Confederation. The port wardens fulfil an important role. Their duties include inspecting all cargoes of grain, mineral concentrates and timber stored on deck. They also ensure that a ship meets the necessary safety requirements and is loaded in accordance with Canadian safety regulations.

The Board of Trade of Montreal and la Chambre de Commerce de Québec are empowered under their respective legislations of 1881 and 1871 to establish tariffs of fees for these services.

The legislation requires that the tariffs of fees cover the costs of the port wardens' offices and that the moneys collected may only be used for the purposes of these offices. These tariffs of fees currently require approval by the Governor in Council before coming into force.

In addition, in recent years some of these fees have remained in force for quite some time.

However, in today's fast-moving maritime commercial world and with rapidly fluctuating costs, the Board of Trade and la Chambre de Commerce now find it necessary to adjust the tariffs of fees, often at short notice, in order to meet the costs of the port wardens' offices for providing their services to the shipping industry.

Forecasting ship demands, and hence forecasting the revenues necessary to cover the costs of the port wardens' services is difficult. Recognizing the longer time-frame required for government approvals, it is the government's intention to remove from the legislation the requirement for Governor in Council approval.

Safeguards for government and the shipping industry to ensure the high level of service at appropriate costs will be maintained.

The primary objective of the bill, therefore, is to provide the Board of Trade and la Chambre de Commerce with the authority to approve tariffs of fees and put these into effect.

We are confident that greater efficiency will be achieved in the administration of the offices of the port wardens at Montreal and Quebec and continued excellent service to the shipping industry will be assured.

The federal government will retain its over-all responsibility for appointing the port wardens, and auditing the financial management of their offices.

The shipping industry and the Canadian Coast Guard will continue to have representation on technical committees of the Board of Trade and Chambre de Commerce responsible for the duties of the port wardens, and recommending tariffs of fees. Users will be consulted and informed of tariffs of fees changes by the Board of Trade and la Chambre de Commerce through the process of pre-publication in the *Canada Gazette* and local newspapers.

[*English*]

Honourable senators, the second objective of this bill is essentially a housekeeping amendment. It will remove archaic features of the original legislation that fixed payments and charges for services of the port wardens in the legislation itself. These charges were appropriate many years ago, but are no longer valid in meeting the present day costs of doing business. For instance, the legislation required the payment of one-quarter of a cent per head of livestock, and even a fee not exceeding two cents per barrel on all ashes shipped from the port.

These housekeeping amendments will also validate tariffs of fees and charges fixed in later years which could not conform to these archaic provisions.

The overall results of these amendments will be to make the operations of the port wardens more effective and responsive to modern-day shipping at the local level, while maintaining the

government's responsibility for the safety of commercial navigation.

● (1530)

Honourable senators, I hope you will find that this bill can receive timely approval. I invite your kind consideration of the same.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would like to adjourn the debate until tomorrow in order to have a look at the record. I suppose that the bill will be referred to the Standing Senate Committee on Transport and Communications before the Christmas break, whenever that may be.

On motion of Senator Frith, debate adjourned.

[*Translations*]

CANADIAN HERITAGE LANGUAGES INSTITUTE BILL

SECOND READING—DEBATE CONTINUED

On the order:

> Resuming debate on the motion of the Honourable Senator Robertson, seconded by the Honourable Senator MacDonald (Halifax), for the second reading of the Bill C-37, An Act to establish the Canadian Heritage Languages Institute.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, I was planning to speak on Bill C-37 yesterday, but we decided to adjourn at 6 o'clock.

Today, I find myself almost at the bottom of the list of speakers again. It may be my own doing, because I moved the adjournment of this debate Monday after Senator Robertson's speech.

I moved the adjournment specifically so I could read her speech before making mine, as well as do some research on the background of this bill.

Over the past few days, I perused or gave a cursory look at the various speeches made at the other place by the minister, the parliamentary secretary and the many members who took part in the debate. There is a lot of debate on this bill which does not seem controversial at first.

Senator Robertson was stating the contrary in this House on Monday when she said, and I quote:

> This bill now has the support of the three major parties in the other place. They are in full agreement as to its importance to Canada both at home and as a player on the international scene.

She said the three major parties agreed on the substance of the bill. I think she might have been mistaken because the fact is there is a lot of disagreement on this issue.

I think it is fair to say that everybody recognizes the importance of this bill. I went throught speeches and testimonies quickly and came to the conclusion that both Opposition parties support the bill but would have liked substantial amendments to make it more credible and better adjusted to real facts.

The background of this bill is quite revealing. Government supporters, including Senator Robertson who sponsored the bill in the Senate, were unable to give any information on considerations and decisions behind the bill as it now stands. My investigation on this subject was quite interesting.

The rationale of a bill should always be questioned. Why it is needed now? Is it urgent? Is there a demand for this kind of bill? We could very well do without it and life would go on as usual.

I noticed during this quick investigation . . . I confess once again that I had to make it fast because we are caught in the usual rush of the end of the session since this government cannot properly manage the business of Parliament.

I noticed that not only the sponsor of the bill but the minister himself did not give the total picture, far from it, and did not explain the background of the bill or its eventual *modus operandi*, and both of them chose to ignore the hot issues and controversial aspects of the bill in their presentations.

Obviously, everything is not perfect in this upper chamber, but candour and frankness could improve the situation.

The principle of the bill as such is not questioned, but there are indeed deficiencies in the bill that should be looked after. More on this later. To me, the most serious shortcoming—I am the first one to mention it—seems to be that there is no legal requirement that the languages of work and communication within the proposed agency be English and French.

Given the fact that this institute is set up as some kind of corporation under an act of the federal government, it seems to me that it would be normal that it should conform to the Official Languages Act.

However, nothing in the bill says it should. This is contrary to normal practices. In the past, when such a corporation was set up, the bill usually said that the requirements of the Official Languages Act would apply.

One could argue in this case that the subject being the creation of a Canadian Heritage Languages Institute, there is no need to specify that French and English are the languages of operation.

Let's look again! This bill establishes a national institute, not a regional one for an area were English predominates. It is a national institute which would be expected to serve all areas of the country.

For this reason, although nothing would prevent future employees of this institute to talk in whatever heritage language they wish, the Canadian public should at least be assured that if it wishes to communicate in Engish or in French, it will receive an answer in the same language. This is the spirit of the Official Languages Act. But, there is no such guarantee in the bill. We might end up with a babel of tongues.

When you look a bit further back into the origin of this Bill, you understand the reason of this absence of reference to the Official Languages Act. At first, when the Secretary of State

asked two well-known Western Canadian professors to look into the possibility of setting up an heritage language institute, they carried out their investigation mostly in the Prairies and British Columbia. It was only by accident that they learned what was being done in Ontario.

It was also by accident (a less significant one) that they found out what was being done in the area of heritage languages in the Province of Quebec, more specifically at Laval University. There may be other locations, but I am not personally aware of them.

In their report, the two professors, Henry Kreisel and Michael Bates, suggested to set up an organization not with three heads but with three feet.

They would have established an institute in Western Canada to meet the heritage language needs in the Prairies and British Columbia. They would have recognized the institute which was already operating quite well in Ontario, and finally they would have recognized what was being done in Quebec.

But the report by these two professors was turned down by the department. That is the reason why we are dealing today with a bill to set up a single institute with its head office in Edmonton.

● (1540)

The funding of the Institute has been planned along the line of these two gentlemen's original proposal. Some $6 million earmarked for the next five years will be given out in instalments of $1,300,000 a year. That is enough to support a regional institute in Edmonton to serve the Western provinces. But this is quite inadequate to meet the needs of the Institute, or rather a nation wide institute to serve ten provinces and two territories. This approach has been criticized repeatedly in the House of Commons and during the detailed study of the bill by the legislative committee. This should be emphasized. There was no consensus on this bill to adequately provide for the heritage language institute.

Once again, the Atlantic provinces seem to have been treated like a poor relation of after thought. If some House of Commons legislative committee members had not been so insistent about it, the committee would have been satisfied with hearing as witnesses one or two umbrella organizations which apparently were to testify on behalf of the many organizations which promote heritage languages throughout Canada. The government recognized its mistake. It sent for a great many more witnesses that it had planned at the start.

I find this mean on the part of the government. When introducing bills in this major democratic institution that is the House of Commons the Government makes every effort to limit the number of witnesses. Only seldom are the recommendations and suggestions of the Opposition Parties accepted.

Is it any wonder, when the Senate deals with such a bill, that it is anxious to carry out as wide a public consultation as possible? Normally we would not have to do this if the House of Commons had done the job right. Nowadays, it is more the exception than the rule. Again today, we are under pressure because the session is coming to an end. Over the past couple of days, we have had to proceed to the second reading of more than 12 bills and their referral to committees.

In the House of Commons they did not exactly rush these bills through. In fact, Bill C-37 is the second bill on the same question. This is the government's second attempt to get a bill through Parliament to establish the Canadian Heritage Languages Institute. So far, they have spent more than two years and three months on both bills. Monday, they came and told us to hurry up because they wanted this bill to get royal assent very soon. Hurry up and send it to committee, and don't call too many witnesses. We want it for royal assent before Parliament is prorogued, because we want to start a new session in March! It took the House of Commons two years and three months to consider the bill, first in its preliminary or initial form, as Bill C-152, and today they want us to consider Bill C-37.

I don't go for this kind of pressure. However, I did spend some extra time during the last few days doing some more research. I must admit it was far from exhaustive. I just did not have time to sit down and consider everything that has been said and proposed so far. I do not even have the report of the two learned professors. I think that is where I should have begun. The report is not available to honourable senators. Maybe we will have it at the committee stage.

Be that as it may, I do not want to spend the whole afternoon on this bill. We have been told to hurry up, but I suggest we are entitled to ask why. This is the same government that, in the 1990 budget, cut funding to schools teaching heritage languages. There is a considerable number of community and volunteer schools throughout the country that until now had been relying on funds allocated by the Secretary of State—in excess of $4 million a year. In his budget the Minister of Finance said he would reduce funding. So here they are now intent on setting up the heritage languages institute while at the same time they undermine all the community efforts that have been made for years to provide heritage languages courses. It simply does not make sense. They cut them right off and then tell them: We will give you a new centre, a new institute for heritage languages in Edmonton.

This brings me to the third point made by the people who considered this bill seriously. While we basically agree, if not on the need for such an institute, at least on the idea of establishing it, the problem remains, as almost every speaker pointed out, that it will not be sufficiently funded. The proposed $1.3 million for the next five years were originally intended as funding for a strictly regional centre. Now we made it into a national centre. The centre should be getting twice or three times as much, according to the critics who thoroughly analyzed the question.

I would also want to raise another point: In the text of the initial legislation, Bill C-652, there was no mention of native people as potential users of the Institute or aboriginal languages.

In a first amendment made while Bill C-652 was in committee, Indians and Inuit were included. However they were not consulted at that time. So they came back and said: We do not want to be part of the Canadian Heritage Languages Institute. We want our own Aboriginal Languages Foundation. This is why the new version of Bill C-37 does not make any reference to aboriginal languages. Yet the minister says that although not specifically mentioned, they are included. So the government is acting as though nothing had happened.

Since then, a member of Parliament introduced her own private member bill to establish an Aboriginal Languages Foundation. I do not know why the government always wants to keep the aboriginal people of this country under its protection. It seems to me they are strong and smart enough to make their own decisions and do not need the constant supervision of the federal government. However, it is doing it once again.

We find that disgusting. The spokespersons for aboriginal organizations were unanimous in refusing to be part of the Canadian Heritage Languages Institute. It seems to me that is clear. Even so, the minister keeps saying they are included.

Those are aspects of the bill the committee will consider. It will have to consider them seriously. I hope it will not hesitate to summon all witnesses needed to collect as wide a range of opinions as possible.

In the House of Commons, if I may say so, at the risk of insulting its members, the work was half done. It now behooves the Senate to hear all those who may wish to appear, all the people of this country who have something to contribute to improve the bill.

Finally, I want to say that personally I support the idea. Like others I say that more resources than those the government is proposing now have to be found for the Institute. Otherwise the Institute will only struggle along. Anything that struggles declines after a while. If the government is serious, it will give the Institute a good, solid start. Thank you, honourable senators.

• (1550)

[*English*]

Senator Kinsella: Honourable senators, I took note of a number of the points raised by the honourable senator who just spoke. I think the reference to the definition of "heritage language" in the interpretation section makes it clear that the institute will, indeed, be dealing with all heritage languages that are languages which contribute to the linguistic heritage of Canada, including, obviously, our Aboriginal languages. This is critically important.

I do not think the bill addresses an institute that does the hands-on teaching. This, of course, is occurring all across Canada whether in schools, universities or community colleges. The institute will, rather, provide the kind of linguistic research and overview of promoting heritage languages that I do not think we would envisage being done by the volunteers who provide the many hundreds of thousands of hours of heritage-language training across the land. Rather, it would supplement the work of those volunteers.

I think the honourable senator has raised some questions which, hopefully, we will have a chance to delve into when the bill goes to the Standing Senate Committee on Social Affairs, Science and Technology.

Senator Corbin: Can the honourable senator tell me how one can justify cutting $4.1 million of funding to heritage language schools across the country this year and then proposing the setting up of an institute? How can that be justified in the current context? Are you not defeating your own long-term purposes by doing that?

Senator Kinsella: In my view, we are dealing with two radically different issues. I understand the financial support for the heritage language programs across the country, was working out at something like $22 per student.

Senator Corbin: It was $30.

Senator Kinsella: I think many provincial governments have assumed their rightful responsibility in teaching some of our heritage languages. I see that as being a terribly important development because, in my view, our heritage languages ought not to be marginalized. As a country wiht the richness of language resources that we have, we ought not to be marginalizing our heritage languages but, rather, promoting the integration of these languages, including the Aboriginal languages, in our various teaching institutes.

This has been occurring and there has been significant progress in some provinces. I would agree that, in the province the honourable senator opposite and I come from, heritage language promotion is less well advanced, and most courses in heritage language are those held on Saturday mornings.

However, the institute is not about hands-on teaching but, rather, it will provide the over-arching framework of body to promote the idea of heritage languages and to provide assistance where it can. I think they are two very different programs.

Senator Corbin: The honourable senator obviously did not get the gist of my question.

I understand perfectly well what he is saying. He is saying that we need an institute to do research and to promote the teaching of heritage languages and so on. I read in some of the material that research has been going on for the last 40 years with respect to the teaching of heritage languages, but that that 40 years of research is all lying on the shelves. That research covers all sorts of new approaches and new theories, yet not one has been gelled into a practical, pragmatic approach to the actual act of teaching itself. Presumably, the institute will consider those fine studies that have been done, boil them down and, hopefully, come up with teaching methods which will be implemented in the field.

• (1600)

It is fine to have an institute but you have ruined the classes and dispersed the students. That is the effect of that cut of $4 million from the budget of Secretary of State for teaching heritage languages. There have been numerous complaints. I have read a comment from one of the members in the other

place indicating that, with the exception of the GST, he has had more correspondence on that matter than on any other matter that has come across his desk in recent months. People are not happy. Every group involved in these programs that was given the opportunity to appear before the House of Commons committee complained to that effect, and they give very little credibility to the institute that is being proposed, in light of what has been done to their programs. All I am saying is that they are pretty angry.

On motion of Senator Adams for Senator Watt, debate adjourned.

ABORIGINAL PEOPLES BILL

SECOND READING—POINT OF ORDER—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of Bill S-18, An Act to further the aspirations of the Aboriginal peoples of Canada,
>
> And on the Point of Order concerning the admissibility of the Bill.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to say a word on the question that I raised here a few days ago regarding the receivability of the bill. Honourable senators are aware that Rule 62 of the Senate provides as follows:

> The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

There are various authorities to support that rule, but I will not quote them here. It seems to me, as I look through the bill, that it contains at least two clauses that direct the minister to spend money. Clause 8(2) asks the minister to establish, find funding for and implement programs aimed at removal of disparity. Such direction goes beyond establishing procedures for the expenditure of monies. It directs the minister and his department to impose a new duty on the existing ministry and, therefore, I think, infringes on the Crown's initiative.

Clause 8(3) directs that the minister establish and put in place certain programs to allow aboriginal peoples to develop their economies. Such direction imposes new duties on the department that may cause a new charge upon the Consolidated Revenue Fund. This clause, as well, appears to infringe on the financial initiative. There may be one or two others that should be examined.

That is not to say that this bill is not a noble bill, one that aims in the right direction, or that these clauses are, of themselves, not good. The question is purely a technical one as to whether or not the Senate has the right to initiate such a bill. So I put that down for the consideration of my colleagues. They may want to speak on it at some time.

On motion of Senator Frith, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. Duff Roblin moved the second reading of Bill C-54, to amend the Criminal Code (joinder of counts).

He said: Honourable senators, the bill, as anyone can see, is relatively short, and it will not take me long to present the relevant features to the house. It affects two sections in the Criminal Code. One is section 230(*d*), which has been considered by the Supreme Court of Canada, and in a decision rendered last year, I believe, in the case of *R. v. Vaillancourt*, it was considered that this clause breached the Charter of Rights and Freedoms and the Constitution, and was therefore null and void.

While I am not learned in the law, as everyone here knows, I will be bold enough to try to explain to you what section 230(*d*) provides. It is a clause in the Criminal Code which deals with an instance where a person causes the death of another while committing or attempting to commit some other crime. I could give the house a list of the details of the other crimes, such as kidnapping, sexual assault, hostage taking, robbery, breaking and entering, and so on, but the principle is that, if a person causes the death of another while committing one of these listed serious crimes, it is considered to be murder if the person used a weapon or had a weapon upon him at the time he attempted to commit the offence, whether or not he meant to cause the death or whether or not he knew that death was likely to be caused. This clause was considered by the Supreme Court, as I have mentioned, and it was declared to be unconstitutional.

In the verdict which was rendered on December 30, 1987, where eight justices heard the case, Mr. Justice Lamer, who spoke for the court, ruled that the presumption of innocence in section 11(*d*) of the Charter is offended when the accused may be convicted of murder despite the existence of a reasonable doubt on an essential element of the offence, namely the *mens rea*, that is to say, the guilty mind.

Speaking for the majority of the Supreme Court, Mr. Justice Lamer held that the accused cannot be found guilty of murder in the absence of proof beyond a reasonable doubt of intention to kill, or at least objective foreseeability, which is a legal phrase which must explain itself, I am afraid, of the risk of death.

Accordingly, the court ruled that section 230(*d*) was unconstitutional because it offended against section 11(d) of the Charter of Rights, which I looked up the other day and which reads as follows:

> Any person charged with an offence has the right . . . to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal.

So, as a result of this finding of the court, this bill has been written to strike this clause from the Criminal Code.

The second part of the bill deals with a somewhat similar matter, having to do with murder, but not entirely on the same grounds, so to speak. The second part of the bill has to do with

section 589. The way the section is worded at the present time prohibits the joinder of any other count to a count of murder. This prohibition of joinder is an exception to the general rule which obtains in all non-murder cases; that is, all offenses arising out of the same transaction or incident are tied together, thereby reducing delays and making the fact-finding process of the trial fairer and more effective.

As a result of the decision of the Supreme Court that I referred to about the unconstitutionality of section 230(*d*), the question of charges of murder and joinder were considered by the Criminal Law Section of the Uniform Law Conference of Canada and by the Law Reform Commission of Canada and by the Federal-Provincial Working Group on Homicide, and they recommended that section 589 be amended so as to remove the prohibition on joinder of any other count to a count of murder.

So, if you look at the bill, you will see that the new section 589(*a*) purports to remove the prohibition of joinder in respect of murder cases.

On the same general theme, the Federal-Provincial Working Group on Homicide also recommended that the Criminal Code be further amended to permit joinder of other charges, whether they occurred as part of the same criminal transaction or not, if the accused consents. The reason for that is that it would make the conduct of the trial more efficient, and would also result in economies in the administration of justice.

The key clause, of course, in this subsection is "if the accused consents". So it is not a derogation from his rights; it can only be applied if the accused has given agreement to the joinder. That is contained in the new section 589(*b*).

● (1610)

Honourable senators, that is an amateur explanation of a rather technical legal situation. It seems to me that this is a bill we should accept without any problem because it brings the law into conformity with the judgment of the Supreme Court, and also provides for the efficient conduct of trials and the administration of justice.

Hon. Philippe Deane Gigantès: Honourable senators, may I ask a question? Does that mean that if someone sequestered a third person, and that third person died in the hands of the person who sequestered him, the person who sequestered him is no longer responsible for the death of the person sequestered and, in fact, not guilty of murdering that person?

Senator Roblin: I am not sure I caught your words. Did you say "sequestered"?

Senator Gigantès: Yes, unlawful incarceration.

Senator Roblin: I do not know how that particular situation would apply to this bill. This bill simply says that, if death occurred as a result of somebody's action, joinder with another crime is permitted. So if someone detained someone illegally, that person could be charged on that count, and if the detained person died, my interpretation is that the two counts could be joined, which is not permitted at the present time.

[Senator Roblin]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am tempted to give an answer to Senator Gigantès' question.

Senator Roblin: My feelings would not be hurt if the honourable senator did that. My friend is more learned in the law than I.

Senator Frith: I think an answer was contained in Senator Roblin's presentation. As he pointed out, the bill has a two-fold purpose, the first being to respond to the *Vaillancourt* decision where one of the counts of constructive murder was struck down beause it violated section 7 and section 11(d) of the Charter. Constructive murder is the centre of Senator Gigantès' question.

In my opinion, this relates to the expression of the general proposition in law that a person is presumed to attend the natural consequence of an act. A natural consequence of robbing a bank with a gun is that someone will be hurt or killed. So an accused cannot say, in defence, that simply because someone got killed during a robbery, there was no guilty intent, no *mens rea*. An accused cannot say that he is not guilty of murder because he did not intend someone to be killed. That is what is meant by constructive murder.

The second purpose of the bill, as explained by Senator Roblin, is to make it possible to join other counts in an indictment for murder if those offences arose out of the same circumstances as those upon which the charge of murder is based, or if the accused consented to the joining of the counts, as Senator Roblin has explained.

The first purpose is clearly stated and clearly accomplished by the bill. It is instructive to review section 230 of the Criminal Code, which is the constructive murder section. It provides that someone who does not actually commit the crime of murder can still be convicted of murder through some association with the crime. The part which is being deleted is subsection (d), which provides that a person is subject to being convicted of murder if the accused used a weapon on his or her person while committing or attempting to commit the offence, or while fleeing the scene and death ensued as a consequence thereof.

I believe the bill should be looked at by the Standing Senate Committee on Legal and Constitutional Affairs because, as honourable senators can imagine, there is another side to the story, or other dimensions to the propositions that have been outlined by some members of the legal profession. They should have an opportunity to present those views to the committee.

There has been a great deal of study undertaken on this question, and this bill is an honest and laudable attempt to solve the problem. The only complaint by those who argue for improvement of the bill is that while Bill C-54 disposes of subsection (d), it does nothing to get rid of subsections (a), (b) and (c) which deal with the same issue of constructive murder from different perspectives, specifically where death results from the committing of bodily harm without a weapon, but facilitates the offence or the subsequent escape. These other subsections are all now being challenged in the Supreme Court

of Canada and may well have to be dealt with in very short order.

The Law Reform Commission and Chief Justice Lamer have each stated that it is now totally inappropriate to treat an unintentional killer as though he was an intentional killer demonstrating *mens rea*.

The second purpose is intended to increase the efficiency of the system by allowing the joining of other offences to the charge of murder. The appearance of cases of failure to complete prosecutions, failure to complete the delivery of justice as a result of the non-joinder rule, was the rationale for this clause of the bill. There had been a feeling that the courts, the system, the taxpayer and the accused would all be better off if the courts were permitted to try murder and other counts together. I think Senator Roblin demonstrated that in his statement in support of the bill.

Those who disagree say that the reverse would ultimately take place. I am not coming down necessarily on the side of those who do disagree, but I can see something in their argument. I think the committee should look at that argument. It is that the amendment would only increase the work of the courts and the cost of the courts by causing counsel for every accused to move for severance or separation of the charges on every occasion. They fear that the joining of charges would prejudice the accused on one or another of the counts.

The Law Reform Commission has suggested that any crime triable by a jury should be joined with the consent of the accused. It has been argued that when one marries this section to other sections of the Criminal Code, the change places the onus on the accused to persuade the court that there should be no joinder. In an already difficult situation, that adds to the burden placed on someone accused of murder, counsel and the presiding judge. It is suggested in this case that the trial judge would always have to be on the alert to sever the counts in the course of the trial so that prejudice does not occur. The failure of the judge to do so could, of course, become grounds for an appeal.

So the concern is that this attempt to improve the efficiency of the courts could, instead, succeed in adding to the complexity of the trial to ensure fairness, thereby increasing costs and causing delays.

● (1620)

There is another concern expressed by the Law Reform Commission about the number of specific crimes that are subject to joinder. In its recommendation, it limited the number of offenses which could be joined to: manslaughter, attempted murder and criminal negligence causing death. Bill C-54 makes no distinction between these offenses and other offenses that may be tried before a jury.

As I say, it is a short bill. Its supporters are certainly acting for a worthy and laudable purpose, but I think the doubts raised make it essential that the Standing Senate Committee on Legal and Constitutional Affairs have an opportunity to see whether the bill adequately fulfils those purposes. It is our function to ensure that the legislation before us matches its intent, which means making sure that the changes are sufficient but also free of unnecessary negative consequences.

Again, honourable senators, the purpose of the bill was fully and properly put forward by Senator Roblin, in spite of his modesty with respect to how learned he is in the law. I have not come to the conclusion that the reservations, as I have expressed them, are necessarily worthy of support to the extent of amending the bill, but I am convinced that they are worthy of the support of any motion to refer this bill to the Committee on Legal and Constitutional Affairs so that those who have these concerns—these are obviously people who practise criminal law on a regular basis—are heard by the committee. Then if there is an improvement to be made, we can make it.

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if Senator Roblin speaks now it will have the effect of closing the debate.

Senator Roblin: I have not much to say, honourable senators. I agree with my friend that the bill should go to the Legal and Constitutional Affairs Committee. That is our regular procedure and I think it should be followed in this case.

Regarding the objections some people have raised with respect to section 230(*a*), (*b*) and (*c*), perhaps they are correct, but it is premature at the moment because the matter is under advisement by the Supreme Court, and we should wait for the decision before we attempt to amend the law. It may be that they will have placed these three subparagraphs in the same category as subsection (*d*) and our course will be clear in that we will have to make more changes. But I imagine that the draftsmen of the bill thought they should wait for the ruling of the Supreme Court before pronouncing on this matter.

With respect to the other considerations raised by the criminal bar, they may well have force. In spite of the fact that this particular bill has received some consideration by three or four non-government legal bodies, it may be that there is still room for differences of opinion. There usually is when it comes to legal matters. So I agree with my friend that it would be a fine idea to put this bill to the committee in order to enable those who wish to bring certain points to our notice to have the opportunity to do so, and to give those who have drafted the bill the opportunity to explain to us why they think it is a good bill the way it is. I would be glad to have the house approve this legislation 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 Roblin, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

THE HONOURABLE GUY CHARBONNEAU

MOTION OF CENSURE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Fairbairn:

That the privileges of Honourable Senators having been constantly abuse by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): That order stands in my name, but I have checked with the *Senate Debates*, and I do not wish to add anything at the moment. If someone else wishes to speak, I will yield to them.

Hon. Dan Hays: I speak to this motion to elaborate on and explain why I stood in my place to abstain from voting on the morning of December 13 and gave as my reason that I refused to adjudicate on a corrupt ruling, which necessarily implies impropriety on the part of Speaker Charbonneau.

I should state at this point that my comments about him are confined to how he has carried out his responsibilities as a holder of high office, namely, the Speaker of the Senate, and not to him personally. In fact, I believe him to be a decent and good man.

When accepting the office of Speaker, no matter how one comes to that office, a senator becomes obliged to act in a fair, just and even-handed way; to become well versed in the rules and traditions of Parliament and the Senate, and to adhere to them and preserve them to the best of his or her ability. I rely on Senator Stanbury's speech describing in detail events surrounding Bill C-62.

However, for the purposes of my comments, they are described in brief as follows: On October 4, the vote was taken in the absence of the opposition without adequate or, to me, proper notice. On November 22, the Speaker refused to recognize Senator Waters of the Reform Party, even though Senator Waters had given notice of his intention to move an amendment, and was standing before the Leader of the Government in the Senate, who was the only person the Speaker was prepared to recognize and who intended to move the previous question at that point. Finally, on December 12, the Speaker ruled a vote to be taken on what amounted to a motion by Senator Kelly, introduced in the form of a letter signed by all government senators, and thereby improperly took from opposition senators the right, as set out in the *Rules of the Senate of Canada*, to speak to Bill C-62 and to the disguised motion of Senator Kelly in the case of those senators who had not yet spoken.

The last of these described events was followed by Senator Stanbury's motion of censure; however, they must be considered in the context of the government's stated intention, including public statements by the Minister of Finance, Mr. Wilson, and the Minister of National Revenue, Mr. Jelinek, as being a means of preventing delay on the part of the opposition senators.

Any one of the events described might be considered an error on the part of the Speaker. However, when taken together and in the context of public statements of the government, they lead me to conclude that the Speaker sided with the government in an improper way to limit rights to delay the passage of legislation as permitted and within the provisions of the *Rules of the Senate of Canada.*

The only proper way for Bill C-62 to have come to a vote was in accordance with the rules, which provide that any senator may speak to a motion and not be bound by a time limit or pursuant to a motion limiting debate—in effect establishing a form of closure. The results are certain in that either of those routes would have led to a vote on Bill C-62. Undoubtedly, in the course of a filibuster, such as the one carried out on Bill C-62, many points of order may be raised with respect to the conduct of the filibuster. However on the matter of Bill C-62 coming to a vote or on a motion to limit debate on Bill C-62, I am of the view that the *Rules of the Senate of Canada* are clear and that the method introduced by the Speaker, at the invitation of government senators, to bring the matter to a vote was an inelegant way of circumventing the *Rules of the Senate.* It was the Speaker's duty to prevent that from happening. When government senators found the front door firmly closed, Speaker Charbonneau, who is responsible for security of the house, opened the back door by treating what was, in effet, a motion put by Senator Kelly as a request for a ruling.

We have a rich body of literature that deals with the choice the Speaker had to make between serving a partisan purpose and fulfilling the obligations of high office, in this case to ensure adherence to the rules and traditions of the Senate of Canada. The Speaker's support of Bill C-62 and belief that it is good for Canada, his party or whatever, should not have had any bearing or anything to do with decisions he was called upon to make in his capacity of Speaker.

I will quote a few lines from T. S. Eliot's *Murder in the Cathedral* which I believe are appropriate. You will recall that Henry appointed his friend, Thomas Becket, Archbishop of Canterbury, only to find him wanting in that he would not cooperate in certain matters important to the king. I quote from a character named Tempter speaking to Thomas:

Real Power

Is purchased at price of a certain submission.

Your spiritual power is earthly perdition. Power is present, for him who will wield.

Further on Thomas, in response to the Tempter, states:

● (1630)

Now is my way clear, now is the meaning plain:

Temptation shall not come in this kind again.

The last temptation is the greatest treason:

To do the right deed for the wrong reason.

I could speak at length as to why the Speaker might be motivated to allow something to happen which ought not to have happened, but that has been well covered in speeches that have preceded mine. However, I would be happy to address

questions should any senators feel elaboration is required on my part.

I would like to touch on something else, and that is the legality or illegality, or regularity or irregularity, of what occurred. I asked for some research to be done by the Research Branch of the Library of Parliament, and I would like to share what I have discovered. In challenging a matter such as the ruling the Speaker made as to whether or not it was proper, the general rule would be summarized as followed. Procedural rules and standing orders are primarily designed for internal purposes. They govern the operations in a legislative chamber, setting out what can and cannot be done, and in what manner. They are binding on members and govern their relations with each other.

When a member feels aggrieved that the rules of the house are not being applied as he or she would wish, there does not appear to be an appeal to the courts. If standing orders are breached, the place to raise the point of order is in the House of commons or Senate, nor is a ruling of the Speaker reviewable outside.

I looked a little further into this and I found that the principle is well summarized by Lord Reid in the case of *British Railways Board v Pickin.* Lord Reid is quoting from another judgment, and if honourable senators wish details, I would be happy to provide them. I believe this summarizes the position as stated by the House of Lords in 1974, and I am not aware of any cases that are more recent than that, which would be more helpful. Lord Reid states:

> . . . all that a court of justice can look to is the parliamentary roll; they see that an act has passed both Houses of Parliament, and that it has received the royal assent, and no court of justice can inquire into the manner in which it was introduced into parliament, what was done previously to its being introduced, or what passed in parliament during the various stages of its progress through both Houses of Parliament. I therefore trust that no such inquiry will hereafter be entered into in Scotland, and that due effect will be given to every act of Parliament, both private as well as public, upon the just construction which appears to arise upon it.

The case arose out of a challenge to a private bill, not a public bill, over what might seem a trifling matter of railway closure. I will not get into the facts. It seems to be the most recent pronouncement on this subject that I have found in the courts.

A lower court judge, well known to many, Lord Denning, Master of the Rolls, held a different view. Bear in mind that this is a lower court and the judgment from which I hae just quoted overturned this judgment. It is the same case, and I can explain the facts if honourable senators wish, but I do not think they help very much. Lord Denning stated:

> As I have said in the course of the argument, suppose the court were satisfied that this private Act was improperly obtained, it might well be the duty of the court to report that finding to Parliament, so that Parliament itself could take cognisance of it. Parliament could put the matter right, if it thought fit, by passing another Act. In my opinion it is the function of the court to see that the procedure of Parliament itself is not abused and that undue advantage is not taken of it. In so doing the court is not trespassing on the jurisdiction of Parliament itself. It is acting in aid of Parliament, and, I might add, in aid of justice. If it is proved that Parliament was misled, the court can, and should, draw it to the attention of Parliament.

A judicial challenge to what happened in the Senate, assuming it is accepted that it is improper, would be an uphill fight. The best authority at this point would indicate that it would not succeed. However, there are some indications that it would. I do not think this is necessarily the law of Canada that I have quoted in the House of Lords' decision, but it may well be that a Canadian court would be sympathetic to Lord Denning's reasoning. In that case, it was a private bill. In our case, we are dealing with a public bill which is of great importance. I believe that a court might well be led to conclude that a public bill of the nature of Bill C-62 should be passed with the observance of all parliamentary rules.

Another argument that could be made is that the National Assembly Act of the Province of Quebec makes the position with respect to appealing something that has happened within Parliament to the courts a matter of law. In section 9 of the National Assembly Act it states:

> The rules of procedure of the Assembly are established by the Assembly, and it alone has authority to see that they are observed.

I know of no such prohibition in the law of Canada that would prevent an action from being taken. The fact that Quebec has seen fit to pass a law to prevent such an action from being taken makes it arguable that such an action could be taken.

The point of this is: Is there recourse to the judiciary? The judiciary and Parliament have properly stayed out of one another's domain, thus the *sub judice* rule. If there is no recourse, then I submit that that brings all the more to the fore the importance of the Speaker fulfilling his high office in a way that leaves no question as to his impartiality and as to the rightness of the decision that he makes. I do not believe that took place here in respect of Bill C-62.

The only other matter I wish to put on the record has to do with statements by some senators, and I will simply refer to a statement made by Senator Murray. I will try and be as accurate as I can, but I am not sure whether this statement was made in the chamber or on a news program. In any event, the gist of Senator Murray's statement was that the Senate does not represent the people, it represents itself or, put another way, senators do not represent the people, they represent themselves. It seemed that this was part of his thinking and the thinking of some others that, somehow or other, this had something to do with Bill C-62 and the opposition's attempts to delay its passage. I submit, as I did in the main part of my remarks, that the opposition could not prevent its

passage because it would come to a vote and the majority would have carried the vote, and we know what the majority did. Somehow it had something to do with what the opposition were attempting to do by delaying its passage.

On behalf of myself, and I am sure I speak for other senators in opposition, these efforts were not made for any other reason than to represent a strong view on the part of the Canadian people, which we were carrying to the floor of the Senate, and doing everything that we could—for partisan and for other purposes—to try to make the government listen to what we thought the people of Canada were saying. That is a position I would like on the record.

For all those reasons, I intend to vote with Senator Stanbury on his motion of censure.

I see there are some senators who may have questions and I would be most pleased to deal with them.

Senator Molgat: Senator Hays, you referred to a section in the Quebec law specifying that there is no other recourse. Can you tell us when that section was passed and when it became part of the statutes?

• (1640)

Senator Hastings: I am sorry, Senator Molgat, I cannot. I can simply confirm that the National Assembly Act of the Province of Quebec so provides.

On motion of Senator Petten, debate adjourned.

THE HONOURABLE J. MICHAEL FORRESTALL

PROPERTY QUALIFICATIONS FOR MEMBERSHIP IN SENATE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Frith, seconded by the Honourable Senator Petten:
>
> That the question of Senator Forrestall's property qualification and the qualification, therefore, of Senators Ross, Lavoie-Roux, Berntson, Grimard, Johnson, Keon and Meighen be referred to the Committee appointed to consider the Orders and Customs of the Senate and Privileges of Parliament; and
>
> That, notwithstanding any other rule, provisional rule or order of the Senate, the Committee meet in this Chamber within the twenty-four hours following the adoption of this motion.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I yield to Senator Forrestall.

Hon. John Michael Forrestall: Honourable senators, I have had some considerable time to review the comments of my friend Senator Frith. Briefly, before the end of this year, I want to put on the record a reiteration of the position that I hold with respect to this question raised in the press with respect to my qualifications from a property point of view to sit here in the Senate.

[Senator Hays.]

On October 24, I indicated to this chamber that I had sought expert legal advice, both prior and immediately after, my taking the affirmation. I did that both here in Ottawa and in Halifax. I indicated to the Senate at that time that I could assure honourable senators that, at the time I took my oath, I did meet the property qualifications which are required—indeed, demanded—by the Constitution.

Questions have been raised by Senator Frith about one piece of property which I hold along with my sisters and brother. As I have indicated, I remain satisfied, on the basis of the advice of expert counsel, that there is no doubt that that property alone meets the constitutional requirements, as I stated in the Senate on October 24. This opinion confirms the opinion as I understood Senator Frith to offer in his observations on that date. In essence, it seemed to me that he answered his own question. At that time he said:

> The specific question still remains—and I am sure it could be easily answered. Reading that information, any lawyer would ask: Does that mean that the property was given by will, a life interest to two persons with a gift over, a remainder gift, to Senator Forrestall and his relatives? If it were left at that, then on some interpretation that would mean that the title had vested.

Senator Frith quoted from the last will and testament as well, which extract is to be found at page 3265 of the *Debates of the Senate* for October 26, 1990. From this it is obvious that I needed only to survive the testator and not my parents to have a vested interest in this property.

I want honourable senators to know that, in fact, I hold other property in Nova Scotia which property indeed meets the requirements set forth in the Constitution. I held that property at the time of my summons to the Senate.

Honourable senators will understand that I am not required to make public disclosure, since they themselves are not required to make similar disclosures. Therefore, I have no intention of going any further with this matter now or in the future.

Some Hon. Senators: Hear, hear.

On motion of Senator Petten, debate adjourned.

MEECH LAKE ACCORD

DEBATE AND PROCESS—DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Olson, P.C., calling the attention of the Senate to the debate and process concerning the Meech Lake Accord.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): I will yield the floor to Senator Olson who wishes to say a few words.

Hon. H.A. Olson: Honourable senators, I wish to give you a short explanation. Since the Meech Lake Accord more or less died—or at least was accused of dying—on June 23 last, perhaps at this stage we could just rise to say that the inquiry

has been debated and let it fall off the order paper. Unfortunately, an analysis of the position advanced within the last 10 to 14 days by the Prime Minister of Canada leads one to conclude that everyone else killed the Meech Lake Accord.

Since June 23, the Prime Minister and Senator Murray have taken every opportunity to explain that nothing they did contributed to the demise of the Accord. They point their fingers at everyone else but the government.

Senator Comeau: What about Mr. Trudeau?

Senator Olson: I have something in my hand which states that Mr. Mulroney has alleged that, among other things, the patriation of the Constitution in 1982 and the failure to ratify the Meech Lake Accord have led directly to the fracturing of the country along linguistic and regional lines. He then went on to blame this fracturing on the Liberal Party, particularly on our leader Jean Chrétien. This requires me to make a fairly long speech since there is a great deal to explain about all this. I really do not want to make a speech today, just before Christmas.

While I was prepared to say that we could drop it from the order paper, because of the attitude of the Prime Minister and Senator Murray I ask honourable senators that my inquiry remain on the order paper because I intend to make my speech as soon as we can get around to it. It is a somewhat critical speech about some people and I do not want to give it just before Christmas. Perhaps we could let the inquiry stand for now.

Senator Frith: Honourable senators, I am content to have the inquiry stand in Senator Olson's name and not in my name. I have nothing to say about it.

On motion of Senator Olson, debate adjourned.

• (1650)

ENERGY AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO EXAMINE AND REPORT UPON SYNFUELS PROJECT

Hon. Allan J. MacEachen (Leader of the Opposition) rose, pursuant to notice of Monday, December 17, 1990:

> That the Standing Senate Committee on Energy and Natural Resources be empowered to examine and report upon the Synfuels Project.

He said: Honourable senators, this motion is not a complicated one. It seeks the empowerment of the Standing Senate Committee on Energy and Natural Resources to examine and report upon the Synfuels Project.

I do not intend to go into the matter extensively, but I wish to make a few points that may support my suggestion that the committee examine this matter.

I should like to begin by referring to a response given this week by Senator Doody to a question raised in the Senate on November 20, 1990 by myself and the Honourable Finlay MacDonald regarding energy, and the cancellation of the Synfuels Project. The answer to the question does not add any new information except to reiterate once more that the decision not to grant the Cape Breton Investment Tax Credit to the project sponsors was a decision taken at the ministerial level, and that the project had been examined over a period of time and failed to meet the test. That might be regarded as new information, but the answer does repeat information which we previously had and which has been disputed, certainly, by Mr. Gillespie and by others who are in favour of this project. The answer states:

> After extensive analysis by two separate Government Departments, it was concluded that the project as presented is fundamentally uneconomic. Even if the Cape Breton Investment Tax Credits were made available to this project, a similar amount of federal assistance would be required in order to financially strengthen the project to a level where private sector interests would also be attached to invest their own money in the venture.

That is a reiteration of information which we had had previously, and which, if one is to take into account the information provided by Mr. Gillespie, is misleading.

I should like to make a few comments to back that up. Before doing so, I should like to point out that the Cape Breton Investment Tax Credit was proposed by the government as a result of the closure of the two heavy water plants in Cape Breton, one at Point Tupper and the other at Glace Bay. The closures, which were announced in the first budget of the Minister of Finance, removed from two communities these important sources of employment and income. I did not agree with the closures. I believe they were unjustified, but I will not go into that.

The government came forward with the Cape Breton Investment Tax Credit, which was intended to provide incentives for entrepreneurs to replace the jobs that were lost. The fact of the matter is that in the intervening years no project of the magnitude required to replace these jobs in either of the communities has ever been launched or established or put in place. It appeared to me and many others that the Synfuels Project was a natural candidate for the Cape Breton Investment Tax Credit.

It is suggested in the response that the assistance to be provided by the Cape Breton Investment Tax Credit was inadequate in itself. That is the case. However, in the application Mr. Gillespie applied for assistance under another newly introduced program, namely, the Atlantic Enterprise Program. Under that program he sought assistance in the form of loan insurance and the regular interest rate subsidy which is provided under that program. So it was a package of assistance that was required.

The answers from the departments invariably failed to take into account those other parts of the package which, if they had been put in place, along with the Cape Breton Investment Tax Credit, would have attracted the necessary private financing.

Another matter that is raised is that the project had not been able to secure private financing. I should like to read

from a letter which Mr. Gillespie wrote to me in response to my inquiry to him about some of the answers that had been given in the House of Commons. He says:

> The main rationale for the negative decision on our application for federal assistance was that the project "would not be economically viable without substantially more federal support than is possible through the Cape Breton Investment Tax Credit Program". To imply that we had said the project was viable with only Investment Tax Credit assistance is quite false. Our submission for the Investment Tax Credit approval in September 1989 was coupled with a request for assistance under the other federal incentive programs for Atlantic Canada, the much publicized Atlantic Enterprise Program.

Let us be clear that it was not only the Cape Breton Investment Tax Credit, but it was also the other two programs or aspects of programs provided under the Atlantic Enterprise Program. Of course, that is a major clarification, and it leaves one then to contest the assertion that private financing was not available.

Mr. Gillespie assures me in this letter that the financial advisors had advised that they could put the financing together, provided that the financial markets and the outlook for oil prices remained reasonably stable on the down side and provided that they and their clients knew that the incentives were for real.

Wood Gundy was the financial advisor and told the Synfuels promoters that if the incentives and the government programs available in the Atlantic provinces were put in place, they could secure the private financing. That is the assertion on the other side. It was also said in the Senate by Senator Murray that it would be quite improper for the government to undertake tax liabilities for the Synfuels project. We all know that the tax liabilities would not become a reality unless the project itself were in operation and earning income so that, at a certain point, the government would lose a tax revenue which it would earn in the absence of the Cape Breton tax credit.

● (1700)

Honourable senators, I will not go into all the details, but Mr. Gillespie argues that, over the lifetime of the project if it were in operation, the total taxes paid over a 15-year period would be estimated to be $600 million and that the Cape Breton tax credit, if applied, would reduce that revenue to the government by $200 million, in parallel with the collection by the government of $400 million in taxes.

A suggestion is also made that the technology of the program is unsound, that its economics are unsound, and that we have had this ping-pong match between government bureaucrats and those who are supporting the Synfuels project. Because of the importance of the project to the economy, I think it is time to get some definitive answers and that those of us in the Senate who are interested in the project should hear from the minister and other government witnesses and from Petro-Canada which, at a certain point, had been directly involved in the establishment of the soundness of the technology. We should also hear from the promoters and their supporters. We can then decide whether it is a matter that should be dropped because it is a non-starter, or whether it is a project that requires further political will in order to bring it on stream.

We know that Senator Buchanan has been a strong promoter of this project. As premier of Nova Scotia, he was present with myself, when I was in government, when this project was in its infancy and when a press conference was held. He has followed the situation ever since. He believes in it firmly. I am quite sure Senator Macdonald, Senator Muir, Senator Graham and myself would all like to get to the bottom of this. I think last week there was a rally in Cape Breton in support of the Synfuels project. All I am asking is that the Senate be given an opportunity to do a fact-finding examination of the pros and cons and to bring those who are involved before the committee.

The suggestion that we look at this matter in committee was raised by myself some time ago. At that time Senator Macdonald said the suggestion to refer this matter to committee to obtain further information was an excellent one. Senator Murray himself said that he hoped there would be an opportunity to question, in detail, the responsible ministers and officials. He said that should be possible in one of the standing committees. Honourable senators, I do not think that will happen unless the Senate asks the committee to do it. My motion seeks the authority of the Senate to ask the Standing Senate Committee on Energy and Natural Resources to examine this project. I would hope that the Senate would give its approval so that the matter can be examined in early January.

Some Hon. Senators: Hear, hear.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, we on this side have no difficulty with this matter if it is the wish of the Senate that the matter go to committee.

I would just remind honourable senators that a piece of government legislation will shortly be going to the same committee. I am referring to the Petro-Canada bill, and I would hope this study will not interfere with that bill being handled in committee as the committee sees fit. With that proviso, I see no problem.

Motion agreed to.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, we now come to the adjournment motion. I have tried to determine where we stand on that matter at the present time. Earlier, I suggested that we sit tomorrow morning at 9 o'clock rather than at 2 o'clock. We could then sit for perhaps three hours until around 12 o'clock. It was suggested by Senator Frith that he would prefer to sit for a while to determine when the adjournment motion would bring us back.

I have subsequently learned, through various channels, that there is a disposition of many senators to adjourn until January 14. During an earlier discussion with Senator Frith, he indicated that the work plan of the Standing Senate Committee on National Finance involved that committee sitting to study the Estimates on January 7 and throughout that week. That committee would then plan on reporting the Estimates back to the Senate on January 14.

Honourable senators, the only problem, if there is one, with that scenario is that we would like to have an assurance that the bill could be dealt with and receive Royal Assent on January 15, because that seems to be the magic day on which various government departments will be in difficulty if the money is not forthcoming. We would like some undertaking that the bill will be dealt with and put through its final stages on January 15. If that can be done, then everyone would be pleased to go along with the suggestion that we adjourn tomorrow until January 14.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I can certainly put on the record, in as clear terms as possible, that there is no disposition on this side to delay the appropriation bill. Certainly, there is no disposition to filibuster it; there is no disposition to even delay it; but I cannot accept a closure by January 15. That is all I can say. We have no intention of doing anything other than to give the bill due and full attention, but no undue attention in the sense in which I have just used the term; that is, in terms of delay.

Honourable senators, having had some experience on that side ourselves, we know that the dates given by the departments can be somewhat elastic and that the sky does not fall if they do not get their bill on that date. However, we must take them seriously to the point that when they talk about January 15, they are not saying that February 15 would do just as well. We do understand that.

Subject to the fact that it is our intention to deal with the bill duly and without undue delay, we have no difficulty with the proposal. However, I cannot give an absolute undertaking that we accept an informal closure for that particular date, January 15. Certainly, we can foresee that the bill may have to have more study or more debate that week, but we have no intention of giving it anything but due attention, and with no undue delay.

• (1710)

Senator Doody: I appreciate what the honourable senator has said, and I think that that assurance should be satisfactory. I appreciate the fact that he does not want to accept a complete closure, a cut-off date, and I can understand that. I do take some comfort from the fact that the message from the Treasury Board officials this morning in the committee indicated that January 15 was their suggested date, and I do not think it meant that all government departments would be out of business on that date. It is certain, however, that a number of them that would be in bad shape by that time.

Therefore, with the understanding that we will work towards the target that Senator Frith and I have discussed, and with the certainty that, if the sky does fall, it will fall on me, I will undertake to move the adjournment motion tomorrow for January 14, and we will adjourn this afternoon until 9 o'clock tomorrow morning.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, before the adjournment to tomorrow is moved, can the honourable deputy leader tell us what government orders will be called tomorrow morning? What will we have to deal with?

Senator Doody: Senator MacEachen's question raises hope in my mind that, somewhere along the line, there will come a day when government orders can be called. We will just start at the top of the Order Paper again and deal with those bills that need second reading, including the Petrocan bill, which will start second reading tomorrow. It would be our fervent hope that it can receive second reading tomorrow and be referred to a committee. It would certainly make life a great deal more pleasant for me if that bill were in committee before we adjourned for the Christmas break. However, we will determine that tomorrow.

As to all of the other bills awaiting second reading, we will try to deal with them tomorrow. If it happens that we do not manage to have all of them referred to committee, then so be it, but we should do our best to deal with the bills on the Order Paper.

Senator Olson: No more are coming from the Commons?

Senator Doody: The Commons have gone home.

Senator MacEachen: Will we be proceeding with the motion on the joint committee tomorrow?

Senator Doody: Yes. It is Senator Murray's intention to speak to that tomorrow. As the Speaker read today, the names of the House of Commons members have been announced and it is the hope of the government that the Senate would do its half of that project so that the committee can start its work in January.

Senator Frith: Honourable senators, just one more rag-tag end. If it develops, as it seems it will, that we will adjourn until January 14, then we know that, between the adjournment and January 14, at least one committee is expected to sit. So we know that the senators on the National Finance Committee should not salivate over the 14th, since they will be expected, I take it, to return for the 7th. In case they are anxiously wondering who are in that group for the 7th, as it stands now it will be Senators Berntson, Bolduc, Castonguay, Comeau, Simard, Bonnell, Cools, LeBlanc, Marsden, Sparrow, Stewart, Stollery and either Senator Doody or Murray, and either Frith or MacEachen.

We also know, because of discussions that took place today in National Finance, that Senator Marsden proposes to have her committee, Social Affairs, Science and Technology, meet on January 8. Let me just check on who has to be here for that committee, because then the rest of us can perhaps heave a sigh of relief and know we are all right until January 14. The senators who have to be here for January 8 would be Senators

David, Lavoie-Roux, Marshall, Robertson, Spivak, Austin, Bonnell, Gigantès, Hébert, Kirby, Marsden and Thériault. You may notice that there are some overlaps there, so those two committees will have to work out their sitting times. Of course, I should not forget the additional Murray/Doody and MacEachen/Frith.

I rose to make that situation clear, but also to ask whether there are any other committees that will be sitting.

Senator MacEachen: Senator Fairbairn tells us that Legal and Constitutional Affairs will also be sitting.

Senator Frith: Should I read out the names of the senators involved in taht committee, too? They might as well be on the record. We have some duplication here again. Senators Beaudoin, Castonguay—who has been mentioned previously—Doyle, Hatfield, Nurgitz, Cools, Fairbairn, Haidasz, Hastings, Lewis, Neiman and Stanbury are on that committee.

Senator Doody: You might as well cover the senators on the Aboriginal Affairs Committee, too.

Senator Frith: That is why I am asking. I think I will stop there.

Senator Doody: I have not spoken to the chairman. I will leave that.

Senator Frith: I will stop there because my real purpose in rising was to say that, overnight, perhaps Senator Doody would consider what other committees he is counting on to meet during the period between January 7 and 14. Then we can find out which senators we can wish a "bon voyage" to until the 14th.

Senator Doody: I think that is a splendid idea. We will send these various committee chairmen and members a Christmas card with the date on it. In any event, we will look at that matter this evening for tomorrow morning. In the meantime, honourable senators, if nobody else wished to make a contribution, I move that the Senate do now adjourn.

Senator Frith: Until tomorrow at 9 o'clock.

The Senate adjourned until tomorrow at 9 a.m.

THE SENATE

Friday, December 21, 1990

The Senate met at 9 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA

December 21, 1990

THE SECRETARY TO THE GOVERNOR GENERAL

Mr. Speaker,

I have the honour to inform you that the honourable Peter de C. Cory, 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 December, 1990, at 11.30 a.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable Senators, I would like to call the Senate's attention to Order No. 19. It is the consideration of the message from the House of Commons concerning the establishment of the Special Joint Committee. Senator Murray intends to speak to that matter this morning, and I would appreciate it if we could have et permission to bring it forward now as he has a cabinet meeting at 10 o'clock. It is important to proceed with this order, if possible.

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

Hon. Senators: Agreed.

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—
DEBATE ADJOURNED

Leave having been given to proceed to Order No. 19:

On the Order:

The Senate proceeded to consideration of the Message from the House of Commons concerning the establishment of a Special Joint Committee on the Process for amending the Constitution of Canada—(*Senator Murray P.C.*)

Hon. Lowell Murray (Leader of the Government): Honourable senators, I move, seconded by the Honourable Senator Doody:

THAT the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

[*Translation*]

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

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

[*English*]

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

[*Translation*]

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Murray, seconded by the Honourable Senator Doody:

THAT the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

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

[Senator Murray.]

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

Is it your pleasure, honourable senators, to adopt the motion?

Senator Murray: With the permission of the honourable senators, I would like to present the discussion paper entitled "Amending the Constitution of Canada", which was produced by the government to stimulate discussion on that matter of national interest.

[*English*]

Honourable senators, two distinct challenges face Canadians as we take up the opportunity to modernize our Constitution to

bring Canada, united, into the 21st Century. One involves substance: what we must do. The other, process: how to go about doing it. These two challenges go hand in hand. There is no point trying to design a new, revitalized and more flexible Constitution if we do not have a way to achieve it.

[*Translation*]

It is clear to all Canadians—to those who favour radical reform and to those who would like to see less dramatic changes in our Constitution—that despite our differences, we all want constitutional change to take place in an orderly and civilized manner.

That is why this Committee's work will be so important.

[*English*]

The debate over the Meech Lake Accord produced a broad consensus that we need a better way of going about amending our Constitution. Canadians clearly want to be part of the process which produces constitutional change. The current formulae make no formal provision for public participation. Furthermore, certain legal technicalities of the 1982 amending formulae make it difficult to secure amendments.

[*Translation*]

Many Quebecers now feel it will be impossible to introduce the changes Quebec needs to safeguard its cultural and linguistic identity within the Canadian federalist system, because it takes 11 to conduct constitutional negotiations, and some changes require unanimity or allow for a three-year ratification period.

Furthermore, Quebec's political leaders refuse to return to this negotiating table.

For the sake of Quebecers who want to be part of a Canada where they feel welcome and truly secure, and for the sake of Canadians who want to have their say in constitutional change, we must find a better way to make the changes that we all agree are necessary.

● (0910)

[*English*]

As parliamentarians, we are part of the constitutional amendment process. If the process is not working, and it is not, we must consult with Canadians to find better ways to go about changing our Constitution and to work in concert to achieve this end.

Some have criticized the joint committee's mandate as too narrow. They say it must be broadened to include the full range of substantive constitutional issues before us—from the distribution of powers to the reform of institutions. As Prime Minister Mulroney has noted, such a discussion of substantive issues must and will occur, and Parliament will have a role to play in this. But the timing of efforts to secure a new, more flexible and modernized institution will be a critical factor in our success.

[*Translation*]

Although there is currently a broad consensus throughout the country on the fact that we must find a better, more effective way to change our Constitution, the same unanimity does not exist on the nature of these changes.

In fact, the debate on Meech Lake revealed some very profound differences regarding the substance of constitutional reform.

That is why we created the Citizens Forum, chaired by Mr. Keith Spicer, to identify the fundamental values and aspirations that should guide the process of constitutional reform.

[*English*]

As I have said many times in replying to questions from honourable senators about the Citizens' Forum, there is no way we can agree on structural, substantive constitutional reform proposals unless consensus can be built on some of the fundamental questions of our national existence. The special joint committee will provide us with recommendations based on broad consultations with Canadians on a better way to go about changing our Constitution and, in particular, of involving the public in the process.

The special joint committee and the Citizens' Forum are complementary. They will both allow Canadians to contribute to Canada's future constitutional development, and both will report on July 1.

The government will be monitoring what Canadians have to say in their presentations to the Citizens' Forum and to the special joint committee. We will also be monitoring, and are monitoring, the various provincial constitutional commissions. We will do everything necessary to ensure we are prepared to take a leading role in discussions on substantive constitutional reform when they begin.

Another criticism that has been levelled at the proposed parliamentary committee is that it will be one more in the array of federal and provincial constitutional commissions and committees now launched, and so will merely add to the confusion of Canadians. While the confusion is understandable, we cannot avoid the fact that two issues face us, one involving our shared values and the other the process we employ to change our Constitution. Both must be addressed in a national context, and not just in various provincial commissions.

Parliamentarians can play an essential role by discussing with Canadians the issues we face and by encouraging Canadians to participate in the important national debate that lies ahead of us. The questions before us are not necessarily new. Many of them go back to the time of Confederation, and have been constant themes throughout Canada's history.

[*Translation*]

These fundamental questions include the following:

> Can Quebec, as the only province with a French-speaking majority, find sufficient guarantees for its cultural and linguistic identity within the Canadian federal system?
>
> What changes could be made to alleviate the feelings of alienation of the western provinces?

How can the promises made to aboriginal people over the years be translated into concrete measures?

The debate also touches on other aspects, such as how to respond to the needs of less populated regions and linguistic minorities.

Although some of these questions are not new, it is clear that a response to those questions will have to break new ground.

[*English*]

When the Prime Minister announced the creation of the Citizens' Forum on November 1, he said that he was prepared to consider both far-reaching and unprecedented reforms to our system of government, and institutions to ensure an economically and fiscally sound Canada with a modern Constitution supported by all Canadians and adapted to today's realities. He elaborated on that theme in quite a well-reported speech given at Buckingham last weekend.

On December 2, the finance minister said that it is essential that the legitimate and reasonable aspirations of Canadians never again be held hostage to an inadequate and inflexible procedure. That is why the work of this committee will be so important.

[*Translation*]

We must convince Canadians that it is possible to make changes and at the same time maintain the unity of Canada.

We cannot throw in the towel and give free rein to those who would dismantle the country and reject our history and common traditions simply because we are unable to find a better way to amend our Constitution.

With a view to initiating public debate on a better process and on the quest for fresh and innovative solutions, the government released the discussion paper to which I alluded a moment earlier.

It outlines the historical background to an amendment process endorsed by all Canadians, and provides a detailed summary of of the formulas that were brought forth in 1982.

As well it features a review of attempts made over the past eight years to amend the Constitution and an analysis of ensuing problems.

Finally, against this backdrop, there is a rundown of certain reform formulas.

[*English*]

This document which I tabled a few minutes ago amending the Constitution of Canada is a discussion paper, not a statement of policy. It has been published solely to stimulate creative and productive debate on the constitutional amendment process. It does not commit the government to any particular course or limit the range of options the government is prepared to consider. The paper examines some of the key issues surrounding our amending process which surfaced during the Meech Lake debate. In particular, it looks at the issues of public participation in the amending process and the efficacy of the various formulae in securing amendments. It then examines options for reforming the various formulae and ways to go about doing this by intergovernmental agreement or by formal amendment by replacing existing provisions or by merely supplementing them.

The paper examines, for example, the referendum and constituent assembly models as options for ensuring meaningful public participation in the reform process.

[*Translation*]

Following this introduction, the document examines the implications of these various options including:

Who would decide the question to be answered in a referendum?

Would a simple majority representing 51 per cent of the votes be enough, or would a weighted majority be required to protect regional interests?

Who would choose the delegates to a constituent assembly, and again, how would a majority be made up in such an assembly?

[*English*]

The paper does not purport to exhaust the catalogue of possible ways to go about changing our Constitution. It is quite possible that the ideas set out in the paper may give rise to others, and that Canadians may ultimately develop a consensus on a process that is not discussed in the paper. If so, the paper will have served its purpose.

As the Prime Minister said last August, "Canadians in general want a more open, more transparent and broader process for amending the Constitution. We absolutely must avoid a recurrence of what happened last June, when the Constitution we wanted fell victim to the Constitution we have." Honourable senators, it is critical that Canadians understand the relevance of the work of this parliamentary committee on the amending process, its relevance to current events in Quebec and to Canada's future.

• (0920)

For over 50 years, governments sought unanimous agreement on an amending formula that would combine elements of flexibility and protection. Unanimous agreement constantly eluded first ministers. Finally, in 1981, first ministers agreed to act without unanimous consent, more specifically without the consent of Quebec.

Hon. H. A. Olson: That just is not true. Of course, go ahead, play it out. Do not try to kid us.

Senator Murray: It is a fact. The honourable senator is interrupting.

Senator Olson: I was at the meeting.

Senator Murray: Let us examine what I said. I said that, in 1981, first ministers agreed to act without unanimous consent, more specifically—

Senator Olson: It is the "more specifically" that is wrong.

Senator Murray: —without the consent of Quebec. I said, ". . . more specifically without the consent of Quebec . . ."

Senator Olson: Quebec decided that.

Senator Murray: Honourable senators, ten first ministers decided to act without the consent of Quebec. That is a historical fact.

Senator Olson: I know what you are trying to do, and you will not get away with it.

Senator Murray: The honourable senator's interruption today is of a piece with his intervention the other day on the question of the federal sales tax and, later today, I will be confirming the correction I made then.

Senator Olson: You are not kidding anybody with the federal sales tax, either. Do not try to kid me. I wasn't born yesterday.

Senator Murray: The honourable senator is wrong on that point, and I am going to prove him wrong again today.

Senator Olson: Talk about political propaganda. That is all we get.

Senator Murray: Honourable senators, let me take up the narrative I was placing on the record. For over 50 years governments sought unanimous agreement on an amending formula that would combine elements of flexibility and protection.

Senator Olson: That is garbage.

Senator Murray: Unanimous agreement constantly eluded first ministers. Finally, in 1981, first ministers agreed to act without unanimous consent, more specifically, without the consent of Quebec.

Senator Olson: We asked for unanimous consent. We did not get it.

Senator Murray: Failing it, they decided to act without it. And the Supreme Court later upheld that unanimous provincial consent was not required, and that Quebec did not have a veto in law or in practice.

But the Constitution Act, 1982—achieved without unanimous consent—requires unanimity to change certain parts of the Constitution, including the amending formula itself. So we now have an anomaly. Quebec could not veto the agreement to bring the patriation debate to an end, but each and every province could exercise a constitutional veto over the Meech Lake Accord under the terms of the Constitution Act, 1982.

More important, those who now argue the cause of a revitalized, restructured federalism in Quebec are taunted with our very recent history which demonstrates that Quebec's aspirations, while supported by a majority of the provinces, can be scuppered by the governments of one or two provinces representing less than 7 per cent of the population.

Quebec federalists are challenged to show that the future holds out any better prospect. They and we must respond to that challenge. That is the purpose of the joint committee as proposed in my motion this morning.

Yet, we all know that to change the unanimity requirement would require unanimous consent, so we are faced with a seemingly vicious circle and constitutional gridlock is the apparent result. However, we cannot let the constitutional amending process we have inherited threaten the continuance of the country.

[*Translation*]

We cannot afford to lose Canada because we are unable to address the problems that threaten its existence.

[*English*]

Senator Frith: I am sorry, senator, could you just reread the sentence with the word "inherited" in it?

Senator Murray: We cannot let the constitutional amending process we have inherited threaten the continuance of the country.

[*Translation*]

It is important to note that the mandate of the parliamentary committee does not prevent it in any way from examining alternatives to the existing formulas or new ways to amend them.

Extraordinary circumstances call for extraordinary solutions. Canadians have already demonstrated that they could be very creative when they built this country contrary to all expectations.

Honourable senators, let us accept that invitation to join our colleagues from the House of Commons in trying to find better and innovative ways so that our constitutional amending process serve the interests of Canadians by making Canada a united and revitalized country as we move into the 21st century.

[*English*]

Honourable senators, in conclusion, I wish to confirm, with great pleasure, the statement made by the Prime Minister the other day to the effect that, when this motion passes and when the committee meets, Conservative senators and Members of Parliament on that committee will be proposing as joint chairmen the names of our distinguished colleague, Senator Gérald Beaudoin and Mr. James Edwards, M.P., from the House of Commons.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, as the Leader of the Government has told us, we have before us a message from the other place inviting us to join in a special joint committee of the Senate and the House of Commons, asking that we inquire and report upon the process of amending the Constitution of Canada. That is not a routine matter. It is not an ordinary committee of inquiry. We are dealing with the most fundamental document in our care, the Canadian Constitution, and that is why we should treat the message with all the seriousness it deserves. Although, as we know, there is little time left to us today or later in this year to deal with the matter, it should not go, along with the last leaf of our 1990 calendar, without at least some consideration.

Let us be candid about it. The message from the other place is not coming to us as the crowning of a success story. On the contrary, it is born out of a tragic constitutional failure, one that will live down in our history as a moment of frustration, anger and anguish so great as to threaten the unity of our

country. That was not the intention of those who conceived, negotiated and concluded the Meech Lake agreement, but they failed because of the short-sightedness of their own management. With all their good intentions, they brought upon Canada our current constitutional debacle.

For those who are familiar with the Atlantic shores, the tragedy of the foundering ship has the same recurring features. The captain of our constitutional ship, the Prime Minister himself, is awash in the flotsam. But do not fear for him; he will not join the Meech Lake Accord, now serenely lying on the bottom. He will take good care of himself. His greatest strength in that respect will be his short memory. For example, he will no doubt forget that, as he put it, he found it unacceptable that some provinces should have a veto and others not, a defect which, in his view, would be corrected by the Meech Lake Accord. The Prime Minister stuck to the rule of unanimity. Why should the government want to have the amending process revisited?

• (0930)

Honourable senators on both sides of the house will remember the debate on the Meech Lake Accord in which I participated on April 18, 1988. We on this side welcomed the objectives inherent in the Meech Lake Accord of achieving Quebec's assent to the Constitution. If I may be permitted to read one paragraph of that statement of April 18, 1988, it reads as follows:

> All along, we, on this side, have fully supported the objective of achieving Quebec's assent to the Constitution. Quebec is now willing to accept it and anxious again to take its full part in the constitutional process. We welcome this move, because it is of great significance to our future.

I went on at considerable length at that time to explain why we on this side thought that the Meech Lake Accord had some dangerous weaknesses. I concluded by saying, "We do not intend to strike down the accord. We are not proposing to vote against it; we are suggesting ways of improving it in order to benefit all Canadians."

We warned at that time, for example, that a disturbing situation was developing in New Brunswick. We also warned that the new law affecting the rights of the French-speaking minority in the province of Saskatchewan was sending political shock waves through Canada. We had a clear judgment on the Meech Lake Accord, with our paramount objectives being Quebec's assent to the Constitution. The Meech Lake Accord, which was the instrument for achieving that objective, had to be given every chance of success.

We looked for weaknesses for the purposes of correcting them, thereby enhancing the accord's chances of successfully completing the ratification process. We introduced several amendments to that end, and in so doing we fully reflected the position of the Liberal Party.

I should remind honourable senators that a special committee of the Senate travelled throughout the north and held extensive hearings and brought back a report containing the concerns and outlining the aspirations of the northern people. That report contained certain amendments in order to reflect more fully the northern people's place in the Canadian nation.

It will also be remembered that even though the proposed amendments were turned down by the government, the Meech Lake Accord cleared this house, in which the Liberal Party had a clear majority. The Meech Lake Accord also passed through the other place in similar circumstances with the support of the Liberal Party because our overriding preoccupation was Quebec's assent to the Constitution. In fact, notwithstanding the attitude of the government, which rejected every single amendment proposed by the Official Opposition in the Senate and in the House of Commons, the members of the Liberal Opposition still voted for the Meech Lake Accord unamended, even though it caused considerable strain within the ranks of the party itself, which had never reconciled itself to some of the provisions of the accord. The Leader of the Liberal Party at that time, Mr. Turner, staked his political future on that, because he stood 100 per cent behind the unamended Meech Lake Accord.

• (0940)

However, there was one point over which we strongly disagreed with the government, and particularly with one of the leading authors of the accord, the government leader in this house. We were told that the accord was a seamless web; it could not be touched or changed in any respect. It was the epitome of so much negotiating skill that nothing could surpass it. I do not believe that this rigid view of the accord can only be explained by the pride of authorship. The "seamless web" view, theory or stance was part of the negotiation process itself. It was a means of putting pressure on the process of ratification, which is the opposite of what we regarded as the proper way of managing a delicate constitutional change.

We were concerned, and said so, at the secrecy which surrounded the negotiations leading up to the accord. We saw danger in the obvious government failure to build a large consensus in Canada through a process of public consultation and discussion. Indeed, certain premiers themselves recognized that the majority of the people of Canada were opposed to the Meech Lake Accord; but, nevertheless, having become aware of that fact, they made no move to change their position and to seek some way of enlarging the consensus by making some changes to that accord. Then, of course, we had the seamless web. Canadians were allowed to marvel at the beauty of the fabric but not permitted to touch it, which was, as was to be expected, an exercise in frustration.

We were also concerned at the rigidity of the position of the government—not only the government of Canada, but other governments as well. We believe that progress in our federation is made up of give and take; a patient process of conciliation born out of the recognition of mutual interests. This process was ruled out by the refusal to entertain any viewpoint beyond its own, as recorded in the Meech Lake Accord.

We know, as the clouds gathered over Meech Lake, that the government had another round at searching for the guilty. Who else could it be but Jean Chrétien, who had just

announced his candidacy for the leadership of the Liberal Party. There was no doubt in the government's mind—and it was clearly stated—that he must be plotting with Frank McKenna, Sharon Carstairs and Clyde Wells to undo the Meech Lake Accord. I respect personal opinion, even narrow, partisan opinion, but there must be some room for the truth. The truth of the matter is that, wherever he went, Mr. Chrétien expressed support for the five conditions formulated by Quebec for assenting to the Constitution, including the most delicate condition relating to a veto. The truth is that Mr. Chrètien pointed out the same flaws in the Meech Lake Accord that the Liberal Party in this house and in the House of Commons had attempted to remedy. He was convinced that the seamless web was bound for the dustbin of history unless it was submitted to the process of conciliation and negotiation. However untouchable in its perfection, the Meech Lake Accord was worthless if its rejection aborted Quebec's return to the Constitution.

The calling of the Charest Committee was evidence that at long last the government recognized the validity of those views and the need to improve and enlarge the seamless web. The creation of the Charest Committee had no other purpose, or gave no other signal, but that at that point there had been a realization that changes should be put in place or acknowledged. Of course, the Charest Committee did its investigation and a consensus developed within the committee as to what might be considered. The committee's conclusions were general, but it highlighted for first ministers those areas that were sensitive and required further attention.

The Charest Committee report was fully discussed in our national caucus; and, after long discussions, it was accepted. I held the personal view that the report of the committee ought to be put before the House of Commons and the Senate for adoption because it represented a consensus that had never been reached among the parties to that point.

That was certainly a ray of hope shining through the clouds; however, that was the time chosen by the Prime Minister's most trusted friend and colleague, his closest advisor on Quebec, to leave the cabinet; and in my opinion the Charest report never got off the ground because of that political development in the resignation of Mr. Bouchard.

But the Prime Minister remained extremely confident that his negotiating skills would bring success where his cabinet colleagues had failed him. He ignored the warnings from the Manitoba premier that a good deal of time would be required to clear the Meech Lake Accord through his legislature. He trusted his persuasive skills to win over Newfoundland while snubbing the premier of the province. He felt he had the strength to stand up to the pressure of brinkmanship and to drive all the premiers to the edge, but not over it. He knew how to do it. He would roll the dice. And he did, but the Meech Lake Accord, like a castle of cards, crashed over the brink. "God knows I tried", cried the Prime Minister, but he did not improve his credit by attempting to shift the responsibility, or hang the albatross around other people's necks.

A seamless web, a political desertion, a rolling of the dice—that is how the Prime Minister put at risk and managed the country's future. That albatross should stay around his neck because that is where it belongs.

Senator Frith: Hear, hear!

Senator MacEachen: So much for the irretrievable past. In this time of crisis we must marshall this country's resources to give it the chance to remain united. We must not underestimate the gravity of this situation nor the weakness of the Federal Government, which should be the first and foremost to fight for Canada.

The initiative is now in the hands of Quebec, which is still emotionally shocked by the Meech Lake tragedy. It is in the hands of the other provinces, which, each in its own way, are s organizing to come to grips with fundamental issues of national unity or disunity. The commission on the political and constitutional future of Quebec, set up by the government of Quebec, has been holding hearings for several weeks. It is already clear that a consensus is emerging in favour of significant change in how we manage our country. The Quebec government has also made it clear that the future of Quebec should be decided by the people of Quebec.

It is to be deplored that the Government of Canada has not thought it fit to be represented on the Belanger-Campeau Commission by a person of stature; a distinguished and nationally respected Canadian who is able to speak authoritatively on o matters of concern to the commission. The removal and replacement in mid-stream of the Conservative representative, for whatever reason, will not help. Neither will the refusal of the Prime Minister to appear before this commission or to send one of his senior colleagues. Either the government does not perceive the importance of what is going on in Quebec—and I refuse to believe that—or it is ignoring it or is so insecure that it is unable to contemplate putting itself in such a risky situation as appearing before the Bélanger-Campeau Commission.

• (0950)

My colleagues will be aware that recently the Leader of the Opposition appeared before the Bélanger-Campeau Commission. He spoke up for Canada and for the kind of change which our country must go through in order to meet the challenges of the 1990s.

The message before us invites us to participate in a committee on the process of amending the Constitution. It is a joint committee made up of 12 members of the House of Commons and five senators. I notice that, in 1981, the joint committee was made up of 15 House of Commons members and ten senators. In the meantime, the Senate has increased, but is certainly losing ground proportionately in the process of representation in Constitution making.

This proposal for a joint committee comes in the wake of the Citizens' Forum, for which Mr. Spicer is endeavouring to generate some attention. Both moves come as a belated recognition by the government that Canadians have something to say in the process of constitutional change, and that the

constitutional amendment formulae, including that of unanimity promoted by the Prime Minister, leaves something to be desired. Those were points we made at the appropriate time during the Meech Lake debate. They were good and timely points then; they remain valid today.

We on this side regret that the government has adopted a fragmented and narrow-gauged approach to the re-examination of constitutional issues which include possible transfer of powers and responsibilities, as is well illustrated in the current Quebec debate. We nonetheless intend to extend our cooperation and to work for the success of the amending process review. It seems to us, however, that there is room for clarifying certain issues in the terms of reference of the committee, particularly the Quebec veto. For that reason, we want to make an amendment which we hope will give recognition to Quebec's concerns, and particularly its interest in acquiring the right of veto.

MOTION IN AMENDMENT

Hon. Allan J. MacEachen (Leader of the Opposition): I move:

> That the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:
>
> iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing 50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada".

Hon. H.A. Olson: Honourable senators, until 9:05 this morning, I was unaware that time was to be sought to move on this motion today, so I have had to scramble around quite a bit to get ready for what is about to happen. I am speaking now on the amendment. I will have to wait until that is moved and dealt with, but I intend to move another amendment and I want to explain why.

The government seems determined to constantly try to rewrite history. I am not in favour of that. Because of all the sensitivities that the constitutional problems have created in this country, I am not going to sit back and let that happen.

I have another motion or an inquiry that deals with the failure of Meech Lake. however, that is not urgent the day before the Christmas recess and we will address that matter on another day.

Honourable senators, if you look at the motion moved by Honourable Senator Murray, you will note that there are 12 members of the House of Commons and five members of the Senate. This is a complete reversal since it used to be that more than one-third of the members of a committee would be from the Senate. For this committee it has changed to 12 to 5. The last time it was 15 to 10, in spite of the fact that there are now 112 senators, minus one or two, vis-à-vis approximately 95 the last time.

What is more important is that, from the performance of the government and its so-called discipline over the past few years, I suppose there will be eight or nine members of the Conservative party of the 12 members from the House of Commons called for in this motion. If that is the case, there will be no independent thought at all, and that disturbs me. If those members do express any independence of thought, apart from what comes down from on high, they will be kicked out like Mr. Kindy and Mr. Kilgour. We have to try to do something to remedy that situation so that this committee, if it is to have any validity at all, will at least have some balance.

• (1010)

I have already said that I will not go into this matter very far today. However, the process is flawed. One of the main reasons it is flawed is because of the comments the Prime Minister made when he launched this idea. In effect, he is trying again to rewrite history. He has never stopped trying to create photo opportunities and that type of thing. Surely, he has learned that this is no way to try to amend the Constitution of Canada.

There are people in my part of the country who are disappointed with what has been going on. They want to see to it that it does not happen again.

Without further ado, but in the hope that it will put some balance at least in the activities of the committee, I want to indicate now that I entend to move, seconded by the Honourable Senator Hays, that the motion be amended by adding the following words before the last paragraph:

> That any senator may attend and participate in any meeting, but may not vote unless he or she is a member of the committee.

I understand that there is already an amendment before the house and, of course, my motion is not an amendment to that amendment. Therefore, I suppose that we will have to wait until the amendment moved by Senator MacEachen is dealt with before I can formally move my motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I propose to adjourn the debate. However, before I do so, I would like to say this. As we all know, the House of Commons has adjourned until February 18 and will therefore not be available to receive any message which we send it. Its order for adjournment provides that it can be recalled for special circumstances, and also for the sole purpose of Royal Assent.

Before I move to adjourn the debate, I wish first to thank my colleague and leader, Senator MacEachen, for so articulately and succinctly pulling together the events that led to this situation, particularly—

Senator Murray: A bit of historical revisionism.

Senator Frith: —in the framework of Meech Lake. Rather than being involved in what Senator Murray has just called historical revisionism, as Senator MacEachen said in his

speech there is the need to leave some room for truth in all the revisionism that has been visited upon us by the Prime Minister. That truch is precisely what the honourable senator outlined for us and for posterity.

The other point I wish to make is a technical one. Because I will be adjourning the debate, rather than having the need to propose an amendment, the government and the Senate generally will be given the opportunity to examine the suggestion I have,one which I think will meet with unanimous support. I hope that it is just a technical oversight.

On page 2 in the sixth paragraph, changes in the membership of the committee are dealt with.

Senator Murray: I noted that as I was reading it.

Senator Frith: Rather than getting into a lot of rewording of the motion the easiest way to handle this is simply to take out the words "for members of the House of Commons". We have our own system for making changes to committee membership, as I am sure does the House of Commons. Our rule 66(4) covers that procedure for us.

Senator Doody: I think they need a joint reference to be able to make a change. They have a different system for changing membership than we do.

Senator Frith: I am not suggesting that we take that pargraph out. I am suggesting that we take out the words "for members of the House of Commons" and that it would then read: "That changes in membership of the Committee be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee". That would solve the matter for them, as well as for us.

With those comments, I move the adjournment of the debate.

Hon. Dan Hays: Honourable senators, I would like to add a comment to the discussion of Senator Olson's proposed amendment before the debate is adjourned. He named me as his seconder. I have not had much chance to discuss the amendment with him, nor even to look at it carefully. However, I would like to add to what he said.

One reason for providing for any senator, or, perhaps if it is useful, some limited number of senators, to attend and participate in the meetings is that it would allow independent senators an opportunity to participate. As I understand it, they would not be part of the committee. There would be just government senators and official opposition senators. We have independent senators such as Senators Everett, Lawson, Pitfield, Waters and others who may well be interested in participating in the process. An amendment to that effect, or some variation of it, would be useful to give them that opportunity. It may well be that because of physical problems we cannot have an open end on the number of non-voting senators who might be allowed to participate, but I think it is a good idea that they have that opportunity.

On motion of Senator Frith, debate adjourned.

(*Translation*)

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Jacques Hébert: Honourable senators, I have the honour to present a petition with 400 names. I am going to read the whereas because they deal with a particular point of the GST legislation.

[*English*]

> WHEREAS the Government of Canada has seen fit, since Confederation and without hiatus, to apply a zero rate of tax to magazines, books and newspapers and, now proposes to include them in the GST
>
> WHEREAS uninhibited dissemination of the printed word as a cornerstone of democracy, culture, education, and a literate and productive society will be negatively affected by the GST application
>
> Wherefore the undersigned, your Petitioners, humbly pray and call upon Parliament to reaffirm the historic principles embodied in tax free status for the printed word by retaining the zero rate in the GST legislation and regulations.
>
> AND as in duty bound, your petitioners will ever pray.

[*Translation*]

This petition was signed by 400 British Columbia residents.

I have here a petition signed by 245 Manitoba residents who complain about the same negative impact of the legislation.

I have also a petition with 68 names of Saskatchewan residents.

Hon. Arthur Tremblay: What is the date on this petition, Senator Hébert?

Senator Hébert: I am going to tell you that, Senator Tremblay. The petition is dated September 12, 1990; at the time, it was still a bill.

From Ontario, I have a series of 2,202 names. I wish simply indicate to you where they are from: Noëlville, Ontario, 14 residents; New Liskeard, Ontario, 66 residents; Haileybury area, Ontario, 66 residents; Elk Lake area, Ontario, 89 residents; Sault Ste-Marie, Ontario, 78 residents; Thorne area, Ontario, 44 residents; Kapuskasing, Ontario, 42 residents; Toronto, 194 residents; Campbridge, 7 residents; Wahnapitae area, 88 residents; Hammer area, 131 residents; Azilda area, 186 residents; Lefebvre, 19 residents; Windsor, Ontario, 47 residents; London, Ontario, 524 residents; Ottawa, 50 residents; Windsor, Ontario, 250 residents; Kirkland Lake, Ontario, 33 residents; Lansdowne, Ontario, 132 residents; and Port Colbourne, Ontario, 110 residents.

Finally, I have the names of 127 New Brunswick residents who opposed what was in the bill. The petition is dated December 4, 1990. I am saying that for the benefit of Senator Arthur Tremblay who always wishes to know the date of the petitions. The last one from New Brunswick is dated December 4, 1990. Thank you, Honourable Senators.

• (1010)

[*English*]

Hon. Joyce Fairbairn: Honourable senators, I too would like to table petitions from all across the country, which were sent to us protesting the goods and services tax.

I have here 416 names from various areas in British Columbia. I have 1,136 names from various places in Saskatchewan. Also from Saskatchewan, I have 2,582 names. I have 2,516 names from various communities in Ontario and another 1,371 names from communities in Manitoba, Alberta, New Brunswick, Quebec, British Columbia, Ontario and Nova Scotia.

Hon. Daniel Hays: Honourable senators, I have a number of petitions that I would like to table. They are all in a common form. One petition says that the petitioners humbly pray and call upon the Senate to prevail upon the Government of Canada to stop the introduction of the proposed goods and services tax. The other petition is in the same form with a longer preamble, but it is to the same effect. It is a petition to stop the introduction of the proposed goods and services tax. Approximately 85 per cent of the petitions are from Nova Scotia and 15 per cent are from Alberta. The total number of names is 3,989.

Senator Fairbairn: Honourable senators, I missed one group of petitions that I have from my own province. There are approximately 400 names from the Province of Alberta.

[*Translation*]

THE OTTAWA SENATORS

NEW NATIONAL HOCKEY LEAGUE FRANCHISE—NOTICE OF INQUIRY

Hon. Jean-Maurice Simard: Honourable senators, I give notice that when the Senate resumes sitting early next year, I will call the attention of the Senate to one particular aspect of a piece of news that was otherwise most welcome.

Like all parliamentarians, I am delighted that the city of Ottawa was granted a National Hockey League franchise.

However, I was sorry to see that promoters and supporters—I know because I have already agreed to buy a season ticket—did not feel it was necessary to give the team a French name or at least a bilingual name.

I agree that many years ago, the Senators were called just that. Times have changed, however. This was well before the Official Languages Act was passed. It was well before our National capital adopted its new mandate. In fact, I am surprised that Mayor Durrell did not register some surprise when he accepted his new job.

Like many of my fellow citizens, I look forward to giving my enthusiastic support to the Senators, on their way to the Stanley Cup.

[Senator Hébert.]

[*English*]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Hon. Finlay MacDonald: Honourable senators, with leave of the Senate and notwithstanding Rule 45(1)(*a*), I move, seconded by Senator Atkins:

> That the Standing Senate Committee on Transport and Communications be authorized to sit at 3:30 o'clock in the afternoon of Monday, 14th January, 1991, 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 should like to ask the mover of the motion and chairman of the committee if he had discussed this matter with the deputy chairman, Senator Davey, or anyone else on this side?

Senator MacDonald: Yes, Senator Frith. I have discussed this matter with most members of the steering committee. Indeed, it was Senator Davey's wish that the committee start its hearings on that date because he would not be available before then.

Senator Stewart indicated that he had no objections to that date. The purpose of the motion is to have some degree of certainty to offer to busy and important witnesses.

Senator Frith: Honourable senators, I raise this question because no one had spoken to me about it. I am quite satisfied to grant leave, knowing that it has been discussed. It was not meant as a reproach.

Hon. John B. Stewart: Honourable senators, it is true that Senator MacDonald spoke with me about that date. However, I do not recall any discussion about the committee meeting while the Senate itself was sitting. This is not a point on which I take a McElman position; yet I do think we ought to remember that it is probable that the business before the Senate that afternoon will be the supply bill. It is likely that some of us may want to be in the chamber for the debate on that legislation.

Broadcasting is not one of my specialties. I am on the committee because of transportation. I do not want to be an obstacle, but I do not want the record to suggest that I agreed that the committee should meet at that particular hour. However, I have no objection if other members of the committee go ahead.

Hon. Eymard G. Corbin: Honourable senators, I should like to ask Senator Stewart what he meant when he spoke of the "McElman position".

• (1020)

Senator Stewart: I thought we all understood that. I will get the page reference where Senator McElman shot me down when I sought permission for the Standing Senate Committee

on Foreign Affairs to meet at an hour when the Senate might be sitting.

Senator Doody: The wound still hurts.

Senator Corbin: I will be seeing Senator McElman during the recess and I will apprize him of your views and concerns, Senator Stewart. I am sure he will be delighted to hear that his spirit still reigns in this place.

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

Hon. Senators: Agreed.

Motion agreed to.

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 Monday, January 14, 1991 at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

AGRICULTURE

WITHDRAWAL OF FORD MOTOR COMPANY FROM FARM EQUIPMENT PRODUCTION—AVAILABILITY OF PARTS AND SERVICE

Hon. H. A. Olson: Honourable senators, I intended to pass on Question Period today, but I must comment on the fact that two significant events took place overnight.

Senator Kelly: Oh, oh.

Senator Olson: Senator Kelly groans, but I want him to know that the government should have notice of these two significant events. I note that Senator Murray did have to attend a cabinet meeting 26 minutes ago, but I hope the Deputy Leader will take this information to him so that by the time we next meet we could be told what the effect of these events will be on Canadians who have a profound interest in what is happening.

The first significant event is that, yesterday, the Ford Motor Company announced that it was quitting the farm equipment business. It stated that it was merging its farm equipment units with the Fiat Company, then selling its stake to Fiat and getting out of the business. The reason I must give notice of this is that thousands of farmers across Canada own Ford Motor farm equipment as well as the equipment of subsidiaries like the Versatile Company in Winnipeg, which the Ford Motor Company bought only a few months ago. I would like to know what the government intends to do to enforce the rule that these companies are obliged to supply parts for 20 years after they cease making certain equipment.

The other significant matter is that, yesterday, the European Community announced that it plans an overhaul of the farming atmosphere next year. I have a statement here that says the European Community plans an overhaul of farming next year that could improve the atmosphere that stalled world trade talks. Honourable senators, this is fairly important because there was complete despair in the grain sector of western Canada when the GATT negotiations in Brussels collapsed about ten days ago. The announcement made by the officials of the EC yesterday indicates that, for example, beef has become a major problem for the EC. Stocks jumped to 625,000 tonnes in November. In November of last year the stocks were about 25 per cent of that, namely, 135 tonnes. Stocks of butter have boomed to 232,000 tonnes from 24,000 tonnes a year ago; and there is a mountain of milk powder at 337,000 tonnes from 5,000 tonnes a year ago.

All of this, of course, has a profound effect on the international crisis that Canadian farmers have to face day by day. To date there has not been sufficient action, in my opinion, by the government to defend our farming community against the kind of production that is resulting from the subsidies that are being paid in Europe.

I, therefore, hope that the Deputy Leader of the Government will take notice of these questions and try to provide us with some reasonably responsible and effective way of dealing with this matter when we meet next.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will try to obtain the information for the senator.

FISHERIES

EUROPEAN COMMUNITY—OVERFISHING OFFSHORE NOVA SCOTIA AND NEWFOUNDLAND—GOVERNMENT POLICY

Hon. John B. Stewart: Honourable senators, I had a question for the Leader of the Government in the Senate. I am of the opinion that, when the Senate is sitting, a cabinet minister should be present. It certainly would not happen in the other place that the government would not be represented. We have only one minister who is in a position to deal with our questions. It seems to me that, when the Senate is sitting, the government ought to be represented in this chamber by a minister.

I am sure that Senator Doody will immediately see the importance of my question. It relates to the intention of the European Community to fish, in the forthcoming year, in the waters off Nova Scotia and Newfoundland to an extent which shows no concern for the present or future viability of the fishing stocks.

Honourable senators, I want to know what the Government of Canada is doing to bring the European Community to its senses with regard to this very important matter. As we all know, these fishing stocks are in bad shape. Is this international madness to continue? What is the government doing to try to bring some sense into the heads of these Europeans?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will attempt to get a statement from the minister responsible, but I should also like to put on the record the fact that, in my opinion, Senator Murray's presence here during Question Period has been pretty consistent. He may have missed two, three or four Question Periods during the past session which, I think, is quite remarkable. The situation in the other place, of course, is quite different because there are many ministers there. In this chamber, however, Senator Murray has to do the whole chore by himself.

Senator Olson: We should have a few more ministers.

Senator Doody: I will volunteer.

Senator Stewart: That is why it is desirable that arrangements be made immediately for additional ministerial representation in this house. Senator Doody is my nominee.

Senator Frith: We would not vote against that.

Senator Doody: I know I am in trouble now.

Senator Frith: I think we have just administered the kiss of death.

Senator Doody: I will be over there shortly.

• (1030)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a number of delayed answers, 16 in fact, which brings me down to 12 outstanding for this year out of a total of 127.

Hon. Royce Frith (Deputy Leader of the Opposition): You can't expect us to applaud if even your colleagues don't applaud.

Senator Doody: They don't applaud because they are not impressed.

Senator Simard: Order!

Senator Doody: I ask that these delayed answers be printed as part of today's proceedings.

COPYRIGHT ACT

IMPLEMENTATION OF SECOND PHASE—EDUCATION EXEMPTIONS—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the first delayed answer I have is in response to a question raised in the Senate on November 6, 1990, by the Honourable Lorna Marsden, regarding Copyright Act—Implementation of Second Phase—Education Exemptions—Government Position.

(*The answer follows:*)

As the Senator knows, the Department of Communications established a consultative committee on educational uses of copyright materials in July 1987. The Committee's discussions led to a compromise regarding some very specific provisions that would allow creators to exercise their rights and at the same time give educational institutions access to the works they need to fulfil their daily tasks.

I understand that, generally speaking, these provisions will be used as a basis for drafting the next set of amendments to the Copyright Act.

There has recently been much discussion that a continuing revision process of the Copyright Act may be more pragmatic in light of the ever-developing technology available to creators and users of copyright materials. As such, the next set of copyright revision will most likely not be the final one. As long as changes are necessary, the Copyright laws of this country will continue to evolve.

GOODS AND SERVICES TAX

MEMBERS APPOINTED TO COUNCIL OF GST CONSUMER INFORMATION OFFICE—REMUNERATION AND EXPENSES—PAYMENT FOR ACTIVITY—GOVERNMENT POSITION

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 November 22, 1990, by the Honourable Keith Davey regarding Goods and Services Tax—Members appointed to the Council of the GST Consumer Information Office—Remuneration and Expenses—Payment for Activity—Government Position.

(*The answer follows:*)

1. How many members are on the Executive Committee of the GST Consumer Information Office?

—There are four members on the Executive Committee of the GST Consumer Information Office. Nickolas Murray is the Chairperson, Louise Fecteau and Brian Felesky are the Vice-Chairpersons and John Hoyles is the Executive Director.

2. How many members are on the Council overseeing the GST Consumer Information Office?

—In addition to the four members of the Executive Committee who were appointed in June of 1990, there are ten other members of the Council of the GST Consumer Information Office, made up of people with consumer, business and labour backgrounds, who were appointed in November, 1990.

3. Are the new members paid for their activity and what are their travel expenses?

—The Council members, who meet on average once per month, are entitled to remuneration for meetings attended as may be fixed by the Governor-in-Council.

Travel expenses are covered under Treasury Board guidelines.

4. Is the GST Consumer Information Office an independent organization?

—The Office was established under section 6 of the Department of Consumer and Corporate Affairs Act and will act at arm's length from the Minister of Consumer and Corporate Affairs. The Council will oversee the direction and evaluate the effectiveness of the Office.

NATIONAL FINANCE

COLLECTION OF TAX ON ALCOHOL AT MANITOBA-U.S. BORDER—GOVERNMENT POSITION

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 December 17, 1990, by the Honourable Gildas L. Molgat, regarding National Finance—Collection of Tax on Alcohol at Manitoba-U.S. Border—Government Position.

(*The answer follows:*)

Officials in the Department of National Revenue have been working with the province of Manitoba to extend the assistance provided with the collection of their fees on personal importations of liquor.

Unfortunately, some unresolved issues between the Federal Government and the province have required that the planned implementation date be delayed.

The Minister of National Revenue understands that officials of both Governments have been meeting this week and he is confident that the matter can be resolved quickly in a mutually satisfactory manner.

AGRICULTURE

COLLAPSE OF GATT NEGOTIATIONS—EFFECT ON WESTERN GRAIN PRODUCERS

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 December 18, 1990, by the Honourable H. A. Olson regarding Agriculture—Collapse of GATT Negotiations—Effect on Western Grain Producers.

(*The answer follows:*)

The Federal Government has lived up to the Prime Minister's commitment made several years ago not to abandon the farmers to the international subsidy war. Since 1981 Federal and Provincial assistance to farmers has averaged $2.4 billion a year. During 1990 a $500 million special assistance program and the cash flow enhancement program (expected to cost $95 million) have been announced.

No one disputes the fact that Canadian producers are seriously affected by the low world prices. Because Canada, like Australia and Argentina, depends on exports for a larger proportion of its total revenue than the U.S.A. and the EC, it is hit harder by the low prices. The U.S.A. and the EC have aggravated the situation by their excessive use of export subsidies and each maintains that the other is their primary target in this trade dispute. The major casualties, however, are producers in countries like Canada, Australia and Argentina.

The Canadian Government can only help to alleviate the worst effects of the trade dispute on Canadian producers; it cannot solve the underlying problem by itself.

It will be difficult for Canada to continue to support its producers to the same extent as can much larger economies such as the EC and the U.S.A. Since Canada cannot win a protracted trade war, we must aggressively pursue an international agreement to reform the international grain trading system even as we continue to provide assistance to our own producers. The Government is working towards this goal through the GATT Multilateral Trade Negotiations.

Canada is committed to substantial progressive reductions in trade-distorting subsidies in all countries as well as to new rules which apply equally to all participants and which will establish a fair, market-oriented agricultural trading system. Such reform cannot come soon enough. While it was disappointing that an agreement was not reached in Brussels, we will continue to press all countries to reach agreement early in the new years. In fact, GATT Director General, Arthur Dunkel has already scheduled a meeting of the GATT Trade Negotiating Committee in Geneva starting January 15, 1991. Canada, as well as other countries including the U.S.A., has pressed the EC to make substantive and meaningful changes to its harmful policies. The reason the talks were adjourned in Brussels was because the other countries considered that the EC was not making sufficient concessions to successfully conclude the negotiations. Perhaps with so many countries opposing its position, the EC now realizes that it must significantly alter its position such that when the negotiations resume in January they will be successfully concluded.

Safety nets are going to be a major vehicle of long-term support for agriculture in Canada. On November 14-15, 1990 federal and provincial ministers of agriculture met in Winnipeg and agreed in principle to implement the following as proposed by the Grain and Oilseed Safety Net Committee:

The Net Income Stabilization Account (NISA) in 1990 taxation year;

1991-92 transitional Gross Revenue Insurance Plan (GRIP) with crop insurance and revenue insurance delivered as separate programs but as close to GRIP as possible;

To the concept of GRIP to be operations in 1992-93.

Total payment under these programs if implemented by all provinces for 1991-92 was estimated to be about $2.7 billion.

The ministers also recognized that while these long-run programs should be the main support for agriculture that in the interim farmers are facing immediate problems. For this reason at the same meeting ministers agreed to launch the third line of defence process to examine conditions within the grains and oilseeds sector and bring forward recommendations to federal/provincial ministers of agriculture at a February meeting.

CANADIAN WHEAT BOARD

GRAIN SALES LOSSES—MAINTENANCE OF INITIAL PRICES—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question raised in the Senate on December 18, 1990, by the Honourable H.A. Olson, regarding Canadian Wheat Board—Grain Sales Losses—Maintenance of Initial Prices—Government Position.

(*The answer follows:*)

The Canadian Wheat Board initial payments for 1990/91 were set by the Government before spring seeding and announced on May 1, 1990. Initial payments are guaranteed by the Federal Government and are effective for deliveries by producers during the crop year August 1, 1990 to July 31, 1991.

If revenue from sales is sufficient to justify increases to initial payments, initial payments can be increased during the crop year as was recently announced for designated barley effective December 24, 1990. However, the initial payment is the minimum guaranteed price to producers for the crop year.

Any surplus revenue from sales of grain at the end of the crop year is distributed to producers as a final payment. If the sales revenue is insufficient to cover the initial payments plus Canadian Wheat Board marketing and administration costs, the Federal Government is required to cover the deficit.

CANADIAN WHEAT BOARD

DETERMINATION OF INITIAL AND FINAL PRICES—PRAIRIE GRAIN ADVANCE PAYMENTS ASSISTANCE—GOVERNMENT POSITION

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 December 18, 1990, by the Honourable E.W. Barootes regarding Canadian Wheat Board—Determination of Initial and Final Prices—Prairie Grain Advance Payments Assistance—Government Position.

(*The answer follows:*)

[Senator Doody.]

Initial payments for Canadian Wheat Board (CWB) grains are established by the Government taking into consideration information provided by the CWB as well as other available market information regarding estimates of market returns for the crop year. The decision on the level of initial payments is made by Ministers. The 1990/91 initial payments for wheat, durum, barley and designated barley were announced by the Government on May 1, 1990.

The initial payments are minimum guaranteed prices to producers for deliveries during the crop year. Any surplus revenue from the sales of grain is distributed to producers as a final payment. If the sales revenue is insufficient to cover the initial payment plus the CWB marketing and administrative costs, the Federal Government is required to cover the deficit.

By virtue of the Cash Flow Enhancement Program announced by the Minister of Agriculture on October 13, 1990, the Federal Government is paying the interest on the first $50,000 advanced under both the Prairie Grain Advance Payments Act (PGAPA) and the Advance Payments for Crops Act (APCA). As of December 13, 1990 $1.3 billion had been advanced to 57,700 producers under the PGAPA, while $83.3 million had been advanced to 12,500 producers under the APCA.

This program, along with the $500 million in direct assistance provided under the Special Income Assistance Program (SIAP), will provide the needed support for grain and oilseed producers until the institution of the new safety net regime in the spring of 1991.

CANADIAN WHEAT BOARD

DETERMINATION OF INITIAL AND FINAL PRICES—PRAIRIE GRAIN ADVANCE PAYMENTS ASSISTANCE—GOVERNMENT POSITION

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 December 18, 1990, by the Honourable H. O. Sparrow regarding the Canadian Wheat Board—Determination of Initial and Final Prices—Prairie Grain Advance Payments Assistance—Government Position.

(*The answer follows:*)

Initial payments for Canadian Wheat Board grains are established by the Government taking into consideration the best available estimates of expected market returns for the crop year. The decision on the level of initial payments is made by Ministers.

AGRICULTURE

ADVANCE PAYMENTS FOR CROPS AND GRAIN—REINSTATEMENT OF INTEREST-FREE PROVISIONS IN ACTS—GOVERNMENT POSITION

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 December 18, 1990, by the Honourable Daniel Hays regarding Agriculture—Advance Payments for Crops and Grain—Reinstatement of Interest-Free Provisions in Acts—Government Position.

(*The answer follows:*)

Provisions for interest-free advances under the Advance Payments for Crops Act were reinstated for a one-year period, crop year 1990/91. Should any agreement result from the MTN and should it involve any commitments to reduce support, it is unlikely that such commitments would be effective prior to the 1991/92 crop year. Therefore, these interest-free advances will not be dealt with at all by the GATT. The Canada/United States Trade Agreement has a provision that requires the measurement of levels of support in both countries. Interest-free advances under the Advance Payments for Crops Act would be included in the calculations whether or not any change had been made to the program.

NATIONAL REVENUE

GOODS AND SERVICES TAX CREDIT—PAYMENT OF FEDERAL SALES TAX BEFORE THIRD READING OF BILL C-62—GOVERNMENT POSITION

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 December 19, 1990 by the Honourable H. A. Olson regarding National Revenue—Goods and Services Tax Credit—Payment of Federal Sales Tax Before Third Reading of Bill C-62—Government Position. I think I will take a moment and read this one aloud:

The interpretation of the documents by Senator Murray is correct. The notice received from Revenue Canada is a Notice of Assessment for the 1989 taxation year, which includes an assessment to allow the Federal Sales Tax Credit.

Hon. H. A. Olson: The letter says it is for the GST. It is a funny way to interpret it.

NATIONAL REVENUE

PAYMENTS OF FEDERAL SALES TAX CREDITS—DATE OF AUTHORIZATION

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 December 19, 1990, by the Honourable John B. Stewart regarding National Revenue—Payments of Federal Sales Tax Credits—Date of authorization.

(*The answer follows:*)

Authority was provided to Revenue Canada to begin paying the GSTC, pursuant to Section 33 of the Financial Administration Act, following Royal Assent to Bill C-62 on December 17, 1990. The first GSTC cheques were released to Canada Post at various regions throughout the country at 7:00 a.m. on December 18, 1990.

NATIONAL REVENUE

GOODS AND SERVICES TAX CREDIT—REQUEST FOR DETAILS—DELAY OF CHEQUES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to questions raised in the Senate on December 19, 1990, by the Honourable Azellus Denis regarding National Revenue—Goods and Services Tax Credit—Request for Details—Delay of Cheques

(*The answer follows:*)

A couple with a net family income of $25,000 will receive a GSTC of $86.94 in December 1990 and a GSTC cheque of $86.94 in April 1991. Their GSTC of $380 is reduced by 5% of income in excess of the threshold of $24,355. The GSTC for the first half of 1991 is one-half of the balance, which is payable one-half this month and one-half April 1991.

A family of two with a net family income of $15,000 will receive two GSTC cheques of $95, one in December 1990 and one in April 1991. (This is 1/2 of $380 divided between two payments).

GSTC

Basic Adult—$190

Child—$100

Single Adult—$100

(Income in excess of $6,190)

Single Parent—$190

(For 1 dependent child)

Credit reduced by 5% for every $100 of family income over $24,355.

NATIONAL REVENUE

DELAY OF CHEQUES

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 December 19, 1990, by the Honourable H. O. Sparrow regarding National Revenue—Delay of Cheques.

(*The answer follows*):

The Federal Government is committed to assuring people earning under $30,000 a year will indeed be better off with the implementation at the GST as indicated by the attached document.

BANK ACT

BILL TO AMEND—THIRD READING

Hon. Jean-Marie Poitras moved the third reading of Bill C-90, to amend the Bank Act (Extension).

Motion agreed to and bill read third time and passed.

[*Translation*]

NORTHWEST TERRITORIES ACT

BILL TO AMEND—THIRD READING

Hon. Gérald Beaudoin: I move that Bill C-92, an Act to amend the Northwest Territories Act, be read a third time.

Motion agreed to and bill read third time and passed.

[*English*]

AN ACT TO PROVIDE FOR APPOINTMENT OF A PORT WARDEN FOR THE HARBOUR OF QUEBEC AN ACT TO AMEND AND CONSOLIDATE THE ACTS RELATING TO THE OFFICE OF PORT WARDEN FOR THE HARBOUR OF MONTREAL

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Cogger, seconded by the Honourable Senator Hatfield, for the second reading of the Bill C-82, An Act to amend An Act to provide for the appointment of a Port Warden for the Harbour of Quebec and An Act to amend and consolidate the Acts relating to the Office of Port Warden for the Harbour of Montreal, and to validate certain fees and charges established pursuant thereto.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have not had an opportunity to study the remarks made by Senator Cogger in introducing this bill at second reading, but I can see no reason for it not to go to committee, especially since it would be, I take it, the Transport and Communications Committee and we know that that committee plans to sit on January 14.

The concept or principle of providing for the appointment of a Port Warden for the Harbour of Quebec and to amend and consolidate the acts relating to the office of Port Warden for the Harbour of Montreal and to validate certain fees and charges established pursuant thereto does not raise a principle to which I feel I can object. Therefore, on principle, we support the bill and it should receive second reading.

Motion agreed to and bill read second time.

[Senator Doody.]

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 Transport and Communications.

CANADIAN HERITAGE LANGUAGES INSTITUTE 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-37, An Act to establish the Canadian Heritage Languages Institute.—(*Honourable Senator Adams*).

Hon. Willie Adams: Honourable senators, I did not get a chance to speak on the bill yesterday, but I spoke to the mover yesterday and this morning, and I agree that the bill should be given second reading and sent to committee. I understand that the committee will be sitting some time after the new year.

However, I would like to say a few words on the bill. I agree with the dismay expressed by Senator Corbin yesterday that, while this bill was in the House of Commons for over two years, we have only received it recently and the government is trying to pressure us to pass the bill quickly. I would especially like to say a few words about our languages. The Inuit people and Native Indians in our community have had their own languages for a long time but they have not been recognized as part of Canadian culture. Our communities are continuing to use these languages. We even have written languages. We have two main types of written languages. We use letters and syllabics which were devised over 100 years ago in the Anglican Church Mission. We still retain them. In some other parts of the Territories, in Labrador and over in the MacKenzie delta, people use Roman letters.

As honourable senators know, the Territorial Government was moved from Ottawa to Yellowknife in 1966. Since then we see that the local politicians better represent the interests of the people in our communities.

● (1040)

There are approximately seven different languages spoken in the Northwest Territories. That means there is a great deal of translation required. In the Legislative Assembly at Yellowknife, Inuktitut is spoken, as well as French and English. We have many different cultures in the Northwest Territories, for example, the Dene, the Dogribs and the Slavey.

In the Mackenzie Delta area there are five different languages spoken. There are different languages spoken in the Eastern Arctic and the Western Arctic, and there are different dialects.

As I mentioned a moment ago, our language consists of syllabics. Even though people speak the same dialect, not all can read the syllabics. There is a difference in that regard

between the Eastern Arctic and the Central Arctic, as well as in the Mackenzie Delta.

We think that we should be able to retain our heritage and different languages. Some of the local politicians only read syllabics, so there has to be translation of official documents. The translators usually come from Yellowknife. That means they have to travel far and wide.

There is now what is known as Arctic College. That came about because the Northwestern Territorial government took over responsibility for education; 20 years ago that was the responsibility of Ottawa.

In 1982, when the new Constitution was signed, there was a great debate here in Ottawa respecting who should have responsibility for the north. We had witnesses appear in the Senate chamber to deal with that issue, but this goes back to 1950 when the government stepped into the north and decided to set up an educational system. At that time we were not allowed to use our own languages in the schools. As I mentioned earlier, in 1966 legislation was introduced that put this responsibility into the hands of the Government of the Northwest Territories. Then the local politicians decided that there should be some instruction of the various languages of the north in the schools. It was decided that syllabics should be taught in the schools. It was decided that students should be taught in their own language up to grade five.

Right now, some of the communities are losing their language and culture, especially so in the past few years. The people do not use their own languages in the communities, and this is causing some people to lose their language. In the Western Arctic there is more English used than any of the other languages.

I mentioned earlier Arctic College. That is an institution that will assist us in maintaining our heritage, although a great number of the students drop out before completing their education. In the homes, most of the people speak their mother tongue. Bill C-37 will assist us in retaining our heritage and languages.

● (1050)

However, because we kept our language and culture for so many years, it will cost the government more to do what it wants to in this bill. Everything was not done according to government regulation. Teaching in our communities was not as strict for us because our people spent most of the time living off the land according to our culture.

We find that the system does not work the same way in English down south. We are going to have to learn everything about English because if you want to get a job with a government department, you have to have at least a Grade 12 education. But most kids usually drop out between grades 6 and 7. After trying to find a job, most of our people have had to go back to school through an adult education program in order to get their Grade 12.

We should give the committee a chance to study the bill to see if any of the clauses need to be changed. In the meantime, I accept the bill the way it is right now. I think it can go to third reading. Thank you very much, honourable senators.

Hon. Senators: Hear, hear!

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

PETRO-CANADA PUBLIC PARTICIPATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. William M. Kelly moved the second reading of Bill C-84, respecting the privatization of the national petroleum company of Canada.

He said: Honourable colleagues, it is my pleasure indeed to introduce Bill C-84, a bill to authorize the privatization of Petro-Canada.

As some of you may know, I was co-chairman with John Thomson, the then Member of Parliament from Calgary South of the Progressive Conservative Crown Corporations Task Force. The task force reported to Brian Mulroney as Leader of the Opposition prior to the 1984 election. We looked at the control, direction and accountability of existing Crown corporations. We also identified privatization candidates and recommended a process for their orderly transfer to the private sector. I have therefore been keenly interested in and have closely watched the unfolding of this government's privatization program.

Petro-Canada is a special act Crown corporation, meaning that it was incorporated by an act of Parliament rather than by articles and memorandum under the Canada Business Corporations Act, or provincial companies legislation. As many of you know, Petro-Canada, the special act corporation, has become, over time, a holding company and very much a shell. The operating company, Petro-Canada Inc., was incorporated under the CBCA and is a wholly-owned subsidiary of Petro-Canada.

Petro-Canada Inc. is where all the action is, if I can use that term, and is the de facto holding company for all the operating entities of Petro-Canada. Petro-Canada International Assistance Corporation is the other wholly-owned subsidiary of Petro-Canada, the special act corporation, which will continue on under this bill as a stand-alone Crown corporation.

The first part of Bill C-84, actually clause 4, initiates a bit of a corporate name shuffle, which I will try to describe, honourable senators. I had to make a flow chart for myself in order to understand it. Petro-Canada Inc. becomes Petro-Canada; the current Petro-Canada becomes Petro-Canada Limited. The shares of the new Petro-Canada, the old Petro-Canada Inc., are to be transferred to a minister to be designated by the Governor in Council and are to be offered for sale

to the public. The bill then authorizes the Governor in Council to dissolve Petro-Canada Limited pursuant to clause 14, and the existing Petro-Canada Act would be repealed. To continue certain legal obligations of the government entered into through the Petro-Canada International Assistance Corporation, PCIAC will continue on its own to carry out its international assistance functions.

The old Petro-Canada Inc. is being privatized rather than the old Petro-Canada, because Petro-Canada Inc. is already the de facto operating entity; Petro-Canada Inc. has already been incorporated under the Canada Business Corporations Act; and Petro-Canada Inc. is already legal for life, meaning, by virtue of its past financial performance, it is eligible for investment by insurance companies and other institutions. This status greatly facilitates floating a share offering.

The new Petro-Canada will be enjoined under Bill C-84 to have its articles contain certain provisions or limitations relating to the ownership and transfer of its shares, prohibitions against disposition of Petro-Canada's upstream or downstream assets, continued location of the head office in Calgary and so on. These provisions are set out in clause 9 of the bill.

In process terms, at least as I understand it, it is the government's intention, after the passage of this bill, to have the Board of Directors of Petro-Canada select lead underwriters to put together a syndicate to sell Petro-Canada's shares. About 15 per cent of the shares will be offered in the first tranche and subsequent tranches will follow thereafter. The price of the shares and the timing of the first and subsequent tranches will be a function of market circumstances at the time and, of course, the judgment of the underwriters. Again, as I understand it, net proceeds from the first tranche of the offering will go to Petro-Canada. Net proceeds from subsequent tranches will be paid into the Consolidated Revenue Fund and, thus, will assist in meeting the government's cash requirements.

I earlier mentioned the Crown Corporations Task Force of which I was the co-chairman. It will not surprise you to know that the task force recommended the privatization of Petro-Canada at that time. The reasons for that recommendation apply today as they did in 1984 and are, therefore, instructive in our current circumstances and in light of the very thorough report on Petro-Canada by the Standing Senate Committee on Energy and Natural Resources.

● (1100)

Honourable senators, if you will allow me, I will review the task force's reasons for recommending the privatization of Petro-Canada.

Let us look first at Petro-Canada's mandate as defined by the Petro-Canada Act, 1974 and as was later amplified by government policy. Petro-Canada's mandate consisted of five essential elements.

First, as an instrument of public policy to achieve or act as a catalyst in the achievement of government policies and objectives in the oil and gas sector, which was mainly accelerating the pace of frontier oil and gas development.

[Senator Kelly]

Second, to be a "window" on the oil industry on behalf of the Government of Canada.

Third, to act as an agent of the Government of Canada when required to enter into state-to-state transactions involving the sale or purchase of oil or gas.

Fourth, to increase Canadianization—Canadian ownership and control—in the oil and gas sector.

There are those who feel that this mandate, or elements of this mandate, remain unfulfilled. That Petro-Canada must remain government owned because the fulfilment of its mandate, the continuation of Petro-Canada as an instrument of public policy, is important to the future of Canada, in particular to Canada's future energy security.

This, as I understand it, is the essential reason for any opposition to Petro-Canada's privatization.

I would like to look at the elements of Petro-Canada's mandate in the context of the proposed privatization.

First, Petro-Canada as an instrument of public policy: Petro-Canada was mandated to push the pace of oil and gas exploration and development especially in frontier areas where costs were high, risks were substantial and the prospects of immediate returns were not great. As the Senate energy committee pointed out, a Crown corporation that does not rely on private or internally-generated capital can afford to apply a lower discount rate to its exploration and development projects than private sector petroleum companies historically have.

Petro-Canada has pursued its exploration mandate in the high Arctic, in the Northwest Territories, in the Scotian shelf, and in the Grand Banks. In doing so it has contributed significantly to Canada's energy security.

To continue its participation in these projects, to continue to be aggressive in the frontier areas, Petro-Canada needs capital, capital that is not forthcoming from the government because of the deficit and the government's wider fiscal policy objectives. Therefore, that capital can only come from private investors through privatization and the ability to expand Petro-Canada's equity base.

I am told that Petro-Canada's capital requirements over the next five years, to meet its exploration and development objectives, is some $2.5 billion, an enormous sum of money that represents about 2 per cent of the Government of Canada's total annual operating budget.

Some have argued that Petro-Canada should remain a Crown corporation and raise the capital it needs through debt. There are those who suggest that Petro-Canada could take on the same leverage of debt to equity or debt to assets as Ontario Hydro or Hydro-Quebec.

Petro-Canada management and the government have followed a more conservative approach.

Hon. Royce Frith (Deputy Leader of the Opposition): Senator Kelly, what type of approach did you say?

Senator Kelly: A small "C" conservative approach.

Petro-Canada management and the government have followed a more conservative approach. Ontario Hydro and

Hydro-Quebec are regulated, monopolistic, public utilities and, as such, can sustain a high level of debt. Petro-Canada—and the oil industry generally—cannot, given the competition in the industry and the volatility of world prices that have characterized the industry over the past two decades. This volatility appears to be the way for at least the foreseeable future.

In addition, some of my colleagues here, particulary Senators Pitfield, Kirby, MacEachen and Kenny, will recall events in the second half of the 1970s where certain Crown corporations were required to finance themselves through ever-greater dollops of debt. Corporations such as Air Canada and Canadian National soon found that such levels of debt were unsustainable and they were forced to come to government for successive recapitalizations. The financial management of Petro-Canada has benefited from this experience and has become more prudent, as a consequence.

In any event, since 1984 Petro-Canada has been directed by its sole shareholder, the Government of Canada, to operate in a completely commercial manner. It is arguable, therefore, that Petro-Canada ceased to be an instrument of public policy some six years ago and privatization is, accordingly, the logical next step. I do not recall any incidents or complaints over that period suggesting that this commercial approach was undermining Canada's energy position or energy policies. I certainly do not recall any discussion in this place on the matter.

Senator Frith: Senator Kelly, would you repeat that sentence?

Senator Kelly: I do not recall any incidents or complaints over that period suggesting that this commercial approach was undermining Canada's energy position or energy policies. I certainly do not recall any discussion in this place on the matter.

Senator Frith: What is that policy?

Senator Kelly: Self-sufficiency, protection against sudden shocks, a window on the industry, and all the various things that were in included in the original mandate.

Senator Frith: The good old NEP?

Senator Kelly: Yes.

Hon. H.A. Olson: They will bring it all back, but it will have a new name.

Senator Frith: The NEP has a new friend in Senator Kelly.

Senator Kelly: We believe it is possible under the privatization process, with just as much confidence as the people who designed the NEP expressed at the time of the NEP.

The Senate energy committee itself noted that virtually all participants in the government's energy options process, which took place in 1987-1988, felt that market forces should be allowed to allocate resources and determine prices for energy.

There are those who argue that, particularly in these perilous times, with the real possibility of a blow-up in the Middle East, we need Petro-Canada as a government-controlled, policy instrument, to control prices and ensure security of supply. I would like to return to the security of supply argument later in my remarks, but for now I would like to focus on the price control issue.

I would point out that Petro-Canada has never been used by either a Liberal or Conservative government to control or lead prices. During the past 14 years, I think we would all agree, there were a number of scares and crises, initiated by OPEC in the early mid-1970s and then the Iran-Iraq war, that we weathered without intervention by Petro-Canada. I suggest that the privatization of Petro-Canada will not detract from our ability to meet such challenges and crises in the future.

Incidentally, if a Middle East conflict does erupt, the parts of Canada worst hit will be Quebec and the Maritimes because of their reliance on imported oil. There is not one thing that Petro-Canada, as a Crown corporation or as a privatized company, can do to help out should this occur, because Quebec and the Maritimes' reliance on imported oil is a function of the supply infrastructure, not the market or the retail structure.

The Senate energy committee proposes that Petro-Canada be retained to set up and administer an oil stockpile, along the lines of the strategic petroleum reserve in the United States, for times of supply interruption or scarcity. As I am sure honourable senators know, the strategic petroleum reserve was set up in 1975 in response to the OPEC oil crisis. The reserve is owned and operated by the U.S. federal government and consists of a mix of crude appropriate to United States refineries and the market across the United States.

I would point out that Canada is still a net exporter of oil and gas, thereby reducing our need for such a reserve. In addition, the privatization of Petro-Canada need not forestall, in any way, the setting up of such a reserve, if one becomes required.

I should also emphasize that some of Petro-Canada's public policy objectives will stay in force: its head office must remain in Calgary, for example; non-resident ownership cannot exceed 25 per cent; the corporation will have to provide services in

both or either official language where demand requires; no individual shareholder may own more than 10 per cent of the public available shares; the corporation may not sell all or substantially all of its upstream or downstream operations; and so on.

In any event, it is a mistake to believe that because Petro-Canada is privatized the government will lose its policy or fiscal levers in the oil and gas sector. I would point out that this place, not too long ago, passed legislation to effect the federal government's agreement with the Hibernia Consortium that includes a contribution of up to $1.04 billion, and loan guarantees up to a maximum of $1.66 billion.

• (1110)

Hibernia is expected to reach full production of some 110 billion barrels per day in 1996 and, thus, will contribute to Canada's energy security. Similarly, the federal government has agreed to provide up to $45.5 million to the OSLO consortium toward costs in the engineering and feasibility of that project.

To paraphrase something we used to say on the farm, "You don't have to own the cow if you can get the milk some other way." I like that expression. In other words, if we live in town we do not each have to have a cow in the backyard; we can get the milk some other way.

Hon. Dan Hays: May I interrupt the honourable senator to ask a brief question? I am not sure but I think he indicated that federal support for OSLO was still in place. I do not think that that is the case.

Senator Kelly: My understanding is that the government had agreed to provide up to $45.5 million to the OSLO consortium toward costs in the engineering and feasibility phase of the project.

Senator Olson: They snatched back all that was not spent.

Senator Kelly: I would like to deal with the part of the mandate which referred to Petro-Canada as a window on the oil and gas industry. In the early 1970s federal policy-makers apparently reached the conclusion that they were not getting enough, timely or accurate information from the private and largely foreign-owned companies in the oil and gas sector. Hence, Petro-Canada was set up to be the government's "window." Quite frankly, I never understood this rationale. My reading of the defence in the Energy Committee's report has not really helped.

[Senator Kelly.]

At the time Petro-Canada was set up, and as the report of the Energy Committee notes, we had in place the Department of Energy, Mines and Resources and the National Energy Board. Both had the clear mandate to be the government's window on the oil and gas sector.

As I recall, the Department of Energy, Mines and Resources was set up in the late 1960s around the nucleus of the old Department of Mines to break the government's historic reliance on the oil companies for policy making for the oil and gas sector. The government wanted its own source of objective advice and information. As such, EMR was intended to be a "window".

Furthermore, as a regulatory body, the National Energy Board had both the legal authority and the practical power to be an effective "window". Allow me, for example, to quote from subsections 26(1) and 26(2) of the National Energy Board Act. Subsection 26(1) states:

> The board shall study and keep under review matters over which Parliament has jurisdiction relating to the exploration for, production, recovery, manufacture, processing, transmission, transportation, distribution, sale, purchase, exchange and disposal of energy and sources of energy in and outside Canada, shall report thereon from time to time to the minister and shall recommend to the minister such measures within the jurisdiction of Parliament as it considers necessary or advisable in the public interest for the control, supervision, conservation, use, marketing and development of energy and sources of energy.

Subsection 26(2) states:

> The board shall, with respect to energy matters and sources of energy,
>
> (a) Provide the minister with such advice as the minister may request, including advice relating to the export pricing of oil and gas;
>
> (b) Prepare such studies and reports as the minister may request; and
>
> (c) Recommend to the minister the making of such arrangements as it considers desirable for cooperation with governmental or other agencies in or outside Canada.

Unlike some of you here I was not privy to the government's internal deliberations and considerations at the time. Obviously, there was a view that neither the department nor the board was providing an effective "window".

If that was the case, I would have thought that the first line of attack would have been to shake up or enhance the powers of either the department or the energy board. Instead, in typical bureaucratic fashion, we created, at considerable cost, a brand new Crown corporation to be an operating company in the industry. In short, referring back to my previous analogy, we bought the cow.

Now, of course, the situation is even more extreme. In addition to the Department of Energy, Mines and Resources and the National Energy Board we also have the Petroleum Monitoring Agency and the Canadian Oil and Gas Lands Administration, known as COGLA, each in their own sphere having the mandate and powers to be effective "windows" on the industry.

There is another matter that has always concerned me about Petro-Canada's role as a "window" on the industry for the government's policy makers.

Senator Doody: A window with many panes.

Senator Kelly: I must comment on the interjection of Senator Doody who referred to the window with many panes.

The Senate Energy Committee report crystallized this concern for me by referring, at page 12, to Petro-Canada having unquestionably an insider's view of the workings of the petroleum industry. I would add Petro-Canada as a Crown corporation also had an insider's view—at least a privileged view—of government and the government regulatory and policy-making process.

To me, this raised the potential, or the possible perception, of a conflict of interest in having a Crown corporation operating in the private sector, often in partnership with private-sector firms and competing with private-sector firms, while being at the same time a principal source of information for and advice to the government. This was particularly the case when the Deputy Ministers of Finance and Energy, Mines and Resources served on the Petro-Canada Board of Directors.

In addition, as a Crown corporation constituted as an agent of Her Majesty in right of Canada, Petro-Canada has a number of privileges and immunities that its private sector competitors or partners do not have. These special privileges and immunities gave Petro-Canada a special status, a status not shared by the other companies with which Petro-Canada competes or does business.

As a consequence, I think it is fair to say that Petro-Canada is a hybrid caught betwixt and between—never comfortably part of—the oil and gas sector and, except for its very early days, never comfortably a part of government.

Privatization corrects that anomaly and, I am sure, will position Petro-Canada to be a more effective presence in Canada's oil and gas sector.

With respect to state-to-state trading, which again was part of the original mandate, Petro-Canada was set up to effect state-to-state trading in oil and gas. At the time Petro-Canada was set up there were a number of foreign national oil companies that were government owned and which had a monopoly within their countries. It was thought that such state-owned enterprises would deal only with, or prefer to deal only with, other state-owned enterprises. Accordingly, Petro-Canada was set up with the mandate to engage in state-to-state trading which, based on that premise, made good sense.

As the Energy Committee's report notes, since it was set up some 14 years ago, Petro-Canada has been called upon to effect one and one only state-to-state deal, that with the Mexican National Oil Company, Pemex, in 1979, where Petro-Canada negotiated and managed the transaction.

In any event, the privatization of Petro-Canada will not mean that we cannot effect state-to-state oil deals in the future if we have to. We have had in this country since the late 1940s, and it remains very active today, a federal Crown corporation called the Canadian Commercial Corporation which has the legal powers, the mandate and the expertise to negotiate and manage state-to-state deals whenever and wherever required.

On the subject of Canadianization, when Petro-Canada was established, the oil and gas sector was dominated by foreign companies. Canadian ownership was at 21 per cent. Now the figures are 44 per cent ownership and 35 per cent control. I think it is fair to say that, next to the policies and programs entrenched in the National Energy Program, Petro-Canada has been one of the largest single factors in that increase, but not without considerable cost to the federal treasury.

Given the current structure of the oil and gas sector, particularly in the downstream, Petro-Canada could go no further in Canadianization without having major adverse competition impacts. The privatization of Petro-Canada will not have a major, adverse impact on Canadian ownership and control in the oil and gas sector. Assuming that the maximum number of shares available to foreign purchasers—25 per cent—is taken up, Canadian ownership will be decreased by only 1.6 per cent,

and our largest Canadian-controlled integrated oil company would continue to be 75 per cent Canadian owned.

It always seemed to me that Petro-Canada management and the previous government put Petro-Canada on the irreversible road to privatization when it moved so aggressively into the downstream with the acquisition of the downstream assets of Atlantic Ritchfield, Pacific Petroleums, Petrofina Canada and, later, Gulf Canada. Although authorized as part of its broad legislative mandate, I recall the then Minister of Energy, Mines and Resources, Donald Macdonald during parliamentary review of the Petro-Canada Act saying that the government had no intention of having Petro-Canada become anything other than an upstream oil company.

• (1120)

In any case, downstream operations had, and have, nothing to do with energy security. What moving into the downstream did was create a revolution of rising expectations among Canadians that somehow prices would be lower, service better and washrooms cleaner than at other stations because "we owned it". Of course, the prices were not lower, the service was not necessarily better or the washrooms cleaner. Petro-Canada franchisees had complaints; other station owners or operators complained because of "unfair competition" and so on.

These complaints fell, more often than not, at the feet of government because Petro-Canada was and is a Crown corporation. No government, in my opinion, needs that kind of exposure—the risks far outweigh the benefits. Hence, my belief that Petro-Canada's move into downstream operations, which started long before 1984, began, of necessity, to distance Petro-Canada from government, the inevitable result of which was privatization.

In addition, the aggressive acquisition of downstream assets required the commitment of enormous capital by the corporation and even more so by government. That capital did not result in the discovery or development of one new drop of oil. What it did do, I suspect, in both fiscal and philosophical terms, was to exhaust the government's will, even its ability, to fund Petro-Canada further, even for its important upstream operations in Hibernia, Terra Nova and Oslo.

The rationalization and operation of the downstream operations, again as pointed out by the Senate energy committee, has also been a significant drag on Petro-Canada's financial performance.

Furthermore, Canada now has only 16 integrated oil companies, down from 21 when Petro-Canada was created, a decrease of nearly 25 per cent. This increased concentration of market power is not helpful to competition.

Although Petro-Canada's actions were not the only factor, or not the largest single factor, I wonder if we would have this extent of concentration in the downstream today if it had not been for Petro-Canada's acquisitiveness, bankrolled by the Government of Canada, and for Petro-Canada's willingness and ability to pay a premium for these assets.

I am pleased that the Senate energy committee agrees with my assessment that the federal government "erred in allowing Petro-Canada to become such a dominant part of the downstream . . .". I support the recommendation that further study needs to be undertaken on the effect on competition of continued rationalization in the downstream and suspect that this is something the competition bureau will be monitoring closely.

Finally, I wish to emphasize to all members of this chamber that this government's privatization program, in general, and the privatization of Petro-Canada, in particular, are not the manifestation of some ideological, knee-jerk, reactionary abhorrence of public ownership. Crown corporations have been set up by governments of all political stripes and have been closed down or privatized by governments of all political stripes.

The Crown Corporations Task Force set out in its report, and I think most of us recognize, that the unique history and nature of Canada requires an unusually high level of government involvement through regional and other incentives, regulation and government ownership. Government ownership has played a major role in the development of this country, in its defence during wartime and in the expansion of our technological and other horizons.

But we must recognize that the public enterprise sector has to be flexible. Times change and the need for certain Crown corporations disappears. These corporations must give way to new corporations or to new or different fiscal or policy objectives. Otherwise, the sector and government generally become stultified and unable to respond to ever-changing circumstances and requirements.

I am convinced that Petro-Canada falls into that category. The continuance of Petro-Canada as a Crown corporation will not enhance its ability to achieve the objectives that most of us share, nor will the privatization of Petro-Canada negatively

affect the government's ability to achieve those objectives through other policy and financial levers.

Accordingly, and in closing my remarks, I recommend this bill to your attention, and very much support its quick passage by this chamber.

Senator Hays: Honourable senators, I would like to speak on second reading. However, the Deputy Leader of the Government has advised that we expect to receive a representative of the Governor General at 11:30. It is now 11:30, and with everyone's agreement, I will make my remarks following Royal Assent.

The Hon. the Speaker *pro tempore:* Senator Hays, do you wish to adjourn the debate until later this day?

Senator Hays: I so move.

Some Hon. Senators: Agreed.

On motion of Senator Hays, debate adjourned.

The Senate adjourned during pleasure.

• (1130)

ROYAL ASSENT

The Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker *pro tempore* of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

> I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk of the Senate.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

> An Act to amend the Bank Act (extension) (*Bill C-90, Chapter 47, 1990*)
>
> An Act to amend the Northwest Territories Act (*Bill C-92, Chapter 48, 1990*)

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

• (1140)

The sitting of the Senate was resumed.

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to continue with the motion before the Senate?

Hon. Senators: Agreed.

PETRO-CANADA PUBLIC PARTICIPATION BILL

SECOND READING

The Senate resumed the debate, adjourned earlier this day, on the motion for second reading of Bill C-84, to authorize the privatization of Petro-Canada—(*Senator Hays*)

Hon. Dan Hays: Honourable senators, I compliment Senator Kelly for giving us a thorough speech describing what is proposed in Bill C-84. I do not intend to be long in responding to his speech, in part because he has covered the subject matter in terms of the four corners of the bill very well, and because he also expanded his comments into some areas that will be the main thrust of my comments, and that relates to what is happening outside of Bill C-84. The point I want to dwell on is what is the energy policy context within which this government is proceeding with its privatization initiative.

The Standing Senate Committee on Energy and Natural Resources, as Senator Kelly noted in his remarks, made a report to the Senate, and that report has been adopted by the Senate. One of the recommendations Senator Kelly did not refer to is the first recommendation. I am referring to the report of the committee that criticized the federal government for contemplating such an important initiative as privatizing Petro-Canada without having put forth any comprehensive statement of Canada's energy policy.

The committee argued that the merits of privatizing Canada's national oil company should be considered pragmatic in the context of an encompassing energy policy, and that the decision not simply be made for ideological reasons. The report invites the government to respond to the "Energy Options" paper, and one could also invite the government to factor in recent events respecting the invasion of Kuwait by Iraq.

Senator Kelly has said that Bill C-84 is not a major ideological reaction. I think that is right. It is rather a well-thought-through, plodding ideological reaction.

Interestingly enough, Senator Kelly's remarks, and the remarks of the Minister of State for Privatization and the Minister of Energy, Mines and Resources indicates that very seldom do they stray beyond the borders of Canada when referring to Bill C-84.

One point I should like to make is that energy, in its various forms, are commodities, and thus the market is important and, therefore, should be the main determinant of where it is produced and in what quantities and what its price is, but in the case of energy, it is not a commodity like other commodities; it is a commodity that has special and strategic value, particularly for a country like Canada. Failure to take into account Canadian needs and a strategy for Canada that looks beyond the next few years is a failure to meet our needs. I refer in this regard to the Senate Energy Committee report on Petro-Canada which talks about the United States in great detail and the crisis the United States is now facing in energy, and about other countries that have national oil companies, and how they are used to develop strategies.

Honourable senators, I will not dwell on this point, but if you look at the management of national affairs by a country such as Japan, or even Korea, or European countries collectively in the European Community or individually, honourable senators will see that they handle their affairs in a much better way than Canada handles its affairs. I think the great tragedy of our time is that we do not seem to be able to come to grips with the need to look ahead.

One of the important advantages Canada has over other countries is that it has a rich energy resource. It has oil and gas in adequate amounts to serve our needs for the long term. We have taken some initiatives in that regard, in particular the Canada-United States Free Trade Agreement.

When honourable senators look at all of those initiatives together, they cry out for Canada to say something about where it wants to be in terms of energy supply and where that energy is produced and how it is distributed sometime into the future.

When the Minister of Energy, Mines and Resources appeared before the House of Commons committee on Bill C-84, he tried to give some background on that. I do not intend to quote at length, but he said, in part:

> The government has explicitly rejected a strongly interventionist approach. Instead, current policy emphasizes primary reliance upon the operation of competitive markets for decisions regarding energy supply, demand, pricing and trade.

The minister went on to say:

> While the government has a strong preference for the use of market-oriented approaches, it is not indifferent to the outcome of market forces . . . to assure security of supply;

Later the minister stated:

> The government has deregulated the energy sector. We have allowed energy prices to be set by market forces. We have negotiated secure access to U.S. markets . . . while ensuring continuing opportunities for Canadians to participate in the oil industry.

Then later the minister stated:

> For some, Canadians only have secure supply of oil when we develop massive reserves and then lock these reserves in for future generations.

The minister said that Canada should not hoard or not produce the product until needed, but rather allow world dynamics to play a role and ensure that we have a healthy oil and gas sector.

I can agree with the minister and yet, at the same time, say that Canada must have some idea of where it is going in energy terms.

I would quote the minister again when he again appeared before the Standing Senate Committee on Energy and Natural Resources on Friday, October 26, 1990, when that committee was considering Bill C-44, in answer to a question from Senator Kenny respecting the proposition that all production from Hibernia would be exported, he stated:

> Let's take a look at our reality on that point. We produce about 1.5 million barrels a day of oil in Canada. We export approximately . . . 650,000 barrels a day. Too much of it, in my mind, in terms of combinations, too much of it is heavy versus light.

And for those honourable senators who may not be familiar with this subject, Canada produces various weights of oil. Canada produces a large amount of heavy oil, yet we have never utilized that oil within the country. That is exported to the United States. There are refineries in the Chicago area that can process it, and that has been the traditional destination of that production. That is what the minister was talking about, and that is one of Canada's problems.

Hon. Royce Frith (Deputy Leader of the Opposition): It is harder to get it out of the ground, though, is it not?

Senator Hays: Yes. Bitumen is in solid form.

The minister went on to state:

> We import about 525,000 barrels now. Where are those barrels coming from? Three hundred and fifty thousand (350,000) of those barrels come from the North Sea; 250,000 out of the U.K.; 100,000 out of Norway.

Then the minister went on to state:

> —obviously we have lost the 16,000 barrels from Iraq, but that was rather insignificant even though we were dropping it in Halifax on a monthly basis.
>
> What has happened, sir, is this. From the rest of the world, we want 550,000 barrels every 24 hours—-

Then the minister went on, emphasizing the fact that we are relying on the market, and stated:

> I cannot mandate that, but what I can and must remain very conscious of is that your National Minister of Energy every day has to put into place 550,000 barrels of oil which are non-Canadian source.

• (1150)

I cannot think of a more eloquent way than that to emphasize how dependent we are on imported oil. Strangely enough, he is able to dismiss, in that same section of the Report of Proceedings the need to direct 110,000 barrels of Hibernia production into the Canadian market to displace imports. Of course the reason relates to the nature or quality of the oil and its suitability for Canadian refineries.

I have already commented that I think Hibernia was an incomplete negotiation in that it did not ensure that the bulk of the oil produced was to be used to displace imports or to ensure that we had greater access to American oil, particularly from the north slope where we can only take 50,000 barrels. Part of that negotiation should have included greater access to U.S. oil or some other way of exempting that 110,000 barrels from the restrictive provisions of Article 904 of the Free Trade Agreement.

I believe we must look at where we are in terms of PetroCanada being removed, and I believe we all agree that this is something that can best be done in the Energy Committee, to which this bill must be referred. We could have been referring to the Canadian Oil and Gas Lands Agency, or part of the National Energy Board. Where are we when we take one of these elements of policy delivery out of the range of policy options that Canada has to pursue some reasonable strategy to look after our needs into the future? I have quoted

at length from the Minister of Energy, Mines and Resources, and I do not think we have an answer to that question at this point in time.

I would like to comment on what one of the answers might be—and what I suspect it is. The Government of Canada, including the Department of Energy, Mines and Resources, have bought into the idea that we should have a North American or continental energy policy. If that is the case, they should say so. It continues to creep into the language of speeches I hear both from the Minister of Energy, Mines and Resources and from political representatives of the Government of Alberta. I am concerned about that. We live in a world where the United States and Canada are inextricably bound together. Part of that binding involves energy trade, but Canada has the option of retaining a preferred position on energy if it manages its affairs in the correct way. If it does nothing, as is the case right now, we will, within a short period of time, be in a situation where we are operating on a continental basis. That is what the dynamics of trade in energy will mandate.

If that is the case, the government should say so, accept responsibility for it and say what it would do in that context. If it sees security of supply as a North American or continental issue, we should have a coherent policy in that respect. We should be trying to involve ourselves in what the United States is now doing in trying to develop a national energy strategy.

As the report we tabled in June so dramatically points out, the Americans are now in a situation where they are dependent to the extent of 50 per cent on imported oil. This has been an important element in their decision making and ties their hands in an unacceptable way on what they do in the Gulf at this time; and it is also evident, from what I have read and I believe you are able to determine that from reading the report, that they will not be able to do anything about it before they are 60 per cent dependent. They have a strategic petroleum reserve, as Senator Kelly observed.

The House of Commons Energy Committee, when it was chaired by the member from Calgary South, Barbara Sparrow, recommended that Canada have one of those reserves, interestingly enough. We have not done that, and I think there is a general misunderstanding of how dependent we are on imported oil.

If the Government of Canada's position is that we are on a North American footing, say so. It should try to cooperate with the U.S. in developing a policy; and, most important, if we are to be plowing money into the development of our heavy oil reserves, the U.S. should be participating in those costs.

I do not believe Canada should take that route. I believe Canada should be prepared to intervene and provide incentives to ensure that we retain a high degree of self-sufficiency in oil. In 1988 we were supplying 70 per cent of our own requirement from the western Canadian sedimentary basin. We have a healthy level of exports, primarily of heavy oil, and we could continue to see healthy exploration and development in the western sedimentary basin and a high degree of Canadian self-sufficiency. Beyond 70 per cent does not make sense because of the transportation realities; but, if you look at it today, we are now down to 65 per cent. We are now seriously talking about reversing the Sarnia-Montreal pipeline, which is as good evidence as you will ever find that if we do nothing, the market dynamic will see us as dependent on foreign oil as the United States while the government and many others say we have a net surplus of oil. I think those words are capable of leading us into a false sense of security.

I could talk about other things, but in winding up this part of what I wanted to say, what is the policy environment? Most important, what is this government's position on a North American or continental energy policy, contrasted with a policy which sees us with as healthy an energy trade with the U.S. as we have traditionally had, but looking after Canadian interests on a priority basis to ensure levels of self-sufficiency? That would give us comfort in a short supply situation, which the United States has now and which we would not have on a North American or pooled energy trade basis.

With respect to the other things that have happened, the Canada-U.S. Free Trade Agreement Implementation Act and other acts have seen some agencies—and I should mention the National Energy Board—gutted in terms of its ability as an independent agency to do anything about ensuring a long-term, secure supply for Canada. That now rests with the federal cabinet under amendments to the National Energy Board Act. If I read it correctly, the Petroleum Monitoring Agency is reporting on fewer items. To the extent that the NEB issues reports, along with Statistics Canada, they confirm what I am saying about the market trend in Canada and the difficulty we could reasonably expect to have in the future.

No one denies that in this decade, the 1990s, we will cease becoming an exporter; we will become a net importer. No one denies that if we wish to do anything about that, some incentive in the price ranges we now have for oil will have to be provided to make up for that decline.

What role might Petro-Canada play? It is easy to list the things that were in the minds of those who introduced Petro-Canada and to dismiss them, but that is static thinking. The corporation could be disposed of in a more advantageous way to the Treasurer, if that were the right thing to do. If we want to maximize our return on this venture, why do we have restrictions on Canadian ownership? If our objective is to generate the most dollars—and it should be—we should not have those restrictions.

Do we really care about the level of Canadian ownership? If so, why? No one has answered that question very well. However, to go halfway, which I think satisfies an ideological longing within the Conservative party, is not a good idea. Honourable senators, what you should do is say what you really want to say and do what you really want to do. If you want to drive in the most dollars, this is not the way to do it and it does not serve Canadian interests in the best way.

● (1200)

Would there be other alternatives in Petro-Canada in terms of the downstream? That was talked about in the report, as well as the rationalization and elimination of competition. When competition is compared in the purchase of feed stock or in the distribution of refined product, there are many fewer people competing in that area than there are in the United States. I have seen reports from the Department of Energy, Mines and Resources which attribute that lack of competition to the fact that we do not have as good a working market as the United States. Both the sitting government and the previous government have done things to see rationalization of refining, which Senator Kelly correctly complained about, and adverse effects on competition in both purchase of crude feed stock and distribution of refined product.

I do not think that has been thoroughly explored. The time to do that is not after Petro-Canada is sold, but before. If it is done before and action is called for which involves a different way of taking Petro-Canada out of the inventory of Government of Canada assets, then it will be too late.

The other thing that bothers me is that Petro-Canada has a capital requirement, Canada cannot afford to meet it, and there is no other way to resolve that problem than to privatize it. What is proposed is to privatize Petro-Canada and to give it the money that is generated by the sale of something that Canada now owns, namely the first 15 per cent tranche of shares. Whether Canada sold Air Canada and put the money into Petro-Canada, or sold Petro-Canada and put the money into Petro-Canada, the money is coming from the same pocket, and that is from the people of Canada. Therefore, it is a circular argument and does not make any sense to me. We, Canada, will be giving Petro-Canada the capital that it needs, as much as if we had taken it out of the general revenue. The only way is that we have somehow got it tied into Petro-Canada, so we sell some of Petro-Canada and give it the money. That does not make much sense to me.

Other means of addressing Petro-Canada's requirement, such as spinning off assets or other means of generating capital, have not been fully explored. In any event, I am defeating myself there because even those things are not worth pursuing unless we have set for ourselves some objective as to where we want to be in the future in terms of self-reliance. When we have set that objective, then and only then can we determine the best means of achieving the objective. Until we have set the objective, tinkering around with the NEB, with disposition of Petro-Canada, with changing reporting procedures and so on really does not make much sense. It is a classic case of, if you do not know where you are going that is probably where you will end up. I do not think Canada knows where it is going today on energy policy.

Although I have spoken at length on the things that I think are important, undoubtedly there are many other things that could be touched upon. I believe it is important that this legislation be referred to the Standing Committee on Energy and Natural Resources so that we will all have an opportunity to participate by inviting witnesses to come before the committee and asking them questions and deliberating together on what we should do or what disposition there should be of Bill C-84.

Within the options with which I feel comfortable, I do not agree with the bill and, accordingly, when it passes, I will be insisting that it pass on division. I have no problem with the bill going to committee at the earliest possible date. As a member of that committee I will do what I can to see we have an early meeting of the steering committee, before we resume sitting in January, and that a work schedule is set for the committee so that we can do the things I think should be done.

Hon. H.A. Olson: Honourable senators, I know there a number of senators present who want to pass Bill C-84 through second reading today and send it to the Senate committee on energy. I do not intend to delay that matter beyond today. However, I wish to participate in this debate because Senator Kelly, the pilot of this bill, made what I thought was one of the most unusual speeches I have heard for a long time.

From his vantage point he probably has a recollection of the history of Petro-Canada, when it was introduced and what it

has done since then, that is somewhat different than mine. My vantage point is not from when Petro-Canada was organized but later on from the position of being in the cabinet and at cabinet meetings dealing with energy policy, particularly gas and oil policy. It is unfortunate that we constantly see the government attempting to rewrite history. However, I am not accusing Senator Kelly of that; perhaps he does not know any better.

Senator Kelly talked about partial privatization. Honourable senators, we had that experience with the CDC and it does not work. It is not fair to the people who put up money for some of the shares of what was, or still is, a Crown corporation and then have it said that it will be used as an instrument of government policy. Whether or not one has consideration for profit, if people are asked to buy shares in a company, the government has an obligation to realize that profit is the motive. I do not think there is any argument about that. We never argued about it. When CDC was partially privatized, instructions went out to run it as if it were a private corporation and that the interest of the shareholders was paramount.

Senator Kelly stated today that we will be selling 25 per cent of Petro-Canada, but that it will still be government controlled. That is not fair. What is more, that is not the way it turns out. I hope he will correct that, because surely he knows that 25 per cent of Petro-Canada cannot be sold off, which I suppose is equivalent to approximately $2 billion worth, and then expect those shareholders to allow it to remain an instrument of government policy.

What was so unusual about Senator Kelly's speech was that he went on to say that Petro-Canada had ceased to be an instrument of government policy six years ago. Why, Senator Kelly, do you want it to be government controlled now, if it has ceased to be, and will not be, an instrument of government policy in the future? Those types of arguments do not hang together.

Hon. Jean-Maurice Simard: Those are the people who gave us the National Energy Program. You should talk about that.

Senator Olson: You claim you do not have a national energy policy.

Senator Simard: Why don't you go back to Alberta and tell them about the energy policy that was great for western Canada.

Senator Olson: I do all the time. I know that there are far more people in Alberta today—

• (1210)

Hon. Eymard G. Corbin: Adjourn the debate.

Senator Olson: I cannot. Does Senator Simard wish to adjourn it? If they want to do that, then it is up to them.

[Senator Olson.]

Senator Simard: I am just trying to shut you up and to stop you from saying such nonsense before Christmas.

Senator Olson: There are far more people in Alberta today who understand what happened beyond the type of propaganda that Senator Kelly is trying to perpetuate.

I honestly and sincerely believe that we need a Petro-Canada to be an instrument of government policy. A great many people know, while some do not, that Canada is one of the most blessed countries in the world when it comes to hydrocarbons. We have 900 billion barrels of oil in the tar sands in Alberta. It costs a little bit more to process oil out of those tar sands than it does to run some of the cheaper operations such as those in the Middle East. We cannot compete with those operations directly, unless some political barriers are put between the oil getting out of the ground and being bought here. A well similar to one drilled in the Middle East would cost between $250,000 and $350,000 here. I am referring to a well which will produce several thousand barrels per day of light, sweet crude. The oil needs to be shipped here from the Middle East. We cannot compete with that. Thus, we have a choice to make. Are we to do anything to make ourselves self-sufficient based on Canadian resources? Or are we to remain at the mercy of political whim in the Middle East in particular, but also in other places such as Venezuela and wherever else cheap oil is produced?

It has already been demonstrated that we want some independence in this country through the large contribution that was made to the development of Hibernia. The oil coming out of that field will be some of the most expensive in the world. However, I will not object to it because I know that it has some economic value to the people in the eastern part of Canada, in particular Newfoundland. However, let us not kid ourselves about the cost of that oil compared to what is available on the international market.

We know where the tar sands are. We know something about the cost of extracting oil from them. I think we need to understand that this is something for Canada to continue to develop so that we can have some security of supply.

The production of oil in Alberta from the so-called conventional fields is going down at a rate of about 100,000 barrels per day per year. Well over 1 million barrels per day are being produced now, but the stock is declining. We need a company in Canada which is big enough and strong enough financially to engage in that type of activity. It will take probably a minimum of $3 billion or $4 billion and about six years' lead time to put in a tar sands processing plant before the oil can come on stream. Perhaps if we were in a real hurry, we could do it a little bit faster.

Yet, if Petro-Canada is about to be privatized, who will attempt to develop the tar sands? I do not know who will do it. I think it is pretty clear that there are about two or three oil companies left in Canada which have the financial strength to take on an obligation such as that. There is Exxon. Perhaps Shell Oil has enough in terms of resources. Maybe the Irvings

have, but I do not know. I am not sure they want to invest $3 billion or $4 billion in that type of project.

I know if the Government of Canada does not take the responsibility through a corporation such as Petro-Canada to do this type of thing then I do not believe anyone else will. As big and powerful as Exxon is, it is not about to invest $4 billion or $5 billion of its money in tar sand processing plants unless it is given a guarantee that, after it spends all that money and waits for five or six years for the oil to come on stream, it will receive a return high enough to justify the initial investment. If a company is looking after the interests of its shareholders, then that is what it is expected to do.

I do not want to keep the house long this afternoon. However, Senator Kelly talked about the window that Petro-Canada provided to the oil and gas industry as if it were some kind of farce. I was here when it happened. I am not sure what happened prior to 1980, but I know what happened after the National Energy Program was announced in the fall of 1980. Even at that time, which was five or six years after Petro-Canada was set up, there was near-complete ignorance of how the real world looked in the so-called oil patch. We modified the National Energy Program to a great extent as a result of predictions that were made during the period in which the policy was brought out. Those predictions were that the cost of oil would rise to $70 or $80 a barrel, something it never did; it got about halfway there, but it never went as high as $80. At that time, the international market started to back off again. So all these things that the Conservatives, and in particular Premier Lougheed, accused the federal government of doing we never did.

One example of that is the throughput tax which was to escalate at 15 per cent per thousand cubic feet until it reached 75 per cent. That never happened.

Talking about this window, I remember going to Calgary and asking senior presidents of several oil companies, including the Canadian Petroleum Association, if they would help us with the window that we needed so that the Department of Energy, Mines and Resources in Ottawa would know what was going on in the oil patch. That was done because there were a great many things in the policy which did not work. One of them was with respect to the Canadian ownership requirement which was completely changed inside of two months.

I never heard anyone here or in Alberta acknowledge that that was a fact. The reason for that is simple. They did not know how to go about it. Yet, we set up what was called the Alberta Technical Advisory Committee in Alberta to advise the government on a weekly, if not a daily, basis with regard to what some of the requirements of the National Energy Program would be. We asked the government to modify them enough so that the regulations could become reasonably practical. Those are the facts of what happened. Those are not the myths that are being carried on today, 11 years later. They talk as if the $70 per barrel that was predicted actually happened, but it never did.

• (1220)

Hon. C. William Doody (Deputy Leader of the Government): You could speak again on this at third reading.

Senator Olson: We know what happened at the third reading stage of Bill C-62. I expect the same thing would happen on this bill.

I will not continue much longer unless I am provoked. However, I will not leave the record with the kind of inaccurate recollection of history that Senator Kelly related when he introduced this bill. Those things cannot go unchallenged, as far as I am concerned.

I ask this: Why do we want to privatize Petro-Canada? Does it have to be an enterprise that is commercially expanding all the time? I do not think so. Is it to satisfy the president, Mr. Hopper? He is complaining that he needs $500 million to carry on certain activities. If they are so important, why does the government not give him permission to borrow it? I am not sure that he needs to do that, in any event. If you want the private sector to do it, let them do it.

Hibernia, the Beaufort Sea and the tar sands plants in Alberta will not be able to function without government help. At OSLO the government put up only a small percentage of the money, but when the federal government backed out, all other oil companies backed out also.

Let's call a spade a spade. Senator Kelly asks why one company should have preferential treatment by the government. If you look at the history of Alberta, the companies that have put up the risk capital in the first place have always had preferential treatment. When the Government of Alberta set up the gathering system for natural gas in Alberta, they set up the Alberta Gas Transmission Company. They were given preferential treatment, with much government money going into the development of that facility.

Today there is a company called the Alberta Energy Company that was given preferential treatment, including the exclusive rights to the Suffield Military Station. At the time they were given the exclusive rights to that station, there was estimated to be at least $4 billion worth of gas under it. Everyone who knows anything about the industry knew it was there; they knew exactly where to find it, and they knew the costs. But they gave it all to the Alberta Energy Company. I do not disagree with that. By the way, it is right beside my ranch. The government kept a large part of the shares and the rest of the shares were sold to Albertans. Why shouldn't they have special treatment?

I should like to ask this: What is the alternative? What will happen if we do not have Petro-Canada as an instrument of government policy? The energy policy in this country will be run almost entirely by Exxon. They will dictate the energy policy in this country if the government abdicates its responsibility to do so. There are a few other companies such as Irving in the Maritimes, but they are not in the same league as Exxon to do these multi-billion dollar projects that will be needed in Canada.

Senator Kelly said that there are only 16 integrated oil companies left in Canada. There may be 16 integrated companies that have both upstream and downstream capability, but I suggest that there are not more than three or four companies that have the size and strength needed to carry out some of the projects that are obvious to anyone who wants to look at Canada's oil and gas requirements in the future. I hope the government will reconsider this bill.

You cannot have a partial privatization of Petro-Canada. If we sell the company, there will be no corporation as knowledgable and deeply involved in the industry that has the capability to be the instrument of government policy in developing Canada's resources—resources that we know we have. I am not advocating another filibuster at the present time, but I hope we can persuade the government to get off this tack, because we need Petro-Canada. If the executive officers who are running Petro-Canada at the present time do not understand that, change them. There are many capable people in this country besides those who keep crying for $500 million more to expand a company that perhaps does not need to be expanded in the commercial sense.

Senator Simard is indicating that he agrees that there is a lot of sense in what I am saying. I am happy about that.

Senator Simard: No, please. Do you want to be here until New Year's Day?

Senator Olson: If he is agreeing, he is demonstrating good sense. I hope honourable senators on both sides of the house will thoroughly examine what will happen if we try to partially privatize Petro-Canada. I am convinced that it will not work. We need this company in order to continue developing the resources that are known to exist in this country.

Senator Kelly: Honourable senators—

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

Senator Kelly: Honourable senators, I should like to say how much I appreciate the interventions from Senator Hays and Senator Olson. I hope that Senator Olson will read the *Debates of the Senate* carefully, because I think some of the things he felt I said I did not, in fact, say. On the other hand, I enjoyed his intervention. I am sure we will have time to talk about those things further. Therefore, I move second reading of Bill C-84.

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 Kelly, bill referred to the Standing Senate Committee on Energy and Natural Resources.

[Senator Olson.]

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if all senators agree, I move that all remaining orders, motions and inquiries stand.

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

Hon. Senators: Agreed.

• (1230)

Senator Doody: Honourable senators, before I move the adjournment motion for January 14, I want to put on the record the committee schedule for the coming weeks. By my count, we have 11 bills plus the Supplementary Estimates (B) in committee.

Before the Standing Senate Committee on Social Affairs, Science and Technology, we have three bills: the multiculturalism bill; the Canadian Heritage Languages Institute Bill; and the bill to establish the Canadian Race Relations Foundation, which has been before the committee since June 7. I understand that committee will be meeting during the week of January 7.

The Standing Senate Committee on National Finance has three bills before it. Bill C-69 has been there for some time. The government would like to have that bill as soon as possible, since it has a $1 billion impact on the fiscal plan and it would be in the interests of everyone if we got that bill moving.

Hon. Royce Frith (Deputy Leader of the Opposition): Is that the bill that is before the British Columbia courts?

Senator Doody: Yes, but there is an amendment planned either at the committee stage or at third reading, to try to resolve that problem. I am sure it will be dealt with in the committee hearings.

The Estimates, of course, are also before the Standing Senate Committee on National Finance. Bill C-34, to establish the Canadian Centre for Management Development, has been in that committee for quite some time.

Honourable senators, there are two bills before the Standing Senate Committee on Legal and Constitutional Affairs: Bill C-43, the abortion bill; and Bill C-81, to implement the United Nations Convention on Contracts for the International Sale of Goods.

The Standing Senate Committee on Aboriginal Peoples is dealing with Bill C-68, the Yukon mining bill.

Before the Standing Senate Committee on Fisheries we have Bill C-74, which was given second reading yesterday.

As you all know, honourable senators, Bill C-84, the Petro-Canada bill, has just been referred to the Standing Senate Committee on Energy and Natural Resources.

Further, the Standing Senate Committee on Transport and Communications now has two bills before it: the Port Wardens bill, which was given second reading this morning, and Bill C-40, the broadcasting bill, which Senator MacDonald referred to earlier today.

Honourable senators, that is a very full work schedule. The committee members who will be meeting during the week of January 7 will constitute a fairly large section of the Senate itself. If anyone thinks that the Senate is having two weeks off, they are mistaken. It will only be a very select few who will have that.

Senator Frith: Should we go through and find out who are our escapees until January 14?

Senator Doody: The *Citizen* will probably publish that. I notice, honourable senators, that the *Citizen* still reports that the Senate sits on Tuesdays, Wednesdays and Thursdays. It is what I would call "investigative journalism."

Senator Frith: Is it the expectation that all these committees will be meeting during the week of January 7?

Senator Doody: It is my hope that they will, but obviously some of these bills are not as pressing as others. I will be consulting with the chairmen and deputy chairmen of the various committees to see what we can schedule and how many of these bills can be handled.

Senator Frith: Should we take it then that, if one is a member of a committee, one should plan on being here?

Senator Doody: Yes, with the exception of those on the restaurant committee, but even that is a moot point at this time.

Honourable senators, I want to take this opportunity to extend greetings to my colleagues on both sides of this chamber and to wish them well for the coming year. I rather hope that the next year, 1991, will be somewhat more serene—if I can understate the case—than the last few months have been.

I would also like to extend our thanks and good wishes to the staff, who have served us so well under the most difficult conditions. I am referring to the pages, the people at the Table, the *Hansard* staff, the messengers and the security people, all of whom have worked inhuman hours under terrible conditions but have remained loyal, faithful and true. We thank them and wish them all the very best and look forward to seeing them after Christmas.

Senator Frith: Honourable senators, I think it would be risky for me to say anything more than that I second and support Senator Doody's comments.

The Hon. the Speaker *pro tempore:* Honourable senators, before I put the final question on the adjournment, I, too, should like to add my best wishes to all senators and staff and to note that a number of the pages will be leaving us. They were on temporary staff because of the circumstances and they will not be returning when we come back on January 14. On behalf of the Senate I wish to extend to them our very sincere thanks for coming in to help us.

Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore:* I wish you all a Merry Christmas and a happy, prosperous, healthy and peaceful 1991.

The Senate adjourned until Monday, January 14, 1991, at 2 p.m.

THE SENATE

Monday, January 14, 1991

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

Prayers.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, during the adjournment period I received a number of petitions against the goods and services tax which I would now like to present to the Senate.

The first petition contains about 25 signatures and is from the area around Toronto and Brampton, in Ontario.

I have a second petition from the Ottawa-Hull area, also on the same subject.

My third petition is from St-Sylvestre, Quebec, and also concerns the GST. It contains about 25 signatures.

The fourth petition, on the same subject, is from the Ottawa area.

I have a fifth petition on the same subject.

In each case, the petition starts as follows:

> WHEREAS the new universal 7 per cent tax on goods and services adopted by the Conservative government will create serious, unfair and undue hardship for Canadians;
>
> WHEREAS this tax constitutes an unprecedented attack on the already meager incomes of Canadians, . . .

In concluding, it says:

> THEREFORE, we humbly pray and call upon senators and members of the House of Commons, who truly represent the people, to do everything in their power to block the new goods and services tax, and we demand an immediate election.

Those are the concluding remarks of each petition.

I have here a sixth petition from the area around Montreal, Longueuil and St-Hubert, in Quebec.

The seventh petition is from Rivière des Prairies, Quebec, in the Montreal area.

My eighth petition is also from Rivière des Prairies, Quebec, still on the same subject.

Here is a ninth petition, again from Rivière des Prairies and from Dorval, Quebec.

So far, from Rivière des Prairies alone, we have about 150 or 200 signatures.

I have three more here, also from Rivière des Prairies. Including the Montreal area, we have about 200 or 300 signatures.

This makes a total of 14 petitions, each containing from 20 to 25 signatures, which means about 280 to 300 names altogether.

Thank you, honourable senators.

[*English*]

Hon. H.A. Olson: Honourable senators, I have four petitions with approximately 23 to 25 names on each asking that the Senate do everything in its power to stop the introduction of the proposed goods and services tax. Of course, it is well known that that has already passed, but these petitions arrived after the last opportunity to present them to the Senate. Therefore, I would like to table these petitions today.

Senator C. William Doody (Deputy Leader of the Government): Senator Olson, I missed what you said. I wonder if you could repeat it.

Senator Olson: I stated that I had received and wished to present four more petitions with approximately 23 to 25 names on each one, asking that the Senate stop or prevent the introduction of the bill on the GST, but it well known that has already passed, however illegally that happened. These petitions came to my office after the last opportunity I had to present them to the Senate and I felt that Senator Doody particularly, but all senators, would like to know who these people are and that they are just as opposed now as they ever were to this tax.

[*Translation*]

Hon. L. Norbert Thériault: Honourable senators, I have the honour to present three petitions containing a total of 87 signatures, all from residents of New Brunswick.

These are petitions I was unable to present before this tax came into effect. When I spoke to some of these people, they told me they were even more opposed to the tax today than they were before it came into effect.

[*English*]

FISHERIES ACT

BILL TO AMEND—SIXTH REPORT OF FISHERIES COMMITTEE PRESENTED

Hon. Brenda M. Robertson, Chairman of the Standing Senate Committee on Fisheries, presented the following report:

Monday, January 14, 1991

The Standing Senate Committee on Fisheries has the honour to present its

SIXTH REPORT

Your Committee to which was referred the Bill C-74, An Act to amend the Fisheries Act and to amend the

Criminal Code in consequence thereof, has in obedience to the Order of Reference of Thursday, December 20, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

BRENDA M. ROBERTSON
Chairman

The Hon. the Speaker: 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.

• (1410)

QUESTION PERIOD

THE ECONOMY

DEPRESSION IN WESTERN CANADA—CONTINGENCY PLANS—GOVERNMENT POLICY

Hon. H.A. Olson: Honourable senators, I know that there are a number of extremely important matters occupying the time of the government these days, such as the crisis in the Gulf and a number of other matters. However, so that I can report to a number of Canadians in western Canada, I should like to ask the minister whether or not the government is developing any contingency plans to deal with the depression which now exists. The Minister will know that the government has only of late begun to use what it refers to as the "R" word—"R" standing for recession. Broadly defined, a recession means two consecutive quarters of negative growth. However, the part of Canada about which I am speaking, which covers a large part of Alberta and almost all of the province of Saskatchewan, qualifies and has qualified as a depression area for many quarters. Apparently a depression is defined as four consecutive quarters of negative growth. We have had that and more, particularly in the agriculture sector, for perhaps up to 10 or 12 quarters. Is the government preparing any contingency plans to deal with this very serious situation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no announcement to make today on behalf of the Minister of Agriculture.

Senator Olson: Honourable senators, I was not talking only about the Minister of Agriculture who has a primary responsibility for some of this. From what I have read he has come forward with some programs which are of no value at all to those farmers who are in immediate need of some help.

Since we adjourned for our recess on December 21 I have spent some time looking at some other parts of the economy in western Canada. I have found that there are thousands of people who are now unemployed and who are reaching the stage at which their unemployment insurance benefits are almost over. For proof of this we have but to look to the so-called food banks and the line-ups at the welfare offices in various places. These are the Canadians about whom I am talking, as well as the situation concerning a very large part of the agricultural community.

I am not asking my questions facetiously. These people want to know whether any plans are being developed. What they particularly want to know is whether or not the government is aware that these are the economic conditions which prevail today. If so, is the government now preparing some plans to deal with situations in which Canadians are living at levels completely below anything that we as a Parliament should tolerate?

Senator Murray: Honourable senators, if there are announcements to be made in the area of economic policy, or indeed social policy, in particular concerning any changes to be made to any of the present programs or policies of the government in the areas to which the honourable senator is referring, then they would be made by the responsible ministers at the appropriate time and not by me in the course of the oral question period of the Senate.

Senator Olson: Honourable senators, the minister seems to be reluctant to understand or to comprehend the question. I am trying to put it in very simple terms so that even he can understand, no matter what he is trying to duck. I did not ask him if he is ready to make any announcements; I asked him if there were any contingency plans under way to deal with this very serious situation. Are such plans being considered by the government?

Senator Murray: Honourable senators, that in itself would be an announcement. I tell the honourable senator that the economic situation in the country and the impact of fiscal and monetary policy on the economy is under constant review by the government. I remind him that interest rates, for example—an area that used to be of some concern to him—

Senator Olson: And still is.

Senator Murray: —and still is, I am glad to note—have fallen by 200 bases points in the last little while. Inflation continues to abate. That being the case, we can, with some confidence, expect that the conditions are being established not only for a recovery but for a resurgence of stable economic growth and prosperity in this country.

Senator Olson: I take it that it would be with the concurrence of the Leader of the Government that I report to these people who are interested that the government, to date at least, is not sufficiently aware of the seriousness of the desperate situation that people find themselves in when they are unable to obtain the bare necessities of life? I take it that the government is unwilling to acknowledge that it is even working on a solution to this situation?

Senator Murray: Honourable senators, the policies followed by this government since 1984 have resulted in a period of

sustained prosperity unmatched in the recent history of the country. That is a fact.

From time to time the honourable senator rises in this chamber and refers to particular indices of economic conditions in the country. For example, he has talked about business bankruptcies.

Senator Olson: That is a fairly important subject.

Senator Murray: I take these matters seriously, especially when the honourable senator places on the record statistics purporting to deal with these matters. I have examined some of the statistics that he placed on the record at various times before Christmas, and found that I was quite right in asking him to put these matters into their proper context. While indeed the bankruptcy rate is higher now than it has been in the last couple of years, the fact of the matter is that within the past three or four years half a million new business establishments have been created in Canada.

The entirely negative interpretation that the honourable senator places on many of these statistics turns out to be rather unwarranted when seen in the context of the overall performance of the economy.

Senator Olson: Honourable senators, I should like the minister to know that I regard this situation as serious. There are many Canadians who are suffering considerably. I shall bring this subject up every day until the government at least acknowledges that the situation exists. If you are going to solve a problem, the first thing you have to do is acknowledge that a problem exists. Apparently, according to the minister's replies, this government is unaware of what the real world looks like out there. I hope that attitude will change.

To help the minister put things into their proper context, if one does not have enough money to buy food or make payments on one's house, then one is in a pretty desperate situation. If the government is not going to do anything about that situation in this country—we brag about having such a great standard of living, yet there are desperately poor people in this country—then the rest does not matter. That is what governing is all about. I hope that the minister gets the message before too long.

● (1420)

Senator Murray: Again, unemployment has risen, and the honourable senator would concentrate on that statistic. Of course, it merits the attention of those people responsible for public policy. However, the honourable senator should not neglect to point out at the same time that employment has grown in the last little while by about 200,000 jobs. So it is important, the honourable senator must know, to place these matters in their proper perspective, lest politicians talk the country into a worse recession than we are in now.

Senator Thériault: As you did in 1980-81!

Senator Olson: Honourable senators, what the Leader has just said may be nice rhetoric, and it may be a bit of an excuse that the minister and his colleagues intend to use. However, I am surprised that he forgot one other thing—that there may have been another time back in history when unemployment was at these levels. I can tell him one thing: There has never been a time in my memory, and I have been here quite a while, when unemployment levels were this high and opportunities to obtain the basic needs of life—food, clothing and shelter—were less available to those people who need them desperately. That is what I am talking about.

Is the government going to do anything about it, or is it going to let people line up at the food banks and wait for not hours but days and yet still insufficient supplies are coming in from the people who volunteer them to help these people get along for a day or a week.

That is what is going on in the real world right now. It is not like it has been in the past 40 or 50 years. This government must take up its responsibility and take that fact into account when it begins considering government policy or, as the honourable senator has pointed out, public policy. All I am asking is whether you are taking these matters into account. If so far you have not done that, which is what you have indicated, it is a completely clear indication that you do not know what is going on out there in the real world, or you do not care.

QUEBEC

CONSTITUTIONAL CHANGE—POSSIBILITY OF REFERENDUM—REQUEST FOR INFORMATION

Hon. Jack Austin: Honourable Senators, I would like to ask Senator Murray a question that is directly within his area of ministerial responsibility. It has to do with the question of a referendum being held in the province of Quebec. Can the minister tell us whether it is the policy of Premier Bourassa's government, clearly and unconditionally, not to have any form of referendum in Quebec prior to the next election in that province?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not, of course, announce policy on behalf of the Government of Quebec.

Senator Olson: Or anyone else!

Senator Murray: I do not know that the Government of Quebec has taken the position that the honourable senator seems to attribute to it.

Senator Austin: Honourable senators, I am not asking Senator Murray to announce policy for the province of Quebec, but to tell us what its announced policy is. Senator Murray will know that the Prime Minister has stated categorically that there would be no referendum held in the province of Quebec as a result of any report which might be brought down from the Bélanger-Campeau Commission, even though that commission might recommend such a referendum. A member of the National Assembly, Mr. Jacques Parizeau, is driving very hard for the holding of such a referendum, as is Mr. Lucien Bouchard, a member of the House of Commons. I am wondering whether Premier Bourassa or his minister, the Honourable Gil Rèmillard, has said anything with respect to the question

of a referendum to do with constitutional change in the province of Quebec.

Senator Murray: The short answer to the honourable senator's question is, no. The government of Quebec appointed the BélangerCampeau Commission and it is, I assume, awaiting the report of that commission. To the best of my knowledge no statement has been made by Premier Bourassa or anyone on his behalf either including or excluding the possibility of a referendum at any time at all.

Further to that, I must say that the statement attributed by Senator Austin to Prime Minister Mulroney was never made. The Prime Minister has not, as Senator Austin put it, stated that no referendum would be held in Quebec. We have no way of knowing that.

Senator Austin: I would go along with Senator Murray's statement about the position of the province of Quebec, because my research has not shown any commitment by that province towards any position regarding a referendum. Premier Bourassa has kept his position quite open and flexible; but early in this year the Prime Minister said there would be no referendum. I will bring the relevant material with me to the next Question Period.

PERSIAN GULF CRISIS

COMMITMENT AND DEPLOYMENT OF CANADIAN TROOPS—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Honourable senators, I see by the *Globe and Mail* that Canada could be sending 5,000 troops to Iraq. I would note that tomorrow, January 15, is the deadline set by the United Nations for Iraq to retreat from Kuwait. I understand that tomorrow there is to be a debate in the other place concerning this particular issue, but I would suggest that that is almost too late because a war could be in progress by 12 o'clock midnight.

As we know, Secretary of State Baker has briefed the Prime Minister and the Secretary of State for External Affairs. Could the Leader of the Government advise us whether, if America declares war on Iraq in the near future, Canada would be prepared to send ground troops to the Persian Gulf?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend began his question by saying, "I see by the *Globe and Mail* that Canada is going to send 5,000 troops to the gulf area." The honourable senator would, indeed, be better advised to rely on the statements of the Minister of National Defence to the effect that Canada does not intend to deploy ground troops in the Persian Gulf. As for tomorrow's debate in the House of Commons, I would also remind the honourable senator that the Standing Senate Committee on National Finance will tonight have as witnesses the Right Honourable, the Secretary of State for External Affairs, Mr. Clark, and the Minister and Associate Minister of National Finance, Mr. McKnight and Miss Collins. So honourable senators will have an opportunity to discuss these matters in further detail with those ministers.

Senator Bonnell: That was a very nice speech but it was not an answer to my question. The honourable gentleman beat around the bush but he did not answer my question.

If the Americans should declare war against Iraq, is Canada prepared to send ground troops to Iraq?

Senator Murray: Honourable senators, any question that begins with "if" is a hypothetical question and is not admitted in the oral Question Period.

I have already quoted the response of the Minister of National Defence, Mr. McKnight, as having said that Canada does not intend to deploy ground troops in the Persian Gulf. That is our position.

• (1430)

Senator Bonnell: The Leader of the Government is now telling me the position is that we are not sending ground troops, if that is the position. I know what the minister is quoted as saying, but every time a minister is quoted as saying something in the press, the Leader of the Government tells us that it is a press report and that what the minister actually said was something different. The minister who speaks for this government is here in the Senate today. Why can he not answer the question? If what the press says Mr. McKnight said is the truth, then stand up and say it—do not be afraid to support the government in which he is a minister—or else stand up and lie.

Senator Murray: Honourable senators, I have quoted what the Minister of National Defence has said.

Senator Bonnell: I want to know what you say, not what the minister is quoted by the press as having said. I want to know what you say here in the Senate.

Senator Murray: I am speaking on behalf of the government, including the Minister of National Defence. Perhaps it will assist if I can simply put it in different words. I tell the honourable senator that the government is giving, and has given, no consideration to sending ground troops to the Persian Gulf. I trust that will suffice.

DEPLOYMENT OF MEDICAL UNIT

Hon. M. Lorne Bonnell: Has the government given any consideration to sending a medical unit to the Gulf in case hostilities break out?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Prime Minister has already indicated that we have had representations made to us by the United Kingdom in that respect. Those representations are now under consideration.

POSSIBLE CHANGE IN ROLE OF CANADIAN FORCES

Hon. John B. Stewart: Does the government have plans to change the role of Canadian forces in the Gulf?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, of course we are considering, in cooperation with and on the advice of the Canadian military, the role that Canada is now playing and the role that it might play under a variety of other scenarios, but no change has been decided upon in the role that was assigned to Canadian forces at the time of their deployment to that area.

Senator Stewart: My understanding is that the role of the Canadian forces now is to participate in the enforcement of the UN embargo. What other roles has the government considered?

Senator Murray: Honourable senators, yes, it is correct to say that the role of the forces now in the area is to participate in the enforcement of the UN embargo. That includes, more specifically, air cover for our ships and for the ships of other members of the coalition in the southern Gulf area, and protection also for allied assets in Saudi Arabia. I do not think it would be appropriate for me, in the course of the oral Question Period, to try to discuss the various other scenarios that have been envisaged or the possible roles that Canada might play in the event of those scenarios coming to pass.

These are matters that my friend may wish to explore further, if he can, with Mr. Clark and Mr. McKnight when they appear before the Senate finance committee tonight. It is a matter which, I am sure, will be debated in the other place tomorrow when the responsible ministers, including the Prime Minister, take part in the debate.

TIMING OF RECALL OF PARLIAMENT TO DEBATE GULF CRISIS—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Does the honourable minister think that the government has been fair with the Canadian people, by calling Parliament together only on the eve of the deadline, without giving any thought for the debate? Why did the government not recall Parliament two weeks ago to discuss this important matter?

We know that the government is preparing for war, because in newspaper articles we read that the casualties are to be treated at a military hospital in Halifax.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it would be very lax, imprudent and irresponsible for the government and the military not to make contingency arrangements in the event of hostilities breaking out. This the military command has done.

The honourable senator reproaches the government for not having recalled Parliament earlier. I remind the honourable senator that our military commitment in the Persian Gulf since August arises out of our membership in the United Nations and our commitment to the United Nations Charter.

I further remind the honourable senator that on two occasions—I believe on October 23 and November 29—the House of Commons passed resolutions of support for the United Nations policy in the Persian Gulf. One of those resolutions, that of October 23, was supported by Her Majesty's loyal Opposition. Respecting the second, as I recall events, only supporters of the government voted for that resolution; but the honourable senator cannot infer from that that members of Parliament did not have ample opportunity to discuss and vote on the question of support that Canada has given to the United Nations resolution concerning the Persian Gulf.

Senator Bonnell: Honourable senators, I understand the House of Commons gave its support for sanctions and, after the deadline, other measures, but the House of Commons never supported action committing Canadian troops to participate in a war. It is one thing to support sanctions and another to commit Canadian troops to a war in the Middle East. As far as I know, Parliament has not had an opportunity to debate whether Canada should go to war.

I also ask the leader to tell us what Secretary Baker told Mr. Clark in his briefing yesterday and what he told the government today regarding the likelihood of war taking place some time after midnight tomorrow.

Senator Murray: Honourable senators, I do not have the texts of the various UN resolutions in front of me.

Senator Bonnell: I am not asking about the UN resolutions; I am asking what Secretary Baker has told Mr. Clark and other members of the government.

Senator Murray: The honourable senator is not asking about the resolutions, but I think I should tell him something about them because they are relevant to the points he has made. At least one UN resolution, if not several, authorizes the use of all possible measures to get Iraq out of Kuwait, to enforce sanctions and to repel further aggression.

The honourable senator is wrong to say that the House of Commons did not have an opportunity to discuss the possible use of force and the involvement of all necessary measures. But the House of Commons had plenty of opportunity to discuss, and did discuss, the involvement of Canadian troops and their possible involvement in the application of force to that situation. Indeed, in voting against the last resolution passed by the House of Commons on November 29, the Honourable Herb Grey and other spokesmen for Her Majesty's loyal Opposition explicitly made the point that the resolution, in their view, seemed to authorize the use of force by the coalition and by Canadian troops in particular.

● (1440)

Hon. John B. Stewart: Honourable senators, may I ask what is the purpose of having the House of Commons brought back at this time? The Leader of the Government has told us that the resolutions adopted earlier by the House of Commons support the use of force in certain circumstances. Presumably those circumstances are either present or imminent. What is the point of having the House of Commons return to resolve, according to what the Leader of the Government has said, what that house already has resolved?

Senator Murray: Honourable senators, the situation in the gulf has manifestly and seriously deteriorated in recent weeks,

indeed in recent days. The point in bringing back the House of Commons is to enable the government to have the benefit of the views of the members of that house on the Gulf situation, Canada's response to that situation, as well as on the action we should take to support our commitment to the United Nations and its resolutions. It seems clear to me that this is a situation in which Parliament will want to be heard and in which the government will have the opportunity to report to the elected representatives.

Senator Stewart: Earlier today the Leader of the Government in the Senate told us that the role of the Canadian forces in the Gulf area had not changed. He now tells us that conditions in the Gulf have deteriorated. I should like to ask him for what the government is now seeking the support of the House of Commons in the present circumstances?

Senator Murray: Honourable senators, I do not think I should try to anticipate what the Prime Minister or other colleagues may wish to tell the House of Commons tomorrow, or, indeed, what the ministers may wish to tell the Standing Senate Committee on National Finance tonight or the House of Commons committee tomorrow evening.

CANADIAN POLICY—REQUEST FOR DISCLOSURE OF RECOMMENDATIONS

Hon. M. Lorne Bonnell: Honourable senators, I wonder if the Leader of the Government could make available to members of the Senate the information Mr. Clark gave to Mr. Baker before he went to Iraq last week and perhaps to the Secretary General of the United Nations with respect to Canada's ideas to avert war. Apparently Mr. Clark made some recommendations. Could those recommendations, which apparently were not listened to by Iraq, be tabled in the Senate so that we may understand what Canada's position was at that time, as given to the Secretary General of the United Nations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Prime Minister wrote a letter to Secretary General Perez de Cuellar of the United Nations suggesting the elements of a possible peaceful solution to the crisis in the Gulf. That letter has not been made public. I do not know whether it can be or will be immediately made public, but this is an area on which senators may wish to question Mr. Clark tonight when he appears before the committee. He would be in a position, I think, to outline the four elements of the letter that Prime Minister Mulroney sent to Mr. Perez de Cuellar.

Senator Bonnell: Honourable senators, Mr. Clark can appear before the committee but he is not here in this house now. Senator Murray, however, is here representing the government and he can say whether the letter can or cannot be tabled. He can table the letter along with a response from the Secretary General, Mr. de Cuellar. He can also find out for us what reply the Secretary General brought back for Mr. Clark after meeting with representatives of Iraq, a response besides the statement that it is all in God's hands. Did the Secretary General provide any further detail, in response to the Prime Minister's letter, as to exactly what the situation is over there, or should all of us in this country be issued gas masks?

Senator Murray: Honourable senators, first, to state what is obvious, this is a very grave and sensitive area of discussion. Surely the honourable senator would not expect me to improvise in discussing these matters. I do not have the letter that Prime Minister Mulroney sent to Mr. Perez de Cuellar. There were, as I have indicated, four elements to it. These also form the subject matter of consultations between Canada, as represented by Mr. Mulroney and Mr. Clark, and the leaders of various other nations. The Secretary General of the United Nations welcomed the letter and I think generally subscribed to the elements in it. Further than that I cannot go at the moment.

Mr. Perez de Cuellar is reporting this very afternoon to the Security Council in New York. He has already stated publicly that the word "withdrawal" was never used by Saddam Hussein in their discussions. If I may interpret his words, he has made it clear that the time for talk and diplomacy is over.

Senator Bonnell: Can the minister assure this house that, if in the near future America should attack Kuwait or Iraq, Canada will not become involved unless the United Nations declares war against Kuwait or Iraq? Should the Americans proceed on their own, can we be assured that we will not necessarily be involved in a war unless the UN declares war?

Senator Murray: Honourable senators, Senator Bonnell seems to forget that the war began on August 2, when Iraq invaded the sovereign state of Kuwait. It has maintained an army of occupation in that country and, indeed, has purported to annex Kuwait as a province of Iraq. That is when the war started.

What happened subsequently, and what may happen from here on in, has to do with the United Nations, with the capacity of the members of the United Nations acting collectively to repel aggression by one state against another.

Senator Bonnell: Honourable senators, I ask the minister whether he can assure us that we will not act alone as a country unless the United Nations acts. Can he assure us that we will somehow or other fall in with the United Nations? Should Israel, for example, or America attack Kuwait, can we as Canadians be assured that we will not follow suit unless the United Nations does so?

Senator Murray: Honourable senators, we are there in conformity with 12 United Nations resolutions. The actions we have taken so far and the actions that we will take in the future are in conformity with those resolutions.

Senator Bonnell: In other words, then, the minister is telling us that we will not be involved in a war unless the United Nations declares war, after which we might become involved.

Senator Murray: I refer the honourable senator to the 12 resolutions that have already been passed by the United Nations Security Council and to the presence in the Gulf region of a coalition of more than 20 nations who are there to deter further aggression, who are there in support of all of

those resolutions, including the most recent one, which set a deadline of January 15 for the withdrawal of Iraq from Kuwait.

Senator Bonnell: I agree with what the minister has said, but those resolutions had to do with sanctions and with the withdrawal of Iraq from Kuwait. I know of no resolution before the United Nations that states that we will declare war on January 15 or January 17. As I said, those resolutions had to do with withdrawal or sanctions.

I am trying to get the minister to assure this house that Canada will not be involved in a war unless the United Nations declares war, through another resolution or by some other means.

Senator Murray: Honourable senators, there are 1,860 Canadian military personnel now serving in the Gulf area. As I indicated earlier in response to a question put by Senator Stewart, they are there to provide, among other things, air cover for ships in the central and southern Gulf and to protect allied assets in Saudi Arabia.

There is a war on. The war was launched on August 2 when Iraq invaded Kuwait. What does the honourable senator think would happen if Canadian forces there, on the sea or in the air, were required to protect the assets of the coalition? There would be firing and, I presume, there would be casualties on one side or the other or both. Honourable senators, there is a military presence in the Gulf and it is there in the event of hostilities breaking out.

The honourable senator talks about going to war. The war started on August 2 when Iraq invaded Kuwait. The resolution of the United Nations called upon Iraq to get out of Kuwait by January 15.

From the day on which the United Nations was founded in 1945, it has been central to the concept of that assembly that the world community, acting together, would be in a position to deter aggression and, in the final analysis or in the final resort, to deter aggression by the use of force if necessary. That is the prospect now before us as a result of the Iraqi invasion of Kuwait and the refusal of Iraq to respect the resolutions of the United Nations.

Hon. John B. Stewart: Honourable senators, three or four times the Leader of the Government in the Senate has told us that a condition of war has prevailed since August 2, 1990. That is the answer the Leader of the Government in the Senate gives to Senator Bonnell's questions.

● (1450)

The question that is begging to be asked is this: Is the Leader of the Government saying that Canada has been at war since August 2, 1990? If not, is some form of action that could be described as war-like action now contemplated by the government?

Senator Murray: Honourable senators, our military presence in the Persian Gulf, like our presence in Korea 40 years ago,arises out of our responsibilities under the United Nations Charter to which Canada subscribes.

[Senator Murray.]

Senator Stewart: Why do you not answer the question? You can make that general statement, but it does not answer the question. You have told us four times that war prevails. Is Canada at war with Iraq?

Senator Murray: Honourable senators, Canada is in the Gulf in a defensive position to provide cover for our ships and the ships of allied nations and to provide cover for allied assets in Saudi Arabia. If fired upon—

Senator Stewart: I think we had better direct our questions to a minister who knows some answers.

Senator Murray: In my reply to his very first question, I invited the honourable senator to address questions tonight to the Standing Senate Committee on National Finance when the Ministers of External Affairs and National Defence are present, and he may do that. He does not like the answers that are being given, of course, but that is his problem.

Senator Frith: Should we ask him whether he agrees with you that we are at war with Iraq?

Senator Murray: I have not said that we are at war with Iraq, but that a state of war existed from August 2 when Iraq invaded Kuwait, and the United Nations responded to that. Canada, acting upon its responsibility under the Charter of the United Nations is, together with a number of other nations, present in a military role in the Gulf.

Senator Frith: You know better than that. Of course it is not a state of war.

Senator Bonnell: Honourable senators, the Leader of the Government has told us many times before that our ships and planes are in the Gulf to keep the embargo going and the sanctions against Iraq, that they were not there in any offensive role at all. He is now saying that we are in a state of war, that war was declared on August 2, that any time now we could have injured people returning home and be in an offensive role and involved in a war. We are not going to be there to protect the embargo and the sanctions, but we are going to change.

The Prime Minister tells us that there will be no change in the role of Canadian forces without Parliament being recalled and parliamentarians being given the opportunity to discuss it. Now the minister tells us that it is going to change, that we are going to have injured troops going to Halifax to be patched up, and all the injured people will be coming home because somehow or other these ships and planes will have a different role and that we are at war; is that right?

Senator Murray: The honourable senator should read what I have said. I have not said that the role has changed. I have said that the war started on August 2 when Iraq invaded Kuwait.

Senator Frith: What war? Who are the combatants?

Senator Bonnell: Is that the war between Canadian troops and some other country? If so, who are the two combatants? Our troops against whom? Whom are we fighting against in this war?

Senator Murray: Once again, for the third time, Canadian forces are there with the military forces of a number of other countries in conformity with their responsibilities under the United Nations Charter and in response to a series of 12 resolutions passed by the United Nations Security Council.

Senator Bonnell: All that I agree with. I know about the United Nations resolutions. What I want to know is, if we are likely to be going to war sometime after tomorrow night at 12 o'clock—according to you we are at war now—are our troops going to be playing a different role than peace-keeping and looking after the sanctions of supplies going to Iraq? Are we going to get into an offensive role?

Senator Murray: Honourable senators, that is a matter that I am sure senators can discuss with the two ministers tonight and which will be debated in the next few days in the House of Commons.

POINT OF ORDER

Hon H.A. Olson: Honourable senators, I want to raise a point of order. That is about the fourth time today that the Leader of the Government in the Senate has dismissed a question from Senator Bonnell on the basis that he can ask that question in a committee or somewhere else. The members of this house have the right to direct questions to the minister and they at least can expect a reply. If the minister does not have the letter with him, or he does not have the authority to make it public, that is one thing. He could at least acknowledge that he heard the question and say that he would attempt to get the letter and authorization to give it, but simply to disregard Parliament and suggest Senator Bonnell can go somewhere else and get his answers is a contemptuous way to act and I hope that the minister will not try it anymore.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That is not a point of order. What I indicated is that it would not be appropriate for me to speculate on the future role of Canadian forces in the Gulf, under the present circumstances. This is a matter that the responsible ministers, and especially the Prime Minister, will want to address in the course of debate on this matter.

Senator Olson: However, you told Senator Bonnell that he can go to the committee and receive an answer. He may not be a member of that committee. I do not know if he is or not, but I do know that he has a right to ask the question and he also has the right to a decent reply, which should be that the minister would attempt to obtain the information that would be required for a reply and indeed an answer to the question. That is the point. I think this contempt for Parliament and simply dismissing things from the floor of this chamber is wrong and the minister should advise this chamber that he is not going to do that any more.

EFFECT OF ECONOMIC SANCTIONS—EXTENSION OF PERIOD—GOVERNMENT POSITION

Hon. Keith Davey: Honourable senators, I would like to ask the Leader of the Government about sanctions. It seems to me from what I have read in the last number of days that economic sanctions against Iraq are working extremely well. Is the Government of Canada doing everything that it can to extend that period of sanctions to prevent the actual shooting war from happening?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The purpose of the sanctions was to apply such economic pressure on Iraq that Saddam Hussein would withdraw his troops from Kuwait. The sanctions, according to one definition, may be working but they are not working so as to have the desired effect. It is very clear that they are not having the desired effect. All one has to do is examine what Saddam Hussein has said. He has made Kuwait the 13th province of Iraq, he says, and there the matter rests.

Senator Davey: You then are saying to me that the sanctions have failed? Is that the position you are taking.

Senator Murray: The sanctions have failed to produce the desired result.

Senator Davey: Surely we could take more time. We are talking about a shooting war, about a war in which Americans and presumably Canadians will be killed. Surely someone somewhere is prepared to state that we have to give the sanctions more time? I share your concern about Hussein. He is a terrible man. But are we not prepared to wait just a little longer? Why must we act now?

Senator Murray: Honourable senators, since the honourable senator is a faithful reader of the *Toronto Star,* he will want to read Richard Gwyn on that subject in yesterday's edition of that paper.

Senator Davey: I did not read Richard Gwyn. I do not always read Richard Gwyn. I sometimes agree with what he says. Was he saying that we should take action right away and blow up the world?

Senator Murray: The point he made, and which others are making, is that sanctions are not apt to have the desired effect of forcing Iraq to withdraw from Kuwait.

Senator Davey: For the record, then, has the Government of Canada written off sanctions?

Senator Murray: The Government of Canada accepts the fact that sanctions have not had the desired effect, which is to produce the withdrawal of Iraq from Kuwait. It is clear from everything that Saddam Hussein has said that he has no intention of withdrawing from Kuwait.

Hon. John B. Stewart: Honourable senators, if sanctions have not had the desired effect, and if the Canadian forces are in the Persian Gulf to enforce sanctions, when will the Canadian forces be withdrawn from the Gulf?

Senator Murray: Honourable senators, I am now glad to know that the Liberal Party has hit upon a policy of its own, which is that the Canadian forces should be withdrawn from the Gulf.

Hon. Royce Frith (Deputy Leader of the Opposition): He did not say that. He was asking his question as a corollary to what you said.

Senator Murray: That should make for a very interesting debate. The honourable senator can put forward his position tonight. I take it that it is now his position and that of his party that the Canadian forces should be withdrawn from the Persian Gulf.

Senator Stewart: No. I am trying to see how two propositions stated by the Leader of the Government in the Senate go together. He has told us that the Canadian forces in the Gulf have a certain role, namely, to enforce sanctions.

Senator Murray: More than that.

Senator Bonnell: What other role?

Senator Stewart: And, more important, to enforce the embargoes.

Senator Murray: Yes, to enforce the embargoes, which are there in conformity with 12 United Nations resolutions. As I have indicated, the Canadian forces have a responsibility to protect Canadian shipping and Canadian ships and ships of other members of the coalition in the central and southern Gulf, as well as to protect allied assets in Saudi Arabia and to participate in the defence of Saudi Arabia.

Senator Stewart: The Canadian ships to which the minister refers are the ships which are there for the purpose of enforcing the embargo. The minister is now telling us that the economic sanctions, in the opinion of the government, have not worked.

Senator Murray: They have not produced the desired effect—that is to say, the withdrawal of Iraq from Kuwait. That is my statement. It is obvious.

Senator Stewart: So the sanctions role act of this war drama—the war drama which began on August 2, to go back to what Senator Murray said earlier—is over, and we now move into a new act. Yet the Leader of the Government in the Senate will not tell us what role Canada will play in this new act.

Senator Murray: Honourable senators, what the honourable senator refers to as the new act is that there is a deadline of midnight tomorrow night for the withdrawal of Iraqi troops from Kuwait. Diplomatic and other efforts to have Iraq conform to the United Nations resolution in this respect have so far failed. In the event the deadline passes, what action the allied countries will take and what Canada's role will be is a matter that will be discussed. This is why Parliament has been recalled.

Senator Frith: The allied forces will decide but Parliament is coming back to talk about a UN resolution?

Senator Murray: Yes.

[Senator Stewart.]

Hon. M. Lorne Bonnell: Honourable senators, is the minister suggesting that "allies" means United Nations? In other words, the United Nations will have to attack some time after tomorrow midnight Eastern Standard Time, or is it Iraqi time? After that, Canada will jump in to support the United Nations. Is that what the Minister is trying to tell us?

Senator Murray: If Iraq has not withdrawn from Kuwait, or given the signal that it is withdrawing from Kuwait by midnight tomorrow, we will be in a situation in which the deadline in the United Nations resolution has not been respected. The United Nations itself—and Mr. Perez de Cuellar is reporting to the Security Council this afternoon—and those countries which are allied in a military sense in the Gulf now will have a series of decisions to take.

Senator Bonnell: The resolution of the United Nations did not state that we will be going to war on January 15 or 16. That could be left for up to six months, and sometime after that we could take this extra force, which does not necessarily mean war. The United Nations never said that it would go to war after January 15. I am trying to ensure that Canada does not get involved in a war because Israel, America or some other country which the minister calls an ally starts a war and we have to come in to finish it for them.

Senator Murray: Honourable senators, I do not think there is anything I can usefully add to what I have already said with regard to the situation. The United Nations resolution imposed a deadline of January 15 on Iraq to withdraw from Kuwait. All I have said is that the United Nations—and Secretary General Perez de Cuellar is reporting to it this afternoon—and the countries which are allied in the military presence in the Gulf will have a decision to make after January 15 as to what they should do if the deadline in the resolution has not been respected.

As I told the honourable senator earlier, from the very foundation of the United Nations it was always contemplated that if necessary the world community would have recourse to force in order to carry out these resolutions.

Senator Bonnell: What you are telling us now is that the Secretary General and the United Nations will have a decision to make after midnight, January 15 as to whether or not force is to be used. The United Nations must make that decision. It will not be made by Israel, America or some other country. The United Nations will make the decision and we will then see what happens. Is that what you are telling us?

Senator Murray: The United Nations has already passed 12 resolutions. Whether it will pass a thirteenth, I do not know. I do not know that there is another draft resolution circulating.

Senator Bonnell: Are you telling me, then, that a thirteenth resolution is necessary before we can go to war?

Senator Murray: I am not telling the honourable senator that a thirteenth resolsution is necessary before force would be used, no.

Senator Bonnell: Are you telling me that the United Nations must make a decision before we go to war?

Senator Murray: Honourable senators, the United Nations has made its decision. It set January 15 as the deadline for the withdrawal of Iraq from Kuwait. Those countries which are allied in the Gulf and which have a military presence there in support of the United Nations resolutions will have a decision to make.

Senator Bonnell: You are now saying that the countries have a decision to make. Can the United States, Israel, or some other country make the decision to go to war and we will then have to follow; or does the United Nations have to make the decision to go to war before we become involved? What I want to know is who makes that decision.

Senator Murray: From the beginning, Canada has made its own decisions with regard to the deployment of Canadian troops and as to their role. That will continue to be the case.

Senator Bonnell: In other words, we are going to continue to have sanctions and not get into an offensive role, which is the decision Canada made.

Senator Murray: Honourable senators, from the beginning Canada has made its own decisions with regard to deployment of Canadian forces and their role in the Gulf, and we will continue to make our own decisions in that respect.

Senator Bonnell: That is not a very good answer, given the situation.

QUESTIONS ON THE ORDER PAPER

REQUEST FOR ANSWERS

Hon. Colin Kenny: Honourable senators, three months ago I placed three questions on the Order Paper dealing with terrorism and public safety, oil spills and energy conservation respectively. I have had no answers to them. I have risen twice in the chamber to ask when I shall receive a reply and I have not yet received an answer. At the risk of sounding repetitive, is there some reason for the delay? If so, what is the reason for not answering questions 56, 57 and 58 on the Order Paper, and when can I expect answers to them?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there is always some difficulty with answering questions relating to the areas with which my honourable friend is dealing. I have not gone into the matter in detail, but I have inquired whether there are reasons why these questions, or some of them, cannot be answered. If they cannot be answered, I have encouraged the appropriate authorities to say so and to answer those questions that can be answered. However, I shall make a further inquiry.

Senator Kenny: Thank you.

THE ENVIRONMENT

STORAGE AND DESTRUCTION OF TOXIC RUBBLE—REQUEST FOR INFORMATION—REQUEST FOR ANSWER

Hon. Colin Kenny: Honourable senators, in the same vein, at the end of last October I asked the Leader of the Government when we could expect a transportable incinerator to be used to clean up the toxic rubble from St-Basile-le-Grand. That question was a repeat of one I had asked the previous April. Since then I have not received a reply. When can we expect this incinerator to be operational, and when will the toxic rubble be cleaned up? Why is the government taking so long to answer these questions?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall make another inquiry on behalf of the honourable senator. I have no idea at this point what the answer will be, but I shall ask again.

ANSWER TO ORDER PAPER QUESTION TABLED

HERITAGE RAILWAY STATIONS PROTECTION ACT—DESIGNATION OF STATIONS

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 60 on the Order Paper—by Senator Marshall.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, January 15, 1991

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

Prayers.

ABORTION

PRESENTATION OF PETITIONS ON BILL C-43

Hon. Lorna Marsden: Honourable Senators, I have the honour to present a petition signed by 7,741 women from across Canada, which petition was signed during the First World Summit: Woman and the Many Dimensions of Power, opposing Bill C-43 and petitioning the Senate to reject the legislation and acknowledges a woman's right to choose.

[*Translation*]

THE ESTIMATES, 1990-1991

SEVENTEENTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand-E. Leblanc: Honourable senators, I have the honour to present the seventeenth report of the Standing Senate Committee on National Finance on the Supplementary Estimates (B) for the fiscal year 1990-1991.

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 it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see appendix p. 5033.*)

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

Senator Leblanc: Honourable senators, I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Motion agreed to.

[*Translation*]

YUKON PLACER MINING ACT
YUKON QUARTZ MINING ACT

BILL TO AMEND—FIRST REPORT OF ABORIGINAL PEOPLES COMMITTEE PRESENTED

Hon. Len Marchand, Chairman of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, January 15, 1991

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FIRST REPORT

Your Committee, to which was referred the Bill C-68, An Act to amend the Yukon Placer Mining Act and the Yukon Quartz Mining Act and to make provision for the application of certain orders, has, in obedience to the Order of Reference of Thursday, December 20, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEN MARCHAND
Chairman

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

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

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY VETERANS' HEALTH CARE REGULATIONS

Hon. Jack Marshall: Honourable Senators, I give notice that on Tuesday next, January 22, 1991, I will move, seconded by the Honourable Senator Marsden:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Veterans Health Care Regulations (SOR/90-594, dated August 28, 1990) and on all other matters concerning veterans affairs which may arise from time to time.

ENERGY AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Dan Hays: Honourable senators, I move, seconded by the Honourable Senator Rizzuto:

That the Standing Senate Committee on Energy and Natural Resources have power to sit on Thursday, January 17, at 4:00 o'clock in the afternoon, in order to hear the Chairman of Petro-Canada in relation to Bill C-84, an act respecting the privatization of the National Petroleum Company of Canada, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the Senate met yesterday and is meeting again today because it adjourned on December 21 to yesterday's date. Had we not adjourned to January 14, but to February 18 as the other place did, perhaps we would have been called back anyway, although there has been no motion put before the Senate by the government to parallel the one now before the House of Commons. I am not making any suggestions; I am simply saying that we are back under other auspices than the House of Commons, namely, because the Senate was not called back but itself adjourned to January 14.

There are a number of bills before the Senate, as well as before committees. Since many senators attended committee meetings last week, and because it was originally intended that the Senate resume earlier than the House of Commons in the New Year, can the Acting Leader of the Government and the House Leader, Senator Doody, tell us what plans he has for the Senate? By that I mean what plans the government has for the Senate for the rest of this week and thereafter.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I am not in a position to read the shopping list at this point. The Conservative caucus meets on Wednesday mornings at 9 o'clock. At that time I will be reviewing the program with my colleagues and hopefully will be in a position to report to the Senate at 2 o'clock tomorrow on what the schedule will be for the Senate in the near future.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should report that Senator Murray will not be here for Question Period today because he is detained on cabinet business.

PERSIAN GULF CRISIS

CANADIAN POSITION—REQUEST FOR UPDATE

Hon. H. A. Olson: Honourable senators, because I do not see Senator Murray in his place, I assume cabinet is probably—

Senator Bonnell: In trouble!

Senator Olson: —preoccupied with matters of extreme international concern, namely, the Gulf crisis and related matters.

However, I wonder if the Deputy Leader of the Government could bring us up to date on what is likely to happen in the Gulf and what Canada's position will be later this day inasmuch as this is the day of determination for what is contained in UN Resolution 678. I ask that so that Canadians may know, and, more specifically, senators may know, what the status of Canada will be with respect to this crisis.

• (1410)

Hon. C. William Doody (Deputy Leader of the Government): I have no further information to pass on to honourable senators. As Senator Olson is aware, last night a meeting of the Standing Senate Committee on National Finance met and heard the Secretary of State for External Affairs, the Minister of Defence and the Associate Minister of Defence. I would suggest that the information that was gathered by senators at that time would be the most current information there is. Certainly it is the most current information that I have.

Senator Olson: A few minutes ago I was listening to the television proceedings from the other place. The Prime Minister was updating that House of Parliament with respect to the current situation and what the situation is likely to be at a later hour or date. I was hoping, therefore, that there would be some information passed on to this chamber.

Senator Doody: If I am given any information from the government source, I shall certainly pass it along to honourable senators.

STRIKING OF MEDAL FOR CANADIAN FORCES IN GULF CONFLICT—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Honourable senators, I should like to put a question to the Deputy Leader of the Government in the Senate. I suspect he will not have the answer today, but I should like him to inform the Leader of the Government and possibly supply the answer tomorrow.

In the near future there could be an outbreak of hostilities in the Gulf. We do not know if that will take place under the flag of the United Nations, under the flag of a single country or under that of a coalition. Canadian troops are now in the Gulf: seamen, soldiers and airmen. These Canadian men and women are prepared to lay down their lives—in this case I am not sure exactly what for, but they are upholding the resolutions of the United Nations. Will the government and the Department of National Defence have a medal struck for these men and women who are prepared to fight in the Gulf on behalf of the United Nations?

After the Korean war, the Korean conflict or Korean peacekeeping—whatever it was—I understand that the best Canada did for the veterans was to present a little pin to them. After 25 or 30 years, that pin was presented by the Minister of Veterans Affairs to indicate that the veterans were there. The United Nations presented a medal, but the Canadian Department of National Defence presented only a pin given by the

Department of Veterans Affairs. There was no medal at that time for the Canadian men and women who were prepared to lay down their lives for this country.

Will a medal be struck for those people who are prepared to fight for freedom for the United Nations or for a coalition?

Hon. C. William Doody (Deputy Leader of the Government): I shall make an inquiry, senator.

THREAT OF IRAQI TERRORISM—PROVISION OF SECURITY—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: I have another question for the Deputy Leader of the Government in the Senate. Again, he may not know the answer, but he generally knows most answers.

Senator Olson: He knows more than he says.

Senator Bonnell: He does not always tell us all he knows, but he does tell us what he knows.

Hon. C. William Doody (Deputy Leader of the Government): So far I like it.

Senator Bonnell: There is another problem that could take place in the near future. There is the possibility of a conflict breaking out after 12 midnight tonight or tomorrow or next week or next month. As of today at midnight there is a great possibility, according to what we hear from Iraq, that there will be terrorist acts taking place all over the world. Countries such as Canada, who are prepared to tell Iraq to get out of Kuwait, could be acted upon by terrorists at our Parliament Buildings, our water supplies, our atomic energy plants, our airports and at many crucial places in this country. What steps, if any, are being taken by the Government of Canada to protect the Parliament Buildings? What steps are being taken to provide extra security at our airports and at our National Defence Headquarters? What is being done to protect the water supplies in our country? Is anything being prepared in case of terrorism in this country?

Senator Doody: I will make inquiries on behalf of the senator.

Hon. Earl A. Hastings: You will make inquiries of whom?

Senator Doody: I will make inquiries of the appropriate department.

Senator Bonnell: Honourable senators, I have half a dozen more questions for the Leader of the Government in the Senate, but I will ask them tomorrow.

DELAYED ANSWER TO ORAL QUESTION
HEALTH AND WELFARE

HOSPITALS—CLOSURE OF WARDS—REQUEST FOR INFORMATION

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 December 19, 1990, by the Honourable Raymond J. Perrault, regarding Hospitals—Closure of Wards—Request for Information. I ask that it be printed as part of today's proceedings.

(*The answer follows:*)

The provision of hospital services is a matter of provincial jurisdiction. That being said, there is regular consultation on health care matters among the provinces and the federal government at federal-provincial meetings.

The federal government contributes substantially to the cost of health care in British Columbia. In 1990-91, the total federal contribution to British Columbia for health was $1.7 billion.

The federal contribution to health care costs in British Columbia has increased every year since 1977.

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before we leave Question Period, it should be noted that we would have hoped, on a day like today, that Senator Murray could have been here to answer questions. Debate is proceeding in the other place. Senator Bonnell, and perhaps others, has a number of questions that he wanted to put. I think it reasonable of the Senate to expect the government to be in a position to answer questions every day; but certainly, on a day like today, January 15, 1991, we would have thought that someone from the government would have been here and able to answer questions.

We understand that this is a day when the Government Leader's other ministerial responsibilities are also pressing, but an important part of those responsibilities, certainly from our point of view, is his responsibility to speak for the government in this place. We are left on this important day without anyone here able to answer questions on the government's position. It is beyond exaggeration to say how important today is to the country and, therefore, to its Senate.

FISHERIES ACT
CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Gérald J. Comeau moved the third reading of Bill C-74, to amend the Fisheries Act and to amend the Criminal Code in consequence thereof.

Motion agreed to and bill read third time and passed.

ABORIGINAL PEOPLES BILL

SECOND READING—POINT OF ORDER—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to

further the aspirations of the aboriginal peoples of Canada,

And on the Point of Order concerning the admissibility of the Bill.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I wish to speak on Senator Doody's point of order, and I am simply waiting for more research. I intend to do so when I have received that information.

Order stands.

● (1420)

CANADA PENSION PLAN

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Norman K. Atkins moved the second reading of Bill C-260, to amend the Canada Pension Plan (spousal agreement).

He said: Honourable senators, I am pleased to have the opportunity to speak to Bill C-260, a private member's bill that was introduced in the House of Commons by the honourable member for Burlington, Mr. Bill Kempling. The bill proposes an amendment to the Canada Pension Plan provisions governing the division of unadjusted pensionable earnings, known as credit splitting, between spouses on marriage breakdown.

Honourable senators may or may not know that there is a long and uneasy history behind the current credit-splitting provisions. I should like to touch briefly upon some of the key developments in the evolution of these provisions so that both the intent of and the implications associated with Bill C-260 are well understood.

The introduction of credit splitting under the Canada Pension Plan in 1978 was designed to ensure that, on marriage breakdown, each spouse would retain a fair share of Canada Pension Plan protection towards which they both contributed during the marriage. Prior to that, the spouse who had not worked outside of the home ceased to be entitled to any Canada Pension Plan benefits in respect of the contributor when the marriage ended in divorce or legal annulment. It was also Parliament's intent that the right to apply for and receive a division of pension credits should not be affected by the terms of a spousal agreement. Indeed, at the time, the department was saying publicly that the Minister of National Health and Welfare was not bound by the provisions of agreements between spouses or former spouses.

In 1983 the Pension Appeals Board handed down what is known as the Preece decision. The ruling stated that a clause in a separation agreement or court order which indicated that the spouses had waived their respective rights of further claim to each other's property was significant evidence to indicate that the spouses had already agreed not to divide Canada Pension Plan credits. While this was in direct contradiction to the objective of the legislation and to the official information provided to the public, the Pension Appeals Board is currently the final level of appeal under the Canada Pension Plan, and the Minister of National Health and Welfare has no choice but to abide by decisions of the board.

In an effort to restore the original intent, the Canada Pension Plan was amended in 1986 to include a specific provision in the legislation stipulating that the Minister of National Health and Welfare is not bound by the terms of property waivers in spousal agreements signed after the date the amending legislation was tabled, which was June 4, 1986.

Ideally, it would have been desirable to make the application of this provision retroactive to the August 1983 date of the Preece decision, and that, in essence, is what Bill C-260 proposes to do. In reality, however, there were too many unanswered legal and administrative questions associated with unlimited retroactivity, and accordingly a decision was made to act immediately and to err on the side of caution rather than to do nothing until these questions could be resolved.

Despite this limited approach, it was also recognized that, prior to the Pension Appeal Board's decision being made public, many individuals signed spousal agreements containing waivers on the basis of the government's advice. While the advice was given in good faith, we have a moral responsibility toward those individuals. Accordingly, the Honourable Perrin Beatty, shortly after he became minister in 1988, took the decision to use a remedial provision in the Canada Pension Plan to provide credits to those individuals whose applications were denied because they signed spousal agreements based on advice or information from the department that such agreements had no effect on their right to a division of Canada Pension Plan credits. Under this provision, the non-applicant spouse's credits are not affected in any way. Once again, however, this provision has only limited application; it cannot help anyone who might have been adversely affected by the Pension Appeals Board decisions.

Bill C-260 proposes to provide the Minister of National Health and Welfare with the discretion to apply similar remedy in the case of any or all individuals who signed spousal agreements prior to June 4, 1986. This amendment has the effect of making some very minor, albeit important, adjustments and is intended to preserve the effect of the bill as originally drafted, but to avoid certain situations that legal advice indicated might otherwise occur. For example, it avoids possible claims by people who signed an agreement but were ineligible for other reasons, such as failure to apply within the time limit. It also ensures that persons who explicitly and deliberately agreed not to divide the credits, as was their right according to the Preece decision, do not receive the same relief that this bill would provide to those who lost their rights inadvertently. It also means that the individuals concerned will not have to request that the minister take remedial action, as required by subsection 66(4), of the Canada Pension Plan. This will greatly simplify the process for them. In all other respects, the amendment maintains the new power that Bill C-260 proposes to give to the minister. It will also allow the minister to help many very deserving people, numbering potentially in the thousands. Virtually all of these people are women

who have been denied something that should have been their right.

Honourable senators, I hope that this house will give its support to Bill C-260, a bill amending the Canada Pension Plan provisions governing the division of unadjusted pensionable earnings, known as credit splitting, between spouses on marriage breakdown.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, with a couple of interruptions I listened to what Senator Atkins had to say. I did not know anything about the bill until I listened to his intervention. I have a question for him that perhaps he or someone can answer tomorrow or today, if possible. What is the government's position on this bill? My impression is that it creates a remedy for an undesirable and unsatisfactory situation. One way it does that is to give the minister certain discretionary powers to remedy injustices. It may well be that the minister is embarassed to give himself these powers and therefore wanted a private member to bring in the bill so that his natural modesty would enable him to say that a private member has asked him to do this, and that he was not asking to have this power himself. That seems to me improbable.

So my question is: Why is this not a government bill? It not being a government bill, what is the government's position with respect to it? In particular, what is the minister's position, because he is the one who will be given the main powers under the amendment?

Senator Atkins: Honourable senators, I am not really sure why it was a private member's bill. I know that it went through the whole process in the House of Commons, was referred to the committee on two occasions and received unanimous support. I am sorry that you were unaware of this until now. I gave a copy of my address to Senator Marsden. Obviously we are proposing to send it to committee. At that time the private member is more than prepared to meet with the committee, as, I am sure, is the minister.

● (1430)

Senator Frith: Senator Marsden had not mentioned that she received a copy of your notes, and, on her and our behalf, I thank you for that courtesy. We will no doubt adjourn the debate in Senator Marsden's name. If she agrees that the bill should be referred to a committee, and both the private member—I believe it is Mr. Kempling—and the minister are prepared to appear, obviously someone will be in a position to answer my question. So I will adjourn the debate on second reading of this bill in the name of Senator Marsden.

On motion of Senator Frith, for Senator Marsden, debate adjourned.

WORKERS MOURNING DAY BILL

SECOND READING—ORDER STANDS

On the Order:

[Senator Atkins]

Second reading of the Bill C-223, An Act respecting a Day of Mourning for Persons Killed or Injured in the Workplace.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this order should stand in the name of Senator Spivak.

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

Hon. Senators: Agreed.

Order stands in name of Senator Spivak.

CANADIAN POLAR COMMISSION BILL

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Kelleher, P.C., seconded by the Honourable Senator Muir, for the second reading of the Bill C-72, An Act to establish the Canadian Polar Commission and to amend certain Acts in consequence thereof.—(*Honourable Senator Watt*).

Hon. Charlie Watt: Honourable senators, I remember when the idea for a polar commission first emerged in 1980. It was to give Canada a focal point when dealing with northern issues on the international scene. It was to provide Canada with a forum by which northerners and northern institutions could come together on northern issues.

I have recently touched base with Inuit organizations on Bill C-72. I have been told that a great deal of consultation took place on the formation of this bill. It seems that people are generally satisfied with the overall thrust of the proposed legislation and that they are anxious to see it become law.

Organizations such as the Inuit Circumpolar Conference, which is an international organization, are looking forward to working with the polar commission as soon as it is set up and running. Many northerners will view the establishment of the commission as a concrete step by the government in recognizing the importance of addressing polar issues nationally and internationally.

Having said this, I have a few minor concerns with the wording in Bill C-72. The bill states that the polar commission will be managed by a board of 12 people who have knowledge of or experience with the north. This criterion is not enough. A majority of the commission's board must consist of northerners, not so-called "northern experts" from the south. If the commission is to succeed, it will be important for the government to appoint northerners to a majority of the 12 positions on the commission's board. I would also urge that the government ensure that the commission's board always include at least one northerner each from northern Quebec and Labrador.

There is also the question of the location of the Polar Commission's southern office somewhere in the National Capital Region. I hope the commission's office will not be located at 10 Wellington Street, which houses the office of the

Department of Indian and Northern Affairs. The commission must maintain an arm's-length relationship with the government if it is to fulfil its role. I stress that the Polar Commission must not become a captive of the Department of Indian and Northern Affairs. This would defeat the very purpose of setting up such a body.

Finally, I have to ask myself why Bill C-72 states that the commission's northern office and northern board meetings must take place north of the 60th parallel. North of the 60th parallel includes all of the Northwest Territories and the Yukon Territory, but it does not include much of northern Quebec or Labrador.

North-of-60 is a bad definition of Canada's north, and it is one to which I strongly object. I hope this shortcoming can be corrected in the not too distant future.

Honourable senators, I have two possible amendments to correct the North-of-60 problem in Bill C-72. The first would be to delete subsection 14(2), replacing it with:

> (2) At least one office of the Commission shall be at a place in the Northwest Territories, the Yukon Territory, Labrador, or that part of Quebec that is north of 55 degrees north latitude.

The second possible amendment would be to delete subsection 15(2), replacing it with:

> At least half of the Board's meetings in each year shall be held at places in the Northwest Territories, the Yukon Territory, Labrador, or that part of Quebec that is north of 55 degrees north latitude.

Nevertheless, honourable senators, I recommend the quick passage of Bill C-72 at this time.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I understand that Senator Watt is suggesting some amendments rather than proposing them as amendments to the bill at this stage. I take it that the Chairman of the committee to which this bill is referred will be able to consider the possibility of such amendments being placed before the committee. Indeed, Senator Watt may wish to make them himself at the committee and the committee can then decide whether or not to report the bill with his proposed amendments.

With that understanding I support the position of Senator Watt that the bill should now receive second reading and be referred to the appropriate committee.

Hon. C. William Doody (Deputy Leader of the Government): The witnesses could comment on the proposed amendments at that time.

Senator Frith: Exactly.

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 Kelleher, bill referred to the Standing Senate Committee on Aboriginal Peoples.

• (1440)

CENTENNIAL FLAME RESEARCH AWARD BILL

SECOND READING

Hon. Nancy E. Teed moved the second reading of Bill C-258, respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities.

She said: Honourable senators, it is a pleasure for me to move second reading of this bill, which was introduced in the other place by the honourable Patrick Boyer, the Member of Parliament for Etobicoke-Lakeshore.

The purpose of the bill is to ensure that the money thrown in the fountain surrounding the Centennial Flame on Parliament Hill in Ottawa will be used to help disabled persons in public life. Honourable senators, this award will not necessarily be limited to one person, but any person who would receive this award, which will be given on an annual basis, would be chosen by the Parliamentary Committee on the Status of Disabled Persons.

It is our intention that this bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology and, at the appropriate time, I will make that motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I can see no reason why this bill should not immediately be referred to committee, since none of my colleagues have displayed an interest in intervening at the second reading debate. I assume the sponsor of the bill, Senator Teed, is in a position to guarantee, or at least to assure us, that appropriate witnesses will be called to explain the bill and its objectives and that interested members of the public will be asked to appear before the committee.

It seems to me, therefore, that further debate at this stage in the Senate will serve no useful objective, because we need more information. Any questions can be raised in committee or, eventually, at third reading.

For that reason I do not object to this bill receiving second reading now in the context of Senator Teed's assurance that she will be moving, after second reading, that the bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

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 Teed, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

PENITENTIARY ACT

BILL TO AMEND—SECOND READING

Hon. Earl A. Hastings moved the second reading of Bill S-19, to amend the Penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament.

He said: Honourable senators, the purpose of Bill S-19 is to amend the Penitentiary Act to reinstate—and I emphasize the word "reinstate"—the statutory visitation privileges of Members of Parliament.

This bill, honourable senators, had its origins in this chamber by way of an inquiry which I placed before honourable senators on October 31, 1989. At that time I gave a very comprehensive history of the right of visitation of parliamentary members to Her Majesty's penitentiaries which was created in 1834 by the Acts of Assembly granted to members of the council and others. It is the right to visit Her Majesty's penitentiaries at pleasure. That right continued to exist in the Penitentiary Act from 1867 until 1961 when it was dropped from the legislation. At that time an assurance was given that the right of visitation would be protected by way of regulation. Honourable senators, that never occurred. From 1961 until 1967 there was no right of visitation to Her Majesty's penitentiaries.

From 1967 to 1980 a grant was made by the commissioner, through his directors, that members of Parliament could visit penitentiaries; but, of course, certain conditions were placed on this and, specifically, gone were the words "at pleasure."

When the warden deemed it appropriate, a member of Parliament could visit a penitentiary. From 1980 to 1987 another caveat was put on the visit of a member of Parliament, which was under normal circumstances. From that time, under that directive—I am referring now to commissioner's directives—the warden could say who could visit and when, and could restrict or control any movement within the institution by members of Parliament.

As a result of that inquiry the matter was referred to the Standing Senate Committee on Legal and Constitutional Affairs. The committee carried on an extensive examination of the right and what had transpired since 1961, and held three or four meetings. One of the witnesses called was the Commissioner of Correctional Services Canada. In one particular instance committee members asked for an opinion from Mr. C. G. Eglington, a noted counsel and constitutional expert in Canada, who gave the committee certain observations. Where he is trying to delineate between legislation, regulations and commissioner's directives, he found that by way of a directive—and I quote from his opinion:

> it would clearly be unwise to rest a right to anything on a Directive which may be changed at will, is not regarded by the Commissioner as law binding him, and which is not subject to any Parliamentary scrutiny.

From 1961 to 1987 that parliamentary right rested on a commissioner's directive under circumstances I have just quoted, which could be changed at will. It is not regarded by the commissioner as law binding him and is not subject to parliamentary scrunity. Indeed, the commissioner changed it three or four times during those periods, as I indicated earlier on, adding thereto restrictions and additions at his will. Indeed, on January 1, 1987, he withdrew the right completely and it was not carried in any directive between 1987 and 1989, when it was quickly reimposed as a result of the inquiry I made in this chamber. He says that directives are weak on which to rest the right, where it is found now.

Continuing with his opinion, he stated:

> This carries one back to the Regulations. These clearly are law, will bind the Commissioner and are theoretically subject to parliamentary scrutiny and control. Regulations are, nonetheless, as Senator Roebuck—

—a distinguished senator of this house—

> —noted long ago solely within the power of the Government. What the Government grants it may withdraw. The implication is that a secure right must rest on legislation. Such a basis is, moreover, consonant with the history of the matter—

That is, it is consonant with the history of this right to visit a penitentiary. He goes on to say:

> —and, it may well be thought, with the importance and dignity of the matter. There is a seemliness about a statutory provision in this instance altogether lacking in an amendment to the Regulations. For what is involved, at bottom, is an assertion of a right to be enjoyed against the Crown by Members of Parliament. Those Members should be involved in its creation, and not be the recipients of a grant from the Governor in Council.

His final opinion was:

> . . . I am of the opinion that a Bill to amend the Penitentiary Act by the insertion of a right of access like unto that historically accorded to Members of Parliament would not be a Bill to which section 53 of the Constitution Acts 1867-1982 applies.

As a result of the committee hearings the committee reported to honourable senators in its twenty-ninth report. The essence of its report is:

> Your Committee heard from the Commissioner of the Correctional Service of Canada and received independent legal counsel.

I have just quoted that. The report goes on to say:

> Counsel advised that the most appropriate course was to confer the right of access to penitentiaries for Parliamentarians by an amendment to the *Penitentiaries Act,* and your Committee concurs in this advice.
>
> Senator Hastings introduced Bill S-19, "*An Act to amend the Penitentiary Act to reinstate visitation privileges of Members of Parliament,*" on November 14, 1990, and your Committee is supportive of his action.

That was the twenty-ninth report of the Standing Senate Committee on Legal and Constitutional Affairs and was signed by Nathan Nurgitz, the chairman of the committee.

As a result, Honourable Senator, Bill S-19 reinstates that right of visitation statutorily into the Canadian Penitentiaries Act. The inquiry was referred to and studied by the Legal and Constitutional Affairs committee. If honourable senators adopt Bill S-19 at second reading, it will be my intention to

refer the bill back to the Standing Senate Committee on Legal and Constitutional Affairs for final approval.

Hon. Nathan Nurgitz: Honourable senators, in responding to Senator Hastings, there is not much more that can be said other than was mentioned in the twenty-ninth report of the committee. To observe the pattern that we have for all bills, it should go back to committee. I am sure that the committee will give it a reasonably quick look. It already has some reasonably good knowledge of the serious matters involved. I see no reason why that bill should not now more forward. If Senator Hastings is prepared to have the matter referred at this point to the Standing Senate Committee on Legal and Constitutional Affairs, I see nothing wrong with that.

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

Senator Hastings: I have nothing to add, honourable senators, except that I will comply with the suggestion that was just made by the chairman of the committee.

Motion agreed to and bill read second time.

• (1450)

REFERRED TO COMMITTEE

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

On motion of Senator Hastings, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE— DEBATE CONTINUED

On the Order:

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

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

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

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

And on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Chart-

er; and a formula based on seven provinces representing 50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada".—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I mentioned, or hinted, yesterday that I am going to support Senator MacEachen's amendment, which honourable senators might remember only adds the Victoria Formula to the "alternatives" to be considered by the committee. That is the essence of it. I am waiting to hear whether the government supports the amendment, and, if so, I can see no reason for not proceeding to passage of the resolution.

Hon. Noel A. Kinsella: Honourable senators, may I ask a question respecting the proposed amendment? Is it the intention that the Victoria Formula be looked at *inter alia*? Is it the intention to give special attention to that over and above other models, or am I mistaken?

Senator Frith: No, I think Senator Kinsella is quite right; and, to reassure him, let us have a look at what it says on page iii of the *Minutes of the Proceedings of the Senate* for today.

We see on that page the following:

> That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:
>
> (i) the role of the Canadian public in the process;
>
> (ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and
>
> (iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

That is a document which we all have.

Then, on page iv, it states:

> And on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

I think that should read the third paragraph. That is a misprint in the *Minutes* or a misprint in the motion.

It then goes on to state:

> iii) alternatives to the current process and formulae—

Which is the same wording:

> —including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing 50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces;

That is the added part. Then I go back to the original, which states:

> and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

It seems to me that Senator Kinsella is quite right. What it does is take the original paragraph (iii), which says that attention should be given to "alternatives to the current process and formulae". It then inserts the two other subjects to be looked at by the committee, and then adds the government paper. So it adds two other possibilities for consideration by the committee, but does not delete anything from the original motion.

Hon. Gerald R. Ottenheimer: Honourable senators, as Senator Frith has said, it is really paragraph (iii) rather than paragraph (iv) which should be deleted. I can see that.

I am wondering whether paragraphs (i) and (ii) are deleted, or whether they remain. It seems to me that paragraph (iii) is being substituted.

Senator Frith: I think it can only mean that paragraphs (i) and (ii) remain, because, on any count, paragraph (iv), if you are not using the small Roman Numerals but using the actual paragraphs, would be the one that deals with the committee having power to appoint, and so forth. So I think it is quite clear that it is referring to paragraph (iii), and when you see the wording is maintained from paragraph (iii) except for the insert, then I think it is quite clear that paragraphs (i) and (ii) remain.

[*Translation*]

Hon. Gérald Beaudoin: Honourable senators, I would like to speak to the motion as proposed.

Senator Frith: Do you wish to speak to the amendment?

Senator Beaudoin: On the main motion and the amendment.

[*English*]

A motion for the establishment of a Special Joint Committee of the Senate and the House of Commons is now before us, with a mandate to consult Canadians broadly, inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

> (i) the role of the Canadian public in the process;
>
> (ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and
>
> (iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

The Honourable Leader of the Opposition, on December 21, 1990, proposed an amendment to (iii) of the motion, which relates to the Victoria Formula of amendment, the regional

veto formula of 1971, and alternatively a veto for Quebec to be included in the "seven provinces formula of amendment" stipulated in Section 38 of the Constitution Act, 1982.

The Honourable Senator Olson has proposed as a sub-amendment that each senator be authorized to participate in the debate before the parliamentary committee without the right to vote.

[*Translation*]

The resolution was adopted by the House of Commons on December 13, without amendment.

I am fully aware of the significance and merits of the two amending formulas proposed for consideration by the Leader of the Opposition, Senator MacEachen.

I myself have had an opportunity to consider and write about the history of our amending formula in the Canadian Constitution, and in fact, I have written a whole chapter on the subject. Today, our interest is again focussed on this topic, and I think it would be useful to take a few minutes—it won't take long—quickly to put the problem into its historical perspective. In 1867, the thirty-three Fathers of Confederation did not feel it was necessary to enshrine an amending formula in the Canadian Constitution. However, our constitution, like all other constitutions, had to be amended at some point. In fact, it was amended more than 20 times. As long as Canada remained a colony, from 1867 to 1931, both federal Houses would make an address to the British Parliament to amend the 1867 legislation—in other words, the British North America Act, our Constitution, now known as the Constitution Act of 1867, and in French: La Loi constitutionnelle de 1867—acting at the request of Canadians.

This situation, which was already peculiar to Canada, became a real anachronism as soon as Canada obtained its independence. In 1926, the Balfour Report recognized that the United Kingdom and the Dominions, including Canada, were equal in status and freely associated, united by common allegiance to the Queen—to the King at the time. In 1931, under the Statute of Westminster, the British Parliament recognized our political autonomy.

• (1500)

[*English*]

The British jurists in 1931 were quite ready to enshrine a formula of amendment in the Canadian Constitution. However, Canadians were not ready. In 1927, and again in 1930-31, Canadians tried unsuccessfully to agree on a formula of amendment. Then the British Parliament, by section 7 of the Statute of Westminster of 1931, preserved the status quo in that particular domain of constitutional amendment. Thereafter, the Canadians in 1935, 1949-50, 1960, 1964-65, 1968-71, 1976, 1978, 1979 and 1980 tried again, but without success. Finally, in 1981, the federal government and nine provincial authorities agreed on a formula of amendment which is now enshrined in sections 38 to 50 of the Constitution Act of 1982.

Since the patriation of the Constitution in 1982, the Canadian Constitution has been amended twice: In 1983, at a federal-provincial conference on aboriginal matters, on the basis of the general formula—seven provinces representing 50 per cent of the Canadian population—and again in 1987, in accordance with the bilateral formula of section 43 of the Constitution Act of 1982 involving the federal and Newfoundland authorities with respect to section 93 of the B.N.A. Act, now the Constitution Act of 1867. That amendment is termed the Constitution Amendment, 1987 Newfoundland Act.

Then came the Meech Lake Accord, accepted by the Prime Minister and ten premiers at Meech Lake on April 30, 1987, and important amendments, again by the 11, on June 3, 1987, at the Langevin Block. The House of Commons and eight legislatures ratified the accord within a little more than a year. However, one province—Newfoundland and Labrador—rescinded the ratification thereafter.

Senator Frith: You might mention what the Senate did while you are recounting this important series of events.

Senator Beaudoin: The Senate proposed some modifications. The question came to the House of Commons and, according to section 47 of the Constitution Act of 1982, the House of Commons may agree or disagree and has the final word.

Senator Frith: After the lapse of a certain period.

Senator Beaudoin: You are quite right, after the lapse of six months.

Senator Frith: The other place then repassed it.

Senator Beaudoin: The House of Commons repassed or adopted again the original proposition.

After the famous June, 1990 week—from 3 to 9—the Province of New Brunswick ratified the accord, but Manitoba and Newfoundland did not. So the Meech Lake Accord failed as a constitutional amendment.

The whole debate on the Meech Lake Accord has taught us that the amending formula contains some lacunae. That is a matter of debate, of course, but I think we may say that.

[*Translation*]

The three year ratification period seems too long. For amendments requiring unanimous consent, section 41 of the Constitution Act, 1982, sets no time limit. Jurists are divided: some are of the opinion that the three year period applies; others maintain there is no time limit. For some people, the debate between the ten premiers and the prime minister was not transparent enough. Others claim that the 1982 formula is too cumbersome and demanding and others yet have suggested that the Canadian people should be more involved.

The motion before us, which provides for the appointment of a joint parliamentary committee to inquire into and report, is intended to answer to such criticism. It also looks into alternatives to the current amending formula.

Can our amending formula be improved? Of course!

The 1982 formula, which was a compromise solution—every constitution results from compromise—is not my favorite. It is set out in sections 36 to 50 of the Constitution Act, 1982. Therefore, I think it is a good idea to appoint a parliamentary committee to examine the question. Of course, it will not be

easy to find a suitable formula, but it sure is worth trying, in my opinion.

• (1510)

[*English*]

I now turn my attention to the proposed amendments. I wish to be well understood. The Victoria Formula, which proposed "the four regional veto" was popular in 1970-71 and may very well be popular in many parts of Canada. Quebec has rejected the Victoria Charter, not because of the formula of amendment itself but, rather, because Quebec wanted, in June 1971, a paramountcy or priority in the field of social security. I did some research on that point and constitutional experts, jurists and political scientists agreed generally on that point. That formula has its own merit; there is absolutely no doubt about that. I have written many pages in its favour.

The second part of the amendment, the formula of a veto for Quebec to be included in the general formula of amendment of 1982—that is, seven provinces representing 50 per cent of the population—is also a formula that has its own merit.

Senator Frith: With Quebec being one of the seven provinces.

Senator Beaudoin: With Quebec being one of the seven provinces. In other words, Quebec would have a veto, in that sense, built in to the general formula of amendment, which is an interesting proposition. There is no doubt about that.

The Special Joint Committee will surely consider these two formulae. But there are other formulae that could be considered, like the Australian formula of amendment based on a referendum, or the Pepin-Robarts formula of 1979. The Pepin-Robarts formula was inspired by the Australian formula of amendment, but was adapted to the Canadian situation, in the opinion of the commissioners of the Pepin-Robarts Commission.

What we proposed at that time was that an amendment may be made to the Constitution of Canada by a resolution adopted by a majority of the House of Commons and what we called the renovated Senate, or the second chamber, ratified by a referendum in Canada, but a referendum having a majority in the Atlantic provinces, in Quebec, in Ontario and in the western provinces. In other words, the Victoria Formula was based on four regional vetoes, the Pepin-Robarts amendment was based on a four region veto through a referendum, and the other amendment was through parliamentary resolution.

The Pepin-Robarts report of January 15, 1979, has outlined the reasons and motives in favour of such a formula of amendment. As honourable senators may see right now, in those three cases there is a regional veto, Quebec being one of the regions. In the second part of the amendment there is no regional veto but a veto for Quebec in the general formula of amendment.

Senator Frith: By "general formula of amendment", you mean the 1982 formula?

Senator Beaudoin: That is right, the 1982 formula, the basic one, as you quite rightly say.

[Senator Beaudoin.]

The mandate of the Special Joint Committee is not exhaustive, the way I read it. Any formula may be considered. The parliamentary committee is not restricted to the formulae outlined in the discussion paper entitled: "Amending the Constitution of Canada".

[*Translation*]

While we recognize, and I say so clearly, the merit of the two proposals from the opposition, I suggest that we move as quickly as possible to the creation of the parliamentary committee which would report by July 1st, 1991. I believe it is important that this committee be established as fast as possible, since the Bélanger-Campeau Commission will report on March 28, 1991, that is to say in a little over two months from now, and since the Quebec Liberal Party, now in power, will adopt a policy on the constitutional future of Quebec some time in March. So, the committee would have five months and a half.

• (1520)

[*English*]

I do not think that we should, at this stage of our discussion, give preference to two formulae of amendment over all the others. Is it not prejudging what the Special Joint Committee is going to recommend after a few months of inquiry and study? No doubt—and I repeat—those two formulae are of great interest. Perhaps they will be selected; I do not know. However, some others are also of great interest. Some innovative formulae may even be devised. Why not wait for the final report of the committee?

[*Translation*]

Certain nationalist circles in Quebec did wonder about the appropriateness or relevance of a Senate and House of Commons parliamentary commission on the amending formula. Personally I think this parliamentary commission will be very useful. First we have to get ourselves out of the current constitutional deadlock. The amendment formula has to be one of the main elements. Whatever the conclusions of the Bélanger-Campeau Commission, whatever the findings of the Quebec Liberal Party convention, the geography and the major lines of political power will always be there. Therefore it will be useful—and I conclude on this note—and even essential that the various elements which make up Canada, our country, resume the debate. Were we to opt for renewed federalism, we will be very thankful to have an amending formula geared to the needs of these times in the history of Canada. If ever Quebec were to favour a form of confederal rather than federal government, the six-month debate on the amending formula will still have been useful because negotiations will then be more properly oriented and directed.

[*English*]

Honourable senators, the Senate in past years has made a valuable contribution in the field of constitutional revision. Some Senate reports are quoted in academic circles, in courts and in government proceedings. Many Senate reports, or reports of joint committees of the Senate and the House of Commons have been written which may still be consulted with

great benefit. We may again, I am sure, make a valuable and innovative contribution.

The mandate of the committee is large. It includes also a study of referenda and constituent assemblies. I suggest, very simply, that we get on with our study.

[*Translation*]

In conclusion, honourable senators, I would say that if we do have a few pearls of wisdom, why not show them off?

Thank you, honourable senators.

[*English*]

Senator Frith: Honourable senators, I should like to ask Senator Beaudoin a question. I believe I understand the thrust of his argument, which is that, while there is merit in the two formulae suggested by the amendment, why pick them when there are other meritorious suggestions and proposals? If that is so, then why pick the paper prepared by the Government of Canada entitled "Amending the Constitution of Canada"? Would not the inevitable conclusion to his logic be that paragraph (iii) should end after the word "formulae"? In other words, it should read, "alternatives to the current process and formulae." In fact what it does is go on and say, "including", not "limited to" but "including those set out in the discussion paper prepared by the Government of Canada entitled: 'Amending the Constitution of Canada' ". So, in its present or original form, the proposal does, in fact, pick certain proposals suggested in a certain paper, and all that we are saying in our amendment is that we would like to put in a couple of others that would be included but not to the exclusion of any others.

Did I understand your logic correctly?

Senator Beaudoin: Yes, in the sense that, if I accurately read the paper entitled "Amending the Constitution of Canada," I do not think that the government says there that we have to consider one formula and another and another.

Senator Frith: No.

Senator Beaudoin: I take it that the work of the committee is to consider any formula of amendment; and, I repeat, because I want to be very clear, senator Frith, that the amendment is proposing two very interesting proposals. There is no doubt about that. Of course, the Victoria amending formula was very popular in Canada in 1970 and 1971 and perhaps for ten years after that. It may still be popular.

Senator Frith: I understand that.

Senator Beaudoin: There are other formulae, such as the veto for Quebec, and I am certainly not going to speak against a veto for Quebec!

Senator Frith: I did not want to get into the merits of the two.

Senator Beaudoin: I think that focusing attention on two formulae is to prejudge the work of the committee, which may propose one of them or perhaps some other formula of amendment. My argument is very simple. I think that, if we now focus the whole debate on two formulae of amendment that have great merit, we prejudge the work of the committee, which may come up with another solution in six months, or may end up proposing one of those alternatives. I think we should move right now on the establishment of that committee and there will still be time after that to debate which proposal is best. In other words, my argument is based on the question of prejudgment. Suppose the committee finds a better formula of amendment. Why do we not consider the whole question right away?

Senator Frith: I think that the position taken by Senator Beaudoin, as he said, is very simple; but so is ours. The present proposal—that is, the original proposal—makes a suggestion. It goes beyond merely giving general alternatives and, to use his verb, focuses on particular ones. As an example, I take it that the word "including" means alternatives to the current process and formula and, instead of the word "including", you might just as well use the words "for example, those set out in the discussion paper." We are not suggesting that all the attention be focused on our two either; they are simply examples. The government has given an example and we are giving a couple of examples, but they are only examples, because it is the word "including". I think we are much closer than the discussion would indicate. In any event, we will want to hear Senator MacEachen on his amendment, and I believe Senator Stanbury is going to adjourn the debate.

On motion of Senator Stanbury, debated adjourned.

● (1530)

THE HONOURABLE GUY CHARBONNEAU

MOTION OF CENSURE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Fairbairn:
>
> That the privileges of Honourable Senators having been constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.—(*Honourable Senator Petten*).

Hon. H.A. Olson: Honourable senators, Senator Petten is not here today, and I would like to make a few comments on this motion. I do so with regret. I also want to advise honourable senators that my comments will be short, perhaps mercifully short under the circumstances, and, in some respects, somewhat painful for me.

The egregious harm that was done to this place cannot, in my view, simply pass. There has to be some repair done for a number of reasons. Perhaps the most important is that if the activities, the so-called decisions of the Speaker, and the consequence of those decisions, are allowed to stand, they will be used, or could be used, as precedents for subsequent action. In my view, they simply cannot be allowed to stand.

I am not going to repeat it, but I agree with the analysis that was presented to this chamber by the mover, the Honourable

Senator Stanbury. I see no great purpose in going over it, since it is well known to every senator who was present.

Hon. Jean-Maurice Simard: Are you going to supply the repairs?

Senator Olson: No, but I am going to point out—

Senator Simard: You should be the one, and a few other people on your side. The repairs should be on your side.

Senator Olson: I think that comment should be given the same seriousness that most comments from Senator Simard deserve. Unfortunately, that is the level at which he has decided his reputation will be in this chamber.

Senator Simard: We know the level you reached a few months ago.

Senator Olson: I hope Senator Simard will contain himself and make his own comments at some point, because I do not want my perfectly legitimate speech contaminated with his vicious and venomous remarks. They are not appropriate to the position.

I said that egregious harm has been done to Parliament, to this upper chamber of the Parliament of Canada, by some of the decisions and the consequent action taken in this chamber.

Honourable senators, I understand that the Leader of the Government, as well as his leader, the Right Honourable the Prime Minister, and more particularly the Minister of Finance, were becoming a little impatient with Parliament, especially with this chamber, and wanted Bill C-62 passed. That I can understand. I can even understand if they wanted to amend the rules of this chamber to bring in time limitation, or the guillotine, or the many other ways of limiting debate. As I said, I can understand that, but there is a way of doing it properly. If the government wanted to do that, it could have brought in a motion or an indication that a committee of this house should take under advisement a motion or a suggestion that time allocation provision be put in our rules. However, that was not done. The government did what I think was an unfortunate and vicious thing! It usurped the integrity of the Speaker to do it, which was a despicable thing to do.

The motion itself states that "the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate", because of the things that he did. I support that, regretfully. While I do not know Senator Charbonneau well, I think he is a decent human being; but I have nothing but contempt for what the Prime Minister asked him to do and what he did to this place, and the way they went about imposing time allocation or closure, or whatever one wants to call it, on the Senate. As I have said, there is a way of doing it properly, if that is what the government wanted done. I would have vigorously opposed it, as I am sure other senators might have done, but if the government had done it within the rule of law we would have had to accept it. However, the government did not, unfortunately.

As I said at the outset, I will be brief. There are a few more comments that have to be made. I hope that the Senate will repair this damage. I hope that no government leader, or any Senator supporting the government, will ever bring up these nefarious actions as a proper precedent for doing things in the future. I am sure most honourable senators will agree.

• (1540)

Another thing that occurred, that I hope will be healed—although I am not sure that it will be—is the animosity between senators on both sides who took strong positions respecting the illegal acts that took place in this chamber. I have heard some senators state that they hope the Senate will get back to the way it was before that acrimonious debate took place.

Honourable senators, I hope the Senate never goes back to the way it was. I hope that things like civility among members from both sides can be re-established; but I also believe that, prior to the debate, for the most part the Senate was irrelevant to the vast majority of the Canadian people. They did not know much about what goes on here and they did not care, notwithstanding the fact that it is the upper chamber of the houses of Parliament, that it is an important chamber, and that we do indeed spend a lot of time working on the legislative structure of Canada.

We do a lot of good work. I am not here today to make a speech about that, or to throw bouquets to this side, the other side or to anyone else. I think that if there were not a place like the Senate, that could authoritatively provide the so-called sober second thought, one would have to invent something or some body to do that job. I do not have any problem understanding that, but the vast majority of Canadian people do not understand that this job needs to be done on a continuing basis.

I hope, as I have said, that the Senate will never go back to the mode we had prior to the Goods and Services Bill, because, as I have said, it was irrelevant to most Canadians. They did not know what we were doing and they probably did not care. The Senate is no longer a gentlemen's club because there are many competent women present in the chamber today, and I do not know whether they belong to gentlemen's clubs. To be a member of some kind of an elitist club is not appropriate activity for the Senate. It needs to be visible. Perhaps it needs to have its profile raised, but there are always conflicting views about that. Some people have said that Parliament is something like your stomach: it operates best when one is unaware it is there.

I hope we are able to demonstrate weekly or monthly that we are here and understand what is going on in the real world. I do not want to get into that, because I will spend some time in the next few weeks trying to persuade the Senate that Canada is in a recession, which the government does not seem to realize. It does not seem to realize what is going on in the real world in Canada at the moment.

I understand we have other problems at the moment with respect to Canada's support for the United Nations. I can tell honourable senators that those who are suffering as a result of the recession in the part of Canada I come from is such that

governing Canada and all its intricacies does not matter if we do not solve that problem. Therefore, we need to direct our attention to that situation and do something about it. It is almost as if we have not learned anything in the past 60 years. What is happening in Canada today is very much what happened in the first half of the 1930s, unfortunately for exactly the same reasons. If we do not do something about it, we will experience exactly the same consequences. Almost a whole generation of people will miss having the benefit of a country, government and Parliament that cares about what happens to people who fall out of the economic structure. That will be a speech for another day.

In the meantime, I want to say that I will support this motion, not because I have any particular ill-feeling toward Senator Charbonneau, but, as I have said, I have nothing but contempt for what he did and what he allowed himself to get into. I am sure that it is proper that we direct that message to the Prime Minister, because I am also convinced that the Minister of Finance, the Prime Minister, Senator Murray, who is the Leader of the Government in this chamber, and the Honourable Mr. Harvie Andre, the Government Leader in the other place, either individually or as a group talked Senator Charbonneau into carrying out the illegal acts that I believe he was engaged in. Therefore, he is, as the resolution states, unfit to continue as Speaker of the Senate. I hope that will be corrected, and that as soon as possible we will repair the damage that has been done to the process in this house.

Some Hon. Senators: Hear, hear!

On motion of Senator Frith, for Senator Kirby, debate adjourned.

● (1550)

ABORTION

QUESTION OF PRIVILEGE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Donald (*Cape Breton*):
>
> That it be taken up in the Committee of the Whole, named "Privileges", whether it is a matter of privilege for a Senator to move, as I have already done, to instruct a Standing Committee as in Motion No. 3 on the Order Paper, to wit: in order to oblige a committee to uphold its parliamentary duty, and furthermore, whether it is a matter of privilege, to abridge the pending Orders of the Day in order to bring such a motion to timely and full debate—(*Honourable Senator Neiman*).

Hon. Joan Neiman: Honourable senators, I should like to adjourn this matter in the expectation that Senator Nurgitz may wish to speak to it at some future time. Perhaps the honourable senator might like to take the adjournment to some time next week.

On motion of Senator Nurgitz, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

FIFTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Fifteenth Report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: "Accessibility to Hospital Services—Is there a Crisis," presented in the Senate on June 13, 1990.

Hon. Lorna Marsden: Honourable senators, as you will see, the report of the Standing Senate Committee on Social Affairs, Science and Technology dealing with the question of access to short-term care beds or acute-care beds was presented in the Senate on June 13 last. I hope that all honourable senators have had a chance to review this report for which the inspiration was our colleague Senator David.

There has been quite a response to this report. There have been many inquiries with regard to it. It has been very widely distributed. I do not intend to speak now about the content of the report. However, I wish to draw to the attention of honourable senators that on Thursday, March 7, Senator David and myself will be participating in a tele-conference through the Northern Network with hospital administrators from across the country who are debating this report. Unless any senator wishes to speak, and I have checked with Senator David who does not wish to do so, I move that this report be adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

STANDING RULES AND ORDERS

FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Fifth Report of the Standing Committee on Standing Rules and Orders (amendment to Rule 67(1)(*o*)), presented in the Senate on June 12, 1990.

Hon. Gildas L. Molgat: Honourable senators, this matter has now been before the Senate for some time. Because of the intervening events in the months of September, October and November we did not proceed to it.

The report of the committee was tabled on June 12 and deals with Rule 67(1)(*o*). Honourable senators will find it on page 30 of the rule book.

This matter came about as a result of requests from a number of organizations asking that the Senate have a committee specifically on environmental affairs. There was considerable discussion in the committee on the matter. The conclusion was that we simply did not have enough senators to man the large number of committees that we already have. Important as is the question of environmental affairs, it was not considered feasible, at this point at least, to add another committee.

The recommendation was that since environmental affairs is not specifically mentioned under the responsibility of the present Standing Senate Committee on Energy and Natural Resources, the name of the committee should be changed. The Rules Committee discussed the matter and proposed that the committee should be called the Standing Senate Committee on Environmental Affairs, Energy and Natural Resources.

However, prior to moving in this direction, it was felt that we should discuss the matter with members of the present Standing Senate Committee on Energy and Natural Resources, and that was done. The suggestion was brought back to us that the committee be called the Standing Senate Committee on Energy, Environmental Affairs and Natural Resources. This met with the agreement of the Rules Committee. Therefore, the report was submitted in that way, and such is the effect of this proposal. If accepted by the Senate, we will simply add to the name of the present committee the words "environmental affairs".

Honourable senators, I move that this report be adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

MEECH LAKE CONSTITUTIONAL ACCORD AND CANADIAN CHARTER OF RIGHTS AND FREEDOMS

DEBATE CONCLUDED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Beaudoin calling the attention of the Senate to the Meech Lake Constitutional Accord and to the *Canadian Charter of Rights and Freedoms*.—(*Honourable Senator Macquarrie*).

Hon. Heath Macquarrie: Honourable senators, my brevity will not cause any problems with you, I am sure. This is a very important measure.

I first spoke about the Meech Lake Accord when it was presented by Senator Murray many months ago. I was very enthusiastic about it then, and I still am. However, there is very little point in making a retroactive remark on this matter at this time. Thus, that is my speachette, honourable senators.

The Hon. the Speaker: Honourable senators, I wish to inform honourable senators that if no other senator wishes to speak, this inquiry is considered debated.

AGRICULTURE AND FORESTRY

FIFTH REPORT OF COMMITTEE—DEBATE CONCLUDED

On the Order:

> Resuming the debate on the consideration of the Fifth Report of the Standing Senate Committee on Agriculture and Forestry (farm financing), presented in the Senate on December 20, 1989. (*Honourable Senator Fairbairn*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Fairbairn tells me that as far as she is concerned, this order can be withdrawn or can be considered debated.

The Hon. the Speaker: I wish to inform honourable senators that if no other senator wishes to speak, this order is considered debated.

VISIT OF PRIME MINISTER MULRONEY TO MEXICO AND THE COMMONWEALTH CARIBBEAN

INQUIRY WITHDRAWN

Hon. Heath Macquarrie rose pursuant to notice of Thursday, March 22, 1990:

> That he will call the attention of the Senate to the visit of Prime Minister Mulroney to Mexico and the Commonwealth Caribbean and, more particularly, to the public announcements and agreements made and signed during said visit.

He said: Honourable senators, I know that this will be another wrench for my colleagues. However, I would ask leave to have this matter withdrawn not because of diminution of my interest but because of time.

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

Hon. Senators: Agreed.

Inquiry withdrawn.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p.* 5018)

THE ESTIMATES, 1990-91

SUPPLEMENTARY ESTIMATES (B) — SEVENTEENTH REPORT
OF STANDING SENATE COMMITTEE ON NATIONAL FINANCE

TUESDAY, January 15, 1991

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

SEVENTEENTH REPORT

Your Committee, to which Supplementary Estimates (B) laid before Parliament for the fiscal year ending March 31, 1991, were referred, in obedience to the Order of Reference of Monday, December 17, 1990, submits its report as follows:

Supplementary Estimates (B), totalling $4.759 billion, are the second supplementary estimates for the 1990-91 fiscal year. They increase the estimates tabled to date from $148.514 billion at the time of Supplementary Estimates (A) to $153.273 billion. $1.856 billion (39 per cent) of these supplementary estimates is to be voted by Parliament, while the remaining $2.902 billion (61 per cent) is statutory expenditures that have been included in the estimates for information only.

The attached background information supplied by Treasury Board Secretariat includes: a listing of all voted items greater than $5 million; a summary of the expenditure framework and estimates for 1990-91; a statement of 1990-91 supply to date; and a list of $1 votes that authorize the transfer of funds from one vote to another and the payment of grants, plus miscellaneous items.

When Supplementary Estimates (A) were tabled, projected budgetary expenditures were $147.8 billion. However, in September 1990 the Minister of Finance announced a revision of the fiscal framework to accommodate an expected increase in the interest cost of servicing the public debt. This revision is reflected in the latest projected budgetary expenditures of $150.3 billion. The projected increase of $2.5 billion corresponds exactly to a new statutory appropriation of $2.5 billion for the Department of Finance to cover interest and other charges on the public debt (See *Supplementary Estimates (B), 1990-91*, p. 53). Including these supplementary estimates, the budgetary portion of total estimates now amounts to $152.9 billion. However, as shown in Treasury Board's summary, expenditure reductions totalling $2.7 billion are anticipated before the end of the current fiscal year. These include write-offs of $0.5 billion, lapses of $1.2 billion and $1.0 billion in legislated changes, the last consisting of the proposed reductions in statutory expenditures under Bill C-69, which is currently before the National Finance Committee. These reductions would result in total budgetary estimates of $150.2 billion. While this appears to leave only $100 million for additional expenditures for the remainder of 1990-91, an additional $350 million is being made available through reductions in previously approved spending levels in most departments and agencies.

In summary, projected budgetary expenditures of $150.3 billion consist of current budgetary estimates of $152.9 billion, less $2.7 billion for Bill C-69

reductions, lapses and write-offs, less a further $350 million for the latest reductions, plus $450 million in expected additional expenditures between now and March 31, 1991.

$100 million of the $350 million in 1990-91 spending reductions is to be obtained by deferring grants and contributions in the departments of Agriculture, Environment, Transport and the Atlantic Canada opportunities Agency. The remaining $250 million consists of cutbacks to government operations that are being made across departments and agencies. These are based generally on the relative size of departments' salaries, capital and other operating costs, exclusive of statutory expenditures. The expenditure reductions have been imposed to ensure that the new expenditure ceiling of $150.3 billion in not exceeded. Specifically, they are designed to offset the $350 million appropriation requested for the Department of National Defence to cover a portion of the unanticipated expenditures associated with Canadian Forces operations in the Persian Gulf and at Oka and Chateauguay, Quebec.

The decision to implement these cutbacks was made after Supplementary Estimates (B) had been prepared. Information about the impact of the reductions on particular program areas has not been provided: many departments are apparently still deciding on specific cuts and will inform Treasury Board of these at a later date. Attempts are being made to minimize any adverse impacts on health and safety. In the meantime, the funds will be frozen by Treasury Board and the reductions will appear in the final supplementary estimates for the 1990-91 fiscal year for those departments that are requesting additional appropriations at that time. A detailed list of the required reductions by department and agency is attached.

The $2.9 billion of statutory expenditures in these supplementary estimates is accounted for by four items: Agriculture, Agri-Food Program, $212.4 million for contributions to the provinces under the Crop Insurance Act; Agriculture, Grains and Oilseeds Program, a $10 million reduction in payments under the Western Grain Stabilization Act; Farm Credit Corporation, a $200 million payment under the Farm Credit Act; and Finance, $2.5 billion for increased interest payments on the public debt. In addition, as indicated in the footnotes to the departmental sections of the supplementary estimates, frequent use was made of the Treasury Board Contingencies Vote 5 to provide temporary funding for expenditures that Parliament is now being asked to approve. If the estimates are approved, the Vote will be restored to the level of $775 million that was authorized in the Main Estimates. However, in their testimony before the Committee, Treasury Board officials were unable to indicate precisely what further amounts would be provided from this Vote during the remainder of the 1990-91 fiscal year.

Because of their size and complexity, several meetings of the Committee were held to examine these supplementary estimates. The Minister of National Defence, the Secretary of State for External Affairs, and officials of Treasury Board Secretariat, Statistics Canada, the Natural Sciences and Engineering

Research Council and the Departments of National Defence, External Affairs, National Revenue - Customs and Excise, Finance and Industry, Science and Technology appeared as witnesses.

The Minister of National Defence provided a set of fact sheets on the $350 million of supplementary estimates requested for his department, which are attached to this report. These give details of the department's operating costs in four categories: operations in Oka and Chateauguay; Persian Gulf operations to the end of March, 1991; preparations for commitments in the Gulf beyond March, 1991; and maintenance of general military preparedness. As well, $121 million in capital expenditures is being requested for upgrading ships and aircraft for Gulf operations and advancing planned acquisitions. The operating costs total $861 million, of which $229 million is incremental costs that are being requested in these estimates. Committee members had some difficulty with the notion of total costs as applied to the Oka/Chateauguay and Gulf operations. They felt that the department's presentation inflated the true (incremental) costs of these operations, since the majority of the total costs would have been incurred in any event. Department officials were also unable to provide to the Committee any estimates of the additional costs that might be incurred because of an outbreak of hostilities in the Persian Gulf after January 15, 1991 and a consequent escalation of the Canadian Forces commitment in that region. However, the Minister assured the Committee that the additional funds requested in these supplementary estimates would be adequate to support any foreseeable Canadian operations in the Gulf, up to the end of the 1990-91 fiscal year.

Proposed expenditures for preparation and planning in connection with the Goods and Services Tax, including payment of the GST credit, appear in the supplementary estimates of several department: Consumer and Corporate Affairs, $19.5 million; Finance, $14.3 million; National Revenue, Customs and Excise, $203.0 million; National Revenue, Taxation, $67.3 million; Public Works, $40.0 million; and Supply and Services, $21.7 million; for a total of $365.8 million. As well, Customs and Excise and Taxation are requesting 1,151 and 627 additional person-years respectively. These amounts are in addition to substantial costs and PYs that were granted in supplementary estimates for the 1989-90 fiscal year. Officials were unable to provide the Committee with any estimates of the compliance costs to the private sector of implementing and operating the GST.

Committee members expressed concern about the impact of the cutbacks on the operations of departments and agencies. In the case of Statistics Canada, the Chief Statistician testified before the Committee that the required reduction of $4.5 million in the budget of his agency would have an impact on programs, since staff reductions of 30 per cent over the past decade had already been absorbed through productivity increases. He expected that the effect on the 1991 Census would be minimal. As well, the integrity of the system of national accounts should not be compromised; current statistics such as the unemployment rate and the Consumer Price Index are of great importance to policy makers and the public; and other statistics are collected pursuant to agreements with the provinces in such areas as health and education. The collection of statistics on research and development in science and technology is an area that could be affected by the cutbacks but no decision has yet been made. The Committee urges

the government to ensure that Statistics Canada is not required to suspend its provision of statistics that are widely used by researchers, policy makers and international agencies.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

Le MARDI 15 janvier 1991

SUMMARY OF EXPENDITURE FRAMEWORK
AND ESTIMATES FOR 1990-91

Expenditure Framework	
Budgetary Main Estimates	$147.6 billion
Projected Total Budgetary Estimates	$153.0 billion*
Projected Budgetary Expenditure	$150.3 billion

ESTIMATES TABLED TO DATE FOR 1990-91

	TO BE VOTED	STATUTORY	TOTAL
	(in thousands of dollars)		
Main Estimates			
Budgetary	$44,314,283	$103,278,804	$147,593,087**
Non-Budgetary	206,789	163,269	370,058
	$44,521,072	$103,442,073	$147,963,145
Supplementary Estimates (A)			
Budgetary	$ 550,852	-	$ 550,852
Non-Budgetary	-	-	-
	$ 550,852	-	$ 550,852
Supplementary Estimates (B)			
Budgetary	$ 1,841,442	$ 2,902,400	$ 4,743,842
Non-Budgetary	$ 15,197	-	$ 15,197
	$ 1,856,639	$ 2,902,400	$ 4,759,039
TOTAL ESTIMATES TABLED			
Budgetary	$46,706,577	$106,181,204	$152,887,781
Non-Budgetary	221,986	163,269	385,255
	$46,928,563	$106,344,473	$153,273,036

* Total Estimates will always differ from Total Budgetary Expenditures for the following reasons:

	($B)
1) Budgetary reductions requiring legislative changes before inclusion in Estimates	(1.0)
2) Anticipated lapse across departmental appropriations not reflected in Estimates	(1.2)
3) Write-offs to date charged to prior years requiring Parliamentary approval (reflected in Estimates)	(0.5)

** Numbers differ from Part II of the Estimates (General Summary) due to rounding.

SUPPLY TO DATE FOR 1990-91

Two Appropriation Acts have been approved in respect of Estimates for 1990-91:

Supply Approved to Date:

Appropriation Act No. 1, 1990-91 granted Interim Supply for the 1990-91 Main Estimates equal to an initial allocation of 3/12ths for all Votes plus 51 additional proportions	$12,969,848,294.15
Appropriation Act No. 2, 1990-91 granted Supply for the balance of Main Estimates for 1990-91	$31,551,223,241.85
and	
Supply for the whole of Supplementary Estimates (A), 1990-91	$ 550,851,998.00
	$45,071,923,534.00

Awaiting Approval:

Supply for the whole of Supplementary Estimates (B), 1990-91	$ 1,856,639,306.00
TOTAL	$46,928,562,840.00

LIST OF ONE DOLLAR VOTES INCLUDED IN SUPPLEMENTARY ESTIMATES (B) 1990-91

The 11 One Dollar Votes included in these Estimates are listed in Appendix I by ministry and agency along with the page number where each vote may be located in the Estimates.

These One Dollar Votes are grouped below into categories according to their prime purpose. The votes are also identified in Appendix I, according to these categories. The category for each vote has been designated by an "X". In those instances where a vote falls into more than one category, the prime category is designated by an "X" and other categories by an "*".

A. Three votes which authorize the transfer of funds from one vote to another. (An explanation of the new requirement and the source of funds is provided in Supplementary Estimates.)

B. Five votes which authorize the payment of grants. (An explanation of the new requirement and the source of funds is provided in Supplementary Estimates.)

C. Three miscellaneous votes. (Additional explanations are provided in Appendix II.)

- One vote which increases the aggregate amount that may be paid pursuant to Section 12(1) of the Farm Credit Corporation Act;
- One vote which provides a guarantee to the Mortgage Insurance Company of Canada - Finance; and
- One vote which authorizes the Canada Post Corporation to borrow money from other than the Crown.

Estimates Division
November 20, 1990

APPENDIX I

LIST OF ONE DOLLAR VOTES IN SUPPLEMENTARY ESTIMATES (B, 1990-91

Page	Department/Agency	Vote	Categories A	B	C
34	Agriculture - Farm Credit Corporation	50b			X
35	Employment and Immigration	10b		X	
40	Energy, Mines and Resources - Atomic Energy Control Board	25b		X	
54	Finance	12b			X
60	Industry, Science and Technology	1b	X		
60	Industry, Science and Technology	5b		X	
61	Industry, Science and Technology	25b	X	*	
63	Industry, Science and Technology - Canadian Space Agency	40b		X	
69	Industry, Science and Technology - Canada Post Corporation	102b			X
97	Solicitor General - Correctional Service	10b		X	
102	Transport	10b	X		

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Farm Credit Corporation

Vote 50b — Pursuant to Section 12(1) of the Farm Credit Act to increase from $825,000,000 to $1,025,000,000 the aggregate amount that may be paid to the Corporation under this section ...

Explanation — The contributed capital of Canada in the Farm Credit Corporation is approximately $818 million, of an authorized aggregate amount of $825 million. The proposed increase in authorized aggregate amount of contributed capital to $1,025 million is to permit the conversion of a further $200 million of debt, owed by the Corporation to the Consolidated Revenue Fund, into contributed capital. The government announced a recovery plan for the Corporation in July 1988, including its intention to carry out the above conversion. The authorized capital of the Farm Credit Corporation was increased by $600 million in the 1989-90 Main Estimates to permit the initial conversion envisaged in the 1988 Recovery Plan. An increase in authorized capital for the Farm Credit Corporation through an Appropriation Act is explicitly provided for in Section 12(1) of the Farm Credit Act.

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Finance
Vote 12b

Pursuant to Section 29 of the Financial Administration Act to authorize the Minister on behalf of Her Majesty the Queen in Right of Canada to guarantee not more than 90 percent of the net claims of holders of mortgages estimated not to exceed $350,000,000, in respect of mortgages insured by the Mortgage Insurance Company of Canada having a gross aggregate value not exceeding $50,000,000,000, in the event of the insolvency or liquidation of the Mortgage Insurance Company of Canada; and, to repeal Finance Vote 18c, Appropriation Act No. 4, 1989-90.

Explanation

In July 1988, the Bank for International Settlements introduced new Capital Adequacy Guidelines for banks dealing internationally. Prior to these new rules, assets of banks insured by the Canada Mortgage and Housing Corporation and by the Mortgage Insurance Company of Canada were treated identically but under the new rules, a bank with a mortgage insured by MICC must be backed by $4,000 of capital for every $100,000 of assets while no capital reserve is needed for assets insured by CMHC because it is a government agency. This puts MICC at a competitive disadvantage with CMHC. The $1.00 item, therefore, provides a guarantee to MICC which restores the competitive equilibrium.

The guarantee to MICC includes obligations by the company to pay funds into a sinking fund, to be administered by the federal government, at a rate which would cover a large portion of the government's exposure to make good on the guarantee in the event of MICC failure. MICC must also pay a premium to the federal government for taking a portion of the risk; this premium would go directly to the CRF.

The vote wording contained in Vote 18c of Supplementary Estimates (C), 1989-90 is not consistent with the proper method of formatting a guarantee by means of an Appropriation Act. The guarantee in Vote 18c is not provided to the Mortgage Insurance Company of Canada but to the holders of the mortgages, and the wording does not indicate the total amount of the mortgages guaranteed. Accordingly, the former vote wording must be repealed and replaced with the currently proposed wording.

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Canada Post Corporation

Vote 102b — In accordance with section 28 of the Canada Post Corporation Act and section 101 and 127(3) of the Financial Administration Act, to authorize the Canada Post Corporation to borrow otherwise than from the Crown up to $155,500,000 in fiscal years 1990-91 and 1991-92 in accordance with terms and conditions approved by the Minister of Finance.

Explanation — Parliamentary approval is required for Canada Post to borrow in external capital markets. General authority is already contained in the Canada Post Corporation Act and specific authority is being sought through this Supplementary Estimate. The amounts to be borrowed are consistent with the corporate plans and amended corporate plans approved by the Governor in Council, summaries of which are tabled in Parliament. Multi-year approval is sought because the first Supplementary Estimates are normally not approved until the fall and Canada Post needs access to funds at the start of the fiscal year.

Summary of Items ($5 million or greater by Vote)
included in Supplementary Estimates (B), 1990-91

Department Program Item	Gross	Transfer	Net Appropriation	Vote Increase
AGRICULTURE				
Agri-Food Program				
Surplus pork to USSR	15,400,000	-	15,400,000	5
Food Inspection System	5,927,000	-	5,927,000	5
Grains and Oilseeds Program				
Cash Flow Enhancement Program	52,000,000	-	52,000,000	30
1988-89 Oat Pool Accounts Deficits	33,000,000	-	33,000,000	30
COMMUNICATIONS				
Additional operating costs	6,676,000	-	6,676,000	1
Economic and Regional Development Agreements	8,520,000	-	8,520,000	10
Canadian Broadcasting Corporation				
Additional operating costs	16,000,000	-	16,000,000	30
Goods and Services Tax Consumer Information Office				
Establishment of Consumer Information Office	19,496,000	-	19,496,000	17
EMPLOYMENT AND IMMIGRATION				
Employment and Insurance Program				
Grants - local entrepreneurial development	26,500,000	26,499,999	1	10
Immigration Program				
Language Orientation Program	8,700,000	8,700,000	-	20
Adjustment Assistance	22,308,000	8,289,000	14,019,000	20
Immigration and Refugee Board of Canada				
Processing refugee claimants	18,112,000	-	18,112,000	30

ENERGY, MINES AND RESOURCES				
OSLO Oil Sands Contribution Agreement	39,000,000	-	39,000,000	10
Atomic Energy of Canada Limited				
Nuclear Research and Development	32,500,000	-	32,500,000	30
ENVIRONMENT				
Administration Program				
Health and Safety Requirements	31,778,000	-	31,778,000	1
Environmental Services Program				
Health and Safety Requirements	15,247,000	-	15,247,000	5
Long Term Capital Plan	6,250,000	-	6,250,000	10
Grant to Saskatchewan Water Corporation	8,000,000	-	8,000,000	15
Parks Program				
Long Term Capital Plan	7,524,000	-	7,524,000	25
EXTERNAL AFFAIRS				
Canadian Interests Abroad Program				
Operating Costs	6,447,000	-	6,447,000	1
Canadian International Development Agency				
Humanitarian Assistance	20,000,000	3,000,000	17,000,000	35
Food Aid Assistance	6,750,000	6,750,000	-	35
Contributions for geographic programs	17,899,126	-	17,899,126	35
FINANCE				
Financial and Economic Policies Program				
GST advertising and communications costs	14,305,000	-	14,305,000	1
INDIAN AFFAIRS AND NORTHERN DEVELOPMENT				
Indian and Inuit Affairs program				
Increased grant to Makavik Corporation	22,871,074	-	22,871,074	15
Contribution to Hydro Quebec	12,937,500	-	12,937,500	15
Loans to native claimants	9,697,000	-	9,697,000	120

Transfer Payments to the Territorial Governments Program				
Transfer of Northern Roads Program to the Yukon Government	9,875,000	8,485,000	1,390,000	45
Transfer of Northern Roads Program to the Northwest Territories Government	10,720,000	8,600,000	2,120,000	50
INDUSTRY SCIENCE AND TECHNOLOGY				
Industry Science and Technology Program				
Additional operating costs	5,291,000	5,290,999	1	1
Regional Development and Aboriginal Economic Program				
Contributions under the industrial and Regional Development Act and outstanding commitments under discontinued predecessor programs	14,950,000	14,949,999	1	25
Canadian Space Agency				
Additional operating and capital costs	7,100,000	-	7,100,000	35
Brazil Ground Station	6,869,000	-	6,869,000	35
National Research Council of Canada				
Canadian Space Station	116.200,000	-	116,200,000	65
Grant to Carleton University	6,000,000	3,000,000	3,000,000	70
Natural Sciences and Engineering Research Council				
Networks of Centres of Excellance	39,641,000	-	39,641,000	80
JUSTICE				
Additional operating and capital costs	11,424,000	-	11,424,000	1
Contributions for victims of crime	6,801,000	-	6,801,000	5
LABOUR				
Program for Older Worker Adjustment	8,700,000	-	8,700,000	5

NATIONAL DEFENCE				
Operating costs associated with operations in the Middle East and Canada	229,200,000	-	229,200,000	1
Capital costs associated with operations in the Middle East and Canada	120,800,000	-	120,800,000	5
Emergency Preparedness Canada				
Disaster Financial Assistance - Quebec	7,346,772	-	7,346,772	20
NATIONAL HEALTH AND WELFARE				
Health Program				
Extraordinary assistance to vaccine injured persons	38,150,000	-	38,150,000	5
Additional operating costs for the Food Inspection System	12,074,000	-	12,074,000	5
Additional capital costs for the Food Inspection System	10,728,000	-	10,728,000	10
Victoria Commonwealth Games Society	11,000,000	-	11,000,000	15
Medical Research Council				
Networks of Centres of Excellence	17,810,000	-	17,810,000	35
NATIONAL REVENUE				
Customs and Excise				
Preparation and planning for the GST	124,169,000	-	124,169,000	1
Preparation and planning for the GST (Capital)	78,818,000	-	78,818,000	5
Additional operating costs	9,480,000	-	9,480,000	1
Taxation				
Preparation and planning for prepayment of GST credit to taxpayers	53,048,000	-	53,048,000	10
Preparation and planning for prepayment of GST credit to taxpayers (capital)	14,206,000	-	14,206,000	15

PRIVY COUNCIL				
Royal Commission on National Passenger Transportation	8,778,000	-	8,778,000	1
Royal Commission on New Reproductive Technologies	11,344,000	-	11,344,000	1
Royal Commission on Electoral Reform and Party Financing	14,553,000	-	14,553,000	1
PUBLIC WORKS				
Real Property Program				
Preparation and planning for GST Accommodation	40,000,000	-	40,000,000	5
Other accommodation	20,500,000	-	20,500,000	5
Canada Mortgage and Housing Corporation				
Recovery of Assisted Rental Program loan losses and interest expenditures	104,300,000	-	104,300,000	25
SOLICITOR GENERAL				
Canadian Security Intelligence Service Operating Costs	15,374,300	-	15,374,300	5
SUPPLY AND SERVICES				
Preparation and planning for the prepayment of the GST to taxpayers	11,390,000	-	11,390,000	1
Preparation and planning for the prepayment of the GST to taxpayers (capital)	10,329,000	-	10,329,000	5
Extend purposes of Finance Vote L29g	5,000,000	-	5,000,000	L15
TRANSPORT				
Additional operating costs	59,000,000	-	59,000,000	1
Implementation of changes to the Fixed Asset Accounting Policy	37,014,000	37,014,000	-	1

VETERANS AFFAIRS				
Veterans Affairs Program				
Increased grants due to reinstatement of remarried widows pensions	59,330,000	-	59,330,000	5

Annex A

1990-91 Reduction in Operations of Government

	($ thousands)
Agriculture	12,820
Canadian Dairy Commission	60
Canadian Livestock Feed Board	30
Sub-total	(12,910)
Atlantic Canada Opportunities Agency	600
Enterprise Cape Breton Corporation	40
Sub-total	(640)
Communications	2,700
Canada Council	150
Canadian Broadcasting Corporation	1,730
Canadian Film Development Corporation	450
Canadian Radio-television & Telecomm. Commission	560
National Archives of Canada	890
National Arts Centre	200
National Film Board	1,170
National Library	600
National Gallery	481
Museum of Science and Technology	259
Museum of Nature	287
Museum of Civilization	623
Sub-total	(10,100)
Consumer and Corporate Affairs	2,330
Competition Tribunal	30
Copyright Board	20
Hazardous Materials Info. Review Commission	30
Patented Medicine Prices Review Board	50
Procurement Review Board	20
Standards Council of Canada	80
Sub-total	(2,560)
Employment and Immigration	24,240
Immigration and Refugee Board of Canada	970
Sub-total	(25,210)
Energy, Mines and Resources	7,320
Atomic Energy Control Board	530
Atomic Energy of Canada	100
National Energy Board	400
Petro-Canada International Assistance Corp.	20
Sub-total	(8,370)

Annex A

1990-91 Reduction in Operations of Government

	($ thousands)
Environment	14,470
External Affairs	9,590
Canadian Commercial Corporation	240
Canadian International Development Agency	1,620
Canadian Secretariat	40
International Centre for Ocean Development	40
International Development Research Centre	170
International Joint Commission	70
Sub-total	(11,770)
Finance	980
Canadian International Trade Tribunal	120
Office of the Sup. of Financial Institutions	50
Privatization and Regulatory Affairs	150
Sub-total	(1,300)
Fisheries and Oceans	11,050
Forestry	1,730
Indian Affairs and Northern Development	6,340
Industry, Science and Technology	4,100
Canadian Space Agency	1,550
Cape Breton Development Corporation	90
Federal Business Development Bank	240
Investment Canada	160
National Research Council of Canada	770
Natural Sciences and Eng. Research Council	260
Science Council of Canada	50
Statistics Canada	4,530
Sub-total	(11,750)
Justice	2,180
Canadian Human Rights Commission	230
Commissioner for Federal Judicial Affairs	40
Federal Court of Canada	280
Law Reform Commission	80
Information and Privacy Commissioners	100
Supreme Court of Canada	210
Tax Court of Canada	130
Sub-total	(3,250)

Annex A

1990-91 Reduction in Operations of Government

	($ thousands)
Labour	900
Canada Labour Relations Board	130
Canadian Centre for Occ. Health and Safety	80
Sub-total	(1,110)
Health and Welfare Canada	9,800
Medical Research Council	90
Sub-total	(9,890)
National Revenue - Customs and Excise	8,570
- Taxation	17,100
Sub-total	(25,670)
Privy Council Office	790
Intergovernmental Conference Secretariat	50
Transport. Accident Invest. and Safety Board	430
Chief Electoral Office	30
Commissioner of Official Languages	200
Economic Council of Canada	160
Northern Pipeline Agency	10
Public Service Staff Relations Board	150
Security and Intelligence Review Committee	20
Sub-total	(1,840)
Public Works Canada	7,430
Canada Mortgage and Housing Corporation	1,570
National Capital Commission	470
Sub-total	(9,470)
Secretary of State	2,400
Canadian Centre for Management Development	160
Ministry of State (Multicult. and Citizenship)	420
Public Service Commission	2,020
Social Sciences and Human. Research Council	110
Sub-total	(5,110)
Solicitor General	400
Canadian Security Intelligence Service	2,980
Correctional Service	14,020
National Parole Board	270
Royal Canadian Mounted Police	13,910
RCMP-External Review Committee	20
RCMP-Public Complaints Commission	60
Sub-total	(31,660)

Annex A

1990-91 Reduction in Operations of Government

($ thousands)

Supply and Services	2,670
Transport Canada	25,840
Marine Atlantic Inc.	1,880
VIA Rail Inc.	2,990
Civil Aviation Tribunal	20
Grain Transportation Agency Admininistrator	50
National Transportation Agency	560
Sub-total	(31,340)
Treasury Board of Canada	1,100
Comptroller General	250
Sub-total	(1,350)
Veterans Affairs	3,260
Western Economic Diversification	540
Other	4,640
Total	250,000

SUMMARY FACT SHEET

($ Million)

	Total Costs	Funding Provided in Supplementary Estimates
OPERATING EXPENDITURES		
Operations in Oka & Chateauguay	83	16
Gulf Operations to Mar 91	646	81
Preparations for Gulf Commitment Beyond Apr 91	17	17
Maintenance of General Military Preparedness	115	115
TOTAL OPERATING EXPENDITURES	861	229
CAPITAL EXPENDITURES		
Upgrading Ships and Aircraft for Gulf Operations and Advancing Planned Acquisitions	121	121
Advancing Planned Acquisitions		
TOTAL CAPITAL EXPENDITURES	121	121
TOTAL SUPPLEMENTARY ESTIMATES		**350**

Total Cost. (a) Operating Expenditures: this is the total cost of Canadian Forces involvement in the operations including: salaries for established military and civilian personnel; salaries for incremental staffs and reserves; civilian overtime, allowances and rations; full equipment operating costs including fuel, maintenance, and contracted repair and overhaul; purchases and rental of materiel, services and facilities; and depreciation of major equipment. (b) Capital Expenditures: this is the cost of capital expenditures which will be incurred over and above DND's current Capital Budget.

Funding Provided in Supplementary Estimates. This is the additional cost to the government in the current fiscal year of conducting operations. For operating expenditures, it reflects the total costs of operations, as described above, less the costs that would have been incurred on exercises, training or other planned activities had the operations not taken place. For capital expenditures, it reflects the cost of capital acquisitions not provided for in DND's current capital budget.

FACT SHEET - OPERATIONS IN OKA AND CHATEAUGUAY

($ Million)

	Total Costs	Funding Provided in Supplementary Estimates
Deployment (1)	3	1
Cost of Operations to 31 Oct 90 (2)	77	14
Return to Base (3)	3	1
TOTAL	**83**	**16**(4)

Notes

1. The cost to prepare and move approximately 4,000 Regular and Reserve Force personnel from their home bases to the areas of operation.

2. The cost of operations includes pay and allowances; operating costs of all vehicles and other equipment; rental of equipment; rations; and like expenses.

3. The cost to return 4,000 Regular and Reserve Force personnel from the areas of operations to the home bases.

4. The cost of $83 million less salaries for established personnel and major equipment depreciation of $62 million, result in $21 million in remaining costs for the operation. Of this, $3 million was absorbed internally as a result of not proceeding with normal planned activities in the current fiscal year and $2 million falls due in 1991-92. Accordingly, the additional funding required this year is $16 million.

FACT SHEET - GULF OPERATING EXPENDITURES

($ Million)

	Total Costs	Funding Provided in Supplementary Estimates
Pre-Deployment (1)	36	16
Deployment (2)	27	4
Sustainment (3)	525	64
Extraordinary Materiel Requirements (4)	76	15
Crew Rotation Feb 91 (5)	3	3
Less: Capital Expenditures to Prepare Ships and Aircraft for Operations (6)	(21)	(21)
NET OPERATING EXPENDITURE TO 31 MAR 91	**646**	**81**(7)

Notes

1. This represents the costs to prepare the forces for operations in the Gulf: the ships and associated helicopters; the CF 18 aircraft and associated crews; and supporting aircraft, vehicles, equipment and personnel.

2. The cost to move the units to their applicable areas of operation.

3. This represents the cost of operations in the Gulf including pay and allowances; operating costs of all ships, aircraft vehicles and other equipment; rental of equipment and facilities; rations and quarters; and misc expenditures.

4. The costs to replace equipment and spares issued from existing inventories to ships and aircraft deployed to the Gulf.

5. The cost of rotating three ships' crews by charter aircraft.

6. The cost of upgrading the equipment on ships and aircraft which were deployed in the Gulf.

7. Generally speaking, the flying hours for the CF-18s and Sea Kings in the Gulf and the ship-days for the three naval vessels have been provided by reducing planned activities elsewhere throughout the Canadian Forces. This $81 million reflects the cost of operations in the Gulf which could not be absorbed within the existing Defence budget.

Supplementary Estimate
Persian Gulf Cost Breakout to 31 Mar 91

($ Millions)

	Total Costs	FY 1990-91
Pre-Deployment		
Ships	25	
Aircraft	11	
Sub-Total	36	16
Deployment		
Ships	18	
Aircraft	9	
Sub-Total	27	4
Sustainment		
Ships	149	
Aircraft	376	
Sub-Total	525	64
Crew Rotation	3	3
Extraordinary Material Requirements		
Ships	37	
Aircraft	39	
Sub-Total	76	15
Less Capital	(21)	(21)
Total	646	81

LINKAGE OF COSTS TO STANDARD OBJECTS
($ Millions)

STANDARD OBJECT	OKA	FIRST SIX MONTHS IN GULF	SUSTAINMENT POST MAR 91 & GEN MIL PREPARED-NESS	TOTAL	DETAILS OF EXPENDITURE
OPERATING EXPENDITURES (VOTE 1)					
01 Personnel	4.2	0.9	--	5.1	Reservists for Oka, and Civilian overtime for Oka and for the Ship Repair Unit in Halifax.
02 Transport & Comms	--	3.5	3.2	6.7	Rotation of ships' crews in Feb 91 and rental of equipment for communications with the Gulf.
03 Information	1.0	1.1	1.9	4.0	Media liaison and misc information services.
04 Professional Services	--	5.3	15.2	20.5	Cost of port services, civilian engineering and other professional services for the preparation of ships and aircraft for Gulf operations.
05 Rentals	4.0	---	----	4.0	Railcar and vehicle rentals (Oka).
06 Repair & Maintenance	1.7	7.7	38.6	48.0	Repair and overhaul for ships and aircraft deployed to the Gulf, and for army equipment used at Oka.
07 Utilities, Materials & Supplies	5.1	62.5	73.3	140.9	Rations, fuel, spare parts and misc supplies for Oka and Gulf forces.
Total Operating Expenditures	16.0	81.0	132.2	229.2	
CAPITAL EXPENDITURES (VOTE 5)					
09 Machinery & Equipment	--	20.4	100.4	120.8	Equipment for upgrading ships and aircraft deployed to the Gulf and advanced acquisition of planned capital procurement.
TOTAL OPERATING AND CAPITAL EXPENDITURES	16.0	101.4	232.6	350.0	

THE SENATE

Wednesday, January 16, 1991

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

Prayers.

POVERTY IN CANADA

POVERTY LINE UPDATE, 1989, TABLED AND PRINTED AS APPENDIX

Hon. David A. Croll: Honourable senators, with leave, I wish to table a document entitled "Poverty Line Update", 1989, with an estimate for 1990, which is the 19th annual proverty line issued by the Senate of Canada.

I would ask that this document be printed in the *Debates of the Senate* of this day, as if it had been read, and that it be printed as an appendix in *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: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(*The document follows:*)

NINETEENTH ANNUAL SENATE REPORT ON POVERTY

POVERTY LINE UPDATE, 1989

POVERTY LINE REVISIONS: BASED ON CALCULATIONS WHICH INCLUDE ADJUSTMENTS FOR DISPOSABLE PERSONAL INCOME, FAMILY SIZE AND CHANGES IN THE NUMBERS OF FAMILY UNITS OF VARIOUS SIZES IN CANADA EACH YEAR

COMPARISON BETWEEN SENATE COMMITTEE POVERTY LINES AND STATISTICS CANADA LOW-INCOME CUT-OFFS BY FAMILY SIZE FOR 1989

FAMILY SIZE	SENATE COMMITTEE POVERTY LINE 1989 (nearest $10)	SENATE COMMITTEE ESTIMATED 1990	STATISTICS CANADA REVISED LOW-INCOME CUT-OFFS 1989*
1	$11,900	$12,800	$ 9,198 to $13,511
2	$19,830	$21,330	$12,469 to $18,314
3	$23,790	$25,580	$15,849 to $23,279
4	$27,760	$29,860	$18,247 to $26,803
5	$31,730	$34,130	$19,936 to $29,284
6	$35,690	$38,390	$21,640 to $31,787
7	$40,050	$43,070	$23,275 to $34,188

* Base year 1978—amounts vary with degree of urbanization.

THE SENATE COMMITTEE POVERTY LINES ARE BASED ON A FORMULA WHICH IS UPDATED ANNUALLY ON THE BASIS OF A MEASURE OF DISPOSABLE PERSONAL INCOME IN CANADA AND CHANGES IN THE DISTRIBUTION OF FAMILIES OF VARIOUS SIZES.

THE SENATE POVERTY LEVEL IS APPROXIMATELY 50% OF AVERAGE CANADIAN FAMILY INCOME ADJUSTED TO FAMILY SIZE, MAKING PROVISION FOR INFLATION AND GROSS NATIONAL PRODUCT. FOR FAMILIES OF SIZES 2, 3 AND 4, THE POVERTY LINES ARE ALMOST EXACTLY HALF OF THE AVERAGE INCOME FOR FAMILIES OF THOSE SIZES.

STATISTICS CANADA: Poverty Level Lines are based on changing consumption patterns which now indicate that families who spend 62% or more of their income on food, clothing and shelter (as opposed to the 70% criterion used at an earlier date) are in straitened circumstances. These limits are also differentiated by size of area of residence.

Among two-parent, one-earner families, the proportion with low income in 1989 (18.2%) was up from the 1980 rate (15.8%) Statistics Canada says. Those families with two-earners had almost the same rate (5.2% versus 5.3%).

"Two-parent, one-earner families had an average income of $42,171 compared to $53,697 for two-earner families," the agency said in a report on family incomes.

Average income across the country for all types of families was $50,083 last year, 3.3 per cent higher than in 1988 on an inflation adjusted basis.

Since 1984, when the upward trend began, real income had increased 11.5%, Statistics Canada said.

AVERAGE FAMILY INCOMES

LAST YEAR BY PROVINCE

ONTARIO	$57,330
ALBERTA	$49,734
BRITISH COLUMBIA	$49,442
MANITOBA	$46,551
QUÉBEC	$44,860
NOVA SCOTIA	$43,123
SASKATCHEWAN	$42,978
NEW BRUNSWICK	$40,670
NEWFOUNDLAND	$39,648
PRINCE EDWARD ISLAND	$38,726
CANADA	$50,083

SOURCE: STATISTICS CANADA

NINETEENTH ANNUAL SENATE REPORT ON POVERTY

UPDATED

1981 – 1990

POVERTY LINE REVISIONS: BASED ON CALCULATIONS WHICH INCLUDE ADJUSTMENTS FOR DISPOSABLE PERSONAL INCOME, FAMILY SIZE AND CHANGES IN THE NUMBERS OF FAMILY UNITS OF VARIOUS SIZES IN CANADA EACH YEAR

FAMILY SIZE	SENATE COMMITTEE POVERTY LINE 1981	SENATE COMMITTEE POVERTY LINE 1982	SENATE COMMITTEE POVERTY LINE 1983	SENATE COMMITTEE POVERTY LINE 1984	SENATE COMMITTEE POVERTY LINE 1985	SENATE COMMITTEE POVERTY LINE 1986	SENATE COMMITTEE POVERTY LINE 1987	SENATE COMMITTEE POVERTY LINE 1988	SENATE COMMITTEE POVERTY LINE 1989*	SENATE COMMITTEE ESTIMATED 1990
1	$ 7,370	$ 7,940	$ 8,540	$ 8,850	$ 9,330	$ 9,930	$10,440	$11,000	$11,900	$12,800
2	$12,300	$13,240	$14,240	$14,750	$15,550	$16,560	$17,410	$18,330	$19,830	$21,330
3	$14,760	$15,890	$17,090	$17,700	$18,660	$19,870	$20,890	$22,000	$23,790	$25,580
4	$17,210	$18,530	$19,940	$20,650	$21,770	$23,180	$24,370	$25,660	$27,760	$29,860
5	$19,670	$21,180	$22,790	$23,600	$24,880	$26,490	$27,850	$29,330	$31,730	$34,130
6	$22,130	$23,830	$25,640	$26,550	$27,990	$29,800	$31,330	$32,990	$35,690	$38,390
7	$24,590	$26,470	$28,490	$29,500	$31,100	$33,110	$35,160	$37,030	$40,050	$43,070

SENATE REPORT 1989 POVERTY LEVEL for families of sizes 2, 3 and 4, is almost half of the average income for families of those sizes.

NUMBER & PERCENTAGE OF UNATTACHED INDIVIDUALS & FAMILY UNITS BELOW THE SENATE COMMITTEE POVERTY LINES AND STATISTICS CANADA REVISED LOW-INCOME LINES FOR 1989

1989 Family Unit	Percent and Number Below Senate Committee Poverty Lines—1989	Per Cent and Number Below Statistics Canada Low-Income Cut-Offs for 1989*
Unattached individuals	34.3% (1,097,000 persons)	30.5% (974,000 persons)
Family units of two or more persons	19.0%** (1,346,000 families)	9.6% (682,000 families)
Total number & percentage of Canadian population below the poverty line	20.5%** (5,417,000 persons)	12.2% (3,129,000 persons)

* 1978 base for revision

** Senate poverty lines include more families

1988		
Unattached individuals	35.7% (1,111,000 persons)	33.1% (1,031,000 persons)
Family units of two or more persons	19.3%** (1,348,000 families)	10.5% (733,000 families)
Total number & percentage of Canadian population below the poverty line	20.9%** (5,448,000 persons)	13.1% (3,328,000 persons)

According to the Senate Committee Poverty Lines about 20.5% of the Canadian population (or about 5,417,000 people) was below the 1989 poverty lines. This represents a slight decrease over 1988. Statistics Canada showed a total of 12.2% below their lines, also a decrease from 1988.

Statistics Canada figures for 1989 show that the lowest 20% of families and unattached individuals (lowest income quintile) received only 6.5% of family income. This represents no change from 1988 or 1987.

CANADIAN STATISTICAL REVIEW, JUNE 1984—The Senate Committee Poverty Lines. The Special Senate Committee on Poverty, chaired by Senator David A. Croll, developed poverty lines based on income levels which reflected "items of basic need". These lines are differentiated by family size and adjusted each year by an escalator based on living standards as reflected by the amount of disposable personal income available in Canada in any given year. The annual escalator is designed to adjust for real as well as nominal changes in income and for change in average family size over time. The resulting poverty levels are close to half of the average income for families of sizes 2, 3 and 4 in 1981. Senator Croll releases periodically an update of the Senate Committee poverty lines.

PRODUCED BY
SENATOR DAVID A. CROLL
DECEMBER 1990

POVERTY IN CANADA
UPDATED POVERTY LINE

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have the honour to present petitions that are still coming in about the GST. I received two today. These petitions are still coming in although the bill has been adopted, and I use the term "adopted" because we still do not accept the legality of the passage of this bill.

In any case, the petition contains 21 signatures of residents of Laval, St-Lin, Mascouche, St-Jérôme and other communities. After the preamble, this petition on the GST reas as follows:

> Wherefore your petitioners humbly pray and call upon senators and members of the House of Commons, as true representatives of the people, to do everything in their power to oppose the new goods and services tax, and we demand that an election be held immediately.

At this point, something else has been added. I will quote it because I am not sure this text appears in the other petitions.

> Canadian producers are doing their share by flooding the markets with goods, but they cannot produce money. The government should therefore establish a national credit board to create the money we need as a result of this new abundance.

I have another petition with one signature. I think it comes from the same area. No, excuse me, it is from St-Léonard in New Brunswick.

[*English*]

POVERTY IN CANADA

POVERTY LINE UPDATE, 1989—TRIBUTE TO HONOURABLE DAVID A. CROLL

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to call the attention of the Senate to a remarkable event which happened here just a moment ago. Senator Croll just presented, for the nineteenth consecutive year, a document concerning poverty in Canada and the poverty line. I do not know of anyone in Canada who has ever achieved a record like that. It is a remarkable achievement and I congratulate him.

I would have congratulated him immediately after he had finished speaking, but I was preempted by my colleague across the way.

Hon. Senators: Hear, hear!

UNITED NATIONS

LETTER FROM PRIME MINISTER OF CANADA TABLED

Hon. Gildas L. Molgat: The Deputy Leader of the Government has just tabled a document from the Prime Minister to the United Nations. Is that the document that was delivered by the Secretary of State?

Hon. C. William Doody (Deputy Leader of the Government): That is my understanding. The honourable senator can certainly get a copy of that letter from the Table.

Hon. B. Alasdair Graham: Would Senator Doody be good enough to tell us the date of that letter?

Senator Doody: The letter is dated January 9, 1991, and is addressed to the Secretary General. Copies will be made available. If senators would like copies to be printed and distributed, I am sure the Table would be pleased to do so.

Hon. M. Lorne Bonnell: I certainly feel that every senator should have a copy, so that if we wish to ask questions we will be able to refer to the letter.

Senator Doody: It is being done now.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Sidney L. Buckwold: Honourable senators, I have the privilege to present a petition sent to me dated January 5, 1991, from 25 residents of various places in Alberta, in which the petitioners ask the Government of Canada to reaffirm the historic principles embodied in the tax-free status for the printed word by proposing an amendment to Bill C-62 to include retention of the zero rate on reading material.

I also have the privilege of presenting a further petition dated December 31, 1990, which is also from a group of residents in Alberta petitioning for the same consideration, namely, the removal of the goods and services tax on reading material.

ABORTION

PRESENTATION OF PETITIONS ON BILL C-43

Hon. Lorna Marsden: Honourable senators, I have the honour to present petitions respecting Bill C-43. One petition contains 17 names from the British Columbia Women's Liberal Commission, and the other contains 120 names of residents of Kingston, Ontario. All of these names represent Canadians who are opposed to the passage of Bill C-43.

I also have a petition containing several thousand names from Canadians from coast to coast opposing the passage of Bill C-43 and the recriminalization of abortion. I apologize for not having counted the names, but they do come from all across the country.

• (1410)

DEPARTMENT OF MULTICULTURALISM AND CITIZENSHIP BILL

NINETEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology presented the following report:

Wednesday, January 16, 1991

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

NINETEENTH REPORT

Your Committee, to which was referred Bill C-18, An Act to establish the Department of Multiculturalism and Citizenship and to amend certain Acts in relation thereto, in obedience to the Order of Reference of June 7, 1990, examined the said Bill, received testimony from witnesses and now reports the same without amendment but with the following commentary.

The Hon. the Speaker: Honourable senators, shall I dispense?

Senator Marsden: No. I think we should hear the commentary.

Hon. Royce Frith (Deputy Leader of the Opposition): No. The Chairman wants it read.

A Clerk at the Table:

Based on an investigation of Bill C-18, your Committee is of the view that there are two major unresolved issues in the proposed legislation: definition of the term multiculturalism and inadequate enforcement mechanisms.

Issues:

1. Definition of Multiculturalism

Bill C-18 (clause 5) speaks to the concept of our multicultural heritage without explaining the term multiculturalism. The Minister and officials from the Secretary of State of Canada referred members to *The Canadian Multiculturalism Act (Bill C-93)* for a definition of multiculturalism. *The Canadian Multiculturalism Act* implies a meaning in, for example section 3, where it is described as a reflection of Canadian society's cultural and racial diversity and as a fundamental characteristic of our heritage and identity. There is, however, no definition of the term multiculturalism in section 3 nor in the *Act's* preamble.

[Senator Marsden.]

Witnesses stated that a working definition of the concept of multiculturalism is necessary to ensure that the new department is not seen as a ghetto. As the legislation now reads it is not clear whether it will apply to all cultures or to the non-aboriginal, non-French and non-British segments of the Canadian population. This lacuna suggests that the legislation is open to the interpretation that it is for some, and not for Canadians of all ethnic origins.

—Your Committee is of the view that the failure to define multiculturalism in the legislation must be addressed and recommends amendment to *The Canadian Multiculturalism Act*.

In addition, some Committee members noted that a clear definition of multiculturalism will be required for the mandatory program evaluation. In accordance with the Treasury Board Policy Circular 1977-47, "Evaluation of Programs by Departments and Agencies" all departments and agencies,"... will periodically review their programs to evaluate their effectiveness in meeting their objectives ..." The Multiculturalism and Citizenship Department is scheduled for a three-year program evaluation plan (1990-91, 1991-92, 1992-93). The evaluation will be best accomplished with an operational definition of multiculturalism. Jean Fournier, Under Secretary of State, in a letter dated January 11, 1991 to Senator Lorna Marsden, Chair, stated the following:

—Once work on these evaluation frameworks is completed, we would be pleased to meet with the Committee and would welcome its comments and suggestions.

The Committee is pleased with this assurance and intends to report to the Senate when the matter has been dealt with.

2. Adequate Enforcement Mechanisms

Some witnesses were concerned about the absence of sufficient enforcement measures in the proposed legislation and so, recommended the establishment of an Office of the Commissioner of Multiculturalism to monitor, investigate and report to Parliament on the execution of policies.

Other witnesses commented on the failure to include a provision to confirm that the federal public service behave in accordance with the policy of multiculturalism. Officials of the Secretary of State of Canada referred to Bill C-18 as a mechanism of state intervention to help implement multiculturalism throughout all levels of the federal government. While the commitment to the development of government-wide multicultural policies and ensuring that all departments and personnel adhere is statutorily described in *The Canadian Multiculturalism Act* in section 3(2), Bill C-18 does not refer to this section or offer any other comfort.

—Your Committee requests that the annual report on the operations of the new Department of Multiculturalism and Citizenship prepared at the end of each fiscal year,

in accordance with clause 6 of Bill C-18, be referred to this Committee and, as well, the annual estimates of the Department and all related matters. The Committee expresses a special interest in this important and developing area because Bill C-18 creates a new department whose formative years are crucial to its success. Also, witnesses voiced anxieties about the proposed Department's capacity to fulfil its objectives, and in particular its cross-government commitment to the policy of multiculturalism. By referring the annual report and the estimates to the Committee, the Department's activities can be monitored in order to determine if programs are being implemented.

Respectfully submitted,

LORNA MARSDEN
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.

CRIMINAL CODE

BILL TO AMEND—THIRTY-FIRST REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Nathan Nurgitz: 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-54, to amend the Criminal Code.

Wednesday, January 16, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-FIRST REPORT

Your Committee, to which was referred the Bill C-54, An Act to amend the Criminal Code (joinder of counts), has in obedience to the Order of Reference of Thursday, December 20, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NATHAN NURGITZ
Chairman

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

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

PENITENTIARY ACT

BILL TO AMEND—THIRTY-SECOND REPORT OF COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS PRESENTED

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 S-19, to amend the Penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament.

Wednesday, January 16, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-SECOND REPORT

Your Committee, to which was referred the Bill S-19, An Act to amend the Penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament, has in obedience to the Order of Reference of Tuesday, January 15, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NATHAN NURGITZ
Chairman

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

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

• (1420)

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Nathan Nurgitz: Honourable senators, I move, seconded by the Honourable Senator MacDonald (Halifax), with leave of the Senate and notwithstanding Rule 45(1)(*a*):

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: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I wonder if I may take a moment

of the Senate's time to respond to a question asked by Senator Frith yesterday with regard to the program and menu of the Senate for the remainder of this week and perhaps into next week.

As honourable senators know, the only bill presently before us for second reading is Bill C-79, which is the Parliament of Canada Act. We can deal with that in committee at any time. I have no intention of holding it up. There is the question of which committee we will send it to. The Legal and Constitutional Affairs committee, the Rules committee and the Internal Economy committee all have interest in it, and perhaps the three chairmen of those committees could decide which committee they would like it to be referred to. It is of interest to the Senate in various respects and it deserves further study. That is Bill C-79.

Hon. Royce Frith (Deputy Leader of the Opposition): Which committees did you suggest it be referred to?

Senator Doody: The Internal Economy committee, the Rules committee and the Legal and Constitutional Affairs committee all have interest in it—indeed, we all have, but those are the proper committees it could be sent to.

Also before us for second reading is Bill C-94, the supply bill, and I am sure all senators will agree that that is the most pressing matter now before us. It should be dealt with as quickly as possible. We would like the bill to receive Royal Assent as soon as possible, preferably tomorrow. If it is given Royal Assent tomorrow, we will try to adjourn tomorrow afternoon until Tuesday of the following week. I want to bring you up to date on where other bills are in committee and what we feel should happen to them.

The motion dealing with the proposed joint committee must be dealt with. The amendments have been proposed. I assume that will happen early next week, but perhaps Senator Frith can speak to that when he gets a chance. In committee at the present time we have a number of bills in addition to Bill C-43, the abortion bill.

Senator Frith: Do you have any comment on Bill C-43?

Senator Doody: I will get to that in a moment. I want to tell you which bills we have and where they are. Bill C-81, the trade bill, is also before the Legal and Constitutional Affairs committee. Bill C-63 and Bill C-37, to establish the Canadian Race Relations Foundation and the Canadian Heritage Languages Institute are both before the Social Affairs committee. I understand the committee is meeting tomorrow to deal with those bills, which is fine. Bills C-69 and C-34, the restraint of government expenditures bill and the bill to establish the Canadian Centre for Management and Development, are before the National Finance committee. I will return to Bill C-69 in a moment, if I may. Bill C-72, to establish the Canadian Polar Commission, is before the Aboriginal Peoples committee, and I understand the committee is meeting tomorrow to consider the bill. The Transport and Communications committee has before it Bill C-40, the Broadcasting Act, and Bill C-82, the Quebec Harbour bill; and the Energy committee has before it Bill C-84, the Petro-Canada privatization bill.

[Senator Doody.]

Honourable senators, I think that Bills C-63, C-37 and C-72 will be back tomorrow or, if not tomorrow, soon thereafter. I am told that there is little chance of our receiving any more Commons bills this week, since that house will continue its debate on the Gulf crisis today and perhaps tomorrow. There are two or three bills that they intend to deal with in the immediate future, but not this week.

To return to the bills that are of concern, obviously the supply bill is one of them, as is Bill C-69, to enable restraint of government expenditures. That is a bill about which the government is quite concerned, in that it has been in committee for a long while and will have a big impact upon the financial plans of the country. We would be most grateful if the Standing Senate Committee on National Finance could find a way to deal with it expeditiously. I know that the minister is appearing before the committee tonight to give his views on the bill and to answer questions. I would suggest that an action plan for further meetings be arranged at that time or shortly thereafter. I believe that 18, 19 or more groups have expressed an interest in appearing before the committee. Perhaps one or two days could be dedicated to their appearances as, indeed, has been done in the Standing Senate Committee on Legal and Constitutional Affairs on the abortion bill. I believe that that committee has managed to hear 30 or 40 sets of witnesses over the last few days due to a fairly judicious allocation of time.

Bill C-40, the Broadcasting Act, another important bill, is before the Standing Senate Committee on Transport and Communications and is moving along fairly well. I understand that some more hearings have yet to take place. Like the Legal and Constitutional Affairs committee, the Transport and Communications committee will be meeting on Monday and perhaps on Friday, although I am not sure about that. In any event, they have their plans well in hand.

Bill C-84, respecting the privatization of Petro-Canada, is another major bill. It is presently before the Energy committee. I know that some hearings have been held, while others have been planned. I would ask the committee to see what it can do to move that bill along.

With that understanding, which is not a very demanding one, and on the premise that we will give Royal Assent to the supply bill, I would suggest that we adjourn tomorrow afternoon, on completion of our business, to return at two o'clock on Tuesday. If we cannot manage to give Royal Assent to the supply bill tomorrow, perhaps we can come back at ten o'clock Friday morning to give it Royal Assent, adjourning until Tuesday at two o'clock. That does not provide much information for honourable senators regarding the following week because I do not have much information to give.

What will happen the following week will depend on how we deal with the remaining business, as well as the debate on the composition and establishment of the joint committee on the constitutional matter. That is where we stand at present, honourable senators. I can see no reason, if the Senate can go through its rather modest menu, why we should not be able to have a reasonable break after the next week or so. That, of

course, depends on how we move along with what we have left here.

Senator Frith: Honourable senators, I thank Senator Doody for his detailed report as to the government's position on the various pieces of legislation before the Senate, as he promised to do yesterday. I have no comment, negative or positive, about his evaluation. It seemed to me to be a reasonable evaluation of the status of the legislation and its prospects. I cannot be any more precise than that.

I noted that Senator Doody mentioned that he did not anticipate any legislation from the other place because it would be busy with its debate on the Gulf crisis. I take it that we on this side will not be busy with the government's proposals for the Gulf activity, and its dealing with the Gulf crisis, because I did not hear him mention any resolution or other initiative indicating that the government is interested in the Senate's views on the crisis and government policy about it, as apparently it is only interested in those of the House of Commons. I am not making any promises and neither was he, except one with reference to our sitting this week and next. However, I do repeat that his evaluation of the status of legislation and its prospects seems generally to be the same as mine.

• (1430)

Senator Doody: For the sake of those of our colleagues who have travel plans for the weekend, I wonder if we can be more definite as to whether or not the supply bill can receive Royal Assent on Thursday afternoon rather than Friday morning. If it is to be Friday morning or Friday afternoon, let us say that. It makes no difference to me as I will be here anyway. However, there are senators on both sides of the house who would like to know. I keep getting telephone calls asking when we are going to break. I used to be able to say that I would telephone Senator Frith and have a chat about it. However, that was in the halycon days, the balmy days, before the cone of silence descended on this place. I do not know if Senator Frith wishes to be more forthcoming in regard to the supply bill, or if he wishes to give us any indication about his thoughts on the debate on the joint committee.

Senator Frith: Honourable senators, I am going to resist the temptation for the moment to make any comments on the "cone of silence", as Senator Doody described the present regime and, of course, resist the very severe temptation to comment on the infamy that led to it. As to the information honourable senators would want as to their plans for the rest of this week, the only item that really figures is the report from the National Finance committee on the supply bill, the appropriations bill. We want to make an intervention on that bill. I think we will be able to do that tomorrow. If I am correct in that, we should be able to deal with it tomorrow. That is the situation, subject to something I am unaware of. There are, as we know, some very serious policy considerations included in that bill and in the report.

QUESTION PERIOD

PERSIAN GULF CRISIS

STRIKING OF MEDAL FOR CANADIAN FORCES IN GULF CONFLICT—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Honourable senators, I wonder whether the deputy leader has spoken to the Leader of the Government in the Senate to get the answers to the questions I asked yesterday about the Persian Gulf crisis. He is the only cabinet member we have in the Senate, but he did not stay here at the time of the crisis when we were reaching the deadline about whether we were going to war. No, the leader left us and went somewhere else, and it could not have been to a cabinet meeting, because most of the cabinet members were already in the other place at two o'clock. Our leader simply disappeared. Perhaps he was scared to answer questions. I am sure that the deputy leader would have given him those questions that I asked yesterday so that he would have the opportunity to answer them today, and, rather than repeat the questions, I will ask the Leader of the Government in the Senate to answer them.

Apparently the deputy leader did not get to the leader, because he is now rooting through the books. I can repeat the questions for him, if he has not received them..

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, one of the questions was about whether a medal would be struck for the men and women who are prepared to fight in the Persian Gulf on behalf of the United Nations. That is a matter to which no consideration has been given up to the present, honourable senators.

Senator Bonnell: If no consideration has been given by the government on behalf of those boys and girls who are prepared to lay down their lives for this country, and lay down their lives to uphold the United Nations, will the government give consideration to having a medal struck for those brave men and women who are in the Gulf at this time anticipating at any moment that they might have to go to war under a coalition. We do not know who will be the head of the coalition.

We do not know who will be the Chief of Staff of the coalition, but we know that our boys and girls are there prepared to fight for the consideration and the strike of a metal.

Senator Murray: Honourable senators, I will accept the honourable senator's question as a representation and remind him simply that Canada's efforts throughout have been with a view to preventing war.

THREAT OF IRAQI TERRORISM—PROVISION OF SECURITY—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: The other question that I asked yesterday, when the government leader was absent, was: Is any special security being taken to protect Parliamentarians, our Parliament Buildings, our water supplies, our atomic energy

plants, our airports, and other things in case of a terrorist attack by the Iraqis? Saddam Hussein has promised there will be world-wide terrorism, and Canada, if it is to participate in the Gulf war, could be a target. What precautions, if any, has the government taken to protect these locations by means of vital security in this country?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with regard to the Parliament Buildings, these matters are arranged between the RCMP, the Gentlemen Usher of the Black Rod and the Sergeant-at-Arms.

With regard to the broader question of potential terrorism, it is the reality of the world we live in that we are all vulnerable to terrorist acts-more vulnerable at some times and in some places than at others. The federal government does have counter terrorist programs and structures in respect of many of the installations to which the honourable senator refers. There is the closest cooperation between the security forces, the RCMP, provincial police forces and municipal police forces. I do not think the honourable senator would expect me to place on the record in any detail what special steps are being taken in the present circumstances, except to assure him that all prudent steps have been taken and that all the forces concerned are ready to increase security as and when needed.

Senator Bonnell: Honourable senators, as we all know, we do not know "when and as" they will be needed, because these things happen when we do not expect it. What I want to know is: Has the government taken any extra precautions and asked for better precautions for our atomic energy plants, water supplies, airports and the Parliament Buildings? Have instructions gone out to the people who, you say, are watching those installations, to give special consideration to these installations at this particular time in our history?

Senator Murray: Everything that can be done is being done.

DEPLOYMENT OF CANADIAN FORCES—IDENTITY OF CHIEF OF STAFF—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Honourable senators, the deadline is now past. So far there has not been an attack on Iraq by any nation that we know of at this time. If some nation should attack Iraq—and under the United Nations resolutions it has the power to do so as of twelve midnight last night—and we should get into a war, since the Canadian government has decided that our Canadian troops will participate in that war, who will be the Chief of Staff to look after the troops against Iraq?

● (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there are a number of hypotheses in the question asked by the honourable senator. I do not think I can usefully add anything to the replies that were given the other night in his presence at the Standing Senate Committee on National Finance by the Minister of National Defence and the Chief of Defence Staff, General de Chastelain, concerning Canadian national command and control and tactical command.

Senator Bonnell: Honourable senators, that was before January 15. Surely to goodness, if there is going to be any kind of attack at all, we cannot have the Canadian forces with Canadian Command saying it is going to do this, or the American forces with American Command saying it is going to do something else, and the Egyptian forces with Egyptian Command saying it is going to do something else. Is there to be no Chief of Staff to look after the whole coalition so that things can be worked out in a cooperative manner; or is everyone going to get in the road of the other fellow and perhaps shoot down their own planes?

Senator Murray: The situation was described in some detail the other night by General de Chastelain, drawing on his own experience as a Canadian commander with Canadian forces attached to NATO and in various operations.

Canadian forces remain under Canadian command and control subject to the rules of engagement given to those forces by the Canadian government.

It is not unusual—in fact it is quite usual—that for tactical purposes Canaidan military forces would come under the control of one or other of the allied nations, or that troops of other countries would come under Canadian tactical command. I thought that all this was outlined in some detail the other night in answer to a question put to General de Chastelain not by the Honourable Senator Bonnell but by one of his colleagues.

Senator Bonnell: Honourable senators, I do not think we received answers to those questions at all. They talked about what was going on at the present time, how NATO works and how NATO command worked in the past. That was not in time of war.

If we are prepared to send our troops to battle in a war in which men, women, and the little children of Iraq and Kuwait, can be killed, then surely to goodness we must be prepared enough to know how we are going to co-ordinate our efforts in that war and have someone designated as Chief of Staff to be in charge of the whole operation. In this way we would know that the whole thing would go smoothly and that we were there to win the war quickly and then get out. If we still do not know who is going to be the Chief of Staff of all the troops, then I do not think we should be thinking about war at all. We should be thinking about organizing ourselves much better than we have done so far.

Senator Murray: Let me give the honourable senator a very recent illustration. An announcement was made today by Mr. McKnight, the Minister of National Defence, that we are going to deploy a Canadian field hospital from CFB Petawawa to Saudi Arabia. That field hospital, with approximately 550 members, is a medical treatment facility capable of providing medical and surgical care for 100 patients. Mr. McKnight's announcement goes on to state:

> It will be a national entity flying the Canadian flag and will be under command of Canadian Forces Middle East,

with tactical control being delegated to the Commander UK Forces Middle East.

Senator Bonnell: I certainly hope that the medical unit will be under Canadian command, but I hope that it will look after soldiers, whether they are under British, American or any allied troop command. I would hope that it would look after not only Canadians but troops of the coalition and perhaps even injured Kuwaiti children. Surely we can look after other people besides Canadians. So I would suspect it would be under Canadian command, but still under the Chief of Staff of the whole allied coalition.

Senator Murray: No, honourable senators, that was not the statement made by Mr. McKnight. The statement made by Mr. McKnight was that the operation would be under Canadian command and control and fly the Canadian flag, but that it would be under the tactical command of the United Kingdom commander in the Middle East. I have no doubt that there are other operations involving a number of forces of a number of nations in respect of which Canada would have tactical command, while those forces remain under the ultimate control and command of their national military.

OPERATIONAL CAPABILITY OF CF-18s—POSSIBLE CHANGE IN ROLE—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: I understand that we have some CF-18s in the Gulf which can only fight air to air, but not air to ground. Has any decision been made by the Government of Canada to put air-to-ground missiles on those CF-18s

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators.

Senator Bonnell: Did you say that that would not happen, Mr. Minister?

Senator Murray: I answered the question that was asked, honourable senator, which was whether a decision had been made with respect to equipping those aircraft for an air-to-ground role. The answer is that no such decision has been made.

Senator Bonnell: Is it under consideration, Mr. Minister?

Senator Murray: Honourable senators, I am not going to discuss in detail the various scenarios that are being considered by the government. Mr. Clark was asked the same question, I believe, last night and has not excluded that possibility. However, his statement is that no such decision has been made.

APPLICATION OF NATIONAL DEFENCE ACT—NECESSITY TO INVOLVE BOTH HOUSES OF PARLIAMENT—DEFENSIVE ROLE OF CANADIAN FORCES—POSSIBLE EXTENSION OF AREA OF OPERATIONS—GOVERNMENT POSITION

Hon. H.A. Olson: Honourable senators, I am troubled by whether or not the government intends to do what seems to be the right thing with respect to Parliament in dealing with this emergency. I have read parts of the National Defence Act which, of course, gives the Governor in Council the statutory authority to deploy Canadian forces or any component of them beyond Canada by reason of an emergency for the defence of Canada or in consequence of any act undertaken by Canada under the United Nations' Charter.

I have read also Chapter 22, Part VI, which deals with emergencies. It talks about parliamentary supervision in an emergency. Section 58 says, in part, that subject to subsection 4, a motion for confirmation of a declaration of emergency signed by a minister of the crown, together with an explanation of the reasons for issuing a declaration of emergency, shall be laid before each house of Parliament, as the case may be, on the first sitting day after Parliament has been summoned. Of course, that means that if Parliament is not in session it shall be summoned within a specified number of days. To my knowledge, the government has not laid before this chamber of Parliament a declaration of the emergency and the reasons for it. Does the minister intend to do so?

• (1450)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the relevant declaration is Order in Council PC 1990-1995 of September 15, 1990, and that order placed the Canadian forces on active service, those Canadian forces who are part of or serve in the immediate support of the multinational military effort in and around the Arabian Peninsula. I would be glad to table that Order in Council, if it has not already been done.

Senator Olson: I thank the honourable senator, but I think it was distributed at some time. However, the formality of taking Parliament through the required procedures to perform its function under Canadian law, I should think, would require the minister to table it in the Senate and to initiate debate. Of course, there are other sections of the law that deal with what would happen in the event that the outcome of either house of Parliament was negative. I do not think the outcome will be negative, nor do I wish to imply that, but I do not believe we have had an opportunity to debate the matter. The minister kept saying that Senator Macquarrie introduced an inquiry that, in his view, achieved essentially the same thing.

What I am concerned about now is that since midnight last night, and perhaps even a few hours before that, the role of the Canadian forces could change. The ships and the CF-18 fighter planes have been in the Gulf enforcing an embargo, but now we face the possibility of getting involved, as the Chief of Defence Staff told us the night before last, in a combative role to defend the coalition forces that are there, whether they be at sea or on the ground. This, I think the minister will agree, is a significant escalation of the role of Canadian forces. What has happened from September 15, 1990 to date has not been put before this house of Parliament. In fact, even the provisions of Order in Council PC 1190-1995 have not been placed by the government before this house for debate.

One might think that I am nitpicking, but I am not. There is a good reason for the precision that the government must follow in relation to Parliament when we are faced with this

kind of emergency. I wonder if the government is going to do anything about that situation?

Senator Murray: Honourable senators, I am virtually certain that the Order in Council to which I referred was indeed tabled some time ago by my friend, the Deputy Leader of the Government, but I will confirm it. In any case, I can table it again.

Senator Olson: It was tabled and I accept that.

Senator Murray: I do not think that the point the honourable senator is making is nitpicking at all, but he seems to be confusing two issues here. The first is the defensive role of Canadian forces sent to the Gulf area to help enforce and support the United Nations resolutions. The air forces that are there are there to defend our ships and the ships of others and allied assets in Saudi Arabia. The honourable senator has said that they would be in what he calls a combative role if those assets were attacked. Of course they would be; that is why they are there. No further authorization is needed to do so.

The second issue, however, has to do with whether the area of operation of Canadian forces, which now includes, as I said, the central and southern Gulf and Saudi Arabia, would be extended in the event that hostilities break out. That is clearly a possibility. I believe that that possibility was expressed implicitly in the statement the Prime Minister made yesterday when he said, "If, however, Saddam Hussein continues to reject the will of the United Nations, Canada will join with the United Nations in expelling him from Kuwait by force."

Senator Olson: Honourable senators, I do not have any quarrel or disagreement with what the minister has said. I know that the Governor in Council has the authority to make the decision they have made, and I am not arguing with that authority. I am concerned about whether or not the government will do what I think it should do, at least, and perhaps is required to do, depending on your interpretation of the National Defence Act, which is to put these things before Parliament for debate. That has not been done. I would argue that it has probably not even been done in the House of Commons according to what the law requires, but they can fight that battle themselves. The government has simply asked the House of Commons to endorse what it has done in support of the United Nations; but I do not want to get into that issue.

There has been no Governor in Council order, signed by a minister, outlining the reasons for its actions and explaining the reasons for issuing the declaration. That has never been placed before this house of Parliament for debate, and I think that the government has an obligation to do that. Does it not believe that Parliament should consider these things? If the government intends to take a hard, narrow legal interpretation, perhaps it does not have to do as I have suggested. That is fine, and I cannot argue with it, but I would like to know whether or not that is the government's position.

Senator Murray: Honourable senators, Parliament is in session. The House of Commons is now debating the third resolution relating to the Gulf that has been placed before it in the past few months relating to Canadian policy and presence in the Gulf. A resolution was voted on, I believe, on October 23. There was another one in November and there is now this third resolution before Parliament. The Canadian forces in the Gulf are fulfilling a certain role there. That role has been defined by the government and by the military and everyone knows what it is. If there is any change in that role and the area of activity is to be extended, then, of course, I have no doubt Parliament will debate that.

• (1500)

However, now that the honourable senator has given me the opportunity for the second time, I should state for the record that parliamentary involvement is really a political issue rather than a legal one. In the past, Parliament has been asked to ratify the Governor in Council's decisions with regard to a commitment to war, although there is no legal requirement to do so. For example, in the Second World War, forces were put on active service on September 1, 1939, the day Germany invaded Poland. Parliament was called back on September 7 and on September 9 there was a vote on the address and reply to the Speech from the Throne. That would be the general authorization of Canadian policy and activity there, and the actual declaration came the next day by Order-in-Council.

We have had some discussion here—and there was in the committee the other night—about the Korean war. It should be pointed out that Parliament was in session when North Korea invaded South Korea in the last week of June, 1950. There was a discussion in Parliament because the Estimates were then before the House of Commons, but there was no parliamentary motion to approve any action by Canada. As a matter of fact, on the very day that Parliament adjourned for the summer—that would have been June 30—the government of the day decided to send three ships to the western Pacific where they would be ready if assistance was required. The decision to make the three ships available to the United Nations command, to send an RCAF squadron, and to raise a brigade of the special forces for the Korean war was taken while Parliament was not in session during the month of July. The House of Commons came back on August 29 when there was a Speech from the Throne. At that point it could be said that the vote on that Speech from the Throne included approval of the government's actions.

The action that Parliament has taken in the past has not been nearly so specific or so focused as the honourable senator would imply. Indeed, I would argue that what the House of Commons, at any rate, has been and is being asked to do in the case of the Gulf crisis, which has already involved two resolutions with a third now before the House of Commons, is considerably more than was done in the past.

Senator Olson: Honourable senators, I can remember most of that history even back to September, 1939. It is not that I disagree with all of that; the point I am trying to make is that there is a requirement contained in Chapter 22, Part VI of the Statutes of Canada.

Senator Murray: What is the act?

Senator Olson: It is Chapter 22, Part VI of the National Defence Act. In Part VI there is a consideration of a declaration of emergency, which, I understand, the Governor in Council had the statutory authority to do. I am not arguing with that. However, there is also an obligation to bring the matter before both houses of Parliament, and that has not been done. This statute says that the declaration, along with the reasons for issuing the declaration, shall be laid before Parliament. Then subsection 58(4) says that when Parliament or a house of Parliament is summoned to sit in accordance with subsection (2) and (3), the motion, explanation and report described, shall be laid before each house of Parliament or the house of Parliament, as the case may be, on the first sitting day Parliament is summoned. Parliament is already sitting and I am not arguing about that. Why does the Leader of the Government in the Senate not put before Parliament this declaration of the reasons of the government? I have a great deal of respect for Senator Macquarrie, but that is not a satisfactory substitute for the government's bringing its Order in Council here and having a minister of the Crown give the reasons for its actions. That has not yet been done.

Senator Murray: The short answer to the question, honourable senators, is that the actions taken by Canada with respect to the Gulf crisis were not taken under Chapter 22, Part VI of the National Defence Act; they were taken under paragraph 31(1)(b) of the National Defence Act and the relevant Order in Council has already been tabled in this house and referred to by me earlier.

Although I do not have the act in front of me, I suspect that the declaration of emergency to which the honourable senator is referring in Chapter 22, Part VI, relates to domestic emergencies.

Senator Olson: I will have to accept that as the answer, but I think the government has to obey all of the laws and all of the statutes of Canada. It cannot pick out one and say that it complied with a particular part, namely, section 31 and ignored the rest.

Senator Murray: Is the honourable senator suggesting that we should declare a domestic emergency? That has not been done. The government has not taken that action.

Senator Olson: The Leader of the Government is simply going to stick to a narrow, legal interpretation and is not going to bring Parliament into his confidence and have a debate on what is an emergency situation not only for Canada but the whole world.

Senator Murray: There is a debate taking place in the House of Commons. It was not my intention to bring in a resolution to the Senate for two reasons: First, there was a debate in November; and, second, honourable senators took advantage of the opportunity of having the Supplementary Estimates before the Standing Senate Committee on National Finance to have the appropriate ministers, Mr. Clark and Mr. McKnight and the Assistant Deputy Minister, Ms. Collins, before them. There is an opportunity now in the debate on the Estimates or on the supply bill for honourable senators to express their views on this matter. Again, I have a suspicion that that is the purpose of the intervention to which Senator Frith referred earlier.

Senator Olson: Is the government going to participate in this debate so that we can hear the reasons for what it did?

Senator Murray: Honourable senators, I want to wait to hear what honourable senators have to say first. I believe someone on the other side intends to speak, if not on the Estimates then on the supply bill, tomorrow, and I suspect, although I have not been told, that it will be on this issue. If there are matters that I believe should be addressed, I will undertake to address them as best I can.

Senator Olson: You mean that what you have done does not need an explanation in Parliament. That is strange.

• (1510)

REQUEST FOR TABLING IN SENATE OF STATEMENT OF GOVERNMENT POSITION

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. Surely he acknowledges the fact that the country is now convulsed about the issue of peace and war. It is in the forefront of the mind of every Canadian today. While I do not believe that much weight should be given to opinion polls, surely we can all see that, as an element of the status of public opinion at this particular moment in time, there appears to be some division in the country about the position taken by the government.

The Prime Minister said the other day that in his view the government's policy is based on a moral responsibility. If that is the case, then surely there is a coequal moral responsibility to put forward the rationale for the government's action in this place so that honourable senators on this side could react, either in support of the government's rationale, or with additional ideas as suggested by the Minister of External Affairs yesterday in the other place, or in opposition to the position taken by the government. I think it is important that senators have the opportunity to listen, if only briefly, to the government's position in this place so that we might have a coherent debate on this issue. I share my colleague's opinion that the appropriate way to deal with this, notwithstanding the previous precedents, would be to have a brief statement by the government in this place. It could be a repetition or a precis of the Prime Minister's statement. It would then give senators on the government side an opportunity to support the position and those on this side an opportunity to support or to oppose or to provide alternate ideas.

I appreciated that the Leader of the Government in the Senate chose to allow us to have a debate using the resolution by Senator Macquarrie on the Gulf crisis, but time has moved quickly, and my concern, which is shared, I think, by Senators Olson and Bonnell, is that within 48 hours or sooner we may be placed in the catastrophic position of war because of the speed of modern murder technology. I think it would be appropriate for us to have an opportunity, in the calm

moments that are allowed us in the interlude, to consider this matter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Well, honourable senators, there is a debate going on in the House of Commons, as the honourable senator knows. I thought the Prime Minister, Mr. Clark, Mr. McKnight and others set forward very cogently the position of the government on these matters, as they have done from the beginning, since August. On the other side, Mr. Chrétien made clear the position of his party to the effect that Canadian forces should be withdrawn immediately in the event of hostilities breaking out, and Ms. McLaughlin, for the New Democrats, took a similar position.

I will take under serious consideration the honourable senator's suggestion that I should somehow take the initiative with a statement, and Senator Olson's suggestion that I should reply to any statement that is made from the other side in the debate on the supply bill tomorrow.

Hon. Royce Frith (Deputy Leader of the Opposition): Who suggested you should make a statement?

Hon. H. A. Olson: I think he should.

Senator Frith: I am not arguing. I just wanted to know who it was.

Senator Murray: Senator Olson and Senator Grafstein seem to think that it would be more authoritative to have a Minister of the Crown speak on these matters than to have a supporter of the government do so.

Senator Olson: Does anybody else speak for the government?

Senator Murray: It very frequently happens that honourable senators on this side speak for the government. I do not get up and pilot every bill through the Senate. I pilot very few of them through. Honourable senators on this side stand with a brief from the government. Senator Olson knows how it works.

Senator Olson: That is not the same thing.

Senator Murray: In any case, I will take under serious consideration the suggestions made by Senator Grafstein and Senator Olson.

I will mention in passing that, in his absence the day before yesterday, I spent the better part of an hour and a half answering questions from honourable senators on this matter, and those answers were, if I may modestly say so, confirmed and elaborated upon at the Standing Senate Committee on National Finance by the ministers and officials most directly concerned from the Departments of External Affairs and National Defence.

GENERAL AGREEMENT ON TARIFFS AND TRADE

SCHEDULED RESUMPTION OF MEETINGS—PROGRESS REPORT

Hon. H. A. Olson: I wonder if I might have an answer to another brief question? Yesterday there was an indication that the GATT discussions respecting agricultural subsidies would be resumed in Brussels or Geneva. Can the minister tell us whether that meeting was reconvened, and if there is anything positive to report from it?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am under the impression that the meeting to which the honourable senator refers did not take place, but I do not have a statement from Mr. Crosbie on that matter at this time.

Senator Olson: Is there any indication that it was postponed for a few days, or is it not going to take place at all? Could the government leader find that out for us?

Senator Murray: I will have to inquire, honourable senators.

AGRICULTURE

PLANS FOR "OUTLOOK" CONFERENCE

Hon. Dan Hays: Honourable senators, about a year ago the Department of Agriculture hosted or sponsored a conference on the program "Growing Together" which gathered farm leaders and groups representing commodity sectors and the provinces together to start the "Growing Together" process, which is still ongoing. That conference caused the cancellation of the traditional "Outlook" conference that always occurred in December of the year. This December did not see an "Outlook" conference. I gather there was some thought that if the GATT negotiations were concluded in December it would be appropriate to hold the conference later.

My question to the Leader of the Government in the Senate is: Is there any plan to hold an "Outlook"-type conference, either as part of "Growing Together" or otherwise?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall have to ask Mr. Mazankowski and will report back.

NEW AGRICULTURAL ASSISTANCE PROGRAMS—GOVERNMENT ANNOUNCEMENT

Hon. Dan Hays: Honourable senators, I have a supplementary. The Department of Agriculture released on January 14 some income projections under the title "Farm Income and Commodities Outlook Projections" for 1991. This, by the way, was traditionally presented at the "Outlook" conference and discussed at that time.

In this press release there is accompanying statistical detail which shows that Canadian farm income will fall, according to the projection, by 54.5 per cent in 1991 over 1990. It, in fact, fell by 11 per cent in 1990 from 1989 levels. I suppose the most dramatic figure is from Saskatchewan, and these statistics show that there is an anticipated decline in income in Saskatchewan of 131 per cent. In other words, they would have negative income of $303 million in Saskatchewan. I acknowledge that these will change throughout the year as events change, but I think they highlight the very serious situation which others in this chamber, particularly Senator

Olson, have spent a lot of time discussing. In this context, I wonder if the government leader can advise when we might hear a final announcement from the Minister of Agriculture on extraordinary assistance to the agricultural sector? He has announced two programs, NISA and GRIP, but the minister is also talking about extraordinary assistance, and I would like to ask the minister if he can advise when we might have an announcement on that?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I can only tell the honourable senator that what are called third-line-of-defence measures are still being discussed by the federal government with regard to the grain industry in particular. I should also point out that the estimates to which the honourable senator refers, including the estimate of the decrease in farm incomes, are developed on a quarterly basis and were calculated prior to the announcement of two new safety net programs, the Gross Revenue Insurance Plan and the Net Income Stabilization Account program. These payments will add some $3 billion to incomes in 1991-92.

● (1520)

THE ENVIRONMENT

RAFFERTY-ALAMEDA DAMS PROJECT—REQUEST FOR ANSWER

Hon. Gildas L. Molgat: Honourable senators, my question is for the Leader of the Government in the Senate and relates to the Rafferty-Alameda Dams.

It may be that my specific question of some time ago was answered and that in the very busy period of the fall I missed it. I had asked whether or not the government was going to get back the several million dollars it had advanced to Saskatchewan for not building the dam, in view of the fact that they were proceeding to build the dam. If that question has not been answered, I would appreciate receiving one.

Secondly, could the leader give us an update on the present situation? Is Saskatchewan proceeding with the finalization of the Rafferty Dam and with the construction of the Alameda Dam, and what is the government's position vis-à-vis the Province of Manitoba, which is the downstream province in this regard? Are its interests being protected?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do recall the first question asked by Senator Molgat on October 26 regarding the reimbursement of government funds. I am still awaiting a reply from the Minister of the Environment. I received some information, but it seemed to be insufficient and I sent it back for further details.

I do not have an up-to-date report on the Rafferty-Alameda situation in my notes, but I will obtain one and report back to the Senate.

YUKON PLACER MINING ACT
YUKON QUARTZ MINING ACT

BILL TO AMEND—THIRD READING

Hon. Mira Spivak moved the third reading of the Bill C-68, to amend the Yukon Placer Mining Act and the Yukon Quartz Mining Act and to make provision for the application of certain orders.

Motion agreed to and bill read third time and passed.

CANADA PENSION PLAN

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Cogger, for the second reading of the Bill C-260, An Act to amend the Canada Pension Plan (spousal agreement).—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, yesterday Senator Atkins gave the Senate a full and clear presentation of the issues in this bill, a record of which appears in the *Debates of the Senate*, and which I recommend to all honourable senators. The honourable senator explained why the bill is both necessary and helpful.

The issue of family property law has undergone rapid change in every province since the reform of the Divorce Act. It is now a complicated situation, but it appears that this will improve. The splitting of CPP credits on marriage breakdown is a crucial matter to thousands of Canadians, particularly to women for whom divorce is often a financial disaster, especially for those who are retired.

Bill C-260 goes a long way to ward addressing the problems that arose in 1983 in the Preece decision and which have bedeviled the area since, despite an earlier amendment to the bill.

The Standing Senate Committee on Social Affairs, Science and Technology stands ready to hear Mr. Kempling, the sponsor of the bill in the other place, and other witnesses next week.

Unless there is an objection, the committee is prepared to have this bill referred to it.

Hon. Royce Frith (Deputy Leader of the Opposition): Does Senator Marsden know whether representatives from LEAF will appear before the committee?

Senator Marsden: The steering committee has not met to determine who the witnesses will be, but I have asked the clerk to contact LEAF representatives. Certainly LEAF was one of the organizations to which Mr. Kempling gave credit, and LEAF took the Preece case; so I assume they will appear before the committee.

Hon. Norman K. Atkins: Honourable senators—

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Atkins

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

Senator Atkins: Honourable senators, I have nothing further to add, other than to say that I will be moving that the bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

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 Atkins, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

ABORIGINAL PEOPLES BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to further the aspirations of the aboriginal peoples of Canada,
>
> And on the Point of Order concerning the admissibility of the Bill.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I still have not received the added research that I requested. As soon as I get it, I will proceed.

Order stands.

WORKERS MOURNING DAY BILL

SECOND READING

Hon. Mira Spivak moved the second reading of Bill C-223, an Act respecting a Day of Morning for Persons Killed or Injured in the Workplace.

She said: Honourable senators, Bill C-223, an Act respecting a Day of Mourning for Persons Killed or Injured in the Workplace, was introduced as a private member's bill by the honourable member from Churchill, Manitoba, Mr. Rod Murphy, and received the support of all parties.

[*Translation*]

This bill would make April 28 a day of mourning for persons killed, disabled or injured in the workplace during the preceeding year.

[*English*]

Clause 2 of the bill explains that if passed into law, April 28 will not be a legal holiday but a day of remembrance.

April 28 is the labour movement's national day of mourning, because it was on that day in 1914 that the first worker safety legislation was introduced into Ontario.

● (1530)

The intention of dedicating this day into law, even though the day has been honoured annually in the House of Commons and at ceremonies across the country, is to send a much stronger signal to all Canadians that safety at workplaces and continued improvements in health and safety legislation are fundamental precepts of this country. This official recognition by Parliament will help to raise awareness of health and safety issues.

The bill will also be an excellent educational mechanism for drawing attention to the staggering number of accidents, often fatal, in the workplace.

Mr. Rod Murphy, in his remarks to the House of Commons, gave the following statistics: In 1987, more than one million people were injured in the workplace. Of these, almost 700,000 suffered debilitating injuries and 887 were reported as fatalities. These figures have remained constant over the last decade. The Public Service Alliance estimates that between 6,000 to 10,000 Canadian workers die each year as a result of occupational cancer. Many of these deaths are not reported as job related, yet the probable cause of death is exposure to unsafe materials in the workplace.

Each year Canada's economy loses 16 million work days due to workplace accidents, injuries and deaths, which is five times the time of production lost due to strikes and lockouts. Mr. Bob Corbett informed the house that in 1988 preliminary figures indicate that more than 800 people died on the job in Canada and 20 million person days were lost because of work accidents, occupational injuries or illness. He indicated that the direct and indirect costs of work accidents amounted to approximately $22 billion in 1988.

I share the view of the house representatives that education and prevention are the weapons to battle such appalling statistics. I join with Mr. Murphy and other representatives in the idea that Parliament should be at the forefront of addressing the issue of health and safety in the workplace as a concern to all citizens in Canada.

I hope that this symbolic gesture will assist the efforts to rectify the problems of unsafe working environments. I urge senators to vote for this bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if I may, I would ask Senator Spivak why the bill is necessary to achieve the worthy objective that she has outlined. If I understand her correctly, the purpose of the bill is to establish a day of mourning for persons killed or injured in the workplace, but the bill does not propose an official holiday. It is an important gesture, as I believe she described it, and I agree with her; but can she tell me why it is necessary to introduce a bill if its objective is simply to establish a day of mourning, which will not be an official holiday? Perhaps that can be examined in committee, if she would prefer that.

Senator Spivak: As I gather from the remarks of the people in the House of Commons, this day has been observed for five years through a moment of silence. It was felt that giving it official recognition would have more impact in terms of the awareness of the issues of workplace safety. The labour movement has also had a great deal of influence in this debate. It has continuously attempted to gain more recognition for this

day and has campaigned across the country in provinces, territories and municipalities to have it recognized unofficially.

I suppose the culminating step is to have Parliament recognize this day officially. I also presume that the need for a bill has to do with the precedent set by other days that are recognized as memorial days but are not observed as holidays. That is the best explanation I can give at this time.

Senator Frith: Honourable senators, I fully support the objectives of the bill. I think Senator Spivak has given all the information that she could be expected to give at second reading. I support the principle of the bill, which is what is before us at second reading. It would seem that, under Rule 67(*m*)(4), "social and labour matters", the bill should be referred to the Standing Senate Committee on Social Affairs, Science and Technology. If it receives second reading, as I believe it should, and if Senator Spivak moves that the bill be referred to that committee, we will support that too.

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 Social Affairs, Science and Technology.

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—ORDER STANDS

On the Order:

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

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

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

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

And on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing 50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled

"Amending the Constitution of Canada".—(*Honourable Senator Stanbury*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I intend to stand this order. Senator Doody raised some questions about it and I want to make it clear that we have no interest in delaying the matter. I thought that the exchange between Senator Beaudoin and myself yesterday did not show a particularly clear-cut difference of opinion. I think we understood each other.

Therefore, again I say that I think we can proceed if the government can accept what seems to me to be an innocuous addition of the two examples. I think that is all they are and that is all the government paper is, namely, an example of the alternatives or options to be considered. I suppose that, strictly speaking, there can be only two alternatives.

Senator Macquarrie: Precisely; only two.

Senator Frith: As I say, if the government can accept them, then I think we can proceed. I just want it to be clear, because of what Senator Doody said, that our objective in moving these amendments is quite sincere; in other words, that there is no hidden reason for doing so. We are not attempting to delay this matter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with regard to the amendment proposed by the Leader of the Opposition on this matter, our view is that it is not necessary to add those specific formulae, that it is undesirable for Parliament in so doing to indicate or to suggest a preference for one or other of the various formulae that are already mentioned in the discussion paper presented by the government. The Victoria Formula and the Quebec-specific veto, which is what Senator MacEachen is talking about, are both mentioned in the discussion paper that was tabled on the day I presented the resolution; so I do not think it is necessary. The mandate of the committee is sufficiently broad.

Secondly, I think it might be misleading to indicate that Parliament has a preference for one or other of the formulae.

● (1540)

Thirdly, we should like to proceed with the creation of the committee and have the joint committee begin with its work plan. This would not be possible were we to amend the resolution and send it back to the House of Commons. For all these reasons I would ask the house not to support the amendment proposed by Senator MacEachen.

I had intended to speak to the matter perhaps at a later date. Someone indicated to me that Senator MacEachen intended to speak on the matter. If not, I can make my speech later, or we can have a vote on the proposed amendments.

Senator Frith: That is fine, honourable senators. The position of the government is now clear because the Leader of the Government has put it on the record. We can consult colleagues and decide how to proceed from here.

Order stands.

THE HONOURABLE GUY CHARBONNEAU

MOTION OF CENSURE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Fairbairn:
>
> That the privileges of Honourable Senators having been constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.—(*Honourable Senator Kirby*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, yesterday I said that Senator Kirby had asked me to adjourn this motion in his name. He had, and I did. But he is unable to be here today and has communicated to us, through our acting whip, Senator Bosa, that he would yield to Senator Gigantès.

Hon. Philippe Deane Gigantès: Honourable senators, I should like to place this issue in a larger context, because it is part of a larger context and an important one for this nation.

The world is facing some major changes that have been going on for some time now but are accelerating. They surely affect Canada and the governments of Canada. One of these changes is the instantaneity of financial movement, making it impossible for governments to control capital as much as they could before. This should be seen in conjunction with changes and acceleration in transportation and the possibility, therefore, to develop industrial processes in countries where advantage can be taken of low wages. This leads to losses of jobs in established industrialized countries and a difficulty for governments in established industrialized countries to resort to old techniques in job creation because capital is mobile and prefers other methods of dealing with problems, one of those methods being moving off shore.

We have also within the country the coming to fruition of the Quebec independence movement. This may appear a long distance from what we are talking about, but it is not. The consequence of all this is that we will need, as a nation and as a Parliament, a high degree of collaboration. Let us take the Québec issue. We have in power right now at the federal level a coalition. It is called the Progressive Consecutive Party. But it is in effect a coalition between Anglophone Tories and a group of Quebecers who say quite openly that they place the interests of Quebec first. They do not mention where they place the interests of Canada necessarily. Some of them do; some do not.

The way the Meech Lake debate was handled by this government is seen by non-Québecois Canadians, and increasingly by Québecois Canadians, as a reason for mistrusting this particular coalition. In the next two and one-half years we will be facing possibly radical proposals about the restructuring of this country—radical proposals coming from Québec. Non-Québecois Canadians will not trust this Prime Minister. I am not sure whom they will trust. They will need a federal government that they can trust. That federal government will have to be something other than what it is now—not in party terms, but some entity in which the people of Canada can have confidence; some entity that will display great collaboration as between existing parties. I am talking of the period over the next two to two and one half years before the next election, a crucial period for the future of the country.

What we need is the capacity to collaborate. But collaborate to what end? I am suggesting that, whether Québec wants to separate or whether Québec wants to stay in Canada, it will be better for Québec—and I am a Québecer—to have as an interlocutor a Canadian federal government which is trusted by non-Québecois Canadians to speak for it. Québec does not face such an interlocutor now. Non-Québecois Canadians see the present ruling caucus in the House of Commons as containing a Trojan horse and, therefore, as not constituting a proper spokesman for the interests of non-Québecois Canadians. Therefore, the Quebecoise are facing a vacuum when it comes to an interlocutor.

The economic aspects to which I referred earlier aggravate the situation because we hear people before the Bélanger-Campeau Commission—for example, people like the Québec Chamber of Commerce—saying, "What use is it to stay in Canada if the economic policies of the government are such that they are ruining us?" Those economic policies could be called a sort of counter- revolution by people who hold large amounts of money, can move it instantaneously out of countries and are not prepared to contemplate solutions that include a fairly large role for government.

In consequence, we will need a government in Canada, or government policy in Canada, that will try to cure internal ills, economic ills, and also be an interlocutor for Québec. The internal ills that have to be cured will have to satisfy the various regions of the country by curing them, for example, by reducing unemployment. The Economic Council says that that is the only way to deal with the deficit, because countries that have full employment policies do not have deficits. We must also have a policy that reemphasizes equal standards for certain services throughout the country, whichever way the services are administered—in other words, an added credibility to what the word "Canadian" means in terms of what privileges and services we are entitled to from one ocean to the other and to the third ocean. We are going to need great collaboration. This degree of collaboration implies inevitably a trust. There is no way that such a collaboration will be possible if the various parties involved have to operate in a circumstance in which persons appointed to be referees have played not the role of a referee but the role of a player for one side against the other. That Senator Guy Charbonneau did so is well established in the speech by Senator Stanbury.

• (1550)

It started with his breaking a long tradition about when a vote is to take place. His next act was to say to this side of the house and to the independents that the vote would take place at 17.30, and to the Tories that it would take place at 17.25. Then he continued breaking rules. Senators Charbonneau, Murray and Roblin—but, in particular, Senators Murray and Charbonneau—broke rules that they had signed only a few days before. After Senator Murray declared from his seat that, in the circumsstances, he accepted delay as a legitimate practice by the Opposition, he moved to deny this delay to the Opposition. During all this, Senator Charbonneau played the role of someone who picks up the ball and scores for one of the two sides. For the sake of the nation, in the next two and a half years, when we are going to require a high degree of collaboration, we cannot live with Senator Charbonneau in the Speaker's Chair. It is not possible to play a game with a referee who has demonstrated that he belongs to one team and not the other; it is just not possible. We have to be able to collaborate, and we cannot collaborate under those circumstances.

We are one of the two houses of Parliament. We may not survive the separation of Quebec. If some new ways are found to change the Constitution of Canada, this type of Senate may disappear and be replaced by another. However, in the meanwhile, and in the next two and a half years of this Parliament, whether or not we like it, or the Prime Minister likes it, or the press likes it, the Senate is going to have to play a role. There are people on both sides of this house who have the talent, the imagination, the experience, and the recognized decency to contribute to the restructuring of the country if they can collaborate. However, they will not be able to collaborate in an atmosphere which is, of need, adversarial—that is the way British parliamentary institutions are set up—when the referee is no longer a referee but is blatantly a member of one side and has shown himself not incapable but unwilling to be impartial and objective.

This is for the sake of the country and for future collaborations, especially at this juncture when we have to do something about the movement of capital offshore. If we do not, the people will. They will not peacefully accept the loss of their jobs beyond a certain point. We must not forget that 70 per cent of our economy is domestic. These people are facing a loss of their livelihoods and their standard of living, and they will fight for it. We do not need that kind of fight at a time when a key part of Canada wants to separate. If it becomes impossible for any solution other than the separation of Quebec, surely we want it done in an atmosphere that is not messy and nasty. We

want it to be civilized and to minimize the cost on all sides, not disrupting the existing economic, commercial, cultural, political and even personal relationships. As I have told you, I have married into a separatist family.

We will have to work together. Occasionally, of course, we work against one another. When you have a democracy you have to have more than one party. If you have more than one party, you have two opinions. If issues are important and serious, you have to be partisan and fight. However, when it comes to unity of the country and the two and a half year period during which the fate of Canada is going to be decided, when the country will need an interlocutor for Quebec, and when the country will need a government it trusts, every component of trust becomes extremely important.

This chamber has a role to play. It cannot be abolished in the next two and a half years. It will take longer than that. Therefore, it will be the place where things can be blocked or passed, where good ideas can come to fruition or be destroyed. In this chamber, we cannot afford to have Guy Charbonneau in the Speaker's Chair.

[*Translation*]

Hon. Paul David: Honourable senators, before the debate is adjourned, I want to ask Senator Gigantès if he would entertain a question.

Senator Gigantès: Of course, Senator David.

Senator David: I have trouble understanding the connection between your objections to the Speaker of this Chamber and the implications of the independence movement in Quebec. You mentioned at least a dozen times that this country's unity was threatened by the movement in Quebec. You said the Conservative caucus was threatened by its Quebec elements.

I realize that some of those Quebec elements have now formed the Bloc Québécois.

I can assure you that many Quebecers in the Quebec caucus support the concept of a Canadian entity and renewed federalism and are prepared to remain Canadians.

When referring to movements in society that require a certain unity, why did you focus on Quebec and fail to mention the extraordinary political developments that gave the New Democrats a victory in Ontario, or the rising fortunes of a movement called the Reform Party in Western Canada? I find it hard to understand the connection you made between the Speaker of this Assembly and Canadian unity.

Senator Gigantès: Honourable senators, I am glad Senator David asked me this question.

I made this connection to illustrate how Canadians who are Francophones and not Quebecers perceive the Conservative caucus. They don't believe in the Conservative caucus, and I certainly don't. This is not new.

I was anxious to take this opportunity to talk about Canada's interests. I am sure you will agree, Senator David that in the next two and a half years, it will be in Canada's interests to have people at the top whom Canadians can trust, more than they now trust the Prime Minister or even the Liberal Party. I have no objections to criticism of our party in that respect.

I say that we must start rebuilding trust, wherever we can do so. In this Chamber, the process of building an atmosphere of trust that will enhance national co-operation and creativity is hampered by the presence in the Speaker's chair of someone who, as far as we are concerned, has been guilty of flagrant partisanship inappropriate for someone in his position. That is the point I wanted to make, honourable senators.

On motion of Senator Bosa, for Senator Kirby, debate adjourned.

THE ESTIMATES, 1990-91

SEVENTEENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the Seventeenth Report of the Standing Senate Committee on National Finance (Supplementary Estimates (B) 1990-91), presented in the Senate on 15th January, 1991.

Hon. Fernand-E. Leblanc (Saurel): Honourable senators, I move that this report be adopted.

Honourable senators, although the report is quite complete and accurately represents the contents of the Supplementary Estimates (B), I would like to stress a few points.

Five meetings of the Committee were held to examine these supplementary estimates. The Minister of National Defence, the Secretary of State for External Affairs, and officials of Treasury Board Secretariat, Statistics Canada, the Natural Sciences and Engineering Research Council and the Departments of National Defence, External Affairs, National Revenue Customs and Excise, Finance and Industry, Science and Technology appeared as witnesses.

The Minister of National Defence provided a set of fact sheets on the $350 million of supplementary estimates requested for his department, which are attached to this report. These give details of the department's operating costs in four categories: operations in Oka and Chateauguay (which took place in Quebec in July and August, 1990); Persian Gulf operations to the end of March, 1991; preparations for commitments in the Gulf beyond March, 1991; and maintenance of general military preparedness.

Proposed expenditures for preparation and planning in connection with the Goods and Services Tax, including payment of the GST credit, appear in the supplementary estimates of several departments: Consumer and Corporate Affairs, $19.5 million; Finance, $14.3 million; National Revenue, Customs

and Excise, $203.0 million; National Revenue, Taxation, $67.3 million; Public Works, $40.0 million; and Supply and Services, $21.7 million; for a total of $365.8 million. As well, Customs and Excise and Taxation are requesting 1,151 and 627 additional person-years respectively.

For all other considerations and information, honourable senators, I may refer you to the report. Thank you, honourable senators.

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

Some Hon. Senators: Agreed.

Motion agreed to and report concurred in.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, January 17, 1991

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

Prayers.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have the honour to present three petitions I received yesterday and today. The wording is the same as in previous petitions.

On the first petition, practically all names and addresses are from La Doré. This is again a petition for to the usual reasons.

I am impressed by the interest shown by senators opposite for the views of the Canadian people. I say this with some irony, because considering the noise in the Chamber, one must conclude that the views of these people from Montreal, La Doré and New Brunswick do not seem to interest a number of my colleagues, especially those on the other side of this Chamber.

The first petition I have the honour to present, honourable senators, is from La Doré. The prayer reads as follows:

> . . . we humbly pray and call upon senators and members of the House of Commons, as true representatives of the people, to do everything in their power to oppose the new goods and services tax, and we demand an election immediately.

Hon. Jean-Maurice Simard: Are you ready for an election?

Senator Frith: Yes, including one for the Senate.

Senator Simard: Is Mr. Turner your leader?

Senator Frith: My leader is Jean Chrétien. Any more questions?

In any case, these Canadians who asked me to express their views on the goods and services tax can read, if they care to, that senators on the other side are not interested in their petitions on the GST but in Mr. Turner.

The second petition contains about 20 names of people who live mostly in Montreal.

The third petition is from New Brunswick. Senator Corbin is not here today, but I see that many of these petitioners are from Aroostook, New Brunswick, a community mentioned on the Senate's agenda in connection with an inquiry by Senator Corbin about the closing of the post office in Aroostook.

Those were the three petitions concerning the GST I received yesterday and today. Thank you, honourable senators.

Senator Simard: Does that mean, honourable senators, that Senator Hébert has been relieved of his duties and that you have now taken his place?

Senator Frith: Honourable senators, I can assure you that the petitions I presented this week were sent directly to me. I received them at my office this week. According to my information, these petitions were addressed to me.

[*English*]

CANADIAN POLAR COMMISSION BILL

SECOND REPORT OF ABORIGINAL PEOPLES COMMITTEE PRESENTED

Hon. Len Marchand, Chairman of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Thursday, January 17, 1991

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

SECOND REPORT

Your Committee, to which was referred the Bill C-72, An Act to establish the Canadian Polar Commission and to amend certain Acts in consequence thereof, has, in obedience to the Order of Reference of Tuesday, January 15, 1991, examined the said Bill and now reports the same without amendment, but with the following recommendations:

That there be adequate representation of Northerners on the Board of Directors of the Commission.

That at least one office of the Commission shall be at a place in the Northwest Territories, the Yukon Territory, Labrador, or that part of Quebec that is north of 55 degrees north latitude.

That at least half of the Board's meetings in each year shall be held at places in the Northwest Territories, the Yukon Territory, Labrador, or that part of Quebec that is north of 55 degrees north latitude.

Respectfully submitted,

LEN MARCHAND
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.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Finlay MacDonald: Honourable senators, I move, with leave of the Senate and notwithstanding Rule 45(1)(*a*):

> That the Standing Senate Committee on Transport and Communications have the power to sit at three-thirty o'clock in the afternoon on Tuesday next, January 22, 1991, 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.

[*Translation*]

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Fernand-E. Leblanc (Saurel): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on National Finance have the power to sit the whole day on Tuesday, January 21, 1991, 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?

Some Hon. Senators: Agreed.

Motion agreed to.

• (1410)

QUESTION PERIOD

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

STATUS OF COMMITTEE PROCEEDINGS

Hon. Donald H. Oliver: Honourable senators, pursuant to Rule 20(1)(*c*), I have a question for the Chairman of the Standing Senate Committee on Legal and Constitutional Affairs. Can the Chairman inform us when Bill C-43, the abortion bill, and Bill C-81 will be reported to this chamber?

Hon. Nathan Nurgitz: Honourable senators, Bill C-81 has not yet been considered by the committee because of an excessive amount of business, but I expect there will be an opportunity next week to consider that bill and, if acceptable, to report on it.

With respect to the abortion matter, I should like to thank Senator Oliver for his question. The committee has been meeting all week every morning and evening. We will meet again at 6:30 p.m. this evening and will sit until approximately 10 p.m. We are concluding with two constitutional experts. We shall meet again tomorrow morning at 8:30 a.m. to hear the Minister of Justice and will continue until 1 p.m. in the afternoon. On Monday we will hear a series of witnesses all through the afternoon, several of whom have been requested by Senator Haidasz. We have held off having those witnesses until Monday so that Senator Haidasz could be here. The witnesses are those who were recommended by Senator Haidasz and were known to him with respect to this issue. The committee thought it only fair that he should be in attendance.

Hopefully the committee will again sit Monday evening to give consideration to how it will report. The steering committee met today—that is, Senator Neiman, Senator Stanbury and myself—and has already asked our researcher to commence putting together a summary of the issues raised by the various witnesses, and to continue doing so as we hear more witnesses, so that we can be in some state of readiness for next week.

That being the case, I am hopeful, honourable senators, that sometime next week—certainly by mid next week—we will be in a position to bring forward our report to the Senate. Unlike many other bills, that will then bring onto the Senate floor what I expect to be a considerable amount of debate, for a whole wide range of reasons, on consideration of Bill C-43.

I trust that answers Senator Oliver's question.

GENERAL AGREEMENT ON TARIFFS AND TRADE

SCHEDULED RESUMPTION OF MEETINGS—PROGRESS REPORT

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, three questions were asked yesterday to which I have brief replies, although I do not have copies of them to circulate at this time.

Senator Olson asked a question about the discussions at the GATT on agricultural subsidies. The Director General of the GATT, Mr. Dunkel, met with trade negotiators the day before yesterday in Geneva. He reported on the bilateral consultations he had been having and informed them that he would continue such consultations as a basis for reengaging in negotiations. Mr. Dunkel remains "consciously optimistic." More specifically, the director general is working at "building a platform for agriculture." No date has been set for the next TNC meetings. Canada is also working behind the scenes carrying out our own consultations.

AGRICULTURE

PLANS FOR "OUTLOOK" CONFERENCE

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Senator Hays asked a question yesterday about the "Agricultural Outlook"

Conference and whether there were plans to hold that type of conference in 1991. The answer is that there are no plans in the immediate future to hold such a conference. "Agricultural Outlook" information will continue to be disseminated by Agriculture Canada at regular, principally quarterly, intervals in the usual way.

[*Later*]

Hon. Dan Hays: Honourable senators, I rise, first, to thank Senator Murray for promptly obtaining an answer to my question with respect to the "Agricultural Outlook" Conference. He said that there are no plans to hold one in the future. In light of the fact that that conference and the conference of a year ago on the "Growing Together" process will not be held in the future, the question that comes to my mind is: Is there anything that the government has in mind to substitute for that process in terms of feedback? I understand Senator Murray's comment to the effect that the research papers, the "Outlook" forecasts and so on, will be ongoing and that Agriculture Canada will continue to disseminate that information.

However, there was another aspect to that process, that being that it provided an opportunity for commodity groups and others to give some feedback to the government. I appreciate that a number of committees have been struck as a result of the "Growing Together" process and are involved and are making reports, but they are very selective because the government controls who will be involved and from whom they will get feedback. From my point of view, I think the government has been quite enlightened in the selection of those people. However, those committees do not substitute completely for the benefits of the "Growing Together" event, which was more open and gave a full opportunity to people to ask questions of the minister and his officials; it was a gathering of people who I think had good synergies for agriculture in the sense that they all got together and asked one another questions as well.

I wonder if you would comment, now or later, on what the government plans to do to substitute for that aspect of the "Agricultural Outlook" Conferences that will be gone, if no further conferences are to be held?

Senator Murray: Honourable senators, I appreciate the points made by Senator Hays, and I shall ask Mr. Mazankowski to comment.

THE ENVIRONMENT

RAFFERTY-ALAMEDA DAMS PROJECT—GOVERNMENT'S INTENTION TO PROCEED—STATUS REPORT—REIMBURSEMENT OF GOVERNMENT FUNDS

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Senator Molgat asked two questions about the Rafferty-Alameda Dams Project yesterday. The first one was: Is the government going ahead with construction? The answer is yes. Two court decisions support their right to continue. However, major construction has come to a halt because of weather conditions. The hauling of earth will not resume until the spring thaw.

[Senator Murray.]

The second question was: Is the federal government going to ask the Saskatchewan government for its money back? The answer is that this is still under review at the ministerial level. The decision depends on an appeal to the Court of Queens Bench in Saskatchewan that is coming up in February. The court's previous decision denied the federal government an injunction to halt further construction of the dam.

BALTIC STATES

STATUS OF REFUGEES FROM LATVIA AND LITHUANIA

Hon. Lorna Marsden: Honourable Senators, yesterday afternoon the parliamentary association concerned with the Baltic peoples held a useful briefing in which the rapidly-changing situation in Latvia and Lithuania was discussed. Could the Leader of the Government tell us whether the government has taken any concrete measures with respect to aid and to agreements with the U.S.S.R. in light of the recent activities in the Baltic States, or any other agreements with regard to refugees or the protection of citizens of those countries who may be here on a temporary basis?

• (1420)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot reply specifically to the last two items raised by the honourable senator. However, I can repeat that the Prime Minister has written to President Gorbachev on this issue and that Mr. Clark has indicated that we are discussing the situation in the Baltic States with our NATO allies as well as in the Conference on Security and Cooperation in Europe and at the UN.

The honourable senator will be aware that the United Nations does not recognize the Baltic States as being fully independent, so there is no possibility of this being considered as a state-to-state matter. Canada will be making, and perhaps has already made, a statement on the Baltic States at the CFCE Valletta meeting on the peaceful settlement of disputes. The Valletta meeting opened the day before yesterday and we are actively seeking ways of involving the Baltic States in the CFCE process.

Canada will be examining possible responses with our NATO allies later this week. We are reviewing our offers of technical assistance and the new $150 million line of credit for the purchase of foodstuffs in light of those discussions and continuing developments in the Baltic States.

Senator Marsden: I appreciate the fact that Canada is doing whatever it can to bring pressure on the U.S.S.R., but anyone who lived through the period of the invasions of Hungary and Czechoslovakia, and other countries that were occupied by the Soviet army, will know that some needs are more urgent than others.

Would the Leader of the Government bring to us as soon as possible a description of anything that might be done?

After a briefing by officials yesterday, our understanding is that refugees from those countries would be considered in the

normal line of refugees, and we all know that that is a very long queue in Canada. If it is required, and I am not sure that it will be, can something special be done? There must be a great many people whose lives are in jeopardy or who fear that their lives are in jeopardy at the present time, particularly in Lithuania, and now, I understand, in Latvia as well.

Senator Murray: Honourable senators, I will have to make inquiries about the potential refugee problem to which the honourable senator refers. I can tell her that we are continuing to facilitate shipments of medical supplies to Lithuania and to other Baltic States.

DEPARTMENT OF MULTICULTURALISM AND CITIZENSHIP BILL

THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Senator Spivak, moved third reading of Bill C-18, to establish the Department of Multiculturalism and Citizenship and to amend certain Acts in relation thereto.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have an intervention at the third reading stage of this bill. It is along the same lines as the intervention I made formerly on the same subject.

Honourable senators, this bill expresses the government's policy, and thus, if it is passed, the country's policy, on the subject of multiculturalism.

The committee's report, which is found in yesterday's *Debates of the Senate* at page 5068, expresses some of my reservations about this bill. The report says:

> Based on an investigation of Bill C-18, your Committee is of the view that there are two major unresolved issues in the proposed legislation: definition of the term multiculturalism and inadequate enforcement mechanisms.

My concern is about the first issue, the definition of "multiculturalism". The report continues:

> Bill C-18 (clause 5) speaks to the concept of our multicultural heritage without explaining the term multiculturalism. The Minister and officials from the Secretary of State of Canada referred members to *The Canadian Multiculturalism Act (Bill C-93)* for a definition of multiculturalism. *The Canadian Multiculturalism Act* implies a meaning in, for example section 3, where it is described as a reflection of Canadian society's cultural and racial diversity and as a fundamental characteristic of our heritage and identity. There is, however, no definition of the term multiculturalism in section 3 nor in the *Act's* preamble.

Honourable senators, I find the concept of multiculturalism, especially when legislated, embarrassing and wrong. I find it embarrassing because it suggests that, in the minds of many Canadians, I belong to a culture that is not "ethnic." In our usage, the expression "ethnic"—which, if I understand the real meaning of the word, means race or racism—has come to mean, in the minds, as I say, of many Canadians, groups other than those coming from the United Kingdom. When we hear the word "ethnics" or the word "ethnic", we do not think of those of British origin.

Senator Doody: What about the Irish?

Senator Frith: We do not even think of those of Irish origin. We could, but we don't. Perhaps Senator Doody does. I am saying that in the minds of most Canadians the word "ethnic", as it is used in Canadian society, means other than of British origin.

Hon. Gildas L. Molgat: Or French.

Senator Frith: Or French, exactly. I find that embarrassing.

Hon. Len Marchand: It means other than Aboriginals.

Senator Frith: You see? It means other than Aboriginals. When many Canadians are thinking about "ethnic minorities", they would include Aboriginals in that term.

Senator Marchand: We are not ethnic.

Senator Frith: Of course you are not, any more than anyone else is. That is my whole point.

Senator Marchand: You all came over after we were here.

Senator Frith: No, you are not quite right. I did not come over when you were here, senator. Your ancestors were here before my ancestors.

Senator Marchand: Right.

Senator Frith: That is a digression, but it points out that these policies on multiculturalism are based on this concept of there being a majority that comes from Britain or France, a sort of double majority, and then a group of others who are called "ethnics", often with the idea also of some chronological distinction, that they came after some others. There is the distinction that they came after others, and then there is also the use of the hyphen to indicate ethnic origin.

• (1430)

I think we should at least note that it is a myth. That majority-minority situation does not exist in Canada. I think that is wrong, and I am not being partisan about this, because this government did not invent the concept—

Hon. Richard J. Doyle: Pierre Trudeau did.

Senator Frith: No, he did not. I am not being partisan, but I know that Senator Doyle cannot resist that temptation. I am talking about this as a Canadian concept.

I can see that my speech is generating a great deal of interest. I am glad to see that. I see that some are even joking about the subject.

Senator Marchand: This is a serious matter!

Senator Frith: I think it is a serious matter, but if some senators find it amusing, so be it. We all sometimes get excited because we feel a matter is serious, other times because we feel it is amusing—and that is often a sign of embarrassment.

At the time the bill was before the House of Commons, Mr. Nunziata wrote an article for the *Toronto Star*. I want to read a couple of paragraphs from that article. The second paragraph states:

While the policy—

That is the multiculturalism policy:

> —was ostensibly intended to integrate immigrants into Canadian society, by officially encouraging them to transplant their previous cultures in Canada, we have marginalized and ghettoized not only them, but also their native-born Canadian children. There are several reasons why Canada's multiculturalism policy is no longer appropriate.

I want to break there and say that in favour of this policy, even in contemporaneous terms, can be said something that my colleague, Senator Bosa, the former President of the Canadian Multiculturalism Council, has said to me. He said that in its best light this policy is an attempt to make all of us feel Canadian, none more Canadian than others, no matter what time they arrived, no matter what their cultural origin. From that point of view, I encourage this sort of policy.

The reason I am saying anything negative about it is that I do not believe Canadians have embraced this concept that we are all part of the multicultural mosaic, and thus all equal. That is why I want to underline the fact that I feel that there is an important dimension to this kind of legislation and that to talk of multiculturalism and multiculturalism departments can perpetuate the myth rather than destroy it.

Mr. Nunziata went on to state:

> Some accept multiculturalism only as a means to enliven the cultural landscape through the support of quaint ethnic folklore. One of the basic tenets of the policy, "that we are all ethnics and thus all equal," holds little currency with the average Canadian.
>
> To most Canadians, multiculturalism means that if you have origins other than French or English, you are an ethnic, an immigrant—you are multicultural. While we are all equal under the law, many members of the English and French "charter groups" are prone to regard themselves as a bit more equal, based on history and genealogy.

If I may put in a parenthesis here, not only members of the English and French charter groups are prone to regard themselves as more equal, based on history and genealogy, but many non-members of those charter groups unwittingly have the same attitude, because they are misled by its perpetuation by this sort of legislation. To carry on:

> The "we-were-here-first" mentality still predominates the thinking of many "non-ethnic" Canadians. Instead of undercutting the concept of the second-class citizenship, multiculturalism encourages it by preventing the full integration of all ethnic groups into mainstream Canadian society.

In my opinion, integration can only take place because of attitudes. It does not take place because of legislation, departments or enforcement mechanisms; it takes place because of an attitude. The integration happens when we all have an integrating attitude. My objection to this kind of legislation is that it puts off that change of attitude and thereby perpetuates, as I said, a most undesirable myth.

For that reason, if there had been—and I do not expect there will be—a standing vote on this bill, I would have abstained.

Motion agreed to and bill read third time and passed.

MESSAGE TO HOUSE OF COMMONS RE BILL C-18—MOTION TO APPEND COMMENTARY OF NINETEENTH REPORT OF SOCIAL AFFAIRS COMMITTEE CONCURRED IN

Hon. Gildas L. Molgat: Honourable senators, I wish to move:

> That the message to be sent to the House of Commons acquainting that house that the Senate has passed the Bill C-18, An Act to establish the Department of Multiculturalism and Citizenship and to amend certain acts in relation thereto, contain the commentary appearing in the nineteenth report of the Standing Senate Committee on Social Affairs, Science and Technology dated Wednesday, January 16, 1991.

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

Hon. Duff Roblin: Honourable senators, I could not hear the substance of the motion. Was it that all the commentary of the committee with respect to this bill be attached to the message to be sent to the House of Commons, or just some part of it?

Senator Molgat: My intention was that the comments that appear in the report, and which appear in the *Minutes of Proceedings* today, beginning at the top of page 2120 and finishing on 2121, be sent to the House of Commons as part of the message acquainting that House that the Senate has passed Bill C-18. In this way the House will be acquainted with the concerns that were presented to the committee and which the committee felt useful to present to this chamber. The other place will then know what concerns were expressed and will have the background for our acceptance of the bill.

● (1440)

Senator Roblin: My concern is that I do not have in front of me the actual text to which my friend is referring, nor does the Senate.

Senator Frith: It is in the *Debates of the Senate* for yesterday.

Senator Roblin: Just the same, I am always uneasy when I am asked to vote for something which I do not see in writing in front of me.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, in speaking to the motion, another good reason for this to be included is that, as I recall, there were some undertakings by the government, after some evaluation by it, to this inviting the committee to make some submissions

as to definitions. And the report of the committee was unanimous.

Senator Roblin: Honourable senators, I have now turned up page 2120 of the *Minutes of the Proceedings*. Could my friend indicate to me what paragraphs on that page he is including in his motion?

Senator Molgat: My intention would be that the whole of the report be added. This is not a new procedure. It is one that we have followed on many occasions in the past. I agree that if there were differences of opinion on the matter then perhaps it should be debated. However, in this case, I understand that the committee was unanimous. When Senator Marsden presented her report, it included all of this material. It was available to all senators and was printed in the *Minutes of the Proceedings*.

I simply request that the whole of the report be sent. The House of Commons will then benefit all the more from the work done by the committee.

Hon. Lorna Marsden: Honourable senators, may I point out to Senator Roblin that this is one of the reasons why yesterday I asked that the whole report be read. It was so that everyone would be aware that this unanimous report from our committee had come forward with the commentary. I must say that I am grateful for Senator Molgat's motion.

Senator Roblin: Now that my friend has given me the reference, I am able to satisfy myself as to what he intends to do.

Motion agreed to.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Duff Roblin moved the third reading of Bill C-54, to amend the Criminal Code (joinder of counts).

Motion agreed to and bill read third time and passed.

PENITENTIARY ACT

BILL TO AMEND—THIRD READING

Hon. Earl A. Hastings moved the third reading of Bill S-19, to amend the Penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament.

Motion agreed to and bill read third time and passed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, now that Bill C-19 has been passed, I would like to note that this is an example of what I consider, at least occasionally, a valuable exercise on either side of the house. It is what I suppose could be called "Lone Rangerism".

Senator Hastings advanced the cause, got it before a committee by an inquiry, and had the committee encourage the preparation of a bill. Senator Hastings prepared the bill, the bill was brought forward and debated, and sent to the committee. The committee reported it and it is now being sent forward just like any other legislation. That is something that we should all be encouraged to do from time to time when we feel associated with a worthy cause.

Senator Olson: May I have an explanation of "Lone Rangerism"?

Senator Frith: I would rather leave it that way.

ABORIGINAL PEOPLES BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to further the aspirations of the aboriginal peoples of Canada,
>
> And on the Point of Order concerning the admissibility of the Bill.—(*Honourable Senator Frith*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I still have not received that additional research. I am ready to proceed as soon as I receive it.

I will also be ready to finish my intervention on the copyright act very soon.

Order stands.

APPROPRIATION BILL NO. 3, 1990-91

SECOND READING

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 C-94, An Act for Granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, yesterday the chairman of the Standing Senate Committee on National Finance moved the adoption of the Seventeenth Report, which was accepted by the Senate. In that report it is stated that the Minister of National Defence provided a set of fact sheets on the $350 million of Supplementary Estimates required for his department, which are attached to this report.

Later on it is stated that department officials were also unable to provide to the committee any estimates of the additional costs that might be incurred because of an outbreak of hostilities in the Persian Gulf after January 15, 1991, and the consequent escalation of the Canadian forces commitment in that region. However, the minister assured the committee that the additional funds requested in the Supplementary Estimates would be adequate to support any foreseeable Canadian operations in the Gulf up to the end of the 1990-91 fiscal year.

Honourable senators, the bill before us, namely Bill C-94, is the legislative action which gives effect to the provision of these additional funds. The bill certainly provides an opportunity to make some comments on the situation which now exists in the Persian Gulf, and also to make some reference to comments which have been made in testimony by the Minister of National Defence and the Secretary of State for External Affairs in explanation and defense of Canadian policy in the Persian Gulf.

● (1450)

Honourable senators, over the last few months the Persian Gulf crisis has given rise to a spectacular exercise in brinkmanship. Today, the second day after the fateful deadline of January 15 set by the United Nations Security Council for the possible use of force against Iraq, Canada is at war. Let us pause for a moment and reflect on what we are in for. Let us try to put in perspective the excitement provoked by news of a successful first strike.

There is no question that, even if the war is short, as I hope it will be, it will be a bloody and highly-destructive war. Well over one million people and arms have been deployed in the area. They have at hand the greatest concentration of sophisticated weapons poised for action since the Korean War. It was easy to set the time for an offensive to drive the Iraqi armed forces out of Kuwait. It may not be so easy to put an end to this war. Saddam Hussein has displayed a remarkable degree of stubbornness. Students of history know that many great armies have become mired or bogged down in the dessert sands in that part of the world. The Middle East, however regrettably, has a long tradition of violence. Violence has a way of kindling conflicts left unresolved. By the time violence has run its course, an immense amount of physical and moral destruction will be left in its wake. The economies of Western countries will have been damaged at a most unwanted time; the political mess in the Middle East will be greater, not less; Iraq will have been cut down to size; but few, if any, other underlying issues will have been resolved. The long-term position of Western countries in the area may be far worse than it is now.

Canada, of course, will not have been immune from casualties, and hundreds of millions of dollars will have produced little more than rubble. Canadians will ask, "Why did we waste these enormous resources? Why did we lose these Canadian lives in the parched sands of Arabia? Why, in the name of God, did we get into this mess in the first place?" These will be legitimate questions, but they should better be asked now before new, irretrievable moves are taken—before the full damage is done.

When I spoke on this crisis in the Senate on November 20, 1990, I analyzed the long-term objectives of Western countries and their management of this crisis. My view was that these objectives would not best be served by the early outbreak of hostilities. I said—and honourable senators will remember that this was before Security Council 678 Resolution was passed:

> The United States . . . is engaged in marshalling Security Council members to get a resolution to take offensive action in the Persian Gulf. Make no mistake about it, that is what is happening. I believe it is premature.

[Senator MacEachen.]

I added:

> So far, the United Nations and the allied countries opposing Iraq have made the right moves . . . because the resolve of all countries concerned with aggression has been focused on means of countering it diplomatically and by military deployment without recourse to offensive action.

I wish to note that Senator Roblin, speaking from the other side of this house, added weight to these comments. His observations are well worth quoting on this point. He said:

> I am one who says that, yes, we have not yet given sanctions the full opportunity to do their stuff. We must do that. There is no reason to pay any attention to those impatient people who want to see military action taken tomorrow—not at all. I would resist that. I want to see sanctions given full force and effect and time to show what they can do.

He went on to say:

> I do not like these unconditional surrender policies that have been popular in the world . . . .We must never put ourselves in the position where there is no alternative but to go ahead and to indulge in military action.

Those were, one might say, words with a good deal of wisdom. If Canadians ever ask, "Why did we get into this war?" the answer will be, "Because that kind of wisdom was ignored."

Let us look carefully at what happened in the Security Council last November. The Security Council, having set the right policy in response to Iraq's aggression—that is, to condemn it, to order withdrawal and to enforce an embargo against Iraq, in full keeping with Article 41 of the UN Charter—changed that policy before it had run its course and before any considered judgment could be made about it. The Security Council, with Resolution 678, chose to issue what everyone has recognized to be an ultimatum to Saddam Hussein—everyone except the Prime Minister, who chose to call it "a pause of good will."

What I was so concerned about last November was this very change of course by the Security Council, and this concern proved to be well-founded. When the Security Council decided on an embargo against Iraq, it did so under the authority of Article 41 of the UN Charter, which provides for measures short of the use of force. When the Security Council passed Resolution 678, which gives UN members licence to use force against Iraq after January 15, it did so with reference to Chapter VII of the Charter. But this resolution did not mention under which article of the Charter the Security Council was exercising authority. This, honourable senators can rest assured, was not an oversight but a manifestation of what the Germans call "realpolitik". Let me explain.

Article 42 of the Charter provides that before resorting to force the Security Council must decide that Article 41 measures are inadequate.

• (1500)

The Security Council did not carry out any examination of the effect of the measures taken under Article 41—that is, the embargo—before adopting Resolution 678. The reason is simple. The embargo was a middle-term measure and was not expected to have a serious impact on Iraq for at least six months. I will provide later some evidence taken from the United States that the official view in that country was that the sanctions would take a year to work.

Moreover, Article 42, under which the Security Council is authorized to use force, is part of a set of articles—Articles 42 to 50—which regulate the use of force by the United Nations. Action under Article 42 triggers actions under the following articles which the Security Council has shown no intention of taking.

The Secretary of State for External Affairs was asked last Monday, when he appeared before the Standing Senate Committee on National Finance, to explain under which article of the UN Charter Resolution 678 was adopted. He replied:

> We have been acting in respect of the Charter of the United Nations in the resolutions that we have adopted to this point and the Charter in its entirety, Articles 41, 42 and the other articles.

Well, that is not an acceptable answer, nor was it an acceptable answer when the Secretary of State for External Affairs mentioned, and I quote, "the Security Council in Resolution 678 acting under Chapter VII in its entirety . . ." Read the articles of the Charter and analyze these unfounded comments following your examination of these articles.

We know that the Security Council never decided that the embargo had proved to be inadequate under the terms of Article 42 of the Charter. We know that UN members have not been asked to make forces available to the United Nations under Article 43 of the UN Charter. We know that plans for the use of force have not been made by the Security Council in accordance with Article 46 of the UN Charter. We know that a UN command and staff committee have not been set up under Article 47 of the Charter.

In brief, the Security Council did not take any action under the key Charter provisions regulating the use of force. This leave Article 51 of Chapter VII as the only article which could have provided authority for Resolution 678. This article provides that, until such time as necessary measures have been taken by the Security Council for the maintenance of peace and security, UN members keep their right to individual and collective defence; and the interpretation of Article 51 would certainly be stretched to the limit by a claim that it provides authority for Resolution 678.

Honourable senators, these are not fine legal points. The articles of Chapter VII are the essence of the United Nations security system and regulate the use of force. They have clearly been set aside by those countries which supported Resolution 678. The Security Council did not ask UN members to make forces available under Article 43 of the Charter. What the Security Council did with Resolution 678 was to authorize UN members to use force after January 15 to drive Iraq out of Kuwait. There is more than a fine line between requesting UN members to provide forces to the UN to put under the authority of a UN command and authorizing UN members to use force after a deadline, according to their own judgment, on their own time and in the light of their own national interests. Yet the Prime Minister and the Secretary of State for External Affairs have unequivocally stated that if there is a war in the Persian Gulf it will be in support of the United Nations.

Mr. Clark stated before the National Finance committee of this house that the fundamental principle at issue here is the defence and construction of a durable structure of international order. If this order is to be built on the use of force outside the main provisions of the UN Charter regulating the use of force, there is every reason to be concerned.

We were told last night that the United States decided to launch an attack and then informed the Secretary General of the United Nations. The United Nations did not launch the attack. The United States made the decision and notified the United Nations and members of the multinational force. That is the situation with respect to the United Nations.

I think we should look at the justification given by the ministers of the Government of Canada for supporting the January 15 ultimatum and getting ready for war.

The first reason was, I believe, well summarized by the Minister of National Defence before the Standing Senate Committee on National Finance on December 20, 1990. Mr. McKnight stated:

> I suggest that if they (the sanctions) had worked properly and we had been able to bring about a change in Saddam Hussein's mind and have him remove himself from Kuwait—

This is an additional objective, as I understand it, to the original objectives of the United Nations,

> —then the sanctions would have been appropriate. We have not been able to do that.

The Minister of National Defence clearly stated his judgment that the sanctions had not worked properly. He used an early change in Saddam Hussein's mind as the criterion for judging the appropriateness of the UN embargo policy. I totally disagree—and I believe most others would also disagree—that that is the criterion of the success of an embargo policy. In my view, the proper criterion for judging the effectiveness of an embargo is its impact on the economy of the country concerned.

No one ever expected that the full impact of the UN embargo would be felt before six to eight to twelve months. Indeed, on December 10 last year, the Secretary of State for External Affairs produced for the Standing Committee on External Affairs of the other place some background notes showing that the embargo was already having an effect on the industrial and manufacturing sector and the petroleum sector of Iraq.

The United States Armed Forces Committee heard testimony on the effect of the embargo from important witnesses, including the former Secretary of Defense, James Schlesinger, which I would like to quote. I quote these excerpts from Mr. Schlesinger's testimony not only because of the authority of Mr. Schlesinger as a witness, as a former Secretary of Energy, a former Secretary of Defence and still an important strategic thinker in the United States, but also because his analysis is basically factual. If honourable senators wish to follow the matter up, they can read the testimony given on the same day by General David Jones, for example, the former Chairman, Joint Chiefs of Staff, with respect to the efficacy of these sanctions. In fact, I would recommend to any honourable senator the reading of the full analysis by Mr. Schlesinger before that committee, because it places the decisions which were so simplistically defended by Canadian ministers in a much more complicated context.

● (1510)

I will now read a number of paragraphs from Mr. Schlesinger's testimony. Mr. Schlesinger says:

> Let me turn now to the alternative strategies available to the United States and its allies. The first, of course, is to allow the weight of the economic sanctions imposed in August gradually to wear down the capacity and the will of Iraq to sustain its present position. The embargo, backed up by a naval blockade, is the most successful ever achieved aside from time of war. Early on, it was officially estimated that it would require a year for the sanctions to work. It appears to be working more rapidly than anticipated. In three months time civilian production in Iraq is estimated to have declined by some 40 per cent; oil exports are essentially nil; and export earnings have dropped correspondingly. The hord of hard currency necessary to sustain smuggling is dwindling away. The economic pressure can only grow worse.
>
> While Iraq's military posture does not appear to have been seriously affected as yet, as the months go by, that, too, will be seriously weakened. Lack of spare parts will force Iraq to begin to cannibalize its military equipment. Military industry, as yet significantly unaffected, will follow the downward path of civilian industry. In short, the burden on both Iraq's economy and her military strength will steadily increase.

He then goes on to say:

> One should note that since the original estimate was that the sanctions route would require a year, it seems rather illogical to express impatience with them because they will not have produced the hoped-for results in six months' time. In this connection, one should also note the frequently expressed view that Saddam Hussein must not be, quote, "rewarded" for his aggression, but instead must be punished. As an expression of emotion, it is understandable. But it must not be allowed to obscure our sense of reality.

[Senator MacEachen.]

> Saddam Hussein is being punished and punished severely. He has forfeited $20 billion of foreign exchange earnings a year, indeed $30 billion at the current oil price. Iraq's credit is totally destroyed, and the remnants of its hard currency reserves dwindling. When Saddam looks across the border at Saudi Arabia or the UAE, they are prospering because of his actions from which he himself has derived no benefit. He is likely to be consumed by envy. His own economy is rapidly becoming a basketcase. Moreover, the position of preponderance that he had earlier achieved in OPEC is now gone. He is diplomatically isolated.
>
> His military position will slowly be degraded. His pawns in Lebanon have been wiped out by his chief Ba'athist rival, Assad, who has immensely strengthened his own position. He has been forced to accept an embarrassing peace with Iran, and that nation's position relative to Iraq is slowly being improved. Sympathic nations, such as Jordan and Yemen, have been harshly treated, and neither they nor he have had any recourse.
>
> On the benefits side stands only the looting of Kuwait. In brief, Saddam Hussein staked Iraq's position on a role of the dice and lost. Only if he has a deeply masochistic streak, can he regard himself as rewarded. To allow our own political rhetoric to obscure the severe punishment that has already been meted out, or to suggest that our current policy is in some way unsuccessful, and that Saddam's position is now or is potentially enviable, strikes me as misconceived.

When the Minister of Defence appeared before the finance committee a couple of weeks later he was unable to put on the record any significant information that would contest this formidable array of economic and military results and the severe punishment that has been meted out. There is no doubt that, as Mr. Schlesinger concluded his testimony by advising the committee, the sanctions would have their full effect. So much on sanctions.

I believe that sanctions was the preferred route. They have not been followed for reasons that I will explain later. In fact, the President of the United States made it clear last night. He could not wait, he said. He could not wait for reasons that some of you will have understood—reasons that become equally as clear from the testimony as the question of sanctions becomes clear from Mr. Schlesinger's testimony.

The Minister of Defence must have recognized himself the foolishness of his statement on the embargo, because he tried to correct it by saying:

> I did not say that sanctions do not work. The difference between the Senator—

He was referring to me here. He goes to say:

> —and I is that he suggests to wait. Shall we wait until people are murdered on the street in Kuwait?

I believe—and the committee also recognized it—that that was a rather last resort, unacceptable comment. Can we wait? Shall we wait until people are murdered on the street of

Kuwait? The Minister of National Defence reiterated what we had heard from Washington the previous day—that is, that because of human rights abuses perpetrated by the Iraqi armed forces in Kuwait, "offensive action is necessary and urgent."

The Minister of Defence evoked the defense of human rights in Kuwait and the second reason for Resolution No. 678. I presume that all of us share—at least I do—in the minister's revulsion for the murdering that goes on in Kuwait at the hands of the Iraqis, but how many more innocent victims will be lying on the streets not only in Kuwait City but also in many other cities of the Middle East once the war rages on? We should have strong human rights policies, but is it not somewhat paradoxical that war, with its ultimate denial of the right to life, should become the preferred instrument of an alleged human rights policy?

● (1520)

Is the motivation of countries such as Afghanistan and Syria, which will fight shoulder to shoulder with Canada, the protection of human rights? The irony of that situation did not escape the committee either when Minister McKnight cited the objective of human rights in Kuwait as the purpose of Resolution 678 and, at the same, time heralded the presence of Afghanistan as a member of the multinational coalition. If what was stated by Minister McKnight—and I do not think it can be—is the government's justification for offensive action, I find it disingenuous, to say the least.

The third reason given for offensive action is support for the United Nations Security System and a UN post-cold-war order. I believe the condemnation of Iraqi aggression and the demand that it pull out of Kuwait were the right moves and fully in keeping with the UN Charter. I believe the embargo and the military deployment to enforce it were the right decisions and, here again, in keeping with the UN Charter. The Canadian contribution to the enforcement of the embargo or the implementation of the embargo would have continued to receive our full support. Those decisions that I have recited added to the credibility and the strength of the United Nations.

However, I strongly reject the view that Security Council Resolution 678 and the license it gave to individual UN members to use force as early as January 15 has the same effect. It does the opposite. It is putting at risk the credibility of the United Nations, for reasons I shall be dealing with in a moment, in what everyone agrees is the vital test of its ability to maintain peace. Let us simply note at this point that the key provisions of the Charter for regulating the use of force have been ignored.

The Secretary of State for External Affairs has invoked a last justification for supporting the early use of support under Resolution 678. How could Canada, he said, fail to support it when the leading and permanent members of the Security Council all joined behind it in a remarkable display of unanimity? How could Canada fail to go along with the United Kingdom, the United States, China and Russia? Well, Canada is not any of those countries; Canada is a different country. Did it not occur to Mr. Clark that possibly the political judgment of any or all of these countries might not be right? They have made mistakes in the past. Canada did not support the invasion of Tibet; nor did it support the Soviet Union's invasion of Afghanistan. It did not support the Anglo-French expedition in Suez, and it did not support the United States military involvement in Vietnam.

The fact that these countries may find it right or expedient to use force now in the Persian Gulf should not sway our judgment even if they are right. We should make up our own minds independently and in our own way.

May I reinforce the comment I made about Canada and the United States? In the testimony given before the United States Armed Services Committee, there is a preliminary fact sheet which says that the Congressional Research Service has identified some 215 instances from 1798 through 1989 in which the United States' military forces have been used abroad in hostilities or potential hostilities to protect U.S. interests or citizens. It says 215 times. That is somewhat of an illustration of the different history that Canada has had in comparison with the United States.

As we have possibly passed the moment of truth, Canadians deserve to be told the truth of what happened during these fateful days before we moved to war. Honourable senators will remember that I put the question bluntly when speaking before this house on November 20 of last year: For whom and for what is time running out? Time was not running out on sanctions, because they were becoming more and more effective, and if the time had been allotted they would have achieved their goal.

Why was the timetable changed at the United Nations without observing the Charter and explaining to the world the reasons for the change in course? As long as the embargo was in place time was running out for Saddam Hussein, but why was the timetable changed? We know from the President's statement last night. He decided that time was running out for the United States and that the timetable had to be accelerated. In that connection it is interesting to refer to the testimony that was given before the same United States Defence Committee by General David Jones, a recent former Chairman of the Joint Chiefs of Staff. His testimony as a whole is worth reading, but he talked about the size and direction for force deployments in the Persian Gulf by the United States government. He said, in part:

> In this area, I must confess to a nagging concern about the means and ends. By calling for an offensive military option and increasing the projected Desert Shield force levels, the President has clearly decided to send a strong message to Saddam Hussein about the seriousness of the U.S. resolve. This high-risk tactic might succeed in forcing an acceptable political resolution to the crisis, or if combat is unavoidable, will give us the forces needed to prevail alongside our coalition partners. If so, I will applaud the President's nerve and foresight.

> My main concern with this latest scheduled reinforcement isn't that we might choose to fight but rather that the deployment might cause us to fight, perhaps prematurely and perhaps unnecessarily. I would stress that this is a risk, not a certainty, but one that ought to be taken seriously.

How interesting that he should say that this scheduled reinforcement might cause us to fight unnecessarily and prematurely. General Jones goes on to talk about how well-equipped, how motivated and how well led the American forces are. He says that they are an extraordinary group of Americans, that the country should be proud of them and seek to minimize the problems and the risks that accompany their growing numbers. He then states:

● (1530)

> With a limited US rotation base, the force of that size can't be—readily be exchanged, can't easily be sustained, and can't be withdrawn without political liability. Thus, the risk is that the problems inherent in maintaining the offensive military option could create irresistible pressures to initiate combat irrespective of the progress of the UN sanctions.

Honourable senators, in my view that is precisely what happened.

We know from President Bush's statement last night that Washington came to the view that time was running out for the United States and that the timetable had to be accelerated. His reasons were that public opinion support for his stand in the Persian Gulf had started to decline; the momentum of the military buildup could not be sustained, and massive armed forces left inactive in the desert with the coming of the summer; the standing of the United States in the world; and the personal credibility of the President, whose international skills are greatly praised, would not suffer humiliation in the hands of the local dictator.

Washington was concerned that the cohesion of the coalition would be threatened by inaction and by the passage of time. There was also concern that a consensus in the Security Council was so close to miraculous that the opportunity to get a UN cover for United States action should not be lost before the consensus dissolved.

You may remember, honourable senators, that last November I described a simultaneous operation of two security systems in the Persian Gulf area, the first based on UN resolutions underpinning the embargo and its enforcement, and the second consisting of United States forces deployed to protect Saudi Arabia and to put pressure on Saddam Hussein. I said that each had a well-defined and important role to play and that they should be supported. But, with an offensive use of force, this distinction becomes meaningless. All troops in the area are at war under United States leadership, given the size of the USA military deployment. The United Nations has nothing to say about it. Washington surely came to the conclusion that the activation of the UN Charter provisions for the use of force was an uncertain and cumbersome process taxing beyond reason the Security Council consensus, and that the United States had to be free to strike Iraq in its own time. In these circumstances, the options before other members of the Security Council were either to accept that the United States, presumably seconded by the United Kingdom, would act on its own, or to work out some form of UN cover that would at least keep the United States action within a United Nations framework, however fragile.

Honourable senators, that is why Resolution 678 ignores the Charter provisions relating to the use of force. That is why this resolution refers only to Chapter 7 of the Charter which generally concerns aggression. That is why senior diplomats in the corridors of the Security Council have recognized that Resolution 678 lacks legal legitimacy but has political legitimacy. That is "Realpolitik." That is also the reason why the Canadian government supported that resolution. It did not want to fail to support the United States. Yet, it knew that Canadian public opinion would not let it plunge into a local war with the United States without UN cover.

That is precisely what Resolution 678 is—a cover. Hostilities did break out in the Persian Gulf, but that does not change the situation vis-a-vis the United Nations. The war will not be a war fought under the United Nations Charter Security System but a war fought by a small group of countries under Security Council licence.

Some may think it does not matter. I think it does. Our way of managing the Persian Gulf crisis will be an important landmark in developing a new global security system. What we are witnessing now is war, undoubtedly for a worthy cause—a cause that cried out for correction—but waged by a small group of countries with a colonialist past. The timing of offensive actions against Iraq is the result of an evaluation made in Washington. Let us take it for what it is and not pretend this is the result of the considered judgment by the UN membership. Perhaps this is the best that could be achieved in New York. But, if the Charter provision on the use of force cannot be made to work, even in the post-cold-war era, this should be acknowledged, and we should work for a better system. But it is dangerous for the United Nations to have to rely on the judgment of a superpower and that of its immediate supporters. They may be right today; they may be wrong tomorrow.

I am not here condemning what the United States does. It is entitled to do what it wishes. It is a superpower; it has superpower responsibilities. I do not question the ability of the United States to make decisions which it thinks are in its own interests and to carry out those decisions. I have applauded their condemnation of Iraq, their support of the embargo, and their protection of Saudi Arabia. I believe they have dangerously strained the UN security system by promoting Resolution 678 and that great damage could flow, including for the United Nations, from this premature attack on Iraq. But my main purpose is to establish the background against which Canadian policy should be judged.

Canada has no tradition of violence, not like the congressional record showed with respect to the United States. We are

not a militaristic nation. We are respected as Canadians in the world because, in situations of international crisis, we have worked for peace by exercising leadership in the achievement of negotiated settlements; and we have made contributions in the form of peacekeeping operations to the enforcement of these settlements.

All nations in this world are concerned with peace and global security, but each nation has its own contribution to make according to its skills, its strength, its tradition and its credibility with other nations.

● (1540)

Canada is a leader in peacekeeping and the negotiated settlement of international disputes. We have played that role very successfully and it is an essential role in the world. Our international credibility is not based on our use of force but on our constant efforts to replace force by the rule of law. In my view, that is what the peaceful order for the world is all about.

Our support for the condemnation of Iraq, for the UN embargo and for our participation in the diplomatic isolation of Iraq is fully in keeping with that tradition. That was the right course to take; but I must say that I find no evidence that the government took any bold initiatives toward a negotiated settlement when it had ample time to do so. Canada was on the Security Council and had a unique opportunity to propose new areas for negotiation, a framework for negotiation—in brief, a peaceful alternative to the use of force. It had a unique opportunity to join with and lead those countries which were so anxious to develop that alternative.

The Prime Minister solemnly declared in the other place yesterday that this peaceful approach was part of Canadian policy and that no efforts were spared to pursue it; but we have no meaningful evidence of that. The evidence is that Canada supported a premature ultimatum to Saddam Hussein, justified it by echoing American reasons, and joined in the use of force in circumstances that may well be to the long-term detriment of the United Nations, and at a time when economic sanctions had not been given an opportunity to work. It may be that, at a certain point, the use of force could be justified for attaining the objectives that had been set originally, and at that point we would support the use of force; but why should we now support the use of force when an alternative which was available had not been given an opportunity to work?

In choosing that course, the Canadian government does not seem to have understood its consequences. The first of these is that, because of the deployment of our forces in a war zone, Canada is at war. While operational command will remain in Canadian hands, strategic direction will come from the Saudis and the Americans. This much we learned from the Canadian Chief of the Defence Staff. Whatever the specific battlefield role of our forces, they will be integrated into a multinational force embarked on offensive action against Iraq.

The second consequence is that Canada being at war with Iraq, even though the Secretary of State for External Affairs is fuzzying it by saying there shall be no declaration against Iraq, Canadian territory will be open to retaliation. Why should the Iraqi government regard Canadian territory as immune when Canada is engaged in acts of war against Iraq?

The third consequence is that the Canadian government, by its action, has removed itself from any leadership role in the return to the future negotiation of a settlement of Middle East issues. Our military contribution to the coalition is so marginal that it will hardly get us more than a small place in this exercise. Our credibility in the Middle East, however, was entirely based on our long-standing policy of non-engagement and neutrality. There should be no mistake about it, the military intervention of Canada in the Persian Gulf conflict, in the circumstances I described, marks the end of an era in Canadian foreign policy.

The fourth consequence of the government actions relates to the impact of war on the Canadian economy and public finances. We already know the effect of the threat of war on the price of oil. More is to come now with most untimely inflationary results. We also know, from Supplementary Estimates before this house, that the enforcement of the embargo called for a $350 million increase in appropriations to National Defence in the current fiscal year.

Well, honourable senators, what the government should have done was to resist Resolution 678 and keep its policy of support for the UN embargo on the rails. It should have called for respect of the UN Charter provisions governing the use of force. It should have argued that, in accordance with Article 42 of the Charter, the Security Council should make a considered assessment of the embargo's effects before authorizing the use of force. It should have supported those Europeans who have argued for patience and negotiation. It should have come out with a peace plan of its own. It should have made clear that it would not participate in offensive action now because our support for the United Nations takes another form, peaceful negotiations, which are and will be necessary.

These are the steps that a government led by Mr. Chrétien would have taken. With a Liberal government, Canada would not be at war today, and because of the major role we would have played in the last few months to achieve a peaceful solution in the Persian Gulf, our credibility in the United Nations would be enhanced. Indeed, Canada would be looked upon as one of the few countries still able to talk peace in the Middle East.

I want to conclude very soon, honourable senators, and I would like to summarize the situation as I see it, and the direction that Canadian policy should now take. First, it should be clear that, as we opposed war yesterday, we are still opposing war today because it was premature and other ways of achieving our objectives were not given enough time to work.

Second, while we do not support the government's decision to go to war, we cannot fail to support our forces which discharge military duties set by the government. They need that support, physical and moral, if only to defend themselves and to ensure their security. Mr. Chrétien wanted to make very clear that there should be no mistake about our readiness

in this house to support the passage today of the required funds that have been requested by the government in order to furnish the necessary resources to our forces in the Persian Gulf. The reality is that had we been in government we would have made a different decision. The reality is that the Canadian forces are there with a mission entrusted to them by the Government of Canada and they cannot be short-changed.

Third, we are in the second day of war, but we should already start working to put an end to it and to restore a peaceful negotiating process. This calls for an early cease-fire and the withdrawal of Iraqi troops from Kuwait, even if it has not already been achieved by force. It calls for security arrangements for Kuwait and a process for settling outstanding disputes between Iraq and Kuwait. It calls for a Middle East conference to build up a Middle East security system and make progress for an Arab-Israeli settlement. It calls for the lifting of the UN embargo, inasmuch as the peace process has been successfully launched. It calls for humanitarian and economic aid.

Putting together arrangements and carrying out negotiations is the way out of a war. Although these arrangements would all be interrelated, they could be worked out separately in two phases.

The first, and most urgent, designed to de-escalate the conflict, would include measures of withdrawal by Iraq, the temporary renunciation of the use of force, a decision on a process for initiating multilateral negotiations, and humanitarian aid. Substantive, longer-term issues could be tackled in a second phase.

● (1550)

Honourable senators, turning once more to the lessons of history, I believe we have learned that a number of disastrous wars have been fought in the past as a result of miscalculations or narrow judgments. I cannot help feeling that if Canadians fight and lose their lives in the coming weeks, this will be one of those wars. Saddam Hussein's judgmental errors are plain for anyone to see, but, looking at the sequence of events that led to the present situation, I am not satisfied that Canada, as a leading country of the United Nations and of the Western world, has been independent of judgment, far-sighted and wise.

I know we have legitimately gone to war in the past, and the time may well have come to go to war in the Persian Gulf, but not now, not in the present circumstances, because the ways of searching for peace with a just settlement were not exhausted, because Canada had not yet pulled its weight behind that search, because what appears to be a successful policy of embargo had not been allowed to run its course, and because the cost of this premature war may turn out to be prohibitive for the Middle East, for the United Nations, for the West and for Canada.

Some Hon. Senators: Hear, hear.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, yesterday, during the course of Question Period, under questioning by Senator Olson and Senator Grafstein, I undertook to address myself to some of the issues that would be raised during the course of this debate this afternoon. I shall try to do so as briefly and concisely as I can.

First of all, let me say at the outset that I do not disagree with the sombre and realistic analysis with which the Leader of the Opposition began his speech this afternoon, his analysis of the risks that we are running, in this and in any war; nor do I disagree with his reading—although there are no facts in the future, as we all know—of the potential impact of the war, economically and politically, even if the war is won quickly.

The underlying causes of instability in the Middle East will be there after the war, as they were prior to August 2. It is more than possible that some of those causes may even have been aggravated by the war, but not so much as would have been the case if Saddam Hussein were not stopped. What will have happened, in terms of the stability in the Gulf region and in the Middle East, and therefore in the world, is that a major threat will have been removed.

To end this war, to end Iraqi occupation of Kuwait, and to remove the threat that that poses to world peace, will be a step forward for collective security and for the United Nations.

Honourable senators, the Leader of the Opposition said that a Liberal government in office today would not be at war. It is clear, however, from the support which the Liberal Party gave to the first 11 resolutions passed by the United Nations, and to the policy and actions of the Government of Canada with regard to the Gulf from August until late November, that the Liberal Party does not disagree and does not oppose the sending of Canadian armed forces personnel to enforce sanctions and to join with other nations in trying to deter further aggression.

We are, therefore, left with the astounding policy pronounced by Mr. Chrétien that those forces must pack it in and go home if fighting were to break out.

That is the policy of Mr. Chrétien, of the Liberal Party. There was an even more astonishing statement made by Mr. Chrétien in the debate in the House of Commons the other day, a statement which he made twice, once in English and once in French, a statement of which there were echoes today in the speech given by Senator MacEachen.

Mr. Chrétien said, at page 16995 of the *Debates of the House of Commons* of January 15, that:

> Canada has taken the position since 1956 that we shall not be involved in war if it is not under the flag of the UN.

What does he think we have been doing in NATO, into which a previous Liberal government brought us in the late 1940s, or in NORAD, our alliance with the United States? NATO and NORAD and other military alliances to which Canada has belonged are part of the collective security.

When the Honourable Senator MacEachen said today that the action that Canada took, starting last November, and continuing last night, represents the end of an era in Canadian foreign policy, I ask what era he is talking about.

Our support for, and membership in, the United Nations over the years is not in any way inconsistent with—is perfectly consistent with—the efforts that we have made in collective security in such alliances as NATO and NORAD.

I think a more accurate interpretation of the situation, a more accurate reading of the situation, was given last night by the Right Honourable John Turner in the House of Commons, when he said:

> The whole history and tradition and commitment of the party to which I have belonged for 35 years has been in support of the United Nations. Our people were there at the beginning, upholding the principle of collective security and supporting the resolutions and actions of the United Nations.
>
> This is a crucial test for that international organization. This is a crucial test for the United Nations, and Canada must support it. This is a crucial test for collective security, and Canada must support it.

• (1600)

Those are the words of the former leader of the Liberal Party.

Honourable senators, Iraq invaded Kuwait on August 2. At the United Nations there ensued a series of resolutions, 11 of them, in most of which Canada played a prominent role in drafting and cosponsoring. Those resolutions condemned the invasion of Kuwait, demanded the withdrawal of Iraq from Kuwait, condemned the annexation of Kuwait, imposed sanctions, authorized member states to use military force to enforce sanctions, and so on. Throughout those 11 resolutions, as I have stated, the Liberal Party supported the actions and the policy of the government, our support for the United Nations resolutions and for the actions we were taking in the Gulf.

The political leadership of the country divided in late November essentially on a question of United Nations Security Council Resolution 678. We had a preview of the position of the Liberal Party during the debate in this house on November 20 when Senator MacEachen stated at page 3875 of the *Debates of the Senate* for November 20:

> . . . Canada should make it clear that it will not consider offensive military action in the Gulf without a Security Council resolution directing such action. It should also make it clear that it will oppose such a resolution being passed at this time.

On November 29 the UN Security Council passed Resolution 678. That resolution imposed a timeframe or deadline of January 15 for the withdrawal of Iraq from Kuwait. It authorized member states to use all necessary means to enforce that and previous and subsequent resolutions of the United Nations Security Council on this matter. Earlier that day the House of Commons voted on a government resolution of support, and the house divided, the Liberal Party voting against it.

So the roots of the disagreement we have today lie in the opposition of the Liberal Party to United Nations Security Council Resolution 678 and the government's support, indeed our cosponsorship, of it. The roots of our disagreement lie in the opposition of the Liberal Party to the imposition of a deadline by the United Nations and to the authorization by the United Nations Security Council effectively of the use of force to enforce that and previous resolutions.

The first question that arises is whether imposing a deadline was wise and justified. Remember that this was the end of November. Remember that the occupation had begun on August 2. Remember that 11 resolutions had been passed by the United Nations Security Council calling on Iraq to withdraw. Remember that between August and the end of November Iraq was digging in in Kuwait, adding more men and material, and consolidating its hold on Iraq. Half the population of Kuwait has fled the country. The invader, the occupant, Iraq, has committed unspeakable atrocities, which were detailed by Amnesty International among others. Remember that Iraq was taking advantage of the opportunity to dig in and had time to build up its own capacity for chemical, biological and nuclear warfare. Remember that every attempt over that period to persuade Iraq to enter into negotiations had failed. We come to the end of November, and what is the United Nations to do if it is to have a shred of credibility left?

Almost unanimously—I believe the Chinese abstained—the United Nations Security Council imposed a deadline. The United Nations Security Council had first called on Iraq in the first week of August to get out of Kuwait. At the end of November they imposed a deadline, but it was not tomorrow, the next day or next week; it was a 47-day "pause for peace" to give Saddam Hussein an opportunity to reflect on implications of his refusal to obey and respect the Security Council resolutions.

There was a general perception that the Iraqi regime did not take seriously the will of the international community to enforce sanctions. Everything Saddam Hussein said or did provided further evidence that Iraq was to stay in Kuwait, to permanently take hold of that country. So the members of the international community felt that it was absolutely necessary to give a firm signal to Saddam Hussein. Forty-seven days seemed to everyone to be ample time for the Government of Iraq to undertake a withdrawal from Kuwait. But Iraq's every effort since the beginning of the crisis had been to attempt to draw out the process as long as possible while it consolidated its hold on Kuwait and while it attempted to foster divisions within the forces arrayed against him.

Nothing could be more reasonable than that in late November, almost four months after the invasion and occupation of Kuwait, the United Nations Security Council should set a deadline by which it expected Saddam Hussein should respect the previous 11 resolutions and withdraw from that country.

• (1610)

The question of sanctions comes up. First, I should state for the record that the United Nations Security Council, and certainly the Sanctions Committee of the Council, has, I am informed, neither the mandate nor the capacity to evaluate the impact of the sanctions on Iraq. The United Nations Security Council committee was to monitor the compliance of member states with the sanctions. It had neither the mandate nor the

capacity, so I am informed, to evaluate the impact of those sanctions on Iraq. That evaluation was delegated to the member states of the UN.

As Vice-Chairman within the Sanctions Committee of the Security Council, Canada states that the assessment of sanctions had been constant and scrupulous, and that member states concluded that while sanctions are affecting the Iraqi economy, they offered no promise of compelling Saddam Hussein to quit Kuwait.

The report, which I should place on the record, which has been provided to me by our Department of External Affairs, states that we have noted no diminution of Iraq's military capabilities as a result of sanctions. Iraq continued to give top priority to the military for food, petroleum, spare parts and personnel. Industries producing goods for the military had not experienced, and were not likely to experience, significant slowdowns soon.

While shortages and inconveniences were being created for the civilian population, virtually all foodstuffs continued to be available on the open market, albeit at higher prices. Foodstuffs and strategic imports such as chemical additives, lubricants, water purification chemicals and spare parts are reaching Iraq undetected. They were needed in relatively small volumes and could be transported by air, over land by truck or pack animal, or by small boats capable of eluding naval interdiction.

Senator MacEachen says that the imposition of a deadline by the United Nations Security Council, the actions that have been taken by the international coalition—a raid against Iraq—represent a spectacular display of brinkmanship, as he puts it. Honourable senators, as I have indicated, Iraq has increased continuously its forces and reinforced and hardened its entrenched military positions in Kuwait since the invasion. The longer it was able to do so, the more difficult it would have become to dislodge Iraq from Kuwait. How formidable would we have the Iraqi entrenchments become?

Honourable senators say, "Wait for the sanctions," but Iraq was increasing its capacity to strike offensively from Kuwait at targets in Saudi Arabia and elsewhere. How strong do we want the Iraqi arsenal in Kuwait to be? We are informed that Iraq has constructed a pipeline that would allow it to drop thousands of barrels of oil a day into the Gulf as a means of environmental warfare. How many such pipelines could we allow?

Time was allowing Iraq to develop its chemical and biological weapons, or even a nuclear arsenal, and to improve its capability to deliver such weapons. How long could we afford to give for massively destructive weapons to be developed?

In spite of the decline in living standards suffered since sanctions were imposed, there were no public demonstrations of discontent, nor evidence that the Iraqi regime would respond to pressure from the public to change its policy. Even if it could be done, would we wish to starve the people in Kuwait and Iraq in the small hope of—

[Senator Murray.]

Hon. Royce Frith (Deputy Leader of the Opposition): Are you still reading from the same report?

Senator Murray: Yes.

Senator Frith: Will you be tabling that report, senator?

Senator Murray: I called it a report. It is the answer to some questions which I put to the Secretary of State for External Affairs and the notes he has provided for me on the subject.

Senator Frith: Do you object to tabling the report?

Senator Murray: I have just read virtually word for word the notes that have been provided to me by my colleague on that particular subject; that is to say, the effect of sanctions on Iraq and the slim prospects—the non-existent prospects—of those sanctions producing the desired result, which is the withdrawal of Iraq from Kuwait.

Senator MacEachen: They are bureaucrats you are quoting. Give us someone with the authority of General Jones or Mr. Schlesinger. You are quoting anonymous bureaucrats.

Senator Murray: The honourable senator talks about anonymous bureaucrats. I have made the statement that the assessment by the member states of the United Nations of the impact of sanctions had been scrupulous and close and they had—

Senator Frith: The member states of the United Nations?

Senator MacEachen: The member states of the United Nations never made any determination.

Senator Murray: The member states of the United Nations Security Council to whom was delegated the responsibility of assessing the effectiveness of the sanctions—

Senator MacEachen: That is not in accordance with the Charter.

Senator Murray: —had come to the conclusion that the sanctions would not have the desired effect.

Senator Frith: They made no such decision.

Senator Murray: They certainly did make the decision.

Senator Frith: Under Article 42 they did not. They simply did not. That is where they are supposed to make it, and they did not do it.

Senator Murray: The honourable senator raises Article 42 again, as he did the other night in the Standing Committee.

Senator Frith: That is where they make the assessment.

Senator Murray: Honourable senators, I have already pointed out that the Sanctions Committee of the United Nations Security Council was not given any mandate to evaluate the impact of sanctions on Iraq. That duty was delegated to the member states, as indeed they did not invoke Article 42. They delegated to member states the authority to take all necessary measures, including recourse to force. What does the honourable senator call it when they authorized member states to take all necessary measures, including, as Senator MacEachen

and Mr. Chrétien agreed, the use of force to enforce the resolution?

Senator Frith: They are taking that as individual state action. It is not a United Nations action. That is all we are saying. That is a fact.

Senator Murray: Honourable senators, let me again place on the record, because Senator MacEachen referred to it, that the resolutions of the United Nations refer to Chapter VII of the Charter as a whole and not simply to Articles 41 and 42.

• (1620)

Senator Frith: That's crazy; it is a sottise.

Senator Murray: It is not.

Senator Frith: It is like charging someone under the Criminal Code and not telling them which section they are charged under. When they ask what section they are charged under, you tell them the whole Criminal Code. The whole of Chapter VII—ridiculous!

Senator Murray: I am coming exactly to that point. Chapter VII provides an array of options to the—

Senator Frith: It is not options; it is stages of proceedings.

Senator Murray: That is not the case.

Senator Frith: You take Article 41 and if that does not work, you go to Article 42. They did not make a decision under Article 42 that Article 41 had not worked. If you would only accept that and then say all the other things, I would understand your position. I do not know why you keep saying it. It is just wrong.

Senator Murray: The framework of the Charter realized that no two situations are exactly the same and the Charter wisely leaves decisions on actual measures or procedures to the Security Council. There is no fixed sequence and no requirement that the Security Council follow specific steps.

Senator Frith: Why do you not read it? Article 41 states that if they decide that Article 41 has not worked then they work under Article 42.

Senator Murray: They may.

Senator Frith: Of course, but they may, if they make the decision, and they did not make the decision.

Senator Murray: Read the resolution, honourable senator.

Senator Frith: I have read the resolution and it refers to the Charter. You read the Charter; that is the problem. I have read them both. You obviously have not read the Charter.

Senator Murray: Chapter VII provides for action under a UN commandment or—

Senator Frith: Yes; Articles 42 on do authorize that, but not Article 41.

Senator Murray: How far beyond Article 42 have you read?

Senator Frith: I have read right up to Article 49 and 50 and then 51. Articles 42 to 50 deal with armed force and they require a decision under Article 42, which was not made.

Senator Murray: In reading from Article 42 to 49 you would not have missed Article 48.

Senator Frith: No.

Senator Murray: Article 48 provides for the delegation of that action to UN members.

Senator Frith: What action?

Senator Murray: Action under a UN command. My statement, which I began to make before I was interrupted by the honourable senator, is that Chapter VII provides, in Article 42 and later, for action under a UN command or—

Senator Frith: Armed force action, yes.

Senator Murray: —under Article 48 the delegation of that action to UN members. Our position and the position of the member states of the Security Council is that Resolution 678 has delegated enforcement of UN resolutions to members who are co-operating with Kuwait.

Senator Frith: That is fine. That is your position. I think it is wrong, but at least that is your position.

Senator Murray: Thank you, senator.

There is not a UN command because there are no UN forces. Our forces are under Canadian command in a coalition led by the one country, the United States, which has the best chance of enforcing the resolutions. I referred to Resolution 678, which states that the Security Council authorizes member states co-operating with the Government of Kuwait to take all necessary measures, et cetera.

Senator Frith: But, senator, the action under Article 48 only arises once the decision has been made under Article 42.

Senator Murray: Honourable senators, Article 48 states: styleonti6;4

> 1. The action required to carry out the decisions of the Security Council . . . shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

Senator Frith: And they did it under Article 41.

Senator Murray: Resolution 678 authorized member states that were co-operating—not required or called upon—but authorized.

Senator Frith: "Authorized" is authorized on the basis of a decision. Article 48 states a decision and the decision has to be made under Article 41 for an embargo, which we did and which the government supported, and we supported; but it then has to make a decision under Article 42 before it delegates.

Senator Murray: No, it is not required to do so.

Senator Frith: I see Mr. Justice Murray of the International Court has made that decision.

Senator Murray: I thank the honourable senator for this promotion; but it delegated to member states, it authorized member states, to take all necessary measures, and we are agreed that those necessary measures did not exclude and, in

fact, include the recourse to enforce the resolutions of the UN Security Council.

Senator MacEachen stated that Canada had not made dramatic diplomatic efforts to solve this crisis. Honourable senators, no country has been more active than Canada in trying to achieve a peaceful settlement of this dispute, of this crisis. Our Canadian diplomatic efforts were taken bilaterally, yes, with the United States, but with each of the G-7 countries in the Third World, with our colleagues in the Commonwealth and La Francophonie, who we thought, and had reason to believe, in some cases might have some influence in persuading Saddam Hussein to withdraw from Kuwait, and with the UN Secretary-General, as evidenced in a letter that was sent by the Prime Minister just before Mr. Perez de Cuellar went to meet Saddam Hussein in Baghdad. Our diplomatic efforts, those of the Prime Minister and Mr. Clark especially, have been tireless and they went on until the very last minute.

Honourable senators, at some point the decision had to be made as to whether the United Nations was going to be respected, whether the principle of collective security was going to be upheld. Twelve resolutions have been passed by the Security Council, virtually unanimously. The permanent five, Britain, France, the Soviet Union, the United States and China voted for all of the resolutions, except for Resolution 678 on which China abstained.

The invasion of Kuwait has proven to be a test case for the United Nations in the post-cold-war era. There is a new international order under which aggression between members of the international community can be regulated by the United Nations. The question is whether collective security will be effective or whether we will trade the cold war for a series of brutal actions by regional powers against their weaker neighbours. The security and rights of small countries everywhere are at stake. If the UN fails in this crisis, it is unlikely that it could ever again play an effective role in response to aggression. If it succeeds, there is a real prospect for a collective security in the future.

● (1630)

I leave honourable senators with a couple of sentences from the speech made by Mr. Turner last night in the House of Commons. He said:

> Even if the case for sanctions could be made, and it is a strong case, the issue today is not sanctions. The issue today is whether the United Nations resolutions will be obeyed. It was the United Nations that decided the date. It was the United Nations that decided not to wait for sanctions and it was the United Nations that imposed its own deadline.
>
> . . . the issue before us, before the House and before the world, is whose will is going to prevail: the ambitious will of Saddam Hussein who would hold, at the very least, the Arab world under his thumb, or the collective will of the world expressed as uniquely as it can be expressed within the forum of the United Nations with a rare singleness of purpose never in my lifetime seen by an international body.

[Senator Murray.]

Hon. Philippe D. Gigantès: Honourable senators, I would like to say a few words about what we, as an Opposition, are facing. The role of an Opposition in a situation where a country finds itself at war is a bitter but essential one. In history, whenever an Opposition has not played this role vigorously, to the annoyance, of course, of the government, it has cost.

Because there was not sufficient opposition to the way World War I was conducted, the troops in that great conflict were entrusted to idiot generals, sanguinary butchers such as Butcher Haig—people who were incapable of thinking flexibly, of showing any tactical skill, who thought war was like having rams in rut, butting heads against one another. Haig even said that the victor is that country which still has one soldier standing when the other country does not.

In World War II, because of the stubbornness of the unconditional surrender doctrine, Germans who might have made peace a little earlier, perhaps by overthrowing Hitler and thereby making peace ahead of the invasion of eastern Europe by the Soviet Union, were rendered powerless. There were people then in British Parliament—among them Aneurin Bevan, whom Mr. Churchill respected—who did say these things. However, not enough people supported them.

One of the best ways of supporting one's troops in those circumstances in World War I would have been to ensure that, instead of Butcher Haig, either Allenby or Wavell had commanded the British troops and that there had been equivalent French military talent instead of the trench warfare merchants.

Whenever the Opposition has not played its bitter role in a time of conflict, the troops of that country have been ill-served. We Canadians, with the smallest of our participation, cannot control the course of events. However, we have a duty to talk beyond military victory and what can happen afterwards.

I am about as anti-Moslem as anyone in this Parliament—probably the most anti-Moslem member of this Parliament. I am telling you that openly. A militant, fanatical Moslem is someone who turns my stomach. I feel towards them the way I felt towards the Christians of the 14th Century. These are people who say that dying in war leads you to heaven. That is a wrong doctrine. These people deserve, if you like, a lesson.

However, whom do we want instead? We want moderate Moslems. In order for the moderates to take over from the fanatics, we have to give the moderates the possibility of hope. Crushing Hussein is one thing, but crushing Iraq and not working for peace while we are at war is a mistake. Canada should be pushing for that at all times.

I personally believe that sanctions would have worked. But we are now at war and we have to do the best we can for our troops. We must also think that the outcome of this war, if possible, should bring to power in Moslem countries the moderates rather than the religious fanatics. When we corner people, the fanatics generally get the upper hand. In a war, the

Opposition has the duty to keep asking the government, if necessary, to do things differently from the way it is doing it. If the Opposition does not do that, it is failing the troops in the field and it is failing the nation.

I cannot speak to the whole Opposition, but, to the extent of my ability, I say that the best way to serve our troops is to make sure that the war ends quickly and that the war ends in such a way that might permit moderates to take over from the fanatics in as many Moslem countries as possible.

Hon. H.A. Olson: Honourable senators, I should like to make a few comments on Bill C-94, because there are some provisions in that bill for the Department of Agriculture under Vote 30b in the amount of $85 million to the Grains and Oilseeds Program and another $25,000 as a payment in accordance with the *Western Grain Stabilization Act.*

I am making these comments now because I do not see any other opportunity to do so. Earlier, the minister replied to a question that I asked yesterday. My question was this: What happened to the meetings that were scheduled under the GATT to take place in Brussels on January 15? I was not here when he gave the answer, but I have found out since that the meetings have been postponed and they have not been rescheduled to any specific date. I understand the reason is because the Director General is not satisfied, at the moment, at any rate, that there would be any useful purpose in holding a meeting, because the various participating countries—most particularly those of the European Community and the United States—have not indicated that they have come sufficiently closer together in the agriculture sectors to attain any success at such a meeting.

• (1640)

Senator Murray: Mr. Dunkel declares himself as cautiously optimistic.

Senator Olson: But he is not yet optimistic enough to set down a date as to when they can at least hold discussions. That is my understanding, at any rate.

That is why I want to raise the matter now. Many people in Canada are of the opinion that, unless there is an agreement reached reasonably soon so that the international grain market can improve, there is only one way they are going to survive, and that is for the Government of Canada to raise its support for the agricultural community to a level somewhere near the subsidies paid by the United States and the countries of the EEC. We obviously do not expect to get up to the level that the European countries are paying, but that is not necessary. On the other hand, the level to which the prices have deteriorated is ridiculous.

The Canadian Wheat Board is now offering a price for wheat that is less than half of what it was 15 years ago. It is about $3 per bushel, where 15 years ago it was somewhere between $5 and $6 per bushel. In fact, some grades of wheat cost over $6 per bushel. I remember that in 1975 the final payment for the two top grades of Canadian durum wheat, the kind of wheat used to make macaroni, netted the farmer approximately $6.40 per bushel. Honourable senators, this is a desperate situation.

On top of that, to make matters worse, even though the Canadian Wheat Board has lowered the price by as much as it has, it has lowered the initial payment this year by about 25 per cent, and we are told that the Canadian Wheat Board is going to lose several hundred million dollars even at these reduced initial payments. If honourable senators look at the Canadian farm papers, *The Western Producer* being one, they will see that it states that if the farmers get a final payment for the 1989 crop, they had better take a picture of it, because that is probably the last one they will get for several years. That is sad, indeed, when they are only paid something less than $3 per bushel, or whatever that works out to per tonne. There is apparently no prospect at all for a final payment. I repeat that it is a pretty sad situation.

The Canadian Wheat Board is going to lose as much as $750 million to $900 million on this year's wheat pool. Some farmers are so frustrated that they do not know quite what to do. Anyone who is not familiar with this situation should realize that a number of grain producers in western Canada are simply not going to seed a crop in the spring of 1991 unless something changes. One of those changes may be an agreement under the GATT, towards which they have been working for two or three years, so that there can at least be some prospect of an international grain market that will return enough money to pay at least for the cost of production plus something for these grain producers to live on. But at the present prices, it is simply running at a loss—the farmers are not breaking even, even discounting capital costs. They are not breaking even on operating costs. Even if they own their land and allocate nothing to capital costs—no debt service charges, for instance—just taking operating costs into consideration, present prices are such that the farmers would only lose money. That is why many of them are not going to seed a crop this year.

I ask the minister whether he could try to obtain some information on this. I do not expect him to have it today. Could he find out, first from the Minister of Trade, who I suppose is the leading minister in the GATT talks which have been postponed or have collapsed, whether there is any hope that they could be revived so that an agreement can be reached? If that completely fails, then what is the government going to do? This, of course, is where the Minister of Agriculture will get into the act.

One of the headlines in this paper, *The Western Producer*, states, in effect, that the provinces divvy up the costs of the safety net program. I am not going to be particularly critical of that program this afternoon because it will probably have some value three or five years down the road. But, honourable senators, that is not the problem. Some producers need financial help now, in the spring of 1991, to get their crops in, to satisfy their banks, and that sort of thing.

As to the program worked out with the provinces, the federal government will pay some of it, 42 per cent or so; some of the provinces are going to pay some of it, an average of

around 25 per cent; and the producers are expected to pay the rest, which amounts to 35 to 38 per cent. The amount varies somewhat, depending on the province involved. Honourable senators, how could anyone expect a farmer to pay 38 per cent on an insurance program through which he may get some returns three to five years from now, provided prices are high enough then, when he does not have enough money to operate today? That is the problem.

Where is the immediate assistance that is needed? And when I say "immediate", I am talking about a three to six month requirement. I notice that in Supplementary Estimates (B) there is an amount of $200 million allocated to the Farm Credit Corporation. That is of some help; I am not denying that. But to sink producers deeper and deeper into debt is not a solution, bearing in mind the circumstances and what led to those circumstances in the international grain market.

Honourable senators, I will not take up any more time this afternoon. I know that we are waiting to give Royal Assent to some bills. However, I hope that the minister will take these suggestions and questions seriously. I hope he will try to obtain some answers so that there can at least be some hope that the Government of Canada will support its grain producers when they are desperately fighting the competition of the Treasury of the United States and the treasuries of the European nations.

Senator Murray: Honourable senators, I thank my colleague, Senator Olson, for his comments and for suggesting that I might convey his representations to Mr. Crosbie and Mr. Mazankowski. But I will do more than that. I will endeavour to obtain a status report on the GATT negotiations as they affect agriculture and inquire of Mr. Mazankowski whether there is any comment that he wishes to make about short term assistance to the agricultural sector.

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): 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.

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:

[Senator Olson.]

RIDEAU HALL
THE SECRETARY TO THE GOVERNOR GENERAL
AND HERALD CHANCELLOR

17 January, 1991

Mr. Speaker,

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 17th day of January, 1991, at 5.05 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that the Senate adjourn during pleasure to await the arrival of the Honourable Deputy of the Governor General. I understand that both the judge and the minister are currently in the Senate, and therefore there is no need for us to disburse.

The Senate adjourned during pleasure.

• (1650)

ROYAL ASSENT

The Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk of the Senate.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Fisheries Act and to amend the Criminal Code in consequence thereof (*Bill C-74, Chapter 1, 1991*)

An Act to amend the Yukon Placer Mining Act and the Yukon Quartz Mining Act and to make provision for the application of certain orders (*Bill C-68, Chapter 2, 1991*)

An Act to establish the Department of Multiculturalism and Citizenship and to amend certain Acts and relation thereto (*Bill C-18, Chapter 3, 1991*)

An Act to amend the Criminal Code (joinder of counts) (*Bill C-54, Chapter 4, 1991*)

The Honourable Andrée Champagne, P.C., Deputy 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 certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991 (*Bill C-94, Chapter 5, 1991*)

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.

• (1700)

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

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, January 22, 1991 at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): I move that all remaining Orders, Inquiries and Motions stand.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, January 22, 1991, at 2 p.m.

THE SENATE

Tuesday, January 22, 1991

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

Prayers.

THE LATE MARGARET PATON HYNDMAN

TRIBUTES

Hon. Lorna Marsden: Honourable senators, I should like to draw the attention of honourable colleagues to the death last Friday of Margaret Paton Hyndman, who was a distinguished member of the legal community in our country and who was often a witness before Senate committees. Margaret Hyndman died at the age of 89 in Toronto after a long life of distinguished service, both to her profession in law and to the voluntary community of Canada.

Margaret Hyndman was graduate of Listowel High School and of Osgoode Hall Law School. She was active in business and was the first woman director of a number of firms in the business sector.

Margaret Hyndman will be well-known to many senators here, not only because she appeared before the Senate, but because she was one of this country's most distinguished volunteers. She received many honours. In her professional life she was made a King's Counsel—only the second woman ever to have received that honour. She received the Order of Canada in 1973. She has been Woman of the Year and has received many other awards.

Margaret Hyndman made two exceptional contributions to this country, first in paving the way for other women in professional life. I do not think we would have seen a woman appointed to the Supreme Court of Canada—a woman just retired—if Margaret Hyndman, and other women who followed in her footsteps, had not paved the way. We would not have seen the rise of organizations such as the Legal Education Action Committee were it not for Margaret Hyndman; and the same holds true for any number of other contributions which she has made to the legal life of this country. Secondly, her work outside her professional life was so important.

Margaret Hyndman testified in front of the joint committee on the divorce bill on behalf of the Federation of Business Professional Women of Canada. She was one of the women who got the domicile issue raised and removed in the matter of divorce. She made many remarkable contributions. I am sure all honourable senators will want to honour her today and tender their expressions of sympathy to her two sisters.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I was very sorry to hear of Margaret Hyndman's death, although she obviously had a very long and successful life. I merely wanted to say that I recall that when I was called to the bar in Ontario, some 42 years ago, Margaret Hyndman was a very well-known and distinguished lawyer.

Honourable senators, there was no question of any tokenism where Margaret Hyndman was concerned. She was a person of great legal ability and outstanding personal character. She was respected throughout the legal profession in Ontario and, indeed, throughout Canada. Margaret Hyndman, and Mrs. Parsons, whom some will remember, were the two well-known women lawyers and members of the Toronto bar when I was a student and newly-minted lawyer. As evidence that we have made some significant improvements in this area, it is now not remarkable to find women in leading roles in all branches of the legal profession in Ontario and, I believe, in Canada. Margaret Hyndman was a true pioneer of this most desirable development.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT AGREEMENT ACT

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-88, to provide for the membership for Canada in the European Bank for Reconstruction and Development.

Bill read first time.

The Hon. the Speaker: 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, January 24, 1991.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have a number of petitions to present with reference to the GST. Last week Senator Simard asked whether I was presenting petitions on behalf of Senator Hébert. I said that I was not. I want to emphasize that these petitions, like the others, are all addressed to me on a printed form, as far as the address is concerned; but the petitions themselves are all signed.

To begin with, I have two from Ontario and Québec, from Rouyn and New Liskeard, for example. This petition is in French and the body of the petition is the same as I mentioned on the petitions that I received earlier—that is, the petition states:

[*Translation*]

For these reasons we ask the government that senators and members of the Commons, the true representatives of Canadians, do everything they can to repeal the new goods and services tax, and we strongly call for an immediate election.

[*English*]

I then have another 18 petitions. In each case there are about 20 names on all of these. They too are from Québec and they are all addressed to me for presentation. The address of the first group that I picked at random are from St. Prospère, St. George, Montréal, and Saint-Laurent. There are then more from St. Lawrence and Montréal.

[*Translation*]

They have all been signed by the petitioners. Here are the names of the 18 petitioners from the region of Montreal.

[*English*]

I then have a dozen petitions from Ontario in the same form. The English in this case does not have exactly the same wording. I will simply read one petition because they are all the same.

• (1410)

Whereas the new universal 7% Goods and Services Tax adopted by the Conservative government will create serious, unjust and inhuman difficulties to Canadians;

whereas the implementation of this tax will constitute an unprecedented assault on the income of the Canadians, not only by forcing them to pay higher taxes, but also by confronting them with a rise in inflation, interest rates and unemployment;

whereas the methods used by the Government are unworthy of a democratic country. They are rather the work of lawmakers who want to implement a dictatorship, snapping their fingers at the general opposition of the population.

Those remarks are addressed to Parliament and to the government by those signing these 12 further petitions that are addressed to me. All of these petitions are from Ontario. There is a large number from Toronto—Don Mills, Scarborough, North York, Rexdale, Rosedale, which is downtown Toronto, and Willowdale, which is a northern suburb of Toronto. There are more from Scarborough, and there are some from Agincourt, which is a northeastern suburb of Toronto.

I present these petitions on behalf of the petitioners, all originally signed by the petitioners. There are some 500 names to prove that the resentment of the Canadian people against the goods and services tax has not died.

ABORTION BILL

PRESENTATION OF PETITIONS ON BILL C-43

Hon. Lorna Marsden: Honourable senators, I have petitions from Canadians who oppose Bill C-43. I have a petition of 86 names, all of them from the province of Quebec, who call on the Senate to defeat Bill C-43. They are mostly from Montreal, but there are some from the Gaspé and other places outside Quebec.

I have a second group of petitions, including 162 names, from coast to coast in Canada. There are signatures from every province in this country, all of them calling on the Senate to defeat Bill C-43.

I have a final group of petitions containing 101 names from Toronto, Ontario, all of them arguing that the majority of Canadians oppose recriminalization and that the House of Commons did not consider public opinion when passing Bill C-43. We are urged to defeat that bill when it comes to the Senate.

NATIONAL DEFENCE

ESTABLISHMENT OF STANDING COMMITTEE—NOTICE OF INQUIRY

Hon. Jack Marshall: Honourable senators, I give notice that on Tuesday next, January 29, I will call the attention of the Senate to the advisability of striking a Standing Senate Committee on National Defence.

QUESTION PERIOD

AGRICULTURE

GENERAL AGREEMENT ON TARIFFS AND TRADE—SCHEDULED RESUMPTION OF MEETINGS—PROGRESS REPORT—CANADIAN SHORT-TERM FINANCIAL REQUIREMENTS

Hon. H. A. Olson: Honourable senators, has the Leader of the Government any replies to the questions I asked him concerning the reconvening of the GATT meetings respecting agricultural policy?

Would he also inquire of the Minister of Agriculture when the government intends to announce a program—and I am not referring to negotiations—dealing with some short-term financial requirements.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have nothing to report today with regard to the second part of the honourable senator's question.

With regard to the GATT negotiations, as they touch on agriculture, I think it is unlikely that there would be a ministerial meeting for some considerable time. My information is that there are informal, intensive discussions and consultations taking place among the parties at this time and that, as and when particular problems arise which require the attention of one or another of the countries at a political level, ministers are engaged. Until this informal process of consultation has run its course, I would not expect a full ministerial meeting to take place, which may not be a few weeks yet.

Senator Olson: Honourable senators, I have seen some press reports out of Brussels indicating that there will be a meeting of the European ministers of agriculture today to take what they call some "first tentative steps towards a radical reform of European Community farming policy."

The particular article goes on to say:

> In a document leaked last week, the EC Agriculture Commissioner, Ray MacSharry, hinted he would like to see big cuts in production quotas and in the price at which surplus production of cereals, meat and dairy produce is bought up by the EC for storage.
>
> But after discussions, the Commission decided not—

and I want to underline the word "not"—

> —to present ministers with any formal proposal.

The article is a little puzzling. The subject is, of course, of such profound interest.

Senator Murray: I think the distinction being drawn there is between the commissioners of the EC and the ministers who, the honourable senator tells us, will be meeting today.

Senator Olson: I understand that, and I do not have any disagreement on that. I am not asking the minister to justify or not justify what is going on, but apparently the commissioners had some discussions and they believe there should be some significantly higher cuts than the 30 per cent that was offered some time ago to the end of this decade.

Since this is not the minister's responsibility, would he be good enough to volunteer some information as to why they would not even present their proposals to the ministers of agriculture who will, in fact, make the decision?

• (1420)

Senator Murray: For all I know, and the honourable senator knows, the purpose of today's meeting of the agriculture ministers of the community is for the purpose of receiving a report from Mr. MacSharry and his colleagues on the commission. I cannot explain the particular position of the European Community. I can comment to the extent that I think it is clear that the Europeans want to be assured of two things: First, that any accommodations that they might make in the field of agriculture would be part of an overall agreement in which some of their concerns on other trade matters would be made; second, it is their view that, if compromise must be shown on their part, likewise the United States in particular, and other partners must also compromise.

Senator Olson: I understand and accept that, but it is a bit discouraging for some of the producers who were so profoundly affected, because if there was any light at the end of the tunnel of these depressed international grain prices, from what is happening in Brussels today, by the reluctance of the Commission even to make a proposal to the ministers, it looks as though the discussion period will be stretched out substantially and there will not be any solution to this international grain problem—I call it that, although it is a disaster—until there is some discussion and some indication. I wonder if the minister could try to find out, for the sake of the people who are so profoundly affected, if the discussions will be stretched out for a long time, and ascertain what that might mean.

Senator Murray: I do not think the honourable senator expects that even a successful conclusion of the GATT negotiations with regard to agriculture will bring an immediate overnight improvement in the situation that he describes. The successful conclusion of the GATT round in agriculture will rather lay the basis for long-term stability and prosperity in that sector.

One encouraging note, for what it is worth, in the negotiations with regard to agriculture, is that I am told that there is a perception on the part of the United States that the European Community is now showing some flexibility, and, at the same time, there is a perception on the part of the Europeans that the United States is now showing some flexibility. That is one encouraging note that I have heard from inquiries I have made about this matter in the last day or two.

The negotiations are not apt to be stretched out ad infinitum. The deadline about which everyone is concerned is that imposed by the fast-track procedure according to the United States law. The honourable senator will be aware that the final legal text of any agreement would have to be in the hands of the United States Congress by, I think, June 1. It means that by the end of February President Bush would be obliged to advise the Congress that, subject only to a final legal text, there is an agreement. In terms of realistic deadlines, we are looking at a matter of five or six weeks.

Senator Olson: Could the minister indicate whether or not Canada is taking any active part in the promoting of, or the facilitating of, all of the requirements within these few weeks? I say that notwithstanding the fact that the United States and most of the European countries have other things, like the Gulf crisis, on their minds. Will we try to facilitate this so that the fast-track undertaking will not be completely demolished due to missing the timeframe?

Senator Murray: Honourable senators, our view is that everything possible should be done to meet the deadline that is now before us as a result of the fast-track procedure in the United States. The alternative is the politically uncertain process of trying to get that deadline extended by the United States Congress. I can only tell the honourable senator that Mr. Crosbie, on behalf of Canada, has been playing a leading role in the multilateral trade negotiations, and that the Deputy Prime Minister and Minister of Agriculture, Mr. Mazankowski, has been extremely active in discussions with his counterparts all over the world. In particular, I happen to know, because he advised me of this yesterday, that he has been in touch with Secretary Yeutter of the United States, and with Mr. MacSharry, an Irish commissioner at the European Parliament, with several of the European ministers and so forth.

We have been very active. While I do not want to raise anyone's hopes or expectations unduly, there is, as Mr. Dunkel reported a while ago, some room for cautious optimism.

Senator Olson: In view of all of that, including the cautious optimism, I think it is clear that the producers in Canada need

some short-term financing for the 1991 season. Therefore, I ask the minister to try to get those answers from the responsible ministers, particularly from Mr. Mazankowski, so that the producers will be informed in time to make some plans for the ensuing spring season.

BALTIC STATES

CANADIAN AID TO LITHUANIA AND LATVIA—GOVERNMENT POSITION

Hon. Stanley Haidasz: Honourable senators, I have a question for the Leader of the Government in the Senate. We know that the recent movement of Soviet troops into Lithuania and Latvia have caused several deaths in those two countries. I should therefore like to ask the Leader of the Government in the Senate whether, in addition to the strong words conveyed by the Prime Minister and the Secretary of State for External Affairs to President Mikhail Gorbachev, the Canadian government intends to send humanitarian aid in the form of medicines and food to the beleaguered people of Lithuania and Latvia. Does the government also intend to suspend any aid to the Soviet Union?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am aware that my colleague, Mr. Clark, made some comments on that matter yesterday in response to questions from the media, but I would want to confirm or verify the text with him before replying to my honourable friend's question. I shall do so tomorrow.

REPLACEMENT OF ECONOMIC AID TO U.S.S.R. BY HUMANITARIAN AID TO PEOPLES OF LITHUANIA AND LATVIA

Hon. Stanley Haidasz: While the Leader of the Government in the Senate is inquiring into that matter, would he kindly bring to the attention of his government the fact that many Canadians are asking the Government of Canada to stop its direct aid to the Kremlin, the Government of the U.S.S.R., and, instead, to send humanitarian aid in the form of food and medicines to the beleaguered peoples of Lithuania and Latvia.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The honourable senator may not be aware that in the past few days, and since the Soviet moves on the Baltic States, Mr. Clark and several of his colleagues from the House of Commons have been meeting with representatives of the Canadian Baltic Associations, and that yes, the minister and members are well aware of the concerns, representations and recommendations of those people.

PERSIAN GULF WAR

RESTORATION OF KUWAITI GOVERNMENT—STATUS OF EXILED OPPOSITION PARTIES—GOVERNMENT POSITION

Hon. Raymond J. Perrault: Honourable senators, I have a question arising from the letter of the Prime Minister to His Excellency, Mikhail Gorbachev—a letter, incidentally, which I find to be a good, strong representation of Canadian views. I refer in particular to one sentence therein: "Democracy cannot exist without respect for fundamental human rights and freedoms." I agree with that. There has also been talk about restoring the Government of Kuwait.

Is the Leader of the Government aware of the fact that two years ago the Parliament of Kuwait was suspended arbitrarily by the dictatorial forces in control of that country? Is he aware that this week in London the Kuwaiti Opposition parties in exile stated that they have absolutely no confidence in a restoration of their government as it was before this unfortunate incident with Iraq? Is he aware that these Opposition spokesmen have stated that they have no confidence at all that they will have any rights? Is he aware, indeed, that they have warned the world that they believe they will have fewer rights should the former government be restored?

Again I come to the question that I posed a few days ago: Are we going to be concerned, during the period of the restoration of the independence of Kuwait, which we all support, that the democratic political process will be made operative in that country? Are we to be concerned that a restored Kuwait will not be a country exploited by its very wealthy at the expense of its very poor?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, what Senator Perrault refers to as "this unfortunate incident" was the brutal invasion—

Senator Perrault: I am not arguing that.

Senator Murray: —of a weaker neighbour by Iraq, an invasion that has caused half of the population of Kuwait to flee that country, an invasion in which the most unspeakable atrocities have been committed by the invader—and those have been detailed by Amnesty International and others. No one at the United Nations, no one in a responsible position in this country, has pretended that Kuwait was a democracy. It is not. But whether or not it was a democracy, it was a sovereign state and it was supposed to enjoy the same immunity and protection from an invasion by its neighbours as any other sovereign state. As a result of that, as the honourable senator knows, some 12 resolutions have been passed by the United Nations Security Council, most of them unanimously, calling upon Iraq to withdraw its troops from Kuwait.

That is the immediate objective of the action that member states of the United Nations have taken in the Gulf area and which I trust will be supported, however belatedly, by Her Majesty's Loyal Opposition in this country.

Senator Perrault: Of course, the Leader of the Government has not answered the essential question at all. He has really engaged in distributing to honourable senators what may be described as "verbal boilerplate"—the standard reply.

No one here is defending the actions of Saddam Hussein or the actions of the Iraqi government. We are utterly opposed to them. Although some of us may have different views with respect to the best way to proceed against that tyranny.

Regrettably, we have been unmindful of other tyrannies in this world—those in Central America, in El Salvador and elsewhere. This week the prosecutor who has been handling the case of the six Jesuit priests who were murdered in that country has thrown up his hands in despair and quit the investigation because he said he could not get any cooperation from the government of that country.

• (1430)

Can we then expect that there will be an initiative at the United Nations by Canadians to impose economic embargoes on El Salvador until they come into line and assure the world that human rights are being protected? There are three million people in Lithuania—twice as many as there are in Kuwait. Large numbers are said to have been killed and wounded. Will we now proceed with some game plan against the Soviet Union to ensure that the rights of those people and their needs are brought to the attention of the world?

I am suggesting that we have been very hypocritical and selective in our policies and attitudes towards the preservation of human rights in this world.

My original question was to the point that if we are to help restore the government of Kuwait and ask some Canadians to die in the process, we should make certain that the fundamental rights of human beings who live in Kuwait are going to be protected and there is a viable opposition—some of whom are said to be languishing in jail at the present time. Yet, all that we had from the Leader of the Government here today is that he condemns the invasion of Kuwait and the loss of that country's sovereignty. So do we. But we should not ask Canadians to sacrifice their lives to restore a feudal monarchy. We want some democracy in Kuwait. Yes, we want something approaching the kind of democracy that we have in this country.

Iraq violates human rights on a massive scale. I am pleased that the house leader for the government tabled the report of Amnesty International—and quite properly so. We should put the spotlight on all violations of human rights. But let us also look at some of our alleged friends and see how meticulous they are in preserving human rights. Let us not be hypocritical and selective. If human rights are being violated in any country in the world, let us have the courage to speak out as Canadians and do what we can to help to alleviate some of those problems.

Senator Murray: Honourable senators, I trust that Senator Perrault is not trying to suggest that our resolve in the Gulf crisis should be in any sense weakened by our disapproval of a particular form of government in Kuwait. The fact of the matter is that what we are seeking to restore is the independence and sovereignty of Kuwait.

I should also remind Senator Perrault and the Senate that the Iraqi aggressor has also attacked, without provocation, the state of Israel, a state that was not—

Senator Perrault: I am not arguing about that.

Senator Murray: —a party to the conflict and which made it clear that it was not a party to the conflict. The state of Israel was attacked precisely for the purpose of trying to involve Israel in the war and—

Senator Perrault: That is correct.

Senator Murray: —to set off a wider conflict.

I have already mentioned the abuses of human rights by Iraq in Kuwait. The honourable senator must surely have seen in the media within the past twenty-four hours the pictures of prisoners of war being used as human shields and other quite flagrant contraventions of the Geneva Convention.

I do not know how much more evidence Senator Perrault and some of his friends need before they can be persuaded to set partisan politics and short-time partisan advantage aside and support the government of Canada in its support for the United Nations Resolutions and for the multinational effort that is underway to ensure the respect of those resolutions.

Senator Perrault: The person who is trying to politicize this issue is the Leader of the Government in the Senate and his leader, the Right Honourable, the Prime Minister. It is one of the most despicable ploys in the history of Canada. We on this side are not trying to politicize the Gulf War. But we are asking for some basic assurances that we are concerned not only with restoring Kuwaiti sovereignity—which is a most commendable and supportable goal—but also to ensure that our Canadian effort will not be invested in a campaign to reestablish the establishment in that country, which in the past has been careless of human rights.

The accusations of the Kuwaiti Opposition are that the fabulously wealthy Kuwaiti princelings have taken billions of dollars out of that country every year, investing almost all of it abroad. These are accusations of the Kuwaiti Opposition in exile; not charges levelled by the Liberal Party of Canada. We are asking for some assurances that the sacrifices that this government is asking the people of Canada to make will not be in vain, and that together with the ousting of Hussein we are to establish a democratic form of government in Kuwait.

We join totally in the condemnation of the actions of Saddam Hussein. We deplore the attack on Israel, which was an obvious attempt to draw Israel into this fight. But the Leader of the Government does not want to answer my basic question. He is trying to divert the whole thrust of the question that I have posed today. He is trying to divert the whole thrust of it into some sort of mischievous falsehood that somehow the Liberal Party is opposed to the idea of bringing down Saddam Hussein.

I do not have to make any excuses for my party. The Liberal Party of Canada, beginning with King, Saint-Laurent and Mike Pearson, gave outstanding leadership to the entire world in their efforts to bind up the wounds of this world, to resolve conflicts and be an effective force for peace. We do not have to make any excuses to any Conservative government, which today is indulging too much in the philosophy of "me too" instead of attempting some original, creative thinking.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to two questions asked on December 21 by Senator Olson. I also have two answers to questions appearing on the Order Paper of September 26 and October 9 respectively, by Senator Marshall. They are question numbers 54 and 62.

AGRICULTURE

EUROPEAN COMMUNITY ANNOUNCEMENT ON BOOM IN CATTLE STOCKS—EFFECT ON CANADIAN FARMERS

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 December 21, 1990, by the Honourable H. A. Olson regarding European Community Announcement on Boom in Cattle Stocks—Effect on Canadian Farmers.

(*The answer follows:*)

Canada was disappointed that an agreement to reduce trade-distorting support to agriculture was not reached in Brussels. But the government will continue to press for a comprehensive agreement.

Canada is committed to substantial progressive reduction in trade-distorting support to agriculture in all countries and to effective agricultural trade rules which apply equally to all participants.

In particular, Canada is pressing the European Community (EC) to make substantive and meaningful improvements to its agricultural offer and to show greater flexibility to negotiate without preconditions.

A major reason for adjourning the talks in Brussels was that many countries considered that the EC was not making sufficient concessions to successfully conclude the negotiations.

The EC Commission has since indicated that it is proposing significant changes to its Common Agricultural Policy (CAP). It is hoped that when these changes are finally made they will be significant enough to be of interest to other countries and will improve the atmosphere surrounding the trade talks.

However, as yet there is insufficient detail available as to what the EC has in mind, for Canada or for other countries, to form a judgment as to their usefulness. In any case, the EC must also indicate greater flexibility for the trade negotiations, which cannot wait for the results of their domestic policy discussion.

It is hoped that the ongoing communications by GATT Secretary General Arthur Dunkel will be fruitful and that the negotiations will resume in the near future.

In the meantime, the federal government announced, on January 11, 1991, the details of a new generation of farm safety net programs which will go a long way toward easing the hurt producers are facing because of the international trade war.

These programs will be available to farmers before spring seeding. The new safety net program consists of a Gross Revenue Insurance Plan (GRIP) and a Net Income Stabilization Account (NISA).

The GRIP provides farmers with revenue protection. It builds on conventional crop insurance by offering farmers price support as well as yield protection.

For 1991-92, GRIP will deliver similar benefits across the country, although there will be some differences in program design between provinces and some features of the program will not be available in the first year. The program will be reviewed at the end of the crop year.

Under current market conditions, GRIP could be expected to pay out in the neighbourhood of $2.7 billion for 1991-92.

The NISA program lets farmers set aside money in individual accounts that will be matched by federal and provincial governments. Farmers can withdraw money from NISA accounts when their margin falls below the level of the previous five years, or when taxable income falls below $10,000. Forms and information on NISA will be mailed to producers in March.

For tax year 1990, it is expected that about $175 million will be contributed to NISA by Canadian farmers and matched by federal and provincial governments. The program is likely to trigger withdrawals of about $225 million targeted to farmers most in need.

The government recognizes that a new safety net program is not going to solve all the problems farmers are facing. There is uncertainty surrounding the GATT negotiations, ongoing farm debt problems, continuing low grain prices, input costs, requirements for diversification and the need to improve management skills. We are committed to continuing to work together with farmers and provinces to find ways to address these issues.

AGRICULTURE

WITHDRAWAL OF FORD MOTOR COMPANY FROM FARM EQUIPMENT PRODUCTION—AVAILABILITY OF PARTS AND SERVICE

Hon. C. William Doody (Deputy Leader of the Government): This is in response to a question raised in the Senate on December 21, 1990 by the Honourable H.A. Olson regarding the Withdrawal of Ford Motor Company from Farm Equipment Production—Availability of Parts and Service.

(*The answer follows:*)

The supply of spare parts for farm machinery is a matter of provincial responsibility and the requirements vary in each province. For example, in Saskatchewan, a manufacturer must demonstrate that its distribution facility in the province has sufficient parts available in the province for ten years before being allowed to sell his machinery.

With regard to matters of federal responsibility, discussions are being held with FIAT representatives to ensure that Ford New Holland's commitments will be assumed by FIAT.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

GOVERNMENT PROJECTS

DEPARTMENTAL AWARDS FOR EXCELLENCE

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 54 on the Order Paper—by Senator Marshall.

EXTERNAL AFFAIRS

VIOLENCE IN JERUSALEM—CALL FOR RESTRAINT

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 62 on the Order Paper—by Senator Marshall.

CANADIAN POLAR COMMISSION BILL

THIRD READING

Hon. Mira Spivak moved the third reading of Bill C-72, to establish the Canadian Polar Commission and to amend certain acts in consequence thereof.

Motion agreed to and bill read third time and passed.

COPYRIGHT ACT

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Marsden, seconded by the Honourable Senator Gigantès, for the third reading of the Bill S-8, An Act to amend the Copyright Act.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I want to complete my intervention on Bill S-8 today. I spoke some days ago on the subject and my intervention at that time appeared at page 4737 of the *Debates of the Senate* for Thursday, November 29, 1990. At that time I made it clear why I was opposed to this bill, I hope.

In summary, it is because I believe that it is based on the wrong assumption and because I think that it will do serious damage to the justice that creators have been waiting for for seventy-five years.

● (1440)

Those in support of this bill have said that Bill C-60 "left all teachers, researchers, students, most librarians and private scholars and many others in our country vulnerable to legal suits, costs and damages for carrying out their normal duties." I believe that is wrong. Bill C-60 did not give a bundle of new rights to creators. It gave copyright holders the mechanism—

[Senator Doody.]

and I underline the word "mechanism"—to enforce existing rights—and I underline the words "existing rights"—rights that have existed since 1924 but rights which no one honoured. The copyright owner could not enforce those rights individually because copying was taking place everywhere—in schools, libraries, offices and homes all across the country.

The rights have always been there. Individual enforcement was impossible, and this created a problem, I admit, on both sides. Without some collective mechanism, the copyright owners could not enforce their rights. Without that same mechanism, users who knew that the copyright existed and wanted to honour those rights could not do so. Bill C-60, therefore, did not suddenly dump a problem on the users. It provided a solution for both sides: The copyright owners who wanted to realize their rights, and the users who wanted to honour those rights.

The basic assumption and justification for Bill S-8 is simply fallacious. The provisions of the bill, flowing from that wrong assumption, are contaminated by it.

As I pointed out earlier, one problem is giving the mechanism—a mechanism that is there for the benefit of both the creators and the users—time to get going. Another problem that still exists is with exemptions. If this is not the achievement of Senator Marsden's bill, it is the objective. I support that objective because clarity of the exemptions will enable the negotiating procedure that was established by Bill C-60 to take place. In the absence of Part II, which is meant to clarify exemptions, the users do not want to negotiate because they are afraid they might get exemptions in due course. They want to know whether or not there will be exemptions before they negotiate at this stage. The creators, similarly, want to know about Part II and about exemptions because the users are saying that they do not want to negotiate until Part II comes along and they know what exemptions there are.

To those senators interested in the subject, I commend two documents. It is with respect to these two documents that I wish to conclude my intervention on this bill.

The first document is a legislative summary prepared by Monique Hébert, of the Law and Government Division, Research Branch, Library of Parliament. It is dated May 1, 1990. Senator Marsden has indicated that she ordered this research. This document is available in the series that the Library of Parliament makes available to all parliamentarians. The researcher who prepared this document has consented that it appear on a list of documents available, which we all receive. This is an excellent study on Bill S-8. It is entitled, "Bill S-8: An Act to Amend the Copyright Act. The subheading is, "A Proposal to Provide the Educational Sector with a Qualified Copyright Exemption.

For background purposes, the first section of this document deals with the need for copyright reform. Senator Marsden and I have had a good deal to say about that.

The second part, Part B, deals with Bill C-60, which I have already referred to, that being what is now called Part I of the copyright reform. The essence of Part I was to permit collec-

tives to negotiate for copyright in order to avoid the need for individuals to track down all users of their created material.

The document goes on to deal with the whole question of collectives. I should like to refer again to something I said in my last intervention. I have mentioned this several times. Honourable senators can see that I think it is important because I am referring to it again. The tendency in some quarters is to suggest that Bill C-60 brought into being for the first time—to the great surprise of many copyright users—the concept of collectives. It did not. It applied it to areas where it had not been previously applied, particularly with regard to written material and video material. Page 3 of the legislative summary says:

> The collective administration of copyright is not a new concept to the law of copyright. Organizations akin to Bill C-60's "licensing bodies" existed prior to the passage of this legislation. Only "performing rights societies" were, however, expressly recognized by statute.

Performing rights societies are, of course, the societies that look after the right to perform, in particular musical, songs, plays and anything dealing with the performing arts. I continue from the document:

> Established decades ago to administer the "performing rights" in relation to musical works (i.e., the rights of writers of music to authorize the performance and broadcasting of their works in public), performing rights societies were regulated by the Act to the extent that they were required to file their schedule of fees with the Copyright Appeal Board. Created by amendments passed in the mid-1930s, this Board was established for the sole purpose of approving the fees which the performing rights societies proposed to charge specific categories of users.
>
> This rate-regulation function of the Board was retained by Bill C-60. However, the Board was renamed the "Copyright Board," and its jurisdiction was expanded to cover licensing bodies. Although the Board was to continue systematically approving the fee schedules proposed by performing rights societies, it was given a more circumscribed role in relation to licensing bodies. In their case, it could intervene in order to "fix the royalties and their related terms and conditions" only on application of one of the parties (i.e., a licensing body or a user or user group), where the parties had been unable to reach agreement voluntarily on the amount of royalties to be paid.

● (1450)

I would pause here again to say that many of us were surprised by another aspect of Bill C-60 because all of us, all of our lives, have known of the existence of ASCAP in the United States and CAPAC in Canada and other performing rights society. We knew that copyright is observed and respected in the performing arts field. Many assumed that it also existed in these other fields covered by Bill C-60 which are, of course, addressed by Senator Marsden's bill in the particular context of exemptions.

Part C of this document interestingly deals with the reaction to Bill C-60 by the educational sector. Of course, Bill S-8 is part of that reaction. Then follows the tabling of Bill S-8 and a description of the bill with a reference to eligible users. Members of the Standing Senate Committee on Banking, Trade and Commerce are certainly very familiar with all of this because the bill was studied at some length by that committee.

The summary then deals with the applicable subject matter; exempted uses; reproduction by eligible users of published copyright material; communication by eligible users of public works by telecommunications to the public; public performance by eligible users of published works; and the availability of a licence. It goes on to deal with a discussion of the bill against that background material both historical and otherwise.

At page 8 under the heading "discussion" it says the following:

> Given the perceived inadequacy of the existing exemptions (described earlier), educational users wanting to use protected material must either obtain the consent of the copyright owners—a possibly demanding and time-consuming exercise, since many copyright owners might have to be reached—or they must transgress the law.

That is, in effect, what I said in November. It goes on to say:

> Bill C-60 did nothing to change this state of affairs, at least directly. Indirectly, however, it came to the assistance of educational and other users. By setting the statutory foundation for licensing bodies, it encouraged their formation.

"Licensing bodies" in this context is another term for the word "collectives." It goes on to state:

> As more and more licensing bodies come into existence, users will ultimately be better off, for they will have a quick and central means of lawful access to copyright material, and will thus be free of the often-frustrating task of having to negotiate copyright clearances on an individual basis.

This next part is important to the part of Senator Marsden's case, that I support. It says:

> The problem remains that, close to two years after the enactment of Bill C-60, licensing bodies have yet to be established to license all categories of works routinely used by the educational sector. The prospects for a collective that would license "audio-visual" works—an increasingly common teaching medium—appear remote at this time. Furthermore, of those licensing bodies that have been established, not all are fully operational.

There is then a continuation of the subject of reprography and their collectives, particularly CANCOPY which is in existence and which is attempting to play the role envisioned by the statute enacted by Bill C-60.

Further on in this document it states:

> Until collectives are established and functioning in every relevant area of copyright activity, educational users will continue to be in a difficult position.

I have been quoting from a document dated May 1, 1990 in which the statement is made that the problem remains close to two years after the enactment of Bill C-60. Honourable senators, not directly on that point but ancillary to it, Senator Marsden tells me that she has made some inquiries and her information is that Part II, which will deal not so much with licensing bodies but with exemptions, is some distance off.

Hon. Lorna Marsden: Perhaps I could make a statement because I think clarification is important. It is now published in the press quite widely that Part II will not deal with educational exemptions; that the minister has reneged on his agreement with the educational community.

Senator Frith: Let me turn directly to the question of educational exemptions. If the minister did make such a promise, then he is reneging; but let me say that my position on educational exemptions may or may not be the same as the minister's. My position is based on a group of studies by the Department of Consumer and Corporate Affairs done on the subject of and amendments to the Copyright Act. Senator Marsden's intervention does clarify the position and I thank her for it because it leads me more directly to my conclusion.

Let me make it clear that I was not aware that the minister had promised educational exemptions, but, whether or not he did, I believe the question of educational exemptions is properly and supportably dealt with in one of these studies of the series prepared by the Department of Consumer and Corporate Affairs. The documents resulting from that series of studies are called the "copyright revision studies." They deal with many aspects of the Copyright Act. The department is certainly to be congratulated for an excellent series of studies on this subject. I doubt if anyone who is interested in copyright would find a segment or a corner of the subject that was not thoroughly dealt with in the studies.

● (1500)

The one I am referring to, which is the one most relevant to where I am in my intervention, is *Exemptions Under the Canadian Copyright Act*, by Dennis M. Magnusson of the Faculty of Law, Queen's University and Victor Nabhan of the Faculty of Law, Laval University. I am not going to read into the record the whole report, which comprises some 229 pages. I am now referring only to the one on the subject of interventions—I do want to let honourable senators know what is in the document; if they are interested they can look it up—to show the extent of the study that leads to the recommendations which I support.

In the Table of Contents it indicates that there is an introduction, of course. Chapter I(A) is Exemptions for Education, Archives and Libraries in Respect of Performance in Public and Audio-Visual Works Generally. Then there is an education heading, and it goes through the needs of education and problems created by the present Canadian law, such as public performance, reproduction, conversions and dissemination. There is then a section on foreign law and law reform proposals. "Analysis and recommendation" deals with public performance. There is also a section on dissemination of copyright material and one on reproduction of copyrighted material. There is also a section on international conventions. There are also recommendations dealing particularly with education, and archival and library use of audio-visual material. This deals with performance and broadcasting. Then there is reprography and international law.

Honourable senators, someone may be interested in starting research by reading the Senate's record of debate on this question, and perhaps I could have consent simply to put the three pages of the Table of Contents on the record and then honourable senators would know exactly what this document deals with and would understand essentially the basis of my intervention.

Hon. Senators: Agreed.

(*For text of Table of Contents see Appendix "A", p. 5122*).

Senator Frith: Honourable senators, turning to the recommendations on the subject of education, which are found at page 26—

Senator Marsden: On the subject of your desire to put the table of contents on the record, I wonder if you would also put on the record whether there is anything that you can draw to the attention of senators from users in any of the communities, people who actually have to deal with this law on a daily basis. Is there a submission from the Canadian Teachers Federation, the Secondary School Teachers Federation, any school boards in this country, or any of the other multiple users?

Senator Frith: No. I perhaps could, but I will not, because I am counting on you to do that.

Senator Marsden: Senator Frith, before you have it appended to the record—and, of course, you can have anything you want appended to the record—I think it should be noted that this is totally biased toward the practice of law, which is an interior world of great interest, but of great distance from the reality of day-to-day life in the schoolroom, on the campus and in many other places.

Senator Frith: I understand that opinion, but it is not mine. It is not unusual in any subject to say that the law is impractical and does not take into account real life. But the law thinks it takes into account real life and this is essentially a matter of legal rights. I do not consider the legal dimension of the question to be academic, and it is certainly not academic to those who hold the "copyrights." A right is a legal concept. I make no apology for the fact that I am dealing with legal rights, and I do it from the perspective of the creator. It is understandable that the user might say, "You, the creator, are citing law that we feel, as users, has no application in the field of day-to-day life," to which the creator says, "My day-to-day life is creating material that I expect to be paid for and I have rights about and I want to enforce them."

Senator Marsden: Please do not misunderstand me. Of course, the law is important, but you said, in wanting to read

this intervention into the record, that it dealt with every aspect of copyright that anyone could be interested in, and I am sure that you did not mean—

Senator Frith: No; I think, if you check the record, you will find that is not what I said about this. I complimented Consumer and Corporate Affairs for its copyright revision studies, that this was only one of many studies in that series, and that I doubted that if anyone had any interest in copyright—

Senator Marsden: Law.

Senator Frith: Copyright is a legal concept.

Senator Marsden: Not exclusively, senator.

Senator Frith: Yes, it is exclusively. It is a legal right. It is a legal concept. Anyone can say, "Look, I have to teach some students tomorrow and I can't use this and it is impractical that I can't use this." The answer to that is, "Why can't you use it?" The answer to that is, "Because you will be breaking somebody's rights if you use it," and that is a legal concept. I am talking about copyright. I am talking about the rights of creators and I make no apology for that.

Hon. C. William Doody (Deputy Leader of the Government): Can you recommend it to your students?

Senator Frith: I recommend this for those who are interested in copyright. I was only wanting to put on the record the Table of Contents in one of the studies in case someone wanted to pursue the question of copyright, which I admit is a legal concept, which is under the subheading of educational exemptions. I accept the narrowing. We are here to talk about the law; that is why I am dealing with copyright as a right in that sense.

Dealing with the recommendations which flowed from this extensive study on the subject of exemptions, it states:

> Education
>
> Performance, broadcasting, diffusion
>
> 1. An exemption for public performances for educational purposes should be available on the following conditions:
>
> (i) the exemption is to apply to all types of copyright protected works, but in the case of performances by means of an audio and/or video prerecorded form of the work, the exemption shall not apply to performances by means of an infringing copy of the work when the person who caused the performance knew or should have known that the copy was infringing;
>
> (ii) the exemption is available only for the purposes of nonprofit educational activities;

That exemption has no difficulty with Senator Marsden, as far as I know.

> (iii) the exemption is available only for teaching activities and is not available when the performance is for the purposes of the entertainment or recreation of a significant part of the audience;
>
> (iv) the performers are to be only students or instructors (this would not apply . . .

And some detail follows. I am only giving some highlights because the detail is in the document.

> (v) the audience can be composed only of teachers, students and others directly connected with the teaching activity;
>
> (vi) the performances may occur in classrooms or other places in which teaching activities occur;
>
> (vii) the exemption is available for face-to-face teaching activities . . .
>
> 2. There should be no exemptions for the use of copyright protected works in broadcasting or diffusion for educational purposes except:
>
> (i) for broadcasting and diffusion that originates and is received within a single building . . .

That is (i) and (ii) is simultaneous rediffusion.

This is only two pages long, and I will ask for permission of the Senate to have these recommendations appended to today's proceedings. That is why I will not read them through. Senator Marsden and others may deal with them simply by referring to *Debates of the Senate.*

• (1510)

Then, under "Reproduction", it states:

> 1. There should be no exemption for recording from prerecorded material for educational purposes.
>
> 2. There should be no exemptions for recording for "librarying" or for time-shift purposes from broadcasts or diffusions.
>
> 3. There should be no exemption for original recording of copyrighted works except by teachers and students for the purposes of examinations.
>
> 4. The problems of access by educators to copyright protected material in audio-visual form should be dealt with by means of voluntary negotiations—
>
> 5. A general fair use exemption should be adopted in Canadian copyright legislation and reproduction in audiovisual form for educational purposes should not be statutorily excluded from such a fair use exemption.

Then, under "Archival and Library use of Audio-Visual Material" it states that a specific exemption should be introduced and specific references are set out under that heading.

Honourable senators, in summary, and using that as an example, I believe that as a general principle there should be only limited and negotiated exemptions for educational purposes. I hope honourable senators will remember that I believe that the fact of granting a carte blanche exemption, or an exemption as provided for in Bill S-8—which, in my opinion, amounts to the same thing because that permits an exemption, in effect, if a reasonable fee cannot be negotiated without defining who decides on the reasonable fee—was settled in performing rights by setting up the Copyright Appeal Board to make that decision. That was done because we could not ask one of the parties to make the decision; and that is the problem with Bill S-8. Bill S-8, in effect, leaves it to either one of the two parties to decide what is reasonable and produces an

exemption if one of the parties finds the fee asked for is unreasonable.

That point is made on page 10 of the document I referred to earlier, where it states:

> A more obvious problem with the bill is, of course, knowing when the "terms and conditions" of an available licence would be "reasonable" within the meaning of the bill—the *sine qua non* for the application of the exemption. The bill does not tell us whether this reasonableness standard would be determined from the users' perspective or from that of the collective. Nor does the bill stipulate how impasses—

Which is an important point:

> —between the parties on this question might be resolved.

I recall Senator Marsden and other supporters of Bill S-8 saying during committee meetings that they could go to the courts. That, in my view, is not a satisfactory solution, bearing in mind how long that could take.

The Copyright Appeal Board and the whole mechanism put in place for performing rights was put there just to avoid that.

The document then goes on to state:

> Under the existing legislation, the intervention of the Copyright Board might be invoked. However, the Board's authority seems to be limited to the financial aspects of a licensing proposal (i.e., the amount of royalties that should be paid and the related terms and conditions). Given the various ways in which protected materials can be used, there is considerable scope for disagreement between the parties.

I must say that if Bill S-8 were bringing forward its suggestions for change and also included an addition to the jurisdiction of the Copyright Appeal Board to settle the question of reasonableness of fees, using as a guide the way that is done with regard to performing rights, and if it were in satisfactory form, I would be inclined to support the bill, because I have nothing against settling the question of educational exemptions with a proper mechanism that protects the creators and, thereby, solves the problem of waiting for exemptions to appear in Part II, which Senator Marsden tells us is not coming.

On the question of the courts, the document goes on to state:

> For disputes involving matters beyond the jurisdiction of the Copyright Board, the only recourse available to the aggrieved party would seem to be to bring the matter before the courts.
>
> There would be, in short, potential for a good deal of litigation on whether licences were or were not obtainable on reasonable terms and conditions, thus derogating from the bill's objective of providing the educational sector with secure access to copyright materials.
>
> Also unclear is who would qualify for the exemption, should a licence not be obtainable on reasonable terms and conditions. The bill refers to "an educational organization recognized as such by a provincial or municipal government." This term might cover public schools, colleges and universities, and possibly private schools that offered accredited programs; however, it is unclear what other entities offering some form of educational program might also quality. Might, for example, a Berlitz-type language school qualify, or a school board offering night courses on furniture reupholstering? It bears noting that the bill does not expressly limit the application of the exemption to non-profit educational establishments. Its only stipulation in this regard is that a given use, be it the photocopying of an article or the performance of a play, should be carried on without motive of gain. The bill does not require that the "user" not be profit-motivated; rather, it is the activity in question that must be carried out "without motive of gain." Consequently, even profit-oriented educational organizations would seem to qualify, provided they were duly recognized as such by government.
>
> Furthermore, given the bill's reference to "organizations," it is conceivable that professional associations in the educational sector, such as a federation of teachers or an association of school trustees, might also qualify. Much depends on what government recognizes as being an "educational organization." As this standard might vary from province to province, or from municipality to municipality, there could be material variances across the country.

So, honourable senators, I conclude by saying that the problem addressed by Bill S-8 is a continuing problem, but Bill S-8 is not a solution and is unworkable as such.

I encourage the Senate to continue with the initiative launched by Senator Marsden to find a solution to the fact that creators are entitled in educational matters—which is the subject of this bill—to payment for their contribution to the educational system, just as are teachers, just as are the providers of buildings, just as much as are the providers of material, just as much as are janitors, just as much as every aspect of our educational system provides payment for the services and goods it uses.

In my opinion, there is no justification for telling creators: "Well, we want you to subsidize our educational system while we pay everyone else."

I know that Senator Marsden recognizes that problem, or she would not have brought this bill forward. My difficulty is that it does not solve that problem.

• (1520)

Senator Marsden: Senator Frith, may I ask you a question? You insist upon repeating the implication that this bill, and everything that has been said about it, suggests that creators should not be paid; and you know that is not the case. As you know, the bill says they should be paid, but, when there is a dispute over payment, then there should be access to the courts. May I ask you why you have said that you do not think this bill is not the solution because creators would not be paid,

when there is nothing in the bill that indicates that? It is one of the fundamentals of the bill that they should be paid.

Senator Frith: I hoped I had made it clear and I am obliged to Senator Marsden for giving me the opportunity to make it very clear. I thought I made it clear that the objective of this bill is to pay creators. The objective of this bill is to solve the problem created by the absence of clarity as to exemptions. My problem is that this bill is not the structure in which to do that because, in my opinion, it would fall down the minute we tried to establish the question of reasonable fee and would allow too big a loophole for having creators not being paid as a result. That is why it is possible and a corollary to what I am saying that an amended form of Bill S-8 is something I might be able to support. I do not think this is going to solve the problem because the result will be that they will not be paid, although I accept the motivation that they should be.

The Hon. the Speaker *pro tempore:* Honourable senators, Senator Frith had asked for the inclusion of the Table of Contents and received the agreement of the Senate. He then asked for the inclusion of recommendations but the Senate made no comment. Is it a specific request and is it the wish of the Senate that it be included?

Senator Frith: Agreed.

Hon. Senators: Agreed.

(*For text of recommendations see Appendix "B", p. 5127*).

On motion of Senator Doody, debate adjourned.

ABORIGINAL PEOPLES BILL

SECOND READING—SPEAKER'S RULING DEFERRED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to further the aspirations of the aboriginal peoples of Canada.
>
> And on the Point of Order concerning the admissibility of the Bill.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Good news, senators; I intend to speak on this motion too.

Honourable senators, the aspect of Bill S-18 to which I wish to speak is the point of order raised by Senator Doody. The essence of that point of order is that this bill is not properly originated in the Senate.

As I understand it, Senator Doody's position is based principally, if not entirely, on Rule 62 of the Senate and on clauses 8(2) and (3) of the bill entitled "An Act to further the aspiration of the aboriginal peoples of Canada."

Honourable senators, I have discussed some of my views on this subject with parliamentary counsel, and I have received a response to my questions from Mr. James W. Ryan, Q.C., which was furnished to me through our parliamentary counsel, Mr. du Plessis. Therefore, I will be quoting freely and abundantly from those opinions.

As I have said, my comments will refer principally to sections 53 and 54 of the Constitution, which are at the root of these problems, and also to Rule 62 of the Senate and to the act before us, which is the subject of the point of order raised by Senator Doody.

Let us first turn to Rule 62. It reads as follows:

> The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

Otherwise known as the royal recommendation. The first question I will address is why Rule 62 is needed. I will quote Mr. Ryan's letter to Mr. du Plessis, which says:

> Rule 62 of the Senate . . . is by its wording relevant to section 54 of the *Constitution Act, 1867,* hereinafter referred to simply as the "Constitution".

Let us turn to section 54, as we so often do when there arises these questions about bills originating in the Senate. I will read both sections 53 and 54 of the Constitution. The heading is *Money Votes; Royal Assent.* The marginal note is "Appropriation and tax Bills". The 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.

Then section 54, with a marginal note "Recommendation of money votes", says:

> It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

I will now continue quoting the letter of Mr. Ryan to Mr. du Plessis of January 18, 1991.

> Bills that fall within the first category described by Section 53 of the Constitution—

Which I have just read.

> —bills "for appropriating any part of the public revenue" cannot originate otherwise than in the House of Commons. That kind of bill is in the same constitutional position as bills for imposing a tax or impost and are provided for by Section 53 of the Constitution.
>
> Rule 62—

Which I cited.

> —in referring to a bill "appropriating public money", must have had in contemplation a bill "for appropriating any part of the public revenue, or for imposing any tax or impost", a bill that, by section 53 of the Constitution must originate in the Commons, and, by Section 54 of the Constitution, it is unlawful for the Commons to pass "to any purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such . . . Bill is proposed".

> Prior to the *Constitution Act, 1982*, if a bill appropriating any part of the public revenue or any tax or impost was introduced in the Commons and passed by that House without having been recommended to it by the Governor General, it became law upon being passed by the Senate and assented to by the Governor General.

There is a footnote about that which is worth including.

> Non-compliance with section 54 would not have affected the validity of the Bill after it had been passed by the Senate and received Royal Assent. As an Act of Parliament, it would be taken as law.

● (1530)

The citation is The King v. Irwin, 1926 Canadian Exchequer Court 127.

By "English law", we mean that when a statute appears on its face to have been duly passed, the courts must assume that its passage has been proper. That, incidentally, if I may make another parenthetical comment, might be an echo of problems that some might think arise with reference to the GST.

I believe that reference was made to the Irwin case by Senator Hays when he made an intervention on the legality of the tax imposed by the passage of the bill. The adoption of the GST on the strength of English law seems clearly not to look behind the passage of parliamentary proceedings.

> It does not appear, therefore, that Rule 62 of the Senate—

referred to and relied upon by Senator Doody,

> —is intended to apply to a bill that has been introduced in the Senate. If it is a bill for appropriating any part of the public revenue, it is disqualified from continuing or proceeding in the Senate as a matter of constitutional law, not as a matter governed by procedural rules of the Senate.

That is, it would be disqualified by the Constitution and there would be no need for Rule 62 to apply, since, of course, Rule 62 would not supersede a provision in the Constitution.

Let us now turn to the bill generally, and I will speak in a moment about subclauses 8(2) and 8(3), which are the ones that I believe Senator Doody found offensive. Before commenting on those two subclauses, I should like to draw to the attention of the Senate several different types of clauses set out in Senator Watt's Bill S-18. Clauses 1 and 2 are simply a citation clause and a purpose clause. Clauses 3, 4, 13 and 14 are interpretative, either of other statutes or of provisions of the bill. Clauses 5 to 12 can be classed as administrative and are therefore open to the claim that they have the effect of imposing a new charge on the public revenue. Subclause 8(2), which refers to funding, is more visible in this regard than the other administrative clauses.

All of the clauses that impose a duty on the executive—that is, the Governor General in Council, the government, the minister and federal institutions—are discussed briefly in an annex, to which I will refer in a moment, in respect of whether or not a new charge is involved, which is the key.

[Senator Frith.]

Let us look, then, at subclause 8(2), which reads:

> The Minister shall take measures
>
> (*a*) to reduce disparities in economic opportunities between any aboriginal peoples of Canada and other Canadians, and
>
> (*b*) to ensure that the aboriginal peoples of Canada benefit from and play an integral role in efforts to promote economic development at local, regional, provincial, national and international levels;

Then it goes on:

> and, in consultation with the aboriginal peoples of Canada, the Minister shall establish, find funding for, and implement such programs as are considered appropriate for those measures.

In my submission, Rule 62 is really irrelevant because it is cited in support of a position based on the Constitution which is, of course, an even stronger foundation and makes Rule 62 superfluous.

Turning to the Constitution, then, subclause 8(2), in my submission, is not an appropriating clause within the meaning of section 53 of the Constitution. It does not appropriate money. What do we mean by "appropriate"? Even when used in the appropriations act, the word "appropriate" must carry its ordinary dictionary connotation, which is to allocate, meaning to allot, apportion, assign, or, more vividly, to grasp, take, seize, snatch—those are dictionary words—something, usually money or property. In this context, however, it is a part of the public revenue. Those are the words used in the Constitution.

To introduce a bill in the Senate for appropriating any part of the public revenue would be unconstitutional under section 53 of the Constitution besides being an infringement of the prerogative of the House of Commons under the parliamentary system adopted from Britain, even if the bill were introduced in the Senate as a government bill. Therefore, I say that subclause 8(2) is not an appropriating clause within the meaning of section 53 of the Constitution because it does not appropriate, in any sense of the word, money. It provides that certain administrative acts— which, it is submitted, the minister now has the ability to do without this bill—must be done as a matter of statutory duty created by the bill. The bill itself does not appropriate the money for the purposes of the bill, nor does it in this case impose a new charge on the public revenue.

The clause does not require the minister to fund the program. "Finding", which is the word used, is not "funding". Remember that the words in the last part of subclause 8(2) are: "and, in consultation with the aboriginal peoples of Canada, the Minister shall establish, find funding for . . ." Again, the clause does not require the minister to fund the programs. Finding is not funding; nor does the clause authorize the funding of the programs or direct where the funds are to be found; nor is the fund taken from any source referred to in the clause.

My submission is that the clause does not, per se, impose a new charge on the public revenues.

As to subclause 8(3), it reads as follows:

> The Minister shall establish programs and put into place policies to ensure that the aboriginal peoples of Canada will acquire such adequate resources as will effectively
>
> (*a*) preserve, promote, enhance and develop their economies, cultures and governmental institutions,
>
> (*b*) enable them to represent their interests and concerns through representative associations and organizations at the international, national, provincial, regional and local levels,
>
> (*c*) enable them to participate in any negotiations with governments, and
>
> (*d*) enable them to participate in a process of constitutional discussions and negotiations directed toward the further constitutional entrenchment of the rights of the aboriginal peoples of Canada and the mechanisms to exercise those rights.

● (1540)

You will remember, honourable senators, that the administrative clauses to which we referred earlier were clauses 5 to 12, which could be classed as administrative; but there are also, clauses 8 (2) and 8 (3), on which we are now focusing. Clause 8 (3), like these other "administrative" clauses in the bill, does nothing more than turn into statutory duty an administrative capability that the minister now has and, indeed, exercises already in some instances. It does not or is not intended to invoke a new—and I stress the word "new"—function requiring a "new" charge on the public revenues.

So, honourable senators, the only objection to this bill can be on those clauses referred to, namely, clauses 5 to 12, which are sort of administrative, but, more particularly, on clauses 8 (2) and 8 (3), which appear to be even more administrative.

The result of an examination of clauses 5 to 12—and I do not believe there is any objection to any other clauses—and clauses 8 (2) and 8 (3), which are the specific ones objected to by Senator Doody, makes it clear that there is no clause in the bill that "appropriates" public funds as that term is ordinarily understood and as it was undoubtedly intended to be understood in section 54 of the *Constitution Act* when that provision was placed in the BNA act in 1867 and remains in its original form in the *Constitution Act* that governs our country now.

Honourable senators, I would be glad to add, rather than read into the *Debates of the Senate*, an annex that was furnished to me by Parliamentary counsel. It deals with the individual clauses and may be of some use in case a ruling is necessary by His Honour. Rather than pass it simply to him, it is two pages long and is referred to in the opinion that was furnished to me by Parliamentary counsel. I have already referred to it in my intervention.

May I have leave to include that?

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

Hon. Senators: Agreed.

(*For text of report see Appendix "C", p. 5130*).

Senator Frith: So, honourable senators, before I conclude I must reiterate that I am basing my position on the Constitution. I can equally base it on rule 62. When I say that there is no offence to sections 53 or 54 in the Constitution a fortiori there is no offence to rule 62, which in this context is simply a reinstatement of what is in the Constitution. Therefore, an examination of the Constitution itself is much more rewarding than simply looking at our Rule 62.

In conclusion, there is no clause in this bill that appropriates public funds as that term is ordinarily understood and as it was undoubtedly intended to be understood in section 54 of the Constitution. For that reason it is a bill that may be introduced in the Senate, since we look at all bills to be introduced in the same way as we look at all law.

In a sense, all law is negative. In a jurisprudential sense you start with the assumption that any member of society can do anything unless there is some law that says he or she cannot. Here, too, we can introduce any bill in the Senate unless the Constitution says we cannot. There is no place in the Constitution, in my submission, that says that we cannot introduce Bill S-8.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I thank Senator Frith for his dissertation. My position is the same. It still seems to be a carriage on the Crown introduced by someone other than a minister of the Crown. I would ask His Honour to take it under advisement, consult with the authorities and bring us back a ruling in his own good time.

Senator Frith: Honourable senators, I know of no other member on our side who wishes to intervene on this specific point of order raised by Senator Doody. Therefore, it seems that this would be an appropriate time to ask the Chair for a ruling.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that, in view of the fact that this point of order was raised when Senator Charbonneau was in the Chair and it is a rather complex matter, it be taken under advisement to be reported at a later date?

Hon. Senators: Agreed.

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN CHILD)—SECOND READING—SPEAKER'S RULING DEFERRED

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 second reading of the Bill S-7, An Act to amend the Criminal Code (protection of the unborn child).—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am prepared to yield on this. This is Senator Haidasz' bill. My interest is essentially in Bill C-43,

which is on the same subject. I am in the hands of the Senate on this. I have no specific interest in this bill. I adjourned the debate in the hope that its subject matter would come before us in the guise of Bill C-43.

Hon. Nathan Nurgitz: Honourable senators, earlier this afternoon I spoke to Senator Haidasz. Unfortunately, I did not think to speak to him about this matter. I indicated to him that I wished to raise the question of Order No. 10 on our order paper, which was a matter raised by him by way of a matter of privilege. I informed him that I would be asking that the matter be withdrawn. He quite agreed and, at the same time, indicated that he would be asking that his motion No. 3 under "Motions", which is a motion for direction to the Standing Senate Committee on Legal and Constitutional Affairs, also be withdrawn in light of the fact that there is every expectation that tomorrow the Senate will be receiving the report of the Standing Senate Committee on Legal and Constitutional Affairs dealing with Bill C-43.

In view of what is a rather self-evident parliamentary rule, namely, that once we proceeded beyond second reading on Bill C-43, Bill S-7 then became rather redundant, I do not—I see that Senator Haidasz is now here. I am reasonably satisfied that the bill could not proceed.

Senator Haidasz, we currently are upon Order No. 5 on the Orders of the Day. Senator Frith is indicating that there is no reason why it should further stand in his name. It concerns Bill S-7. We were wondering whether, in view of the report anticipated tomorrow on Bill C-43, this item could not also be withdrawn.

Hon. Stanley Haidasz: Honourable senators, I am not a prophet, so I cannot foresee what will happen to Bill C-43 sometime this month or next month. Therefore, I would ask honourable senators to allow my bill, S-7 to remain on the Orders of the Day.

Hon. C. William Doody (Deputy Leader of the Government): On that point, honourable senators, I do not think it is permissible to allow the bill to remain on the Orders of the Day. As Senator Nurgitz stated, it is a well-accepted parliamentary custom that two bills dealing with the same subject matter cannot proceed at the same time.

I would refer honourable senators to *Beauchesne's* Sixth Edition on page 198, citation 653.

● (1550)

> There is no rule or custom which restrains the presentation of two or more bills related to the same subject, and containing similar provisions. But 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. But if a bill is withdrawn, after having made progress, another bill with the same objects may be proceeded with.

This is a clear-cut procedural matter. I do not think it is permissible to proceed with both bills at the same time. I would offer that to honourable senators for consideration and advice.

[Senator Frith.]

Senator Haidasz: Honourable senators, when this matter came up in a similar bill in the previous session, Senator Flynn at that time did make a statement, if I am correct, that my bill or the subject matter of my bill could remain on the Orders of the Day.

Senator Doody: I cannot refer to Senator Flynn at this point. I cannot ask his advice or his judgment. I can only cite the rule, and I would ask honourable senators to agree that the order is quite clear. A second bill dealing with the same subject matter cannot be proceeded with if the other bill has passed or been refused second reading.

Hon. M. Lorne Bonnell: Perhaps you should refer this to the Speaker of the Senate for his ruling. He always rules in favour of the government.

Senator Doody: Obviously I will do that if I have to, but I would prefer that the Senate deal with it.

Senator Haidasz: Honourable senators, I should like to bring to your attention that my bill, Bill S-7, was being debated on second reading on May 29, 1990. That is almost a year ago. No one raised any objections then, nor have any objections been raised since second reading was given to Bill C-43. Why, at this late date, should you change your minds and try to dispose of Bill S-7 in such a manner?

Senator Doody: Senator Haidasz, I did not write the rule. I am simply reading it.

Senator Haidasz: This matter has not been raised since Bill C-43 was given second reading on June 26, 1990, so why try to dispose of my bill now in such a way, when it was allowed to stay on the Orders of the Day since June 26 of last year?

Senator Doody: The reason, at least to me, is quite obvious. Bill C-43, a bill dealing with substantially the same subject, has passed second reading. It has gone to committee and has had exhaustive hearings. Many witnesses have appeared before the committee. The report is now being prepared. It will come to the Senate for consideration tomorrow, the day after, or whenever it is ready—in the immediate future. With that prospect in sight, there seems to be little or no reason to proceed with this bill since we are going to deal with the other bill. I assume that that is what this rule is intended to cover.

I put it to honourable senators that, under the rules, as I have just read, keeping Bill S-7 on the order paper is not in order.

Hon. Eymard Corbin: Is Senator Doody saying that the citation he quoted from the Sixth Edition of *Beauchesne's* is a rule?

Senator Doody: Honourable senators, the rule that is applicable in this case is this particular rule. Rule 1 of the Senate says that if we do not have a rule that covers a particular situation, then we refer to the House of Commons Rules. There is a *Beauchesne* reference in the House of Commons Rules.

Senator Corbin: I understand that *Beauchesne's* Sixth Edition has no standing in the House of Commons. I stand to be corrected, but that would be news to me. The Fifth Edition is the one that is being recognized.

Senator Doody: I can find it in the Fifth Edition, if I have to. In any event, honourable senators, that is my request. I would ask the Senate to decide.

Senator Haidasz: Honourable senators, I should like to make two points. It is my opinion that Bill S-7 is really not the same as Bill C-43. Bill C-43 virtually allows abortion on demand, whereas my bill, Bill S-7, restricts abortion to a medical procedure allowed if the mother's life is threatened; that is,if a medical procedure has to be performed in order to save the life of the mother without the intention of a direct assault on the body of the preborn child. That interpretation of Bill S-7 was discussed by me not only with members of this house but also with a certain member at the Table. No attempt was made to remove my bill, as I said, since June 26 when second reading was given to Bill C-43.

Furthermore, I should like to support the statement of Senator Corbin. He stated that *Beauchesne's* Sixth Edition has no standing in Parliament as yet.

Senator Doody: That is simply not so, honourable senators. The same ruling is in the Fifth Edition, if anyone wants to go to the trouble of looking for it.

In any event, I refer the question to His Honour for a ruling at another date, if that is the wish of the Senate.

Hon. L. Norbert Thériault: Honourable senators, I very seldom get involved in rules of Parliament. However, I have looked at my colleague's bill, Bill S-7, and at Bill C-43 for a long time. I probably would not support Bill S-7, but that is not the subject matter. I am inclined to agree with Senator Haidasz's argument for two reasons.

I do not think Bill S-7 is the same as Bill C-43. Bill C-43, whether it is adopted or rejected, does not take care of what he wants in his bill. A very important fact is that this bill has been on the order paper since May, 1990. The other bill appeared in June. It would be quite difficult under any parliamentary rule to dispose of this rule the way the Deputy Leader of the Government in the Senate is suggesting.

Senator Doody: As I have said, honourable senators, I am not going to create a big issue at the moment. I would simply refer it to His Honour and ask that a ruling be brought in.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed that the matter be taken under advisement and that a ruling be brought in?

Some Hon. Senators: Agreed.

ABORTION

QUESTION OF PRIVILEGE—ORDER WITHDRAWN

On the Order:

> Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Macdonald (*Cape Breton*):
>
> That it be taken up in the Committee of the Whole, named "Privileges", whether it is a matter of privilege for a Senator to move, as I have already done, to instruct a Standing Committee as in Motion Number 3 on the Order Paper, to wit: in order to oblige a committee to uphold its parliamentary duty, and furthermore, whether it is a matter of privilege, to abridge the pending Orders of the Day in order to bring such a motion to timely and full debate.—(*Honourable Senator Nurgitz*).

Hon. Nathan Nurgitz: Honourable senators, as I indicated, I have discussed this matter with Senator Haidasz. Those matters before the Standing Senate Committee on Legal and Constitutional Affairs have, in large measure, been completed. Senator Haidasz is in agreement that this item of privilege be dropped from the order paper, and I so request.

Hon. Stanley Haidasz: Honourable senators, in closing the debate on item number 10 on the order paper, I wish to state that I believe I have made my point in a long speech last month.

• (1600)

Since I have the opportunity today to speak to my motion No. 3 on the order paper, I would therefore ask the house for unanimous consent to withdraw this motion.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that Order No. 10 be withdrawn?

Hon. Senators: Agreed.

Order withdrawn.

NATIONAL DEFENCE

CONSIDERATION OF FOURTH REPORT OF SPECIAL COMMITTEE—ORDER WITHDRAWN

On the Order:

> Resuming the debate on the consideration of the Fourth and Final Report of the Special Committee of the Senate on National Defence, entitled: "Canada's Land Forces", tabled in the Senate on 31st October, 1989.—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, in view of the fact that I have introduced an inquiry to do with the establishment of a Standing Senate Committee on National Defence, I would ask that this order be withdrawn.

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

Hon. Senators: Agreed.

Order withdrawn.

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO INSTRUCT COMMITTEE TO EXAMINE BILL C-43—MOTION WITHDRAWN

On Motion No. 3:

That an obligatory instruction be given by this House to the Standing Senate Committee on Legal and Constitutional Affairs, to give particular study to the individual flaws of Bill C-43 as identified, for instance in a speech which I delivered in the Senate on June 26; and

That the Committee give full study and call expert witnesses to address all issues that are cognate to the Bill including the legal, constitutional, ethical, sociological, and scientific implications of this Bill and to consider appropriate amendments to Bill C-43.

Hon. Stanley Haidasz: Honourable senators, on several occasions I have tried to argue that Bill C-43 is a bill of first-class constitutional importance with many implications or ramifications for Canadian society, not only as far as it is a new law dealing with the life of a person, but the effects on our Constitution of Bill C-43 which has ethical, sociological, which also includes demographic, and scientific implications.

In committee we heard from Dr. Nathanson of New York City who used to perform a few thousand abortions per year in his clinic. I believe he used a figure of 60,000 in total. After several years he came to the conclusion that he was doing something wrong. Today, in the free world, he is the greatest proponent of respect for the life of the unborn child. He brought to the attention of the members of the Standing Senate Committee on Legal and Constitutional Affairs the scientific progress that has been made in preserving the life of a fetus. He foresees that, perhaps in a period of five to ten years, a fetus will be able to be taken from its mother's womb and preserved, either to be implanted into another mother's womb or else held in storage for development to maturity. These are very important developments in that field for Canadian society, for society as a whole and for the continuation of the human race.

In the past, such important bills were referred to a Committee of the Whole just as we did with the Meech Lake Accord. The Committee of the Whole heard expert witnesses and, thereafter, the chairman of the committee submitted a report. If it comes to our attention that a first-class bill, such as Bill C-43, has not been adequately studied and all of the implications have not been analyzed by a committee, I think we should reserve to ourselves, as some backup insurance, the consideration of a motion to refer certain aspects of the bill to a Committee of the Whole. We will then have the assurance that we have really studied and do understand all of the important and grave implications of Bill C-43.

Therefore, honourable senators, I would move:

That Bill C-43, if necessary, be further studied by a Committee of the Whole.

The Hon. the Speaker *pro tempore:* Honourable senators, I find myself in some difficulty. There was a motion standing in

[The Hon. the Speaker.]

Senator Haidasz's name and I cannot accept the new motion at this time without notice.

Is it the wish of Senator Haidasz to proceed with the motion in his name on the order paper?

Hon. Royce Frith (Deputy Leader of the Opposition): Senator Haidasz could ask for leave to amend it.

Senator Haidasz: Honourable senators, I would ask for leave of the Senate that the Senate agree on the motion to refer Bill C-43, if necessary, to a Committee of the Whole for further study.

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

Some Hon. Senators: No.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I was under the impression that Senator Haidasz was rising to ask permission to withdraw that motion, but now I am not quite sure as to the tenor of the speech. Was it in support of the motion on the order paper or was he asking for permission to withdraw?

I gained the impression from Senator Nurgitz earlier that some conversations had been held to the effect that that motion was going to be withdrawn. We now come to a point where the honourable gentleman wants a Committee of the Whole on standby just in case he is not satisfied with the report that was brought in by the committee of which he is a member.

• (1610)

Senator Haidasz: Honourable senators, if I may, in view of the pending report of the Senate committee with regard to Bill C-43, I will withdraw Motion No. 3 standing in my name. I would also like to move a motion that Bill C-43 be referred to the Committee of the Whole for study of certain aspects of this bill, if found necessary.

Senator Doody: Honourable senators, could we do one at a time? First, the honourable senator has to get leave to withdraw the motion standing in his name.

Senator Haidasz: Honourable senators, I am asking for leave to withdraw Motion No. 3, which stands in my name.

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

Some Hon. Senators: Agreed.

Motion withdrawn.

ABORTION

LEAVE TO GIVE NOTICE OF MOTION TO REFER BILL C-43 TO COMMITTEE OF THE WHOLE DENIED

Hon. Stanley Haidasz: Honourable senators, with leave of the Senate, I give notice:

That I will move a motion to refer Bill C-43 to the Committee of the Whole, if necessary to study certain aspects of Bill C-43.

Hon. C. William Doody (Deputy Leader of the Government): Bring the notice in tomorrow.

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

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore:* Leave is not granted.

VETERANS HEALTH CARE REGULATIONS

DEBATE ADJOURNED

On Motion No. 5:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Veterans Health Care Regulations (SOR/90-594, August 28, 1990) and on all other matters concerning veterans affairs which may arise from time to time.—(*Hon. Senator Marshall, P.C.*).

Hon. Jack Marshall: Honourable senators, I move, seconded by Honourable Senator Marsden, that the motion standing in my name be adopted. Senator Marsden is not here.

The Hon. the Speaker *pro tempore:* Senator Marsden is not here. Honourable Senator Marshall, do you have another seconder?

Senator Marshall: Senator Phillips.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Marshall, seconded by the Honourable Senator Phillips:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Veterans Health Care Regulations (SOR/90-594, August 28, 1990) and all other matters concerning veterans affairs which may arise from time to time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): I have no objections to Senator Marshall's moving this motion and having it seconded by whomever. I take it that we are going to be sitting tomorrow. Since I have not had a chance to consult on this side, let us consider the motion moved. It will then appear on the order paper tomorrow, if everything is in place, as I suspect it is, and Senator Marshall has spoken to Senator Marsden about it. Since it is not necessary that it be dealt with today, can we have it moved and therefore on the Order Paper tomorrow and we will hear by consent Senator Marshall speaking to it, if necessary.

Senator Marshall: I spoke to Senator Marsden and she agreed, but that was my mistake. I should have left it until she was here.

Senator Frith: I take your word completely, but I would like to consult.

The Hon. the Speaker *pro tempore:* Is it your pleasure, Honourable Senator Marshall to adjourn the debate?

Senator Frith: Technically speaking, if Senator Marshall moves the motion, he is considered as having spoken to it. It is an aspect that we have never enforced here very rigorously, but technically it is so. That is why I am saying that I would consent that he move a motion but that it stand in his name tomorrow and that he be permitted to speak to it tomorrow. I suspect it will not require a very long intervention, because Senator Marsden will probably stand and say that it is fine. I do not want an implication that I do not accept Senator Marshall's word; it is just that I have not had a chance to consult.

The Hon. the Speaker *pro tempore:* Senator Marshall, is it your wish to adjourn the motion?

Senator Marshall: Yes.

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Marshall, seconded by the Honourable Senator Phillips, that debate on the motion be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Marshall, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 5112*)

EXEMPTIONS UNDER THE CANADIAN COPYRIGHT ACT

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APPENDIX "B"

(*See p. 5115*)

EXEMPTIONS UNDER THE CANADIAN COPYRIGHT ACT

RECOMMENDATIONS

RECOMMENDATIONS

Education

Performance, broadcasting, diffusion

1. An exemption for public performances for educational purposes should be available on the following conditions:

(i) the exemption is to apply to all types of copyright protected works, but in the case of performances by means of an audio and/or video prerecorded form of the work, the exemption shall not apply to performances by means of an infringing copy of the work when the person who caused the performance knew or should have known that the copy was infringing;

(ii) the exemption is available only for the purposes of nonprofit educational activities;

(iii) the exemption is available only for teaching activities and is not available when the performance is for the purposes of the entertainment or recreation of a significant part of the audience;

(iv) the performers are to be only students or instructors (this would not apply to the original performers in a broadcast, diffusion or recording used to cause a performance provided that the original broadcast, diffusion or recording was not infringing);

(v) the audience can be composed only of teachers, students and others directly connected with the teaching activity;

(vi) the performances may occur in classrooms or other places in which teaching activities occur;

(vii) the exemption is available only for face-to-face teaching activities when the performance originates and is received within one building or similar place, and is not otherwise available for exempting broadcasting or diffusion.

2. There should be no exemptions for the use of copyright protected works in broadcasting or diffusion for educational purposes except:

(i) for broadcasting and diffusion that originates and is received within a single building or similar place (this exemption to be available subject to the same conditions as the recommended exemption for public performances for education in "1," above);

(ii) if simultaneous rediffusion becomes an infringement under revised copyright law, there should be an exemption for simultaneous rediffusion for educational purposes subject to the same conditions as the recommended exemption for public performances for education in "1," above.

Reproduction

1. There should be no exemption for recording from prerecorded material for educational purposes.

2. There should be no exemptions for recording for "librarying" or for time-shift purposes from broadcasts or diffusions.

3. There should be no exemption for original recording of copyrighted works except by teachers and students for the purposes of examinations.

4. The problems of access by educators to copyright protected material in audio-visual form should be dealt with by means of voluntary negotiations, with each side acting collectively where appropriate, to result in blanket licensing for appropriate access to protected works.

5. A general fair use exemption should be adopted in Canadian copyright legislation and reproduction in audio-visual form for educational purposes should not be statutorily excluded from such a fair use exemption.

Archival and Library Use of Audio-Visual Material

1. A specific exemption should be introduced to permit nonprofit libraries and archives to make limited numbers of copies of unpublished, out-of-print or otherwise unavailable material already in their collections for the purposes of preservation of such material.

2. No other specific exemption should be provided for the reproduction of material, e.g., to be supplied to other libraries or archives.

3. The needs of libraries and archives in relation to dealing with unpublished, noncommercial copyright material should be treated under a general fair use exemption.

4. If under a new Canadian statute, a general fair use exemption proves inadequate to ensure reasonable access to unpublished, noncommercial, copyright protected material, consideration should be given to introducing limited, specific exemptions for the purpose.

APPENDIX "C"

(*See p. 5117*)

ABORIGINAL PEOPLES BILL

ANNEX TO LEGAL OPINION

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1. In 1. Clause 5(1), the government must, in good faith, etc., initiate and carry to fruition appropriate policies and measures to effect the legitimate aspirations of aboriginal peoples in those areas and activities specified in the clause.

All of the matters and activities are capable of being initiated and carried out by the government without this legislation under its existing powers. What the clause does then is make this action a duty instead of leaving it to the goodwill and discretion of government. No appropriation of public money is seen as being required that is not already available.

2. In Clause 5(2), the government is being required NOT to do something which it need not do now, if it so chooses. No new charge on public revenue is seen here.

3. In Clause 6(1), the observance of certain aboriginal constitutional rights is being directed in the administration of the Act being proposed by the Bill. No new charge on public revenues is envisaged by this requirement. It would only be the proper way to behave.

4. In Clause 6(2), the Minister is being required to promote an understanding among Canadians of the rights, cultures and historical relationship of the Crown and aboriginal peoples. Something that could be done without legislation or additional expense but is here made an urgent duty; thus it does not involve any new expense to the public revenue.

5. In Clause 7, the Minister is being required to initiate action to entrench rights in the Constitution, to satisfy outstanding land claims, to negotiate appropriate treaties. The duty is to start the activities. The clause does not authorize the satisfaction of land claims or the making of specific treaties; thus it does not involve any new charge on public revenues.

6. In Clause 8(1), the Minister is being directed to do something that can now be done as a matter of discretion, that is, to see that aboriginal peoples are provided with the same public services as other Canadians, such as health services, sewer services, etc. The

Minister is not being required **to provide** those services, merely to see that they are provided by the appropriate public service authorities.

7. In Clause 8(2), the Minister is being required to take measures to reduce disparities in economic opportunities, to ensure that aboriginal peoples benefit from and are involved in the efforts to promote economic development at all levels; and to establish, **find funding for**, and implement appropriate programs therefor.

   The measures in themselves need involve no expenditure of public revenues and could probably be undertaken now as a matter of exercising ministerial power in areas of the Minister's jurisdiction under other statutes and appropriations.

   The reference to funding is so worded that it does not of itself refer to public funds but rather to the action of "finding funds", which might or might not be public funds, depending on where the Minister finds the funds for the measures mentioned.

8. In Clause 8(3), the Minister is being required to establish programs and put into place policies to enable the aboriginal peoples to acquire the resources needed for the purposes mentioned in the subsequent paragraphs of the clause.

   There is not thought to be any action required under this clause that cannot now be done by the Minister within the general administrative powers the Minister has from other sources. The clause will turn the power into a duty. It does not require additional charges on the public revenue.

9. In Clause 9, the Minister is required to apply programs and policies equitably and consistently. No new charge should be caused by this fair application rule.

10. Clause 10 requires the Minister to review proposals for legislation within government and existing laws that affect aboriginal peoples and to make recommendations thereon to ensure attainment of the objectives of the proposed Bill. Since this activity seems to be one that can be engaged in now without legislation, it does not seem to involve any new charge on public revenue.

11. In Clause 11, the Minister is being directed to participate in negotiations with representatives of aboriginal peoples to certain ends. The Minister may already be doing this from time to time, if it accords with the policy of government. But in this clause a time limit to begin negotiating is set out. The clause itself does not involve any new charge on the public revenues.

12. In Clause 12, federal institutions are being required to so perform their functions that the performance will accord with the legitimate aspirations of aboriginal peoples, if to do so would not conflict with the statutory functions of the institution. This, too, is something that can now be done, if the will were there, and does not impose any new charge on public revenues.

THE SENATE

Wednesday, January 23, 1991

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

Prayers.

CANADA WINTER GAMES,1991

PRINCE EDWARD ISLAND—HOST PROVINCE

Hon. M. Lorne Bonnell: Honourable senators, I would like to bring to the attention of the Senate that, from February 17, 1991, to March 2, 1991, the Canada Winter Games torch will shine brightly in Prince Edward Island.

Some Hon. Senators: Hear, hear!

Senator Bonnell: This year, 1991, marks an historic milestone in this great Canadian sporting tradition. With these games every province in the country will have played host to this enduring sporting legacy.

For the first time in the history of Canada an entire province rather than a city will host the event. Communities across Canada's smallest province from Tignish to Souris have pulled together in one of the biggest efforts to make the 1991 games a resounding success. In fact, the Island has been preparing since 1987.

I would like to take this opportunity to invite all senators to use the privileges of their travelling trips to come to Prince Edward Island during that time. We will make you a VIP, a very interesting and important person, and we will extend to you all the privileges of a Prime Minister of Canada in our little province.

A hotel room will be reserved for you in the great CP hotel, which cost the province $30 million and which we sold to CP for $1 million. You will be entitled to a three-day stay there. We will supply you with a car and a chauffeur of your choice to drive to all the events throughout the province. There have been 87 cars prepared and donated by the car dealers of the province so that you will be able to get back and forth to the hotel and the games. There will be free admission. The province will host a meal for you; Canada, as a nation, will host you another meal, and the City of Charlottetown will host you another. You will be looked after superbly in the Garden of the Gulf, the Cradle of Confederation.

An invitation is extended to you all. I know that Senator Phillips, Senator Macquarrie and Senator Rossiter will be there and will try to meet you at the games where you can watch the youth of your province participate and hope they will win. They would love to see their senator sitting in the gallery in the middle of the new arena as a VIP, a very interesting person, on their behalf. We may even let you award them the medals they should win.

We hope to see you all in Charlottetown.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, several years ago I rejoiced with Senator Bonnell and all our colleagues from Prince Edward Island, Premier Ghiz and others, when Prince Edward Island was selected for the 1991 Winter Games. The announcement was made at the time by the minister of the day, Mr. Jelinek, who was then the Minister of Fitness and Amateur Sport. I took more than a passing personal interest in the matter because of my responsibilities at the time as Minister of ACOA and the discussions and representations that had been made to the government, not only by the provincial government and Premier Ghiz but by our colleagues in Parliament from that province.

In 1987 I had the pleasure of attending the opening, closing and some of the events of the Winter Games held in Cape Breton. Thousands of volunteers came out to make those games a resounding success. Prince Edward Islanders, therefore, have a hard act to follow, but I am confident that they are more than up to the challenge. All the information we have indicates that the games will be a resounding success.

The federal government is proud and happy to have played a substantial part in the usual way in contributing to the infrastructure, including the arena, to which my honourable friend refers, that will accommodate and play host to these games.

On behalf of the government and all on this side I wish to extend our best wishes to all the islanders for a successful Winter Games and to all competitors for an experience that will be enriching, satisfying and unifying for the country in every way.

ABORTION

PRESENTATION OF PETITIONS ON BILL C-43

Hon. Lorna Marsden: Honourable senators, I have here thousands of names on petitions urging the Senate to defeat Bill C-43. They come from all across the country. I hope that honourable senators will pay attention to this appeal from the citizens of this country.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have another short petition in the continuing series of petitions that I have been receiving showing that the people of Canada continue to be discontented with the government's GST legislation.

CANADIAN HERITAGE LANGUAGES INSTITUTE BILL

TWENTIETH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, January 23, 1991

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

TWENTIETH REPORT

Your Committee, to which was referred Bill C-37, An Act to establish the Canadian Heritage Languages Institute, has, in obedience to the Order of Reference of Friday, December 21, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MARSDEN
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.

• (1410)

CANADIAN RACE RELATIONS FOUNDATION BILL

TWENTY-FIRST REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, January 23, 1991

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

TWENTY-FIRST REPORT

Your Committee, to which was referred Bill C-63, An Act to establish the Canadian Race Relations Foundation, has, in obedience to the Order of Reference of Thursday, December 20, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MARSDEN
Chairman

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

[Senator Frith.]

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

CANADA PENSION PLAN

BILL TO AMEND—TWENTY-SECOND REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, January 23, 1991

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

TWENTY-SECOND REPORT

Your Committee, to which was referred Bill C-260, An Act to amend the Canada Pension Plan (spousal agreement) has, in obedience to the Order of Reference of Wednesday, January 16, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MARSDEN
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.

[*Translation*]

THE ESTIMATES 1990-91

EIGHTEENTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand-E. Leblanc (Saurel): Honourable senators, I have the honour to present the Eighteenth Report of the Standing Committee on National Finance on the Estimates for the fiscal year ending March 31, 1991.

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 it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 5148).*

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

Senator Leblanc: Honourable senators, I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Motion agreed to.

GOVERNMENT EXPENDITURES RESTRAINT BILL

BILL TO AMEND—NINETEENTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

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

Wednesday, January 23, 1991

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

NINETEENTH REPORT

Your Committee, to which was referred Bill C-69, an Act to amend certain statutes to enable restraint of government expenditures, has, in obedience to the Order of Reference of Tuesday June 19, 1990, examined the said bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
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.

[*English*]

ABORTION

REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Nathan Nurgitz: Honourable senators, I have the honour to present the thirty-third report of the Standing Senate Committee on Legal and Constitutional Affairs, respecting its examination of the Bill C-43, respecting abortion.

A Clerk at the Table:

Wednesday, January 23, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-THIRD REPORT

Your Committee, to which was referred—

Senator Nurgitz: Honourable senators, the report has been distributed to all senators. I have some comments that I should like to make. Because it is a rather lengthy report, I would ask that the reading of it be dispensed with.

Some Hon. Senators: Dispense!

(*For text of report, see Appendix "B", p. 5164*).

Hon. Royce Frith (Deputy Leader of the Opposition): The honourable senator will have to have leave to make his comments now.

Senator Nurgitz: Honourable senators, I ask for leave to make some comments with respect to the report I have just presented.

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

Hon. Senators: Agreed.

Hon. H.A. Olson: Is the honourable senator going to move third reading?

Senator Nurgitz: No, this is not third reading. I should like to make comments on the report in view of the fact that it is an unusual report and done in an unusual fashion.

At the outset, I should like to indicate that this is not a unanimous report of the committee. Our colleague, Senator Haidasz, disagrees with the report for a variety of reasons. Out of respect for him, I shall let him enunciate his reasons later. All others on the committee were in agreement with the contents of the report.

I should like to pay special tribute to the staff of the Senate, especially during the course of last week. We sat quite late, and were served in the usual kind and pleasant manner by all members of our staff. As well, I should like to thank our clerks—Paul Belisle and, more recently, Tonu Onu—who performed admirably under some trying circumstances. I should like to pay special tribute to Mollie Dunsmuir and Margaret Young, from the Library of Parliament, without whose work neither the work of the committee nor the report that has just been presented would have been possible.

Honourable senators, the committee heard from nearly 40 witnesses, who covered an immense number of issues and points of view. The testimony, almost invariably, was professional and insightful. It proved to me that the reason people disagree on abortion has nothing to do with their lack of thought, analysis, compassion or eloquence. Matters of contention were well canvassed, and if any aspect of the problem was left unexamined, I would suggest that it would take a microscope to find it.

We heard from lawyers, doctors, ethicists; we heard from government ministers, both federal and provincial; we heard from political action groups, labour movements, family planning organizations, and clergymen; we heard from groups as diverse as Alliance for Life and CARAL, the abortion rights group and from Physicians for Choice to Physicians for Life; from REAL Women to the National Action Committee on the Status of Women; from the Unitarian Council and the Plymouth Brethren; from Campaign Quebec Vie to another group from that province who form a coalition on the other side of that issue.

• (1420)

No opinions went uncontradicted except the opinion that abortion is a very difficult and complex issue. I might also say that, contrary to some media reports and other suggestions in and around the Senate, the witnesses—and they themselves would classify themselves as either pro-choice or pro-life—

would have been very evenly balanced. I suggest there may be a differential of one on either side.

There were people present who held a view and were allowed to express that view. But they were not called because of their opinion; they were called because of who they were. An example of someone like that would be the Ontario Minister of Health, Ms. Gigantès. She was not called because she holds a particular view on abortion; she was called because she was the Minister of Health. The committee contacted every provincial government in Canada, but the Province of Ontario was the only one to respond. We called trial lawyers, not because they had a view on abortion but because of their legal experience. I mention that in passing so that honourable senators will know the kind of witnesses who were called and from whence they came.

Given this comprehensive and informative testimony, senators might wonder why we have presented a relatively brief report that takes no position on the various issues involved. The reason is inherent in the nature of the abortion issue. As you may be aware, our committee traditionally tries to work by consensus rather than taking an adversarial approach to issues. Normally this has worked out extremely well. Abortion, however, is not a normal issue, as the various witnesses noted and as the report mentions.

The premises held by pro-life and pro-choice advocates appear irreconcilable. As is the case with the public in general, members of this committee also hold divergent views. A unanimous report would have been impossible. In order to reach a single position, members of the committee would have had to bend their own beliefs, and this did not seem fair to ask when the Senate, as a whole, has a free vote on this fundamental issue of conscience. Even a majority recommendation would have been difficult to obtain and would possibly have been unfair to committee members given that Bill C-43 involves deeply-held and complex issues of conscience. It would certainly have involved a serious delay in placing this very important matter before this chamber.

Alternatively, we could have submitted a variety of reports representing all points of view on the committee, but this, I suggest, would have been more confusing than it would have been helpful. Ultimately we decided it would be best to let each member of the committee describe his or her own view of the evidence, and the conclusions to be drawn, in his or her comments to this house. The evidence itself is available in the proceedings of the committee, and I am pleased to report, honourable senators, that by the beginning of next week all of the evidence taken will be available for honourable senators who wish to examine any particular segment of it. I would encourage honourable senators to do that. Should any senators wish guidance as to which witnesses may have dealt with a particular interest of concern to them, I am sure any one of the committee members would be helpful.

Of the 38 individuals and groups who personally appeared before us, I should mention that only four supported passage of the bill. They were the Ministers of Justice and Health and Welfare, the Plymouth Brethren—although they do not support the contents of the bill, they consider it to be a compromise and recommend it—and the Law Reform Commission of Canada. The remainder of the witnesses opposed the bill. They did so on religious, medical, social, legal, constitutional and conceptual grounds. Groups whose views were otherwise diametrically opposed were, in the end, virtually united as to how they saw that this matter should be resolved. That is to say that the extreme view of pro-choice and the extreme view of pro-life, in the end, met in not supporting the bill.

I want to be clear on that. In fact, one was able to say to many witnesses, for example anti-abortion witnesses, "People will support your view for reasons you find reasonably abhorrent," and that was understood. Of course, beyond that, their views, as I say, diverged as to why they got to their position, with a number of groups urging that Bill C-43 be replaced by a stronger bill, one tougher in terms of abortion restriction, and others, of course, insisting that no substitute criminal legislation was necessary.

Honourable senators, rarely have parliamentarians been presented with such a complex, perplexing and divisive issue as that presented by abortion. Arguments relating to ethics and conscience, individual freedom, health and the proper role of the state compete intensely for primacy. Supporters of the pro-life view believe that human life begins at conception and that abortion of the pre-born is murder. They deny that abortion is necessary for women for therapeutic reasons and assert that abortion itself causes psychological distress and illness to the mother. They are very firm in their belief that, in any contest between the wishes of the mother and the right of life of the child, the child's interest should always prevail. The issue of abortion, then, must always be a moral issue, according to them, affecting society as a whole, and can never be a matter of individual choice. In the words of one of the witnesses:

> No quarter can be given to evil.

Honourable senators, if I may be permitted, I would like to mention the words, in one of the briefs, which sum up the pro-life position. The following came from the Campaign Life Coalition:

> Life is a continuum. It is not measured in weeks, inches or pounds. A human being exists and is alive from the moment of conception. Abortion, at any time after conception, kills a developing human being.

Honourable senators, supporters of the pro-choice position view the right of women to decide when and whether they will have a child to be a fundamental human right and essential to women's equality and to women's health. This decision should be a private one for the woman and her doctor to make, free of state coercion. State action to support life may take many other forms, according to them, including family planning, prenatal care and family support, but it should never force women to bear unwanted children. Again, I can best summarize the position of that group with the words of one of the witnesses from the Canadian Abortion Rights Action League, CARAL:

> Just as safe, legal abortion services are basic to women's reproductive health and overall wellbeing, reproductive choice is fundamental to women's social equality. In our society, the Canadian Charter of Rights and Freedoms confirms the autonomy, integrity, dignity and equality of women, and [a law] which denies women reproductive choice mandates an inferior status to Canadian women which clashes with the Charter.

Honourable senators, we heard arguments on the criminalization of abortion, following the striking down of the sections of the Criminal Code in the Morgantaler decision. The Minister of Justice pointed out to the committee that it is common to find acts contained in the Criminal Code which, under many circumstances, are not criminal. For example, one drives a motor vehicle, and that is not criminal, but there are ways in which one can drive a motor vehicle that can be criminal. Thus, in this view, Bill C-43 means that abortion would not attract the attention of the criminal law except under certain circumstances, in the same way that driving a car only becomes criminal when performed in certain ways.

Most witnesses, however, on both sides of the debate, saw the principle of criminalization as far more serious. Those in favour of a greater choice felt that it should not be in the Criminal Code, and those who were anti-abortion felt that it should not be treated very much different from the ordinary murder provisions in the Criminal Code.

• (1430)

The Law Reform Commission of Canada supported the minister and supported what we have referred to as "criminalization". Senator Beaudoin has indicated that there was an oversight on his part because he wanted to have included in the report the four cornerstones the Law Reform Commission considers to be essential before anything ought to be placed in the Criminal Code of Canada.

An argument can be made that there are other tests, but the Law Reform Commission tests were found to be quite appropriate by senator Beaudoin. I should mention that that test is not included in the report that is tabled.

The evidence was that, in the view of the officials of the Law Reform Commission, there are four tests which govern when an act should be a crime. One is that the act seriously harms other people; the second is that it in some way so seriously contravenes our fundamental values as to be harmful to society; the third is that the enforcement measures necessary for use in criminal law will not themselves seriously contravene our fundamental values; and the fourth is that the criminal law can make a significant contribution to dealing with the particular problem.

For those reasons, officials from the Law Reform Commission of Canada said that the abortion issue was a valid one to be placed in the Criminal Code of Canada, although there were many other views expressed which did not say that at all.

As I have said, pro-life groups, while opposing Bill C-43, strongly supported the inclusion of abortion in the Criminal Code as a way of combatting a serious social harm. In their view, the stigmatization and punishment inherent in the criminal law are essential to make the statement that we ought to deter abortion. They, of course, advocated stronger criminal sanctions.

On the other hand, I should say that we heard a great deal of evidence from the opponents of criminalization of abortion—

POINT OF ORDER

Hon. M. Lorne Bonnell: Honourable senators, I rise on a point of order. I thought the chairman of the committee was going to explain the report briefly and not read it. He asked that the reading of the report be dispensed with, but now the honourable senator is reading the report. Rule 78(4) states:

> 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.

The Senate agreed that the honourable senator could make a few comments, but not that he undertake a major speech and take the rest of the afternoon to read the report.

Hon. Nathan Nurgitz: Honourable senators, I apologize to my colleague, Senator Bonnell. The members of the committee discussed making the report brief. I am not reading the report. If words appear in the report which I have uttered, then that is a coincidence.

I thought I would start by presenting the report and explaining what went on in committee because the report is somewhat brief.

Senator Bonnell: The point is that the honourable senator is now reading the evidence. This is all set out in the report of the committee.

Senator Nurgitz: It is not set out in the report.

Senator Bonnell: I thought the chairman of the committee told us that the transcripts of the evidence would be available next week, if we wanted to read them. Why do we have to hear this now before the "blues" are even printed? Why does he not quit now, and move the adoption of the report!

Some Hon. Senators: No!

Senator Nurgitz: Honourable senators, I will not be long. I should mention that the Canadian Medical Association and other health professionals were against criminalization for a variety of reasons.

Senator Barootes: Read slower because he does not hear too fast.

Senator Nurgitz: It is interesting that I have just had two interventions from doctors. They might be interested in what their association said.

Senator Bonnell: We can read. We do not need to hear it again. We are looking for a vote any time tomorrow.

Senator Nurgitz: Honourable senators, I am prepared to conclude. I regret that I have offended some members.

Some Hon. Senators: No!

Senator Barootes: You have not offended anyone but Senator Bonnell. Go ahead!

Senator Bonnell: When is it going to be considered?

Senator Nurgitz: It is going to be considered when debate is concluded.

Senator Bonnell: This is not a debate!

Senator Nurgitz: Honourable senators, I asked for leave to explain—

Senator Bonnell: Briefly! You have been going on now for 20 minutes.

Senator Perrault: Finish your speech!

Senator Nurgitz: Honourable senators, I am sorry that I have taken the time of the chamber. You can all read the testimony, and I apologize—

Senator Barootes: You do not need to apologize.

Some Hon. Senators: No!

Senator Perrault: Finish! Carry on!

Senator Hastings: You have to be in Winnipeg tomorrow!

Senator Bonnell: Do you have to leave!

Senator Nurgitz: I am sorry if you have another engagement, Senator Bonnell.

Senator Perrault: Carry on!

Senator Frith: Who is in charge over there!

Senator Simard: They are all confused over there.

Senator Perrault: Who is minding the store?

Senator Nurgitz: Honourable senators, I was attempting to explain that the Canadian Medical Association, which will be familiar to our colleague, Senator Bonnell, argued that doctors should not be exposed to criminal prosecution with respect to abortion.

Senator Bonnell: The minister said we would not be prosecuted.

Senator Nurgitz: The effects of criminalization would be a reduction in the number of doctors willing to provide this kind of service, which would have a negative impact on physician-patient relationships, and see the introduction of complicated and time-consuming assessment procedures so that hospitals and physicians could protect themselves from an increase in harassment, which was a big part of their claim, by pro-life activists, encouraged by the stigma that abortion would carry as a result of criminalization.

Honourable senators, the Minister of Justice asserted that a criminal law on abortion was important for two legal reasons. First, the existence of a federal law might make it more difficult for the provinces to enact restrictions on abortion. She called this an "elbowing out" effect, acknowledging that it was a subtle argument. Support for the minister's opinion can be found in the legal opinion of Mr. Bruce Ryder that was tabled with the committee. I would like to mention that there is a contrary opinion from Professor Andrew Petter of the University of Victoria.

Another reason given by the Minister of Justice to the committee for including abortion in the Criminal Code was that the bill set a national standard concerning the circumstances under which an abortion may or may not be performed. The government also used the word "entitlement" to abortion in relation to the bill. Legal experts noted, however, that criminal law takes the form of prohibition, coupled with a penalty. Therefore, as one wrote:

> Given the characteristic of criminal provisions, it is an oxymoron to speak of a criminal law entitlement.

Honourable senators, access was another important factor considered by the committee and it was discussed at length.

• (1440)

I should point out that concerns arose because of the fact that Bill C-43 creates the spectre of criminal prosecution for physicians, their staff and women. Pro-choice groups informed the committee that from their point of view abortion services were already inequitably available and extremely insecure in many parts of Canada. They cited facts, amongst others, that, for example, in Prince Edward Island abortions are not performed. They mentioned that the northern two-thirds of New Brunswick has no service; that women, for instance, in my home province must travel to Winnipeg for abortions, and that services in places like Ontario and Quebec are concentrated just in the main cities of Montreal and Toronto.

They also reminded the committee that one of the reasons the Supreme Court of Canada struck down the former law was because of its effect in restricting women's access to services, thereby endangering their health. The concern of virtually all witnesses, with the obvious exception of the pro-life groups, was that access to abortion services would be further restricted as a result of Bill C-43.

The committee was in the unique position of being able to assess many of these concerns. Normally, predictions as to the effect of the legislation that comes before us for consideration following passage in the House of Commons remain hypothetical. In this case, however, many witnesses indicated that there had already been a decrease in the provision of the service. We heard from the Society of Obstetricians and Gynaecologists that polling of their membership indicated they were deeply concerned about a deteriorating service.

The Minister of Justice, with respect to access, urged the committee to distinguish between the substantive value of the bill and its possible effects—effects that, in her opinion, arise from fears generated by groups opposed to the bill and a misunderstanding on the part of doctors about how the new law would affect them. The minister reiterated for the committee her pledge that the bill would not be proclaimed until it could be implemented in a way that would not thwart the intentions of Parliament.

With respect to constitutionality there was a considerable amount of debate and discussion, and opinions were given.

Needless to say, the minister expressed her view and that of her department that the bill was constitutional. She also stated that she had no doubt that the bill could pass, that its constitutionality would arise only with respect to whether it could or could not be criminal law. I do not think that was the reason why it was struck down in the Morgantaler decision. One could clearly take from that that it could be criminal law in some form, but the real question really gets down to whether it could pass Charter challenges. I should like to mention that I have some recollection that the minister also stated her view that the Ontario government, as well, has some opinion that the bill would be constitutional.

Honourable senators, I should mention that the Ministers of Health and Welfare and Justice, along with the Law Reform Commission, urged us to approve the bill. They were certainly in a clear minority. The Minister of Justice said before our committee that Bill C-43 provides a middle ground. It recognizes the rights of women who seek abortion, societal interests and protection of the fetus. It achieves this balance by permitting abortions that are in the best interests of women's health by criminalizing certain types of harmful conduct. We did hear the expression of a view clearly opposite to that.

Let me conclude by saying, honourable senators, that all of the witnesses on Bill C-43 gave us much wisdom and many insights. Theirs were heartfelt views and certainly assisted us in acquiring some knowledge and understanding on all sides of this complex issue.

Mr. Joe Maingot has said that law and life are pretty uneasy partners. Rarely is that as true as on the issues we have presented to you in this report. We have attempted to outline for you the testimony of our witnesses as clearly and as fairly as possible. The rest is up to honourable senators.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, as chairman of the committee, would Senator Nurgitz be willing to answer a few questions? In expressing my thankfulness that we are to have a copy of the printed record early next week, could the chairman tell us whether that printed record of the committee proceedings will be available on Monday morning? That is my first question.

The second question is: Is the chairman in a position to give any personal recommendation to the chamber on this bill? Understanding the difficulty of arriving at a consensus in the committee, but assuming that each individual member has reached some conclusion on the merits of the bill, I wonder whether the chairman is in a position to tell us whether he, as chairman, on his own authority, would recommend the adoption of the bill, or recommend the rejection of the bill?

The third question is: I am interested in knowing if he could help us, because of his experience on the committee and as chairman, as to what the situation would be if the bill were defeated, referring particulary to his comments that the minister or an advocate of the minister had stated that there would be a national standard provided in the bill outlining the circumstances under which an abortion could be carried out. I am not quite sure whether I understand the nature of the national standard, but perhaps the chairman could help us, as to how the national standard would exist with the passage of the bill, and where it would not exist if the bill were defeated. As part of that question, I would like to know, if the bill were defeated, whether there is in existing practice, or existing law, any protection of the fetus. I understand the minister stated that this bill represented a middle ground on which the rights of women were acknowledged and, at the same time, the societal interest of protection of the fetus was recognized. In the absence of this bill, I wonder whether there is in the law, or in the practice, any protection for the fetus.

Senator Nurgitz: Honourable senators, in reply to the Leader of the Opposition, perhaps I might answer the last question first. My understanding is that no law does not mean that there are no standards. There would then be provincial standards. Every provincial government and every college of physicians and surgeons has within each province a set of standards. There would be no national standard. The question is: Is there anything else in the Criminal Code or any other statute that provides protection to the fetus. I think the answer is clearly no, there is no other statute—that is, the Criminal Code does not, and I am not aware of any other statute. I do not pretend to be fully an expert on matters like that. To the extent that this is not the kind of protection for the fetus that some people would like, Bill C-43 would be the only one.

In terms of standards, my understanding is that there would be no other way—and there are other experts on the committee—for the Government of Canada, the federal authority, to legislate standards. The only way it can intervene is through the criminal law power.

There was considerable discussion in committee as to whether, under the Canada Health Act, there can be standards. I am not sure whose testimony it was, but I will find out and ensure that the information is left with you, Senator MacEachen. I would urge you to read it. I am not very satisfied with that kind of response—

Senator Frith: And some of your witnesses were not.

Senator Nurgitz: Again, Senator Frith, it was a two-handed response; there were two constitutional views.

Lastly, with respect to support, the committee members decided as a group that we would not urge our own views on senators. None of the other members has been singled out to indicate their view and I do not know why I particularly should be. I may well find this to be satisfactory. I think I have some time to decide that issue and will. In due course, I will certainly let honourable senators know.

Senator MacEachen: I also asked a question as to when we would receive the printed proceedings.

Senator Nurgitz: I am sorry, it is a very important question. The "blues" are ready now. The completed record will be ready sometime on Monday. I am hesitant about saying it will be ready Monday morning, because I was told Monday. It is receiving priority, Senator MacEachen. We ran into a small problem because we were doing an awful lot of night sittings that an outside agency had assisted in some of the preparation;

so there are a few small problems. However, I am informed that we will have it on Monday.

Senator MacEachen: May I just go back to an answer that Senator Nurgitz gave with respect to what the situation would be in the absence of the present law? I understood, when Mr. Turner introduced the amendment, that he argued that what was being done was to put into legislation what had been existing in practice or case law—I am not sure I have the correct words—and that therefore the enactment was a reflection of existing practice in the courts. In the absence of this law, where is that jurisprudence? Has it been extinguished, or would it still be there?

Senator Nurgitz: I am not certain I follow that that would be the case. I am not sure that the 1969 amendment brought in by the then Minister of Justice Turner was following a then existing procedure—that was the establishment of the various committees. I also am not certain that there has not been evidence dealing with the question of when there is federal legislation in existence then those standards are accepted, because there is a federal law dealing with abortion and that in dealing with matters under the Canada Health Act—that is, money matters—there is not an observance of national standards.

● (1450)

I should be careful before I get into that kind of answer.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my recollection—and others can correct me if I am wrong—is that the amendment to the Criminal Code brought in by Justice Minister Turner in 1969 was to replace that restrictive, stringent and, virtual prohibition on abortion that then existed in the Criminal Code. Mr. Turner's point is that abortions were taking place throughout the country in some hospitals, and out of hospitals notwithstanding that law.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, am I correct that it may be that Senator Nurgitz will not be able to be here tomorrow?

Senator Nurgitz: Yes.

Senator Frith: Then I have a couple of questions that I want to ask him.

Senator Bonnell: Would Question Period not be the more appropriate place for that, or would it be now?

Senator Frith: It could be either, but I would prefer that it be right now.

I have two questions arising out of the chairman's intervention. One arises from the first paragraph of the report, to which he referred. I want to refer to part of it. It states that:

> Your Committee has examined the said Bill and now reports the same without amendment, but with the recommendation that the Senate itself make the decision to pass, amend, or reject it. We do this in recognition of the fact that the Bill is to be subject to a free vote by Senators in accordance with their consciences.

[Senator Nurgitz.]

Is the chairman able to give the committee's guarantee that it will be a free vote? I am able to say that for our side it will be that way, but is he able to say that, except for the Leader of the Government in the Senate, of course, no pressure is being put on any senator? In other words, is it a fact that it will be a free vote and no pressure will be put on any senator by the government to pass this bill?

Senator Nurgitz: That is my understanding.

Senator Frith: In accordance with the rules,perhaps the sponsor of the bill—that is, the Leader of the Government in the Senate—might be able to give us that assurance when he moves third reading.

Senator Murray: I will give it now.

Senator Frith: Yes; please do.

Senator Murray: I am not exerting pressure on honourable senators. I am the only person here who is obliged, by cabinet solidarity, to vote in favour of the bill. I favour the bill in any case, but, as a matter of cabinet solidarity, I would have to vote for it. However, I will try to persuade others in my own caucus and across the way to vote in favour of the bill. I may even speak at third reading in favour of the bill. I shall also try to persuade honourable senators opposite to vote for the bill.

To the extent that there are doubts—and many people have doubts—I will try to persuade my colleagues on this side to resolve them in favour of the bill.

Senator Frith: I take it that it will only be from that point of view and not as a question of party or government support. But, as mentioned in the report—and that is what the Leader of the Government is speaking to—it will be a matter of conscience not a matter of party loyalty or government support.

Senator Murray: That is right, yes.

Senator Frith: As a footnote, I would suggest that there is an alternative available to the Leader of the Government in the Senate, namely, to resign. He would then not be bound by cabinet solidarity.

Senator Murray: That is, if he did not support the bill as he does.

Senator Frith: My other question to Senator Nurgitz is that I noticed in his comments that he frequently referred to the rather widely recognized polarity that is expressed in the terms "pro- choice" and "pro-life". I want to know whether or not the committee is giving its *imprimatur* to those terms as accurately describing the difference of opinion.

Although the title "pro-life" is a clever one, as someone who would have to be described as being on the side of pro-choice, I resent the implication that I am thereby against life. The Senate could do a service if from here on it used expressions that would be much clearer in describing the two bodies of opinion, which is, from the point of view of the pregnant mother, pro-choice or pro-no choice.

Senator Nurgitz: I quite agree that it is an unfair treatment. I, too, had a different view. I thought it should be pro-abortion

and anti-abortion, which is probably a more accurate way to reflect it. But I quite agree with that.

In preparing a list of witnesses one needs to be careful. We only used that term with witnesses where they were the group, or the witness himself or herself, and described themselves that way.

Senator Frith: So the committee is not lining up in favour of that description?

Senator Nurgitz: I agree with that comment.

Senator Bonnell: Honourable senators, in the past I always liked to give my consent when someone asked for leave to give a brief statement or report on something. But in future, when chairmen ask for consent to give some explanatory remarks, I doubt that I will be able to give it if we will then be subject to hearing long speeches.

Senator Barootes: Like your question, or when you ask questions and they go on, and on, and on.

Senator Bonnell: That is right. I understand that those who want to ask questions of the chairman or the Leader of the Government can ask them in Question Period; but if we are to turn this into Question Period, as my friend just did, then that becomes another debate in the middle of a privilege that we gave to honourable senators to make a few comments on the report or to tell us how the committee work has progressed.

Now that we have gone this far I do not see why I cannot make a speech concerning this bill, just as the Leader of the Government has done. But before I do, I should like to ask the committee chairman if he could explain to me, in the same detail as he did concerning the others who gave briefs at the committee hearing, what Father Alphonse de Valk and Doctor Bernard Nathanson had to say, and give us the details of their comment.

Senator Nurgitz: I will not do that, honourable senators. That transcript will be made available. Father de Valk is well known as a church leader and a publisher of what could be called an anti-abortion newspaper. Dr. Bernard Nathanson is a doctor who is well-known in the United States. He has produced a film against abortion. In the U.S. he is the leading anti-abortion medical person. He started out with a career of being the leading abortionist in the country and is now the leading anti-abortionist. He established the largest abortion clinic in the U.S. in the City of New York.

That is enough of an outline. They presented evidence that took approximately one hour. If I had to recite it, frankly, I could not. But it is interesting testimony. I am sure that our colleague, Senator Bonnell, will read all the evidence of all the witnesses anyway.

Senator Bonnell: That shows the unfairness of the chairman of the committee. He went on to tell us what other people had to say, the side they took, the view they took, what they said, and even gave us some quotations from their testimony. But when he is asked about other witnesses, because they had a different viewpoint, he did not want to hear what they had to say. He said, "No. I refuse to do that." When you allow these chairmen the privilege to make a few comments, do you see what happens? They go on and on. When they get to the point of answering a question, they want only to give their points of view.

• (1500)

In order to bring this matter to a close, I would like to say that in the future, when chairmen ask for unanimous consent to make a few remarks, we should impose upon them a time limit of five minutes. If that is not acceptable, then they should not be allowed to make their remarks.

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

POINT OF ORDER

Hon. Stanley Haidasz: Honourable senators, I rise on a point of order. The first point I wish to bring to the attention of all honourable senators is that, unfortunately, Senator Nurgitz—and I know he did not do this intentionally—left out the most important part of the report concerning anti-abortion witnesses. He forgot to state, as appears on page 2, line 16, that the child's interest should always prevail "unless the life of the mother is at risk." I am sure it was an unintentional omission on his part. However, it is a very important fact which must be taken into consideration in the study of and the vote on this bill.

My second point is that Senator Nurgitz has stated that I have dissented from the committee's report. I did so because I believe that the thirty-third report of the Standing Senate Committee on Legal and Constitutional Affairs does not have the necessary qualities of a committee report. I would rather call it a summary or interim report of the testimony heard by members of the committee.

As a member of the committee, I know that after the last witnesses were heard on Monday there has not taken place a profound or serious study of the bill by the committee members, something which should be done by members of this Senate committee. In support of that statement I would like to quote from the Fifth Edition of *Beauchesne's*, Citation 763 which states:

> The function of a committee on a bill is to go through the text of the bill clause by clause and, if necessary, word by word, with a view to making such amendments in it as may seem likely to render it more generally acceptable.

Citation 764 states:

> (1) A committee is bound by the decision of the House, given on second reading, in favour of the principle of the bill, and should not, therefore, amend the bill in a manner destructive of this principle.
>
> (2) The committee may so change the provisions of the bill that when it is reported to the House it is in substance a bill other than that which was referred. A committee may negative every clause and substitute new clauses, if relevant to the bill as read a second time.

(3) The objects (also referred to as the principle or scope) of a bill are stated in its long title, which should cover everything contained in the bill as it was introduced. Amendments, however, are not necessarily limited by the title of the bill.

(4) An amendment which is outside the scope of the bill is out of order and cannot be entertained, unless a special Instruction has been given by the House to the committee.

Furthermore, honourable senators, the report that was tabled by Senator Nurgitz this afternoon does not contain—and I emphasize this—a profound analysis or serious study of the supportability of any of the evidence presented, or even on analysis of one side of the issue of abortion and of the other. Then how are we, as a Senate, to undertake intelligible debate on the possible amendments to Bill C-43 if all of us do not understand its principle or the impact of its objects?

I submit to honourable senators that this report which was just presented is not therefore subject to rule 78(4) of the rules of the Senate since it does not fulfil the requirements of a committee report pursuant to a committee's mandate. Proof of this is the failure of the Legal and Constitutional Affairs Committee to progress to consideration of the bill clause by clause and, if necessary, word by word, with a view to making such amendments in it as may render it more generally acceptable, as set out in Citation 763 of *Beauchesne's*. Even the four provisions of Citation 764 have not been attended to in this committee.

Honourable senators, I ask, first: What is the understood principle of this bill? Second, there was moreover no serious attempt to debate, let alone negative, any clauses. Third, no amendments were even considered, although I did give notice to the committee that I would propose four amendments at third reading. Fourth, there was my attempt to instruct the committee before its main work; and discussion on this should have begun, but the house failed to do this. Then I had to ask that my motion for instruction, item number 10, on the Order Paper be removed yesterday.

Furthermore, the third item under Motions yesterday was not settled in this house before the lapse of time made it out of order.

The other point I want to raise is that we will not have available to all of us the printed proceedings of all the sittings of the committee until sometime next week.

In the meantime, pursuant therefore to rule 33 of the Senate, in defence of Parliament and privileges of members, I move that the matter of the receivability of this report be referred to the Committee of the Whole.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Haidasz rose on a point of order which was followed by a motion not seconded. It is not in order to do that. The committee has sat. It has fulfilled its mandate. The reference is quite clear. It has heard witnesses and testimony and has presented its report. Second reading took place before that time. The subject matter of the bill has been debated in the Senate. The report itself can be debated and looked at. The testimony of the witnesses will be available on Monday for everyone to read. There is absolutely no point in pursuing any further this proposed motion of Senator Haidasz. I suggest that he is completely out of order.

[Senator Haidasz.]

Senator Haidasz: Honourable senators, I ask for a ruling on Senator Doody's statement.

Senator Doody: You have to get your motion seconded.

The Hon. The Acting Speaker: Honourable Senator Haidasz has quoted rule 78(4) which states:

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.

Senator Haidasz: Honourable senators, I have stated that rule 78(4) does not apply in this case. I have also made a motion that the receivability of this report be referred to the Committee of the Whole.

• (1510)

Senator Doody: Honourable senators, a motion has to be seconded to be receivable. If the senator has a motion, perhaps we could find a seconder, and we could take it from there.

Senator Haidasz: It is my understanding, honourable senators, that notice is not required of this motion, nor is a seconder.

Senator Doody: Honourable senators, it is a rule of the Senate. We dealt with this a couple of weeks ago. I do not know if it is the purpose of the senator to try to obstruct, delay and generally confuse the operations of the chamber. However, if he does not want to follow the rules, that is not for me to decide but for the Senate to decide.

Senator Haidasz: Honourable senators, I object to the insinuations of Senator Doody. It is not my purpose nor intention to obstruct, boycott, filibuster or break any rules.

The Hon. the Acting Speaker: Honourable senators, rule 24 says:

A motion made in the Senate, but not seconded, shall not be debated or put from the Chair.

Honourable senators, when shall this bill be read the third time?

Senator Haidasz: Honourable senors, I should like to bring to your attention that I ended my remarks by saying: "Pursuant to rule 33 of the Senate, in defence of Parliament and privileges of all honourable senators, I move that the matter of the receivability of this report be referred to a Committee of the Whole." That motion does not need a seconder.

Senator Doody: Honourable senators, as the Acting Speaker has pointed out, rule 24 is quite clear. It says:

A motion made in the Senate, but not seconded, shall not be debated or put from the Chair.

That is quite clear.

Senator Haidasz: It is my opinion, and I received the advice, that a seconder is not required for a motion of privilege.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, on the point of order, the rules are quite clear that when a bill is reported without amendment, it then goes to third reading. It is my duty now to move that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

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

Some Hon. Senators: Agreed.

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

QUESTION PERIOD

PERSIAN GULF WAR

PARTICIPATION OF SENATE IN MONITORING EVENTS IN THE GULF

Hon. Jerahmiel S. Grafstein: I should like to ask a question of the Leader of the Government in the Senate. Does the government intend that the Senate participate with the other place in their monitoring of events in the Gulf and the aspects of war in the Gulf?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators.

HARASSMENT OF CANADIAN CITIZENS OF MIDDLE EAST DESCENT

Hon. Jerahmiel S. Grafstein: There are disturbing allegations from Canadians citizens of Middle East descent that their civil rights are being unreasonably prejudiced. Can the government give the Senate assurances that the civil rights of Canadian citizens of Middle East descent will be respected?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the short answer to that question, of course, is yes. Having said that, the honourable senator will be aware that we live in a world where there is a security threat—threats of terrorism—which are more or less serious at different times and different places. It is the duty of the security services—CSIS and the RCMP—to investigate these to the full, as it is the duty of the government to try to ensure that the security of the country is protected at all times.

In that respect, the police and the security services are carrying on their work. There is no harassment of anyone, certainly no harassment of any groups, and no illegal surveillance taking place in this exercise. I can give that undertaking.

So far as Canadian citizens of Middle East origin who are residents of Canada, the government has been in touch with various Arab communities and organizations in this country and with the leadership of the Moslem community. Mr. Clark will be meeting with some of the Imams later on; that meeting is being arranged. The Prime Minister and Mr. Clark have been in touch with leaders of the Jewish community, and Mrs. McDougall and Mr. Weiner have met personally with them.

We are doing everything within our power to ensure that the objectives of the government and the United Nations in this conflict are well understood by all Canadians of all ethnic origins and that the government's support for the United Nations and for the 12 United Nations' resolutions on this matter is understood and accepted by all.

HARASSMENT OF FAMILIES OF CANADIAN FORCES

Hon. Jerahmiel S. Grafstein: I thank the Leader of the Government for that. There are equally disturbing press reports that members of families of Canadian forces now serving, or about to serve, in the Gulf are being harassed. Could the Leader of the Government advise us whether or not those reports are correct. If so, what steps are being taken to stop these appalling and despicable actions?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have seen the same media reports that my friend has seen on these matters. I can only tell him for the moment that they are being investigated.

PRISONERS OF WAR IN IRAQ—BREACH OF GENEVA CONVENTION

Hon. Jerahmiel S. Grafstein: We all saw on the television in the last few days appalling breaches of the 1949 Geneva Convention when we witnessed the unfortunate parade of allied prisoners of war being questioned on television by Iraqi authorities. Observers have also condemned indiscriminate bombing as being equally in breach of the Geneva Convention.

• (1520)

Would the Leader of the Government, at the earliest opportunity, present to the Senate, with some precision, what breaches of the Geneva Conventions are involved; whether or not Iraq and Canada are co-signers of the various Geneva protocols; and what, if any, steps the government has taken and intends to take with these or any future breaches of the Geneva Protocols?

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

CHARTER OF RIGHTS AND FREEDOMS

HATE LITERATURE LAWS—GOVERNMENT POLICY

Hon. Noel A. Kinsella: Honourable senators, I have a question for the Leader of the Government in the Senate.

Is the government examining measures to strengthen Canada's hate literature laws? I raise the question because, as you will recall, on December 13 the Supreme Court of Canada made a decision in reference to the Keegstra case. The following day the Minister of Justice for the province of New Brunswick is reported to have stated that a committee had been established to examine how to strengthen Canada's hate literature laws. Apparently, this committee had been working but had adjourned its deliberations during the appeal to the Supreme Court of Canada.

Honourable senators, I should like to have more information about that committee and whether community organizations who have a special interest in this particular area will be given an opportunity to have some input.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall make inquiries and advise the Senate in due course.

PERSIAN GULF WAR

INCOME TAX EXEMPTION FOR MILITARY PERSONNEL—GOVERNMENT POLICY

Hon. Raymond J. Perrault: Honourable senators, my question is for the Leader of the Government in the Senate.

A report on the news wires yesterday from the United States indicates that the President has issued an executive order to the effect that United States troops will be exempt from paying income tax on salary earned while on duty in the Gulf. It is stated that enlisted men and women will get a complete tax exemption and officers will get a partial tax exemption of $500 per month. It is further reported that Canadian troops in the Persian Gulf will not be getting a tax break and that a spokesman for the Department of National Defence, Ms. Nancy Fournier, said, "The situation for Canadian Forces has not changed."

Surely, in view of the fact that Canadian men and women are placing their lives at risk in this theatre of war, the very least the government can do is give them an exemption similar to that enjoyed by American servicemen in that sector. Surely, we are not that hard-pressed for revenue in this country that we cannot extend the same exemption to Canadian men and women serving in the Gulf.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I hesitate to harp back to yesterday's exchange in this place, but the least we can do would be to support the purposes and objectives for which they are there in support of the United Nations. I invite my honourable friend to do that.

Insofar as the income tax situation is concerned, that is under investigation at the moment.

Senator Perrault: Can we take it, then, that the Leader of the Government in the Senate will bring to his cabinet colleagues the unanimous view of honourable senators that they would like some tax exemption to be extended to Canadian men and women serving in the Gulf? I think that is very heartening and very encouraging.

Insofar as the Leader's specious comment preliminary to attempting to answer the question is concerned, I would point out that our party has placed solidly on record its view with respect to the government's original strategy, which we feel was addled and wrong; but now that we are involved in this situation, of course, we fully support the effort of the United Nations.

Senator Murray: I agree that your original position was addled and wrong.

Senator Perrault: No, your position was addled.

ANSWER TO ORDER PAPER QUESTION TABLED

HEALTH AND WELFARE

NATIONAL HEALTH RESEARCH AND DEVELOPMENT PROGRAM—RESEARCH AWARDS

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 68 on the order paper—by Senator Marshall.

PARLIAMENT OF CANADA 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 MacDonald (*Halifax*), for the second reading of the Bill C-79, An Act to amend the Parliament of Canada Act.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators will recall that this bill, which was sponsored by Senator Nurgitz and responded to on the other side, was stood in my name. We were trying to determine which committee might most appropriately deal with this matter.

I have had conversations with the three committee chairmen who were concerned, Senator Roméo LeBlanc, Senator Molgat and Senator Nurgitz, and they have determined that the Standing Senate Committee on Legal and Constitutional Affairs would be the appropriate committee to which this bill should be referred.

If either Senator LeBlanc or Senator Molgat have any problem with this, they can consult with Senator Nurgitz who, I think, is more familiar with the technical aspects of this bill than any of us.

When the appropriate time comes, I am sure Senator Nurgitz will refer this bill to committee.

Hon. Nathan Nurgitz: Honourable senators—

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Nurgitz

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

Senator Nurgitz: —I have nothing further to add to this matter. Discussions have taken place between Senator LeBlanc and with the Deputy Leader. My understanding is that the bill can now move forward.

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 Nurgitz, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

VETERANS HEALTH CARE REGULATIONS

MOTION ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Phillips:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Veterans Health Care Regulations (SOR/90-594, August 28, 1990) and on all other matters concerning veterans affairs which may arise from time to time.—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators will recall that yesterday I moved the adoption of this motion. Unfortunately, my colleague, Senator Marsden, was absent as she is today.

I wonder whether she has spoken with Senator Frith on this motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Yes, she has, and she confirmed that she supports this motion and will be supporting it.

The Hon. the Acting Speaker: It is moved by the Honourable Senator Marshall, seconded by the Honourable Senator Marsden:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Veterans Health Care Regulations (SOR/90-594, August 28, 1990) and on all other matters concerning veterans affairs which may arise from time to time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

• (1530)

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—ORDER STANDS

On the Order:

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

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

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

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

And on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

(iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing 50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada".—(*Honourable Senator Stanbury*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I ask that this order stand in the name of Senator Watt rather than Senator Stanbury. I have his agreement to that.

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

Hon. Senators: Agreed.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, may I ask whether any honourable senator knows when Senator Watt might be ready to speak to this matter and, in general, what the intentions of the Opposition are with regard to this motion? I raise the question simply because, as honourable senators are aware, the House of Commons has now suspended its sitting. Members of that place who would be members of this joint committee are naturally anxious to use the time available to them, before the House of Commons returns, to get organized, to plan hearings, to develop budgets and so on. If we are to have a joint committee, therefore, I know that they would appreciate it if the Senate could act to unite with the House of Commons in establishing it as soon as possible.

So I wonder whether there is any enlightenment that the Leader or Deputy Leader of the Opposition or, indeed, Senator Watt, can shed on this matter?

Senator Frith: Yes, honourable senators, I think I can. The first point is that we are not delaying this motion. The second point is that we were ready to proceed with a vote on our amendments, as I said on the last occasion, because it was then clear that the government was opposed to the amendments and we were ready to proceed. At the end of last week, Senator Watt gave me a memorandum with background to an amendment he wants to propose. As far as I know, he will be the only person speaking on that amendment. Also, as far as I know, he may be here tomorrow, but I will check with the Whip. Therefore, we simply want to give Senator Watt an opportunity to move his amendment; but, as far as I know, he will be the only one speaking on it. In that case, we will be ready to proceed with votes on our amendments—that is, the amendments made by Senator MacEachen, which I seconded, and also Senator Watt's amendment.

Order stands in name of Senator Watt.

THE HONOURABLE J. MICHAEL FORRESTALL

PROPERTY QUALIFICATIONS FOR MEMBERSHIP IN SENATE—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Frith, seconded by the Honourable Senator MacEachen, P.C.:

Than on any question relating to the qualification of Michael Forrestall or any others appointed pursuant to Section 26 of the Constitution Act, 1867, the said persons be not entitled to vote thereon.—(*Honourable Senator Frith.*)

Hon. John Lynch-Staunton: Honourable senators, if I may, this has been on the order paper for some time. At the risk of pleading ignorance of the rules, I wonder why the sponsor will not debate this particular item, which I think is a very special one. As long as it stands, it casts doubt on the qualifications of one of our colleagues.

Hon. Royce Frith (Deputy Leader of the Opposition): It casts doubt on more than one of your colleagues, so *a fortiori* your argument would be that we should speak to it. My answer is that I wish to do so, but it is really a companion piece to the other motion dealing with the question of qualification. I think that, in the consideration of the qualification of Senator Forrestall, and therefore the others, the Senate, if it agrees to refer that matter to the Committee of the Whole, would be assisted by some court decisions that are presently under consideration. In fact, the Ontario Court of Appeal heard the arguments, I believe, yesterday. That is why I am holding it. I

do not believe that the court decisions are going to be necessarily determinative of the whole question, but I think we will want to have them available to us to consider the whole question. That is the reason I am postponing dealing with them. When I deal with them, I agree they should be dealt with together.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 5134*)

THE ESTIMATES, 1990-91

EIGHTEENTH REPORT OF NATIONAL FINANCE COMMITTEE

WEDNESDAY, January 23, 1991

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

EIGHTEENTH REPORT

Your Committee, to which was referred the expenditures proposed by the Estimates for the fiscal year ending 31 March 1991, with the exception of Privy Council Vote 15 (Official Languages), has, in obedience to the Order of Reference of Tuesday, March 13, 1990, examined the said Estimates and presents its final report as follows:

PREAMBLE

In February 1990, Professor Douglas Hartle of the Department of Economics, University of Toronto sent to the Committee a paper entitled "Increasing Government Accountability: a Proposal that the Senate Assume Responsibility for Program Evaluation."[1] In this paper, Professor Hartle strongly criticizes the system of program evaluation that has been established in federal government departments and agencies in compliance with standards promulgated by the Office of the Comptroller General (OCG). Many so-called evaluations, he states, are in fact nothing more than reports by management consultants to address administrative problems, and would have been undertaken even if the OCG's program evaluation requirements did not exist.[2] Professor Hartle argues further that the Office of the Auditor General, which is responsible for auditing and reporting on the program evaluation activities of departments, "lacks the mandate and . . . the clout necessary to make program evaluation a substantive rather than a *pro forma* exercise."[3] Evaluations, he continues, "cannot be devoid of value judgements and therefore are inherently political."[4]

Professor Hartle's solution is to have the Senate assume responsibility for retrospective program evaluation on a selective or cyclical basis. The responsibility would be assigned to a Senate committee along with an appropriate budget. The committee would retain expert advisers, formulate questions on particular programs for responsible Ministers and commission evaluations or interpretations of evaluations from outside persons or groups with conflicting interests or values. If this initiative were successful, the Office of the Auditor General, Professor Hartle recommends, should once again confine itself to undertaking traditional audits of the government's financial accounts, while the Office of the Comptroller General should no longer have responsibility for ensuring that departments perform program evaluations.[5] These recommendations, he concludes, "would greatly increase accountability in government at little or no additional expense. Evaluation would be carried out in the adversarial/political context where it belongs."[6]

After reviewing Professor Hartle's paper, the Committee agreed that it would not be feasible for the Senate to assume the responsibility for the evaluation of all government programs that currently rests with the program evaluation units of individual departments and agencies. However, members felt that a more systematic use of program evaluation findings could provide the National Finance Committee with a powerful approach to its reviews of the Estimates and, in particular, could enable it to make concrete proposals for improvements to government programs. This in turn would constitute a credible alternative source of advice for ministers, thereby lessening their reliance on the views of the public servants who manage those programs and of the interest groups that benefit from them.

Accordingly, members decided that the Committee, in the course of its review of the 1990-91 Main Estimates, should study the existing program evaluation system in some detail and examine the potential of program evaluation to improve the accountability of the government to Parliament for its expenditures. A further impetus to this study, in the minds of some members, was provided by reductions in funding for certain programs of the Department of the Secretary of State,

which were announced with the Budget of February 20, 1990 and outlined in Part III of the Main Estimates for that department. These included reduced support for women's centres under the Women's Program and for Aboriginal Friendship Centres, native communications and native broadcasting. Members wished to ascertain the extent to which evaluation findings, as opposed to political and other factors, were taken into account when the decisions were taken to scale back these programs.[7] This information would help to illustrate whether the establishment of program evaluation in departments and agencies had contributed significantly to decision-making by senior management.

WITNESSES

The following witnesses appeared before the Standing Senate Committee on National Finance during its examination of the 1990-91 Main Estimates:

March 21, 1990	The Honourable Robert R. de Cotret, P.C., President of the Treasury Board, and Mr. Allan Darling, Deputy Secretary, Program Branch.
March 22, 1990	Mr. Ian Clark, Secretary of the Treasury Board, Mr. Allan Darling, Deputy Secretary, Program Branch, and Mr. J. A. Macdonald, Comptroller General of Canada
March 28, 1990	Mr. J. A. Macdonald, Comptroller General, and Mr. Guy Leclerc, Deputy Comptroller General, Program Evaluation Branch
May 3, 1990	Professor Douglas G. Hartle, Department of Economics, University of Toronto
May 10, 1990	Mr. Richard Clippingdale, Assistant Under Secretary of State (Corporate Policy and Public Affairs) and Mr. Kerry Johnston, Director, Program Evaluation Directorate, Department of the Secretary of State
May 17, 1990	Mr. John F. Thomas, Comptroller, and Mr. Robert Bergeron, Director, Program Evaluation Branch, Department of Fisheries and Oceans
May 24, 1990	Mr. Kenneth M. Dye, Auditor General of Canada, and Ms. Maria Barrados, Principal, Audit Operations
June 7, 1990	Mrs. Eleanor Chelimsky, Assistant Comptroller General for Program Evaluation and Methodology, United States General Accounting Office, Washington, D.C.
June 14, 1990	Dr. Kenneth F. Watson, Partner, Rideau Research Associates Ltd., Ottawa, and Mr. John McDermott, President, Canadian Evaluation Society
September 27, 1990	Mr. Barry Carin, Assistant Deputy Minister, Strategic Policy and Planning, and Mr. Ian Midgley, Director General, Program Evaluation Branch, Department of Employment and Immigration
October 4, 1990	Mrs. Mary J. Murphy, Executive Director, Corporate Management and Secretary General, and Mr. Avrim D. Lazar, Director General, Review, Public Service Commission
November 8, 1990	Mr. Guy Leclerc, Deputy Comptroller General, Program Evaluation Branch, and Mr. John Mayne, Director, Evaluation Policy, Office of the Comptroller General

CALL LETTER

Recognizing that it could call only a limited number of witnesses during the time allotted for the study of the Main Estimates, the Committee undertook to obtain a wider range of views on the program evaluation system by authorizing the Chairman to write to the deputy heads of all federal government departments and the major departmental agencies; departmental agencies are covered by the Treasury Board's requirement to evaluate their programs periodically, whereas Crown Corporations are not. The Chairman's letter is reproduced as Annex 1 of this report, which includes a list of the departments and agencies to which it was sent. It requested: a description of the program evaluation function in the department or agency and the resources provided for it in the 1990-91 Estimates; a list of completed evaluation studies,

assessments and frameworks; the program evaluation plan covering the next several years; and examples of the use of evaluation findings in decisions to change program resource levels.

All the departments and agencies that were canvassed have now responded to the Committee's request. The responses are voluminous and do not form part of this report. They can be made available, however, to Senators and other interested persons. The Committee has been informed that copies of the responses were also sent to the Office of the Comptroller General, which does not routinely collect the information in this form.

BACKGROUND OF THE EVALUATION SYSTEM[8]

Program evaluation has been an identifiable activity since the 1960s, with much of the early work having been carried out in the United States. There, it was considered to be an area of applied scientific research, and considerable attention was paid to such issues as experimental design and econometric methodology in order to identify and measure the impacts of government interventions on society. Formal evaluations of this type were carried out on an *ad hoc* basis in Canadian government departments in the 1970s, some of them by the now-defunct Planning Branch of Treasury Board.

Program evaluation in the federal government since that time has developed as an aid to decision-making and management, more specifically as an information base for resource allocation, program improvement and accountability in government. Treasury Board initiated the policy that government departments and agencies should undertake regular evaluations of the full range of government programs in 1977, when it issued its Policy Circular 1977-47, "Evaluation of Programs by Departments and Agencies." This policy circular stated, among other things, that:

> the deputy head of a department or agency is the client of the evaluations and is responsible for establishing the program evaluation function in the organization, for ensuring that objective evaluation studies are carried out and for taking appropriate decisions as a result of the findings;
>
> all programs should be evaluated on a periodic basis, if possible every three to five years;
>
> departments and agencies should prepare a program evaluation plan; and
>
> evaluation frameworks should be developed to identify future evaluation requirements for all new as well as existing programs.[9]

The Office of the Comptroller General clarified the distinction between program evaluation and internal audit in a 1979 paper as follows:

> *Program evaluation* is the periodic, independent and objective review and assessment of a program to determine, in light of present circumstance, the adequacy of its objectives, its design and its results both intended and unintended. Evaluations will call into question the very existence of the program. Matters such as the rationale for the program, its impact on the public, and its cost effectiveness as compared with alternative means of program delivery are reviewed.
>
> *Internal audit* is the systematic, independent review and appraisal of all departmental operations, including administrative activities, for purposes of advising management as to the efficiency, economy and effectiveness of the internal management practices and controls.[10]

When the Office of the Comptroller General prepared its *Guide on the Program Evaluation Function* in 1981, it endeavoured to link program evaluation to the Policy and Expenditure Management System (PEMS) that was being implemented at that time.[11] Departmental program evaluation plans were to be developed in consultation with the Policy Committee secretariats and Treasury Board; a long-term evaluation plan was to be submitted to Treasury Board along with the Multi-Year Operational Plan (MYOP) by March 31st each year; and consequently program evaluation was to become an integral part of the government's expenditure management.

As a necessary step in the development of program evaluation plans, the activities of departments and agencies were to be grouped into *program evaluation components*, namely groups of activities considered suitable for evaluation

purposes. The Estimates program or programs from which the component was funded were to be identified and the relationship between the component and the Estimates program explained. The program evaluation components should then be set in order of their importance for evaluation, taking into account the concerns of the department, its minister and central agencies.[12] Note that there is no mention of Parliament.

The Office of the Comptroller General (OCG) was constituted in 1978 through an amendment to the *Financial Administration Act*, Chapter 33. The President of the Treasury Board transferred several responsibilities to the new Office, including the implementation of its Policy Circular 1977-47. The Program Evaluation Branch of the Office was "to provide Ministers with information on the status of the program evaluation function in departments and agencies and on the quality of individual program evaluations."[13] Again, there was no requirement to report to Parliament. The specific responsibilities of the Office were to:

> develop and promulgate policy and guidelines on program evaluation;
>
> develop and maintain a close working relationship with, and advise and assist, departments and agencies; and
>
> comment upon the program evaluation function in departments and agencies and the resulting evaluation documents and reports.[14]

Clearly, the powers given to the OCG to enforce program evaluation standards were quite limited. In particular, it had no power to withhold program funds from delinquent departments and agencies, although it could advise Treasury Board and other ministers to do so. This limitation is in contrast to Treasury Board's Policy Circular 1977-47, which directed departments and agencies to establish and maintain the program evaluation function and could presumably be enforced through budgetary controls such as the MYOP. Therefore, the effectiveness of the Comptroller General in promoting evaluation would appear to depend, to a considerable extent, upon the credibility of his/her Office with the Treasury Board and upon the continuing interest of the Board in the evaluation activities of departments and agencies. Although some of the evidence presented to the Committee had a bearing on these key issues, the Committee was unable to examine them in depth.[15]

AN ASSESSMENT OF THE EVALUATION SYSTEM

A. The Role of the Comptroller General

In his opening statement before the Committee on March 28, 1990, Mr. J. A. Macdonald, Comptroller General of Canada, emphasized that evaluation, as used by departments and agencies of the federal government, is "a senior management tool for improving the performance of programs, reallocating resources and reporting on departmental performance."[16] It is, he said,

> a component of the strategic management of a government department, whereby on a planned basis, the department's programs are systematically reviewed by senior management to determine whether the programs remain relevant to current government priorities, are achieving their intended objectives and are being delivered in the most cost-effective manner.[17]

Although much of the professional literature on program evaluation deals with research methodology, the intent of the Treasury Board policy on evaluation and the role of the Office of the Comptroller General are, in the Comptroller General's opinion, "to institutionalize evaluation as an accepted and practiced component of good management. Thus federal evaluation should be judged primarily on its relevance and utility to government decision-making and accountability."[18]

This view of the role of evaluation is philosophically distinct from that advanced by Professor Douglas Hartle in his brief to the Committee and his subsequent appearance before it. Professor Hartle argues, in effect, that the evaluation system in place in federal government departments and agencies is fatally flawed because of its potential for conflict of interest. In his testimony on May 3, 1990, Professor Hartle stated:

> The Comptroller General relies solely on departments and agencies for the actual work of evaluation. His office is not powerful enough to secure from them substantive evaluations. Has there ever been an unfavourable evaluation made by a department of a policy favoured by the minister; or of a management technique the deputy minister had put in place?[19]

Professor Hartle's question, it must be pointed out, could never be answered with certainty, nor can the complete objectivity of any evaluation process be definitively established. In particular, a program that was terminated ostensibly as a consequence of unfavourable evaluation findings might in fact have been viewed unfavourably and targeted for elimination by senior management prior to the evaluation's taking place. Nonetheless, Professor Hartle's concerns about objectivity and the need for ministers to obtain independent advice from outside their departments struck a sympathetic chord with members of the Committee. These concerns were, however, given short shrift by the Comptroller General in his testimony.[20] In defending the existing system, he stated unequivocally that "program evaluation is a departmentally situated function . . . working for a management team of the department . . . it is deliberately set up to be so"[21] and that "the system that we have designed is an internal system to serve the executive, as opposed to providing competing views for challenge in a political forum."[22]

B. Control Over Evaluation

Members of the Committee were strongly interested in the degree of control exercised by the Office of the Comptroller General over the program evaluation function in departments and agencies. Regarding the extent to which his Office evaluated the evaluators, Mr. Guy Leclerc, the Deputy Comptroller General, Program Evaluation Branch, stated:

> As the motherhouse of evaluation, we are trying to promote the installation of a good evaluation function in each department and agency. Then we monitor what they are doing and make an assessment of the kinds of studies they are doing. We use standards to assess the quality of the studies they have done.[23]

Mr. Macdonald, the Comptroller General, added:

> Let me make it clear that we establish a policy framework which says that departments will systematically review their programs. We do not superintend departments. We do not tell them what to do. We simply ensure that they are in general compliance with the policy.[24]

At the same time, the OCG prepares quality assessments of evaluations in departments and agencies at more or less regular intervals. These are shared with the departments on a confidential basis and the OCG is not prepared to make them available to the Committee.[25]

Regarding the OCG's influence over the choice of programs to evaluate, in particular what it would do if it felt a department had failed to evaluate an important program and how the OCG maintains its clout with departments, Mr. Macdonald stated:

> We report to the President of the Treasury Board who, of course, has the ultimate responsibility for resource allocation . . . [we would] communicate to the department that this is a program that should be looked at . . . we do not have a right of veto . . . departments are free to do what they, in their view, feel is proper. We can influence, we can suggest, we do not control.[26]

Each year the OCG prepares a Government Program Evaluation Plan (GPEP) that is designed to communicate "to program evaluators the priorities of the government . . . departments take that into account in their evaluation activities."[27] A review of the 1989 GPEP confirms that it does not purport to direct departments and agencies to a particular course of action. Critical comments are offered on past evaluations, in particular that the continuing need for the program being evaluated, and major alternatives in delivery, have seldom been examined.[28] *GPEP 89* also states that a review of the Treasury Board evaluation policy is underway:

> Among the provisions that are being addressed in the review are the requirement for complete coverage of all programs over a reasonable time period; the requirement for new or revised programs to be accompanied by an evaluation framework; the issues to be covered in an evaluation; the need for follow-up procedures; and the procedures in place for evaluating interdepartmental programs and issues of government-wide concern.[29]

The Committee believes strongly that the requirements stated in the original policy should not be watered down as a consequence of the OCG's inability or unwillingness to enforce them.

GPEP 89 describes a review of 150 evaluation studies completed between 1984 and 1988 to determine how the results of the evaluations were used. This review was also referred to by Mr. Macdonald in his opening statement before the Committee.[30] It indicates that only 17 per cent of the studies led to major program redesign, while over 50 per cent resulted in what might loosely be called improved management (operational improvements to programs and improved understanding and monitoring of program performance). When viewed in conjunction with the OCG's criticism that many evaluations are not addressing major issues and alternatives, this finding causes the Committee considerable concern.

C. Coverage

The Office of the Comptroller General appears ambivalent about the extent to which all government programs are being evaluated over an approximately five-year cycle as the Treasury Board policy and the OCG's *Guide on the Program Evaluation* require. Mr. Macdonald testified before the Committee that "over the last decade most programs of government have been covered,"[31] while Mr. Leclerc stated "I think it would take probably more than 10 years to cover all of the programs of the government."[32] Furthermore, the OCG seems uncertain about the evaluation status of particular programs. For example, the Director General of Program Evaluation of the Department of Employment and Immigration, testifying before the Committee on September 27, 1990, confirmed that there were no plans to evaluate the government's contributions to the Unemployment Insurance Account or to fishermen's benefits, stating "We have viewed specific expenditures of that sort as not being programs, per se, and therefore of an evaluative nature."[33] However, in his written reply to the Committee's question about the evaluation of statutory programs, the Comptroller General indicates in a table that evaluations of these two programs were underway during the 1990-91 fiscal year.[34]

The Auditor General's Report for 1989 reviewed the Canada Assistance Plan (CAP) of the Department of National Health and Welfare. It found a lack of information on social programs funded by CAP and stated that, since its inception, no program evaluation of CAP had been carried out.[35] However, the Committee understands that an evaluation of CAP is now nearing completion. The Auditor General's 1990 Report is highly critical of the quality and coverage of program evaluation studies in the Department of the Environment. It states that, between 1984 and 1989, only seven program evaluation reports were completed covering less than ten per cent of the Department's activities. No evaluations of the Canadian Parks Service, which has a budget of $387 million and 4,700 person-years, have ever been carried out.[36] Such findings are hard to reconcile with the Comptroller General's apparent confidence that most government programs have been evaluated.

D. Centrally Requested Evaluations

Besides evaluations undertaken in departments and agencies, evaluations are used by Treasury Board and Cabinet Committees. This occurs, for example, when Cabinet or Treasury Board calls for a specific evaluation of a program, often one that is sunsetted. An example is the Matching Policy for University Research, which was examined by the National Finance Committee and subsequently evaluated pursuant to a Cabinet decision. As well, Memoranda of Understanding between departments and Treasury Board under the Increased Ministerial Authority and Accountability (IMAA) initiative typically identify specific evaluations to be carried out by the department and reported to Treasury Board. The Comptroller General indicated to the Committee that about 25 per cent of evaluation activity falls into this centrally requested category.[37] However, neither the OCG nor the Treasury Board has been able to provide to the Committee a list of centrally requested evaluation studies, either underway or completed.

E. Evaluation and Expenditure Reduction

The Comptroller General is of the opinion that it is not realistic to expect evaluation to play a major role in expenditure reduction initiatives.[38] Such initiatives must typically be implemented on a tight schedule, whereas to design and undertake a credible evaluation may require 18 months or longer. As well, not all evaluations are designed to consider expenditure cuts as an issue (the Committee feels strongly that they should be) and they may thus be unable to contribute to the expenditure reduction imperative. Finally, the Comptroller General argues that evaluation findings, particularly those showing how to make programs more cost-effective, are typically used by senior management when they become available rather than left waiting for the next expenditure reduction initiative. Departments then use any freed-up resources for higher-priority items (rather than to reduce their overall budgets). Consequently, "there may not be many opportunities left around for a government-wide expenditure review."[39]

This view of the independence of expenditure reduction and evaluation was confirmed to a considerable extent by the testimony of officials of the Department of the Secretary of State.[40] Committee Members were particularly interested in knowing why programs for the support of women and natives had been cut back in spite of evaluation reports that were generally favourable. The witnesses did not answer the question directly, implying instead that the decision had been taken at the ministerial level. However, they stressed, as did the Comptroller General, that the timing of evaluations was a problem and that evaluation findings were incorporated into management decisions on a more or less continuous basis. One witness suggested that programs are typically evaluated in isolation not only from external priorities but from those of the department as a whole, stating:

> It is not a question of priorizing that program in one part of the department against another program in another part of the department. Those are not decisions for the program evaluation directorate, or even for myself or others reviewing their work.[41]

As well, he indicated, as did other witnesses, that "program evaluation is only one aspect of management when we look at programs."[42]

The Committee found ample evidence, both in testimony and in the written material that was sent in response to its call letter, that program evaluations from time to time produce negative results and that reallocations often occur within departments as a consequence. It is disturbed, however, by the assertion that major, centrally directed expenditure reductions seldom if ever benefit from program evaluation findings. The implication is that evaluations are not sufficiently robust in a quantitative sense to permit programs to be ranked according to agreed-upon criteria. Consequently, when expenditures must be reduced and the savings sent back to the Consolidated Revenue Fund instead of being applied elsewhere in the department, decisions to terminate or downsize programs are apparently made on qualitative and often political grounds. In a more rational world, the Committee believes that government programs would be ranked by their cost-benefit ratios or other measures of priority and that the lowest-priority items would be cut when the budgetary situation required. However, it recognizes that the state of the evaluation art may not be adequate to permit such a course of action.

F. Objectivity of the Evaluation Function

The independence and objectivity of the evaluation function have been discussed at various points above. Program evaluation personnel are members of the department or agency in which they work. They depend upon senior management of the department for their job satisfaction, status and promotion opportunities. Logically, therefore, there is a limit to how critical they can be of programs they are evaluating. In particular, as Professor Hartle argued, if the deputy minister or minister is strongly in favour of a particular program and believes there are no problems with it, the likelihood of its being terminated in response to an unfavourable evaluation would appear to be small. As well, the deputy head must be supportive of the evaluation function if it is to have an impact.

Witnesses from the departments and agencies all agreed that the purpose of evaluation is to serve the needs of senior management. In the Department of Fisheries and Oceans, for example, evaluation planning is carried out by rating twenty evaluation components against eight key decision factors.[43] The latter include the program evaluation needs of senior management, central agency concerns about program performance, interactions with other departmental programs, the time elapsed since the last evaluation and the size of the program budget. However, the witness from this department stated that "the weighting or importance given to senior management needs is equal to the total weighting for the seven remaining factors combined."[44] The same witness indicated that decisions about the department's budget and estimates were, very roughly, 90 per cent the result of pressures from fishermen and the industry and of management needs and only ten per cent from internal reviews such as those based on program evaluation.[45]

The Director General, Review, for the Public Service Commission (PSC) recounted how his staff had supplemented their reading of the evaluation literature with "a significant body of writing on how organizations change. It seemed to contradict the traditional evaluation literature."[46] He stated further that the evaluators had decided "to be an instrument of management in the change process" but that this did not compromise their independence because "we could not be useful to management unless we told them the truth."[47] Expensive evaluation findings end up sitting on the shelf, in this witness's view, when the evaluation process is not

integrated into the change process of the department and there is no client interested in hearing the results. What is important, he concluded, is to get the program managers and senior management involved and committed to program change instead of operating "as an external agent of accountability."[48]

The PSC view virtually defines program evaluation as a branch of policy analysis, along the lines suggested by Professor Hartle in his paper. It illustrates the pitfalls as well as the advantages of situating the program evaluation function in the executive branch of government with the deputy head as the client. Mrs. Eleanor Chelimsky of the United States General Accounting Office (GAO) in Washington, D.C. provided another perspective on this problem when she appeared before the Committee to describe the program evaluation system in place in the United States.[49] Her agency works for the Congress, as opposed to the executive, and performs a great deal of program and policy evaluation work at the request of congressional committees. The executive branch conducts evaluations of its programs as well, many of which the GAO evaluates, just as the Auditor General reviews effectiveness measurement in Canadian government departments. One of the consequences of this dual system is that the GAO and the executive may end up doing competitive evaluations of the same program, which in turn can result in an adversarial proceeding of the type envisaged by Professor Hartle.

Mrs. Chelimsky, however, emphasized the need for evaluations by the executive branch

> because they know so much more about their programs. People coming in from the outside have objectivity and integrity, which they will apply simply because of the adversarial situation. On the other hand, these people know less. So there is a trade-off there.[50]

The Committee recognizes the need to consider this trade-off when recommending changes to the existing system.

During the Auditor General's testimony before the Committee, one member suggested that the independence of evaluators might be enhanced by adopting the French model, in which each ministry has an inspector general who reports directly to the minister. The inspector general receives a life appointment, similar to that of a judge in Canada, and follows a career path independent of that of a politician or bureaucrat. The Auditor General pointed out that the United States also has inspectors general who report to both Congress and the secretary, the latter being a non-elected Cabinet appointment. However, other world models that differ from Canada's are invariably part of a parliamentary system that differs from the Westminster model, in which "executives are imposed upon the legislature."[51] Although the Committee places a premium on the kind of independence that can apparently be achieved by evaluators in these other systems, it is hesitant to recommend an entirely new category of evaluators, who would constitute an additional, expensive and not necessarily productive layer of bureaucracy.

G. The Role of the Auditor General

The *Auditor General Act, 1977* requires the Auditor General to report cases in which satisfactory procedures have not been established to measure and report the effectiveness of programs. Program evaluation is one of the important ways of determining effectiveness. However, in the Auditor General's view, it is departmental management, not the Auditor General, that has the responsibility actually to measure program effectiveness. The Office of the Auditor General recently commenced a government-wide audit of effectiveness measurement, which it plans to report to Parliament in 1993. This will include an examination of the program evaluation function, the quality of evaluations and their use.[52]

The United States General Accounting Office, as has been mentioned, performs a role similar to that of the Auditor General when it evaluates the evaluations performed by the executive branch. However, the GAO also conducts evaluations at the behest of congressional committees. The question arises, therefore, whether the mandate of the Auditor General should be expanded to encompass the performance of program evaluations at the request of committees of the House of Commons and the Senate.

The Committee recognized that such a step would not entail the creation of a new agency or bureaucratic category, although it would undoubtedly necessitate an increase in the resources allocated to the Office of the Auditor General. It rejected this alternative, however, for several reasons. First, although the Auditor General is an officer of Parliament, he has never responded to specific demands from Parliament or its committees, for reasons that are not clear to the Committee. Instead, his Office plans its work on the basis of the Auditor

General's interpretation of what the Act says he should do and reports it to Parliament at a later date. Furthermore, the present Auditor General is not anxious to take on a responsibility for evaluation similar to that of the U.S. General Accounting Office.[53] Second, the Committee believes that the mandate of the Auditor General is already broad enough in the area of value-for-money auditing and should not be expanded further.[54] Finally, for a GAO-like evaluation role to be meaningful, there should be a substantial pent-up demand for independent evaluation on the part of Commons and Senate Committees. The Committee has no evidence that this is the case.

H. Accountability to Parliament

The Treasury Board evaluation policy and the 1981 Comptroller General's *Guide* are silent about the need for departments and/or the OCG to report to Parliament on the implementation of the policy, the quality of evaluations or the uses made of them. However, for the last few years both the Board and the OCG have instructed departments and agencies to include a section on program effectiveness in Part III of the Estimates. This section is to include summaries of evaluations that have been completed in the previous year, together with evaluation plans for the forthcoming year or years.

The quality of the Part IIIs has been widely criticized, but despite this the Auditor General believes they are the appropriate vehicle for departments to use in conveying effectiveness information to Parliament. He indicated to the Committee, however, that if parliamentarians were to make departments aware of the inadequacies of the Part IIIs, the quality of these documents would certainly improve, making them more useful to Parliament and the public.[55] The Committee agrees that committees of both the Senate and the House of Commons should spend more time on the estimates of specific departments, and in particular the Part IIIs, in order to encourage the government to be more accountable to Parliament concerning the expenditure of public funds. The Office of the Comptroller General is also planning to review the quality of the Part IIIs on a regular basis and to encourage departments to make improvements.[56]

A related issue is the difficulty of ascertaining the relationship between programs that are evaluated and the votes that Parliament is asked to approve in the Estimates. At present each vote, and the program or programs to which it corresponds, encompasses a large proportion of the department's or agency's estimates, whereas most "programs" that are evaluated are in fact small components of the programs as defined in the estimates. The consequence is that Parliament's decision to approve government expenditures is far removed from any information that may be available from evaluation studies. One witness proposed that the votes should be restructured to correspond to the program components that are evaluable and will in fact be evaluated.[57] The Committee believes that this suggestion has considerable merit but suspects that it may take some time for the government to act on it. In the meantime, the Committee's reviews of the estimates would be facilitated if it were to be provided with a detailed list of the program components that departments and agencies have defined for evaluation purposes, in accordance with the Treasury Board policy, together with an explanation of how these components are related to the program and vote structure that is presented in the estimates.

I. Prospective versus Retrospective Evaluation

A number of Committee Members expressed interest in a prospective form of evaluation that would accompany bills to establish new departments, agencies or programs. Several witnesses recommended such an activity as a useful adjunct to or even a substitute for the retrospective evaluation of existing programs. The term, however, is one that needs definition. A basic requirement might be that, when a new program is presented for parliamentary approval, it should be accompanied by a set of evaluability criteria and mileposts that indicate what will be evaluated, how and when (this may be more difficult when a new department or agency is proposed). Such a requirement would have the effect of forcing the sponsoring department to define the objectives of the program in precise terms. Evaluative information of a retrospective nature on similar programs could be included as well. At a higher level of sophistication, prospective evaluation could involve the application of cost-benefit analysis to quantify the likely effects of the program.

The Committee believes that, at a minimum, bills to establish new programs should include evaluability criteria and any other evaluative information that may cast light on the merits of the proposed programs.

CONCLUSION: AN ENHANCED ROLE FOR THE COMPTROLLER GENERAL

The Committee believes that, in order to improve the accountability of the government to Parliament along the lines discussed in this report, it may be sufficient to improve the existing system of program evaluation rather than to scrap it and start over. However, improvements require that the mandate and capabilities of the Office of the Comptroller General be strengthened significantly.

At present, the OCG's capacity to monitor the implementation of its own policies is inadequate. This was shown in particular by its inability to provide reliable information to the Committee on the extent to which government programs have been covered by program evaluations, either in the aggregate or in individual departments and agencies. As well, information about centrally requested evaluations was not forthcoming, while data provided to the Committee on the evaluation of statutory programs was inaccurate and incomplete. The Office urgently needs to improve its information base of evaluation activities if it is to have a credible role as the guardian of the evaluation system.

The OCG shows little interest in providing information to Parliament, despite its role in the monitoring of Part IIIs of the Estimates. It prepares an annual list of completed evaluations for the House of Commons Public Accounts Committee and has offered to provide this to the Senate National Finance Committee as well. However, this list provides even less information about specific evaluations than is available in the better Part IIIs. No attempt is made to reconcile the completed evaluations with the universe of programs that could be evaluated, nor is the quantitative importance of the programs, measured by the financial and person-year resources allocated to them, indicated. As well, the list contains only completed studies, not frameworks or assessments, and the OCG declined to make copies of departmental program evaluation plans available to the Committee. These materials were therefore solicited directly by the Committee from departments and agencies, which provided full albeit not always timely cooperation. Furthermore, the OCG refuses to provide its quality assessments of departmental program evaluation activities to anyone except the departments concerned.

In short, the Committee has the impression that the OCG prefers to act, when monitoring the evaluation function, as a broker between the Treasury Board and other central agencies on the one hand and departments on the other instead of as a central agency in its own right. In part, this is the result of its having been given no real powers to enforce its guidelines and of the fact that departmental evaluators have been placed in the difficult position of being solely responsible to the deputy heads and other senior managers of their own departments.

The Committee recognizes as well that the Increased Ministerial Authority and Accountability (IMAA) and the Public Service 2000 initiatives are increasing departmental autonomy and making central control of program evaluation more difficult. It believes that a balance should be struck between these decentralizing tendencies and the need for central control, and that the best way to achieve this would be to give the OCG direct responsibility for conducting program evaluations. The Committee therefore recommends:

> **that the personnel responsible for program evaluation in departments and agencies be transferred to and become employees of the Office of the Comptroller General.**

This transfer would ensure that the career prospects of evaluators were tied to the OCG and could not be jeopardized by their producing unfavourable evaluations. They would continue to work as evaluators within the various departments and agencies as they do now, but their independence and credibility would be assured. From an administrative standpoint, evaluators would be similar to lawyers in departmental legal branches, all of whom are employees of the Department of Justice. The Committee believes that this recommended measure provides the best opportunity among competing alternatives to improve the evaluation system and confirm the authority of the Comptroller General. It therefore urges the government to implement this recommendation without delay.

Footnotes

1. See Appendix "NF-23A", *Proceedings of the Standing Senate Committee on National Finance*, Issue No. 23, Thursday, May 3, 1990.
2. *Ibid.*, pages 23A:26-27.
3. *Ibid.*, page 23A:27.
4. *Ibid.*, page 23A:29.
5. *Ibid.*, pages 23A:31-32.
6. *Ibid.*, page 23A:32.
7. See, in particular, the comments of Senator Marsden in *Proceedings of the Standing Senate Committee on National Finance*, Issue No. 21, Thursday, March 22, 1990, page 21:46. Senator Marsden asked whether and when the affected programs had been evaluated. On March 26, 1990, Mr. J. A. Macdonald, Comptroller General of Canada, provided a written reply to the Committee Chairman. This reply appears as Appendix "NF-22 A" in the Committee's *Proceedings*, Issue No. 22, Wednesday, March 28, 1990, pages 22A:1-4.
8. The following discussion draws heavily from Program Evaluation Branch, Office of the Comptroller General, *Guide on the Program Evaluation Function*, May 1981.
9. See *Guide on the Program Evaluation Function*, pages 9-10.
10. *Ibid.*, page 19.
11. *Ibid.*, pages 12-14.
12. *Ibid.*, Chapter 4.
13. *Ibid.*, page 77.
14. *Ibid.*, pages 77-78.
15. The Comptroller General has the rank of Deputy Minister and reports directly to the President of the Treasury Board. See also the discussion "Treasury Board Expectations for Program Evaluation," in *Ibid.*, pages 80-81.
16. The Comptroller General's opening statement is reprinted as Appendix "NF-22 B" in *Proceedings of the Standing Senate Committee on National Finance*, Issue No. 22, Wednesday, March 28, 1990, pp. 22A:5-21.
17. *Ibid.*, pages 22A:5-6.
18. *Ibid.*, page 22A:6.
19. *Proceedings of the Standing Senate Committee on National Finance*, Issue No. 23, Thursday, May 3, 1990, page 23:6.
20. See the Committee's *Proceedings*, March 28, 1990, pages 22:19-20.
21. *Ibid.*, page 22:6.
22. *Ibid.*, page 22:22.
23. *Ibid.*, page 22:12.
24. *Ibid.*, page 22:12.
25. *Ibid.*, page 22:25.
26. *Ibid.*, page 22:15.
27. *Ibid.*, page 22:15.
28. See Office of the Comptroller General, *GPEP 89: Government Program Evaluation Plan*, October 1989, page 11.
29. *Ibid.*, page 7.
30. See *GPEP 89*, Annex B, pages 29-37, and the Committee's *Proceedings*, Issue No. 22, Wednesday, March 28, 1990, Appendix "NF-22 B", pages 22A:8-9.
31. *Proceedings*, March 28, 1990, page 22:6.
32. *Ibid.*, page 22:8.
33. See the Committee's *Proceedings*, Issue No. 33, Thursday, September 27, 1990, page 33:15, and also the department's program evaluation schedule, *Ibid.*, page 33A:27.
34. See the Committee's *Proceedings*, Issue No. 34, Wednesday, October 3, 1990, Appendix NF-34B, page 34A:59. This table also excludes any mention of the Fiscal Equalization program of the Department of Finance.
35. See *Report of the Auditor General of Canada to the House of Commons, Fiscal Year Ended 31 March 1989*, page 317.
36. *Report of the Auditor General, Fiscal Year Ended 31 March 1990*, page 440.
37. See the Committee's *Proceedings*, Issue No. 22, Wednesday, March 28, 1990, page 22A:10.
38. *Ibid.*, page 22A:11.
39. *Ibid.*, page 22A:11.
40. See the Committee's *Proceedings*, Issue No. 24, Thursday, May 10, 1990.
41. Testimony of Mr. Richard Clippingdale in *ibid.*, page 24:9.
42. *Ibid.*, page 24:20.
43. See the Committee's *Proceedings*, Issue No. 25, Thursday, May 17, 1990, pages 25A:4-6 and also pages 25:20-21.
44. Opening statement of Mr. John F. Thomas, *ibid.*, page 25A:6.
45. *Ibid.*, page 25:20.
46. Testimony of Mr. Avrim D. Lazar in the Committee's *Proceedings*, Issue No. 35, Thursday, October 4, 1990, page 35:8.
47. *Ibid.*, page 35:9.
48. *Ibid.*, pages 35:13-14.
49. See the Committee's *Proceedings*, Issue No. 29, Thursday, June 7, 1990.
50. *Ibid.*, pages 29:31-32.
51. See the Committee's *Proceedings*, Issue No. 26, Thursday, May 24, 1990, pages 26:15-16.
52. *Ibid.*, pages 26:5-6.

53. *Proceedings*, Issue No. 26, Thursday, May 24, 1990, page 26:18. On page 26:16 Mr. Dye states "I think that Parliament could well use an independent evaluative capacity that it does not presently have, but I am not volunteering to put my office into that political noose."

54. See, for example, the comments of Senator Cools in the Committee's *Proceedings*, Issue No. 29, Thursday, June 7, 1990, page 29:25.

55. *Proceedings*, May 24, 1990, page 26:25.

56. See Mr. Leclerc's testimony in *Proceedings*, Issue No. 38, Thursday, November 8, 1990, pages 38:6 and 38:9.

57. See testimony of Dr. Kenneth F. Watson in the Committee's *Proceedings*, Issue No. 31, Thursday, June 14, 1990, pages 31:11-12.

Respectfully submitted

FERNAND-E. LEBLANC
Chairman

Appendix 1

As you may be aware, the Standing Senate Committee on National Finance has been studying the system of program evaluation in the federal government as part of its review of the 1990-91 Estimates. Our hearings, which will resume in the fall, have sought among other things to examine the process within departments and agencies of deciding which programs and issues to evaluate and the ways in which evaluation findings are used.

Since it will not be possible for us to hear from every department and agency on this vital subject, I am writing to ask for your assistance to the Committee in the preparation of its report. We are particularly interested in the following:

1. A description of how the program evaluation branch/ directorate fits into your organization, to whom the director of program evaluation reports, and what resources are being provided for the program evaluation function in the 1990-91 Estimates.

2. A comprehensive list of evaluation studies, assessments and frameworks that have been completed by your program evaluation branch/directorate;

3. The program evaluation plan of your department/ agency covering the next several years; and

4. Examples of the uses to which evaluation findings have been put, such as cases where they contributed to decisions by senior management to change program resource levels significantly.

In order to assist you in the preparation of this material, I am enclosing a copy of Issue No. 25 of the Proceedings of the Standing Senate Committee on National Finance, dated May 17, 1990, containing the testimony of the Comptroller and other officials of the Department of Fisheries and Oceans. I refer your attention particularly to the Comptroller's opening statement, commencing on page 25A:1, which forms part of his testimony. Annex 2 of this statement provides the department's program evaluation plan for the years 1990-91 through 1997-98, while Annex 3 lists the projects completed by the program evaluation branch over the past ten years. Members of the committee were very favourably impressed by this testimony and have asked me to commend it to all deputy heads as a guide to the kind of information the Committee would like to receive from all departments and agencies.

I look forward to receiving your reply within the next few weeks. Should your staff have any further questions concerning the preparation of this material, they may contact the Research Director for the Committee, Dr. Edward Ketchum, whose telephone number is 237-0143.

Yours sincerely,

Fernand-E. Leblanc

Chairman

Mr. Jean Jacques Noreau
Deputy Minister
Agriculture Canada

Mr. P.B. Lesaux
President
Atlantic Canada Opportunities Agency

Dr. R.J.A. Lévesque
President
Atomic Energy Control Board

Mrs. Joyce Zemans
Director
Canada Council

Mr. Marcel Massé
President
Canadian International Development Agency

Mr. Keith Spicer
Chairman
Canadian Radio-television and Telecommunications Commission

Mr. J.R. Morden
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Mr. Alain Gourd
Deputy Minister
Communications Canada

Ms. Jocelyne Bourgon
Deputy Minister
Consumer and Corporate Affairs Canada

Mr. O. Ingstrup
Commissioner
Correctional Service Canada

Mr. Arthur Kroeger
Deputy Minister/Chairman
Employment and Immigration

Mr. Bruce Howe
Deputy Minister
Energy, Mines and Resources

Mr. Leonard M. Good
Deputy Minister
Environment Canada

Mr. de Montigny Marchand
Under-Secretary of State
External Affairs and International Trade Canada

Mr. Frederick Gorbet
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Dr. Peter Meyboom
Deputy Minister
Fisheries and Oceans

Mr. Jean-Claude Mercier
Deputy Minister
Forestry Canada

Mr. Harry Swain
Deputy Minister
Indian and Northern Affairs Canada

Mr. Harry G. Rogers
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Industry, Science and Technology Canada

Mr. John C. Tait
Deputy Minister and Deputy Attorney General
Department of Justice Canada

Ms. Jennifer McQueen
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Dr. Pierre Bois
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Mr. Robert R. Fowler
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Mrs. M. Ruth Hubbard
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Mr. Pierre Gravelle
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Ms. Huguette Labelle
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Mr. Robert Giroux
Deputy Minister
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Mr. N.D. Inkster
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Mr. Jean T. Fournier
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Dr. Paule Leduc
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Mr. Ivan P. Fellegi
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Mrs. Georgina Wyman
Deputy Minister
Supply and Services Canada

Mr. Glen Shortliffe
Deputy Minister
Transport Canada

Mr. Ian D. Clark
Secretary
Treasury Board of Canada

Mr. David Broadbent
Deputy Minister
Veterans Affairs Canada

Mr. Bruce Rawson
Deputy Minister
Western Economic Diversification Canada

APPENDIX "B"

(*See p. 5135*)

ABORTION

THIRTY-THIRD REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

WEDNESDAY, January 23, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-THIRD REPORT

Your Committee, to which was referred Bill C-43, An Act respecting abortion, has, in obedience to the Order of Reference of June 26, 1990, examined the said Bill and now reports the same without amendment, but with the recommendation that the Senate itself make the decision to pass, amend, or reject it. We do this in recognition of the fact that the Bill is to be subject to a free vote by Senators in accordance with their consciences. We believe that the most appropriate role for members of this Committee, considering the nature of the issue and the vote, is to inform Senators of the testimony received from our witnesses and the many briefs submitted to us, but to stop short of recommending as a Committee any particular course of action.

The Committee attempted to canvass as wide a spectrum of groups and views as possible in relation to the Bill and the abortion question. Thus, in addition to two federal Ministers, we heard from a number of religious organizations, physicians and some other health care professionals, legal experts, academics, labour, women's groups, activists on both the pro-life and pro-choice side, and the Law Reform Commission of Canada. The government of Ontario accepted an invitation to appear that the Committee extended to every province in Canada. A number of the groups had a very large membership from right across Canada. A list of all witnesses is appended to the report.

Over 300 individuals and groups submitted briefs or letters to the Committee regarding Bill C-43. Thirty-eight individuals or groups appeared before us in person, of which four supported passage of Bill C-43: the Ministers of Justice and National Health and Welfare, the Plymouth Brethren (although they disapprove of abortion), and the Law Reform Commission of Canada. The rest opposed the bill for a variety of reasons. They did so on religious, medical, social, legal, constitutional, or conceptual grounds. Groups whose views were otherwise diametrically opposed nonetheless recommended to the Committee that the Bill be defeated. Of course, beyond that, their views diverged, with a number of groups urging that Bill C-43 be replaced by a stronger Bill, and others insisting that no substitute criminal legislation was necessary.

Rarely have Parliamentarians been presented with such a complex, perplexing and divisive issue as abortion. Arguments relating to ethics and conscience, individual freedom, health, and the proper role of the state were all advanced. The major opposing views -they have come to be known by the terms "pro-life" and "pro-choice" and will be so described in this Report - proceed from irreconcilable premises.

Supporters of the pro-life view believe that human life begins at conception, and that abortion of the preborn is murder. Many deny that abortion is ever necessary for therapeutic reasons, and assert that the procedure itself causes psychological distress and illness to the mother. They are firm in their belief that in any contest between the wishes of the mother and the right to life of the child, the child's interest should always prevail, unless the life of the mother is at risk. The issue of abortion, then, must always be a moral issue affecting society as a whole and can never be a matter of individual "choice."

Supporters of the pro-choice position view the right of women to decide when and whether they will have a child as a fundamental human right and essential to women's equality and health. This decision should be a private one for the woman and her doctor to make, free of state coercion. State action to support life may take many other forms,

including family planning, prenatal care and family support, but women should never be forced to bear unwanted children. All of these witnesses agreed that the decision to undergo an abortion was a grave one, a decision taken seriously and thoughtfully by women.

The first issue relating to Bill C-43 that your Committee wishes to present is that of the "criminalization" of abortion. The Minister of Justice pointed out to the Committee that it is common to find acts contained in the Criminal Code that under many circumstances are not criminal. She referred to driving offences as an example. Most witnesses, however, on both sides of the debate, saw the principle of criminalization as far more serious, indeed as central to their positions.

The Law Reform Commission of Canada supported criminalization, maintaining that abortion meets its four tests which determine when an act should be a crime. Pro-life groups, while generally opposing Bill C-43, all strongly supported the inclusion of abortion in the Criminal Code as a way of combatting a serious social harm. In their view, the stigmatization and punishment inherent in the criminal law are essential to denounce and deter abortion.

On the other hand, the opponents of criminalization asserted that no other medical procedure is singled out for special treatment in the Criminal Code, and emphasized that both the Minister of Justice and the Minister of Health and Welfare agree that the procedure is a medical one. The Canadian Medical Association and other health professionals argued that doctors should not be exposed to criminal prosecution in this manner. They stated that the effects of criminalization would be a reduction in the number of doctors willing to provide abortion services, a negative impact on the physician-patient relationship, the introduction of complicated and time-consuming assessment procedures so that hospitals and physicians could protect themselves, and an increase in harassment by pro-life activists. The Canadian Medical Association and the Society of Obstetricians and Gynaecologists emphasized that Canadian physicians are already governed by medical standards regarding abortion procedures.

The second major issue presented to your Committee was the possible effect of Bill C-43 on access to abortion services should it become law. These concerns arise because Bill C-43 creates the spectre of criminal prosecution for physicians, their staff, and women. Pro-choice groups informed the Committee that, from their point of view, abortion services are already inadequate. They reminded the Committee that one of the reasons the Supreme Court of Canada struck down the former law was because of its effect in restricting women's access to services, thereby endangering their health.

With the obvious exception of the pro-life groups opposed in principle to the provision of abortion services, the concern of virtually all witnesses was that access to abortion services would be further restricted as a result of the passage of Bill C-43 - many spoke of the "chilling effect" of the Bill - and that women who were poor, young, immigrant, or who live away from larger centres would be particularly disadvantaged.

The government of Ontario informed the Committee that some physicians withdrew services from a number of communities immediately after passage of the Bill in the Commons, and that service is threatened in others if the Bill becomes law. Their Ministers argued that the entire spectrum of health services which need to be provided to women, of which abortion procedure may form a part, is the primary responsibility of provincial governments. They concluded that Bill C-43 would be a major impediment to the government's ability to provide accessible, quality health care.

A poll conducted by the Society of Obstetricians and Gynaecologists in July of last year found that, with 873 physicians from all parts of Canada responding to the poll, of the 464 physicians who performed abortions at that time, 59% indicated that they would discontinue services should Bill C-43 become law. A subsequent poll found that the number of doctors indicating that they would withdraw services had increased by 14%.

Several witnesses argued that the Canada Health Act should be used to ensure access to abortion services. The Ministers of Justice and of Health and Welfare stated that this would not be constitutionally possible, although some legal experts disagreed.

The third issue that the Committee wishes to address briefly in relation to Bill C-43 is that of its constitutionality. The Minister of Justice assured the Committee that in her view the Bill was constitutional, based on existing decisions of the Supreme Court of Canada. In the opinion of some legal experts, the Bill might well be found constitutional on its face,

but would fail to pass the tests set out in jurisprudence under the Canadian Charter of Rights and Freedoms if its effect were to cause delays and impede access to abortion services, similar to the situation under the previous law which was found unacceptable in the Morgentaler decision. Other groups predicted that the law would be found unconstitutional because it does not allow full autonomy for women in the first trimester of pregnancy.

Pro-life groups argued that there is no constitutional right to an abortion and that, if Bill C-43 is constitutionally flawed, it is in not sufficiently protecting the rights of the unborn child.

In conclusion, we wish to say that our witnesses on Bill C-43 have deepened our knowledge and understanding of all sides of this complex issue. During debate, Committee members will be outlining in detail the issues presented by the witnesses. Your Committee invites any Senator who wishes to propose amendments to the Bill to do so during the subsequent stage of its consideration by the Senate.

Respectfully submitted,

NATHAN NURGITZ

Chairman

LIST OF WITNESSES

Issue No.	Date	Organization or Witness
17	October 25, 1990	The Canadian Civil Liberties Association *Campagne Québec-Vie*
18	October 29, 1990	The Honourable Kim Campbell, Minister of Justice
19	October 30, 1990	The National Association of Women and the Law Dr. Henry Morgentaler *Regroupement des centres de santé des femmes du Québec*
20	November 8, 1990	The Canadian Physicians for Life The Canadian Physicians for Choice
22	January 14, 1991	Women's College Hospital (Toronto) Criminal Lawyers Association Everywomen's Health Centre Society of Vancouver
23	January 15, 1990	Alliance for Life National Action Committee on the Status of Women Society of Obstetricians and Gynaecologists of Canada Planned Parenthood Federation of Canada Canadian Unitarian Council Government of Ontario represented by: The Honourable Evelyn Gigantès, Minister of Health The Honourable Anne Swarbrick, Minister Responsible for Women's Issues

LIST OF WITNESSES

Issue No.	Date	Organization or Witness
24	Janaury 16, 1991	United Church of Canada *Coalition Québecoise pour le droit à l'avortement libre et gratuit* Canadian Abortion Rights Action League Plymouth Brethern Assembly The Honourable Perrin Beatty, Minister of Health and Welfare Pro-Choice Action Network
25	January 17, 1991	Canadian (and Ontario) Public Health Association Canadian Medical Association Campaign Life Coalition R.E.A.L. Women of Canada Mr. Joseph Maingot, Q.C. Prof. Lorraine Weinrib
26	January 18, 1991	The Honourable Kim Campbell, Minister of Justice Law Reform Commission of Canada Canadian Labour Congress Attorneys Against Criminalization of Abortion
27	January 21, 1991	Father Alphonse de Valk and Dr. Bernard Nathanson Prof. Ernest Caparros Prof. Donald DeMarco National Women's Liberal Commission Canadian Advisory Council on the Status of Women

THE SENATE

Thursday, January 24, 1991

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

Prayers.

THE LATE NORTHROP FRYE

TRIBUTES

Hon. Richard J. Doyle: Honourable senators, this morning the CBC devoted a few moments to tributes honouring the memory of Northrop Frye, the distinguished Canadian literary critic who died yesterday in his 79th year. A short time after its praise of this most noted of the Companions of the Order of Canada, the CBC switched to a somewhat longer program devoted to an assessment of the cultural impact of rap music on society today. Northrop Frye would have rejoiced in the juxtaposition, if not the imbalance of attention.

Here—at the University of Toronto—was a scholar who enjoyed tremendous stature wherever the written word was valued. When a list of 250 authors was compiled to find those most often quoted by scholars, Marx, Aristotle and Shakespeare were in first, second and third places. Northrop Frye was 12th.

Small wonder that the University of Toronto, where he continued to work, appointed him to the special post of Professor of the University, which allowed him to teach wherever he wished in the university.

Honourable senators, we are all richer for having lived in the time of Northrop Frye.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, not much can be added to what Senator Doyle has said, but I can say that I am a graduate of Victoria College which has been graced for many years by the presence of Northrop Frye. Very recently the CBC program *Ideas* did a series on Northrop Frye. It was a very stimulating series and contained quite a number of passages or parts in which Professor Frye gave his views. He really was one of the world's most scholarly and exciting minds.

Recently, when I had reason to look him up in the current edition of the Oxford Companion to Literature, the most recent one edited by Margaret Drabble, I was quite dismayed to be unable to find any entry about him. I was surprised and disappointed by Oxford, because there is no question about the universal fame that he enjoyed and that he so richly merited.

Hon. Lorna Marsden: Honourable senators, I should like to support and add my voice to everything that has been said about Professor Frye. He was not only a great scholar, and one of the most distinguished minds of this century, but he was also a splendid colleague, a witty, probing and gentle companion for students and his colleagues at Massey College and everywhere else where he joined in the fellowship. His passing is a great loss for thinking people all over the world and a great loss for scholarship in this country. No doubt senators will want to extend their sympathy to his widow, Elizabeth Brown.

PERSIAN GULF

TRIBUTE TO CANADIAN FORCES—MOTION WITHDRAWN

On Motion No. 2:

> Be it Resolved That this Chamber salutes the high purpose and devotion to duty of the men and women of the Canadian Armed Forces who are about to take up active duties in and around the Persian Gulf where the United Nations has pledged itself to the restoration of the recognized Government of Kuwait and the withdrawal of the cruel, invading armies of Iraq, and that this Chamber acknowledges its support for Canada's actions in the United Nations Security Council, where this country co-sponsored a resolution proposing comprehensive, collective sanctions against Iraq, which has brought forth unprecedented multi-national efforts to arrest aggression at its beginning.

Hon. Heath Macquarrie: Honourable senators, I am not trying for a popularity prize, but once again I rise to ask leave to withdraw a motion that is standing in my name on the Order Paper. My Motion No. 2 dealing with the Gulf crisis was laid down in September. As we all know, the exigencies of the situation at that time did not allow us to reach Motions. Motions are hard to get at in our agenda. Later Senator MacEachen introduced the same subject when he spoke on an adjournment motion. In my judgment there was a thoughtful and good debate, despite the fact that I took part in it.

Therefore, in the interest of consistency of our agenda—and a certain degree of relevance with regard to my interest in this important matter—I should like to have motion No. 2 withdrawn.

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

Hon. Senators: Agreed.

Motion withdrawn.

BUSINESS OF THE SENATE

On Reports of Committees:

Hon. Roméo LeBlanc: Honourable senators, I had hoped that I would be able to introduce a report of the Standing

Committee on Internal Economy, Budgets and Administration concerning the Estimates, which we have worked on long and hard in the past weeks. However, I suspect that there is a last minute hitch in the processing of the report. I will ask my colleagues for permission to revert to this item later this afternoon.

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

Hon. Senators: Agreed.

BROADCASTING ACT

BILL TO AMEND—SEVENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Finlay MacDonald: Honourable senators, I have the honour to present the seventh report of the Standing Senate Committee on Transport and Communications respecting its examination of Bill C-40, an Act respecting broadcasting and to amend certain acts in relation thereto.

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. 5199.*)

A Clerk at the Table:

Thursday, January 24, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred—

Some Hon. Senators: Dispense!

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

Senator MacDonald: Honourable senators, I would request leave of the Senate to say a few words explaining the amendments now, as I think I am required to do under Rule 80.

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

Some Hon. Senators: Agreed.

• (1410)

Hon. M. Lorne Bonnell: Honourable senators, before leave is granted, I want to point out that yesterday a chairman of a committee asked for leave to make some brief comments and then went on for nearly an hour.

Senator Doody: He's gone today.

Senator Bonnell: He made a speech on the report.

Senator Barootes: Because of interruptions he went on for an hour.

Senator Bonnell: That may be so, but he went on for an hour nonetheless.

Before the chairman goes on to make an elaborate speech, I would like to have his assurance that it will be brief and that he will explain what the report has to state without going into any detail or without reading the report word for word as did the chairman of the Legal and Constitutional Affairs Committee yesterday.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I too would like to speak to the question of leave. Perhaps Senator MacDonald's timing is not good, as Senator Bonnell mentioned, because he follows immediately on what took place yesterday. As a matter of principle, and rather than deal with individual cases, I admit that the practice developed in the Senate many years ago, when Senator Hayden would present reports and then ask for leave to make a few comments, was that he would make his comments and, if he was presenting a report on a bill, in effect it resulted—and I hate to use this adjective when I refer to Senator Hayden—a bootlegged third reading speech.

Senator Roblin: It was indeed.

Senator Frith: Senator Roblin remembers. Leaving the word "bootleg" aside, his standing was such that in the result he always got leave to decide when he would make his third reading speech, or his speech on the report, by doing it when it suited his time, whether or not it suited the time or the rules of the Senate. That practice is starting to develop again.

Our rules provide, and I am sure for good reason, that reports are spoken to the day after they are presented—that is, notice is given to have the report taken into consideration at the next sitting of the Senate. Our rules also provide that a report without amendment, which this is not, be adopted without debate but that the motion for third reading take place at the next sitting of the Senate.

I underline the fact that those are our rules. If we do not want that, and if we want chairmen to be able to speak to a report the minute it is introduced—and I do not think we should—then we can change the rules. In the meantime, I hope this will not become a practice.

For two days in a row chairmen of committees have presented reports and asked for leave to make a few comments. If they ask for leave to make a few comments, then they should take the trouble to ask for leave and explain why they must have leave, why it cannot wait until the next sitting, as provided for by the rules.

Senator MacDonald: Honourable senators, I tend to agree. It is entirely possible that these brief remarks could have been made at the consideration of the report stage of the bill. Since honourable senators have copies of the report, and since it will be considered at the next sitting of the Senate, I thought it might be helpful to make these comments now in order to apprise honourable senators of what is before them. This is not

a third reading speech. It is a speech made by a chairman of a committee with complete detachment as to what happened.

I assure Senator Bonnell that when my colleague yesterday tried to be helpful and useful he probably placed an intolerable burden upon the attention span of the honourable senator. I shall not do that today.

Hon. Earl A. Hastings: Can the honourable senator explain how his report, which he has tabled, or presented, is any different, or why it deserves any special consideration when compared to any other committee report which is tabled or presented? Will it now be required of every chairman to ask for leave to take into consideration the report in its proper order?

Senator MacDonald: I was following Rule 80. If I have misread that rule—

Senator Frith: Yes, you may have.

Senator MacDonald: I asked for leave.

Senator Olson: But it was not granted.

Senator MacDonald: I think it was.

Senator Olson: No, it was not.

Senator Bonnell: Honourable senators, I will give leave if the chairman assures us that his comments will be brief and that he will not go into a third reading speech or a speech on this report, which we will get into at the next sitting. If he has a few comments to make, such as there being something wrong with the printing or the French translation, then that is fine. If those are not the type of comments that he wishes to make, then there is no reason why the report cannot wait until next week.

Senator Frith: I should like to make it clear that my objection would not be met by an undertaking that the chairman would be brief, but rather by being persuaded that there is some special reason why we should proceed now and leave accordingly given to suspend the rules. Rule 80 says:

> On every report of amendments to a bill made from a committee, the senator presenting the report shall explain to the Senate the basis for and the effect of each amendment. That, of course, will be perfectly in order when the report comes before the Senate in due course. When the report comes before the Senate, as it will at the next sitting, I look forward to Senator MacDonald's explanation of the amendments provided for in Rule 80. Up to this point I have heard no special reason why leave should be given to make comments contrary to the rules and, therefore, I believe leave should not be granted.

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

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

[Senator MacDonald.]

BUSINESS OF THE SENATE

On Presentation of Petitions:

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I now give Senator MacDonald a chance to get even, because I should like leave to revert to Presentation of Petitions.

Hon. Finlay Macdonald: No.

Senator Frith: I shall present the petitions at the next sitting.

Hon. Efstathios W. Barootes: Hoisted on his own petard!

Senator Frith: Not at all. I said he would have a chance to get even. He had a chance to refuse me this leave, and he has refused it. It is quite fair to have done so. A petard is in no way involved, hoisted or otherwise.

The Hon. the Speaker: Honourable senators, may we get from the negative to the positive on both sides?

ABORTION BILL

NOTICE OF MOTION TO REFER SUBSTANTIVE ISSUES OF BILL C-43 TO COMMITTEE OF THE WHOLE OR TO SPECIAL SELECT COMMITTEE

Hon. Stanley Haidasz: Honourable senators, I give notice that on Tuesday next, January 29, 1991, I shall move:

> That the substantive issues of Bill C-43, including the salient claims of witnesses having appeared before the Legal and Constitutional Affairs Committee, and the evidence led therein, and to be printed in full in the Proceedings of the said Standing Committee dealing with Bill C-43, be referred to a Committee of the Whole or a special select committee if that is the decision of the Senate expressed in Committee forthwith, for the purpose of analysing these issues, claims, and evidence, with a view to clarifying what is the principle of Bill C-43 and the scope available to this Senate for amendment of Bill C-43, and the ramifications of the proposed Bill C-43 and its possible amendments in the body of law and Canadian social *Charter* supported rights, being especially attentive to the potentially seditious effects of Bill C-43 were it enacted in law.

• (1420)

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, January 29, 1991 at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

ABORTION

NOTICE OF MOTION TO AMEND BILL C-43

Hon. Stanley Haidasz: Honourable senators, I give notice that on Tuesday next I will propose the following substantive amendment to Bill C-43:

That Clause 1 of Bill C-43 at page 1 thereof be amended by striking lines 21 and 22 thereof and substituting therefor:

"medical practitioner", in respect of a medical intervention performed in a province, means

and striking lines 11 through 14 thereof and substituting therefor:

years, unless the medical intervention is performed by or under the direction of a medical practitioner with reasonable regard for the preservation of the life of the said child when the said medical practitioner is of the verifiable opinion that, if the medical intervention were not performed, the health or life of the

and striking lines 4 and 5 thereof, substituting therefor:

287(1) Every person who performs a medical intervention on a female person who has conceived a child which has the effect of the death of that child before it has been born is guilty

renumbering succeeding lines accordingly.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will be pleased to take any questions honourable senators may have for the Leader of the Government. He will, I understand, be in the chamber later, but he is not available at the moment.

GENERAL AGREEMENT ON TARIFFS AND TRADE

SCHEDULED RESUMPTION OF MEETINGS

Hon. H. A. Olson: Honourable senators, I want to give notice of some questions that I hope the Leader of the Government in the Senate will be prepared to deal with at the next sitting.

Apparently, the Commissioner for External Relations of the European Common Market has embarked on a trip through South America and North America to find out on what basis the GATT talks can be resumed, because he says that everyone is now aware that something has to happen. If it does not happen, or if they do not come to some kind of agreement on agricultural subsidies, apparently the entire trade talks will break down. This report goes on to say that the commissioner has something new to offer, although exactly what is not clear.

I wonder if I could give notice that we would like to discuss this with the minister at the next session. Perhaps he could find out from the Honourable Mr. Crosbie what the commissioner has in mind, because there are many people in Canada who have a vital interest in having these talks resume and a determination reached reasonably soon. In fact, that should happen sooner than people anticipate, because the permission that was granted under the fast-track rules by the United States Congress expires on March 1.

Hon. C. William Doody (Deputy Leader of the Government): Thank you, senator. We will try to get the information.

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. M. Lorne Bonnell: Honourable senators, I realize that the Leader of the Government in the Senate does not think it is necessary to be here for Question Period; that is why he has left his deputy leader here to answer questions. It is difficult for the deputy leader to be informed when he is not in the cabinet. Therefore, I would ask the deputy leader to suggest to the Prime Minister of Canada that he be named to the Privy Council and then to the cabinet of the country so that he could answer our questions, because he is here almost every day, while the Leader of the Government in the Senate can find all sorts of excuses not to be here.

I see the deputy leader does not have an answer to that one. Since he cannot respond, perhaps I can ask the Conservative caucus to put forth a motion to the Prime Minister the next time they meet moving that the deputy leader be made a Privy Councillor and a member of the cabinet to replace the present leader who finds other places to be during Question Period.

Hon Orville H. Phillips: Are you joining our caucus to make that motion?

PERSIAN GULF WAR

POSSIBILITY OF CONSCRIPTION—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: While I am on my feet, I should like to ask the deputy leader in the Senate if he would find out for sure, and have either himself or his Leader report back to the Senate, that Canadian troops will not be conscripted to be sent over to the Gulf war. I ask because, according to the newspaper this morning, if Israel should be invaded, then ground troops could be sent over to join the Canadian troops in the Gulf. The supposition is that if at any time Israel should get involved with this war, Canadian troops could be sent forward and there may be conscription.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, my understanding is that the Prime Minister has made it perfectly clear that there will be

no ground troops committed and there will be no conscription. However, if there is further information, I will try to obtain it.

Senator Bonnell: Of course, the Prime Minister said we would not be in a war, but we got into one. He said it would only be under the United Nations, but it is not under the United Nations at all; it is a coalition of some kind.

POSSIBILITY OF GASOLINE RATIONING—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Could the deputy leader also find out from the Leader of the Government, and from the man who does sit in cabinet, whether we are going to have rationing of gasoline and other vital supplies for our Canadian citizens?

Hon. C. William Doody (Deputy Leader of the Government): I will try to obtain an update for the honourable senator.

BENEFITS AND RIGHTS TO BE ACCORDED TO CANADIAN FORCES VETERANS—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Could the deputy leader also find out for us if the Department of Veterans Affairs is going to take into consideration the factt that the men and women, boys and girls, who are in this Gulf war should receive all the pension benefits and rights, such as the VIP treatment, veterans allowances and disability pensions, to which all of our veterans from the other great wars are entitled?

• (1430)

Hon. C. William Doody (Deputy Leader of the Government): I will try to obtain the information, senator.

STRIKING OF MEDAL FOR CANADIAN FORCES IN GULF CONFLICT—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Will you also ask the Leader of the Government in the Senate if he can assure us that medals will be struck by the Department of National Defence for these great boys and girls to wear to show they took part in this battle for the coalition?

Hon. C. William Doody (Deputy Leader of the Government): I think that question was asked a few days ago.

Senator Bonnell: I never received an answer.

Senator Doody: It is currently under investigation. I realize how necessary the information is and I will try to obtain it.

INCOME TAX EXEMPTION FOR MILITARY PERSONNEL—GOVERNMENT POLICY

Hon. M. Lorne Bonnell: There was also a question asked a few days ago, and I will ask it again today to remind the Leader of the Government. Is there going to be the same tax break given to those Canadian boys and girls who have had the extra expense of going to the Gulf in fighting for this country as has been given to the American soldiers, airmen, seamen and marines by the United States?

[Senator Doody.]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I think the honourable gentleman asked that question also yesterday, and I think it is being studied by the appropriate department. Are there any further questions while I am on my feet?

Senator Bonnell: I have lots of questions, but I know you will not give me any answers. You will take my questions as notice, so I will save them for the leader next week. Maybe he will come back next week or maybe he will find another meeting to go to.

CANADIAN HERITAGE LANGUAGES INSTITUTE BILL

THIRD READING

Hon. Brenda M. Robertson moved the third reading of Bill C-37, to establish the Canadian Heritage Languages Institute.

Motion agreed to and bill read third time and passed.

CANADIAN RACE RELATIONS FOUNDATION BILL

THIRD READING

Hon. Noel A. Kinsella moved the third reading of Bill C-63, to establish the Canadian Race Relations Foundation.

Motion agreed to and bill read third time and passed.

CANADA PENSION PLAN

BILL TO AMEND—THIRD READING

Hon. Norman K. Atkins moved the third reading of Bill C-260, to amend the Canada Pension Plan (spousal agreement).

Hon. Lorna Marsden: Honourable senators, this bill, as you are all aware, was sponsored by Mr. Bill Kempling in the other place. It corrects a problem in the splitting of pension credits between spouses on the dissolution of marriage, which problem has existed for the last few years and has been a troublesome one. As Senator Atkins has explained to us, this bill gets around the situation in which one spouse could bargain away his or her side of the Canada Pension Plan credits. The situation is somewhat complicated and the history has been explained earlier to us.

The Standing Senate Committee on Social Affairs, Science and Technology has considered the bill at some length and believes that this is a bill which should be supported and passed without amendment. However, we have some concerns with the way in which this bill was presented, which we would like senators to know about.

There are really three problems, the first being that the bill rests almost entirely upon ministerial discretion. Those senators who have the bill before them will know that it is up to the minister to decide whether someone's pension credits can be restored, the amounts and who is eligible. We have a great

deal of concern about legislation that provides so much ministerial discretion. While we understand that under the current circumstances this seems to be the only available way to solve the problem, we would like honourable senators to know that in principle members of this committee on both sides are concerned about it and hope that legislation of this kind does not establish a precedent. We would certainly be unhappy if that were to be the case.

A second problem with the bill is that it does not set out in detail the circumstances in which it would be appropriate for the minister to take remedial action, which he or she will be eligible to do under this legislation. For example, there are potentially deserving spouses who signed spousal agreements with a general waiver prior to 1983, not realizing that they were giving up their rights to a division of credits. They did not later apply for credit splitting based on advice received directly or indirectly from government. Because Bill C-260 essentially provides that remedial action may be taken in relation to ex-spouses who were denied a division of credits, this class of spouses is not eligible for redress, having made no application. Therefore, they have now lost their right to division of credits.

Another example is that of ex-spouses who failed to apply for the division of credits within the delay of three years, as required by the then relevant legislation, which was Bill C-49. Failure to apply in a timely fashion was the situation for a spouse who decided against submitting an application, believing that it would be denied in light of the Preece case in 1983, which held that ex-spouses could waive their entitlements to CPP credits. The question then arises as to whether this person would be considered as having been denied a division of credits within the meaning of the bill.

The point we are making here is that there are many possibilities about which cases may or may not fall under the aegis of Bill C-260. Because the bill depends on ministerial discretion alone, there are no established criteria. We think that is too loose a framing of the bill.

Third, the problem is that the legislation is framed in an open-ended treatment of the form of relief which should be granted in appropriate cases. Would a division of credits with retroactive application be ordered? Would the remedy even be a credit splitting or another form of relief, to quote paragraph 4(*b*) of the bill, ". . . to place the person in the position that the person would be in under this Act had the division been approved . . ."? Again, the legislation authorizes the minister to exercise discretion when taking suitable remedial action without reference to any kind of standard.

● (1440)

It is clear to members of our committee that the failure to provide criteria and standards in the bill creates a vagueness that may very well impede its implementation. The legislation provides no guidelines to assist the minister or to contain the exercise of ministerial discretion. It only requires that spousal agreements prior to June 4, 1986 have resulted in a denial of a credit division. The satisfaction of Bill C-260 is left to the minister's discretion.

Finally, this is all the more disturbing because there is no clause in this bill forcing the minister to prepare a report on the bill within one or two years of its coming into force. As all senators will know, a clause of this nature is quite often included in legislation to serve as a mechanism of accountability. We are disturbed that there is no such provision in Bill C-260. Nonetheless, we recognize that if we were to amend this legislation, which we would like to do, it would be very unlikely to come forward again for sometime. Because the bill does provide relief to a certain number of people who are caught in this situation, we urge that it be passed without amendment.

Motion agreed to and bill read third time and passed.

GOVERNMENT EXPENDITURES RESTRAINT BILL

MOTION FOR THIRD READING—DIVISION DEFERRED

Hon. Duff Roblin moved the third reading of Bill C-69, An Act to amend certain statutes to enable restraint of government expenditures.

He said: Honourable senators, I will let my friend, Senator Leblanc, speak first and I will speak after him.

[*Translation*]

Hon. Fernand-E. Leblanc (Saurel): As you know, Bill C-69 implements part of the Budget brought down on February 20, 1990, as set forth in the Expenditure Control Plan concerning program spending. More specifically, the bill eliminates the Canadian Exploration Incentives Program; freezes public utilities income tax transfers to the provinces; caps federal transfers under the Canada Assistance Plan to Ontario, British Columbia and Alberta at 5 per cent; and freezes federal transfers to the provinces for Established Programs Financing, including postsecondary education and health care. The capping of increases in transfer payments will apply to fiscal periods 1990-91 and 1991-92.

The National Finance Committee met a number of times, first on October 3, 1990, and subsequently on October 24, 1990, October 25, 1990, and more recently, for the fourth time on January 16, 1991, the fifth time on January 17, 1991, the sixth time on January 21, 1991, the seventh time on January 22, 1991, and the eighth again on January 22, 1991. Altogether, the committee met eight times, and as a result, more witnesses were able to express their views. With the exception of the ministers and federal officials who appeared before the committee, all witnesses disapproved of one or more aspects of the bill under consideration. Nevertheless, the committee decided to report the bill without amendment because except in the case of the elimination of the Canadian Exploration Incentives Program, the expenditure restraint measures are apply to only until the end of the next fiscal year. Furthermore, the bill was referred to committee last June, and the government, in the person of the Minister of Finance, Mr. Wilson, was anxious to see the committee finish hearing witnesses as soon as possible. As chairman of the committee, I acceded to the repeated requests of Conservative members.

However, although spending cutbacks were temporary, some witnesses pointed out that by deciding unilaterally to reduce its transfer payments to the provinces, the government was challenging a number of fundamental principales.

In this respect, I would like to share with you some comments by Mr. Ron Melchers. I have the "blues" of our sitting on Monday, January 21, 1991. I will read the text which I believe is entirely accurate, even if it is not the final version. The witness was a Mr. Ron Melchers, Chairman of the Social Planning Council of Ottawa-Carleton, and this is what he had to say about the Canada Assistance Plan:

> The Canada Assistance Plan is inadequate and should be reviewed, but such a review requires a far more elaborate and complex process than a money bill that unilaterally abrogates one of the fundamental aspects of Canadian social policy in the past 25 years.
>
> Since 1976, there has been no national debate involving the provinces on the interaction required between social policy and that part of our social policy that constitutes the federal contribution.
>
> So I hope that there will be a renewed debate on the basic principles of the Canada Assistance Plan, in a multilateral process involving the federal government and the provinces, similar to the process that existed originally, if we are truly to make this legislation an instrument for economic prosperity.

Since the Supreme Court has now been asked to decide whether the federal government has the power to make unilaterally such drastic changes in shared-cost programs like the Canada Assistance Plan, I would rather not comment further on this matter.

However, in the case of Established Programs Financing, transfer payments have already been cut back twice, in the 1986 and 1989 budgets.

Honourable senators will recall that these transfers include pecuniary payments and tax points. The increase in tax points more or less follows the increase in the Gross Domestic Product. This means that the initial cutbacks in 1986 and 1989 and those proposed in Bill C-69 had the effect of reducing pecuniary transfers to the provinces.

For the 1989-90 fiscal year, transfers under Established Programs Financing amounted to $19.8 billion, but 42 per cent of that amount was in the form of pecuniary transfers, while the remaining 58 per cent consisted of tax points.

This trend towards reducing the proportion of pecuniary transfers and increasing tax points is expected to continue as long as the aggregrate of transfers does not increase as fast as the GDP. If nothing is done, sooner or later pecuniary transfers will disappear altogether. Some provinces will be affected sooner than others, but they will all be affected in the end. The federal government is gradually withdrawing its support for fiscal federalism or, as is often the case, for so-called profitable federalism. Honourable senators may wish to look at the impact of this withdrawal on national unity.

[Senator Leblanc.]

For instance, we know that the federal government obtains compliance with the national health standards provided under the Canada Health Act by threatening to withdraw transfer payments from provinces that do not apply those standards. However, when those transfers no longer exist, some provinces may decide to undermine the principle of free health care by, for instance, imposing user fees, supplementary costs or private insurance. In the circumstances, we may end up with as many different health care systems as there are provinces and territories, and Canadians may have trouble getting out-of-province care.

Finally, the government should give some serious thought to the long-term impact of its expenditure control policies on national unity and the future of Confederation. I certainly cannot vote for a bill that in my opinion adds more grist to the mill of separatists of every ilk, in the province of Quebec and elsewhere.

Thank you, honourable senators.

• (1450)

Hon. Duff Roblin: Honourable senators, I should like to add a few words to the comments made by the chairman of the committee, but before doing so I should like to express my appreciation for the business-like way in which he has dealt with the handling of this bill in committee. It is not his fault that it is now over six months since we had second reading. I appreciate the fact that he conducted the affairs in the most expeditious manner possible under the circumstances. I want him to know that I appreciate that.

The chairman has quite usefully outlined the purposes of this bill, which are part of the federal fiscal restraint program that was announced in the last budget. I do not think there is any need for me to reiterate those details. He has also raised a much larger issue, which is not the essential part of the bill but is a legitimate comment on it. It can be reduced to the assertion that these programs between the provinces and the federal government on these important matters are not capable of being continued indefinitely in the form in which they were first devised.

If anyone follows the history of the transfer policy between the federal government and the provinces, one must be struck by the fact that it is continually being readjusted in order to meet the circumstances of the times and the difficulties that arise, which perhaps were not anticipated when they were first introduced. That is a fair comment. I also think that it is an important comment, because some time in the not too distant future these matters will be reviewed. If my memory is correct—and I hope that I am right in this—there is in some instance statutory undertakings that these transfer payments be reviewed from time to time. Certainly that is the case with equalization in order to make sure that they meet the circumstances of the time. So I do not disagree with him on his assertion that these matters have to be renewed from time to time. I agree with that.

I also think the chairman was right to say that the bill should be supported. Perhaps I am stretching it a bit far, but I

agree with him that the bill now has only one year to run. It is important that it should be dealt with now. We will see what happens at the end of that year with respect to these various arrangements.

I point out to the house that, in connection with the tax point situation to which he drew attention, that has been a factor in these equations for many a long day. It is nothing new. It may be that circumstances alter the impact of these tax point transfers, but it certainly gives the provinces the opportunity to take advantage of that tax revenue generating in that way. Otherwise, it would come to the federal treasury and the treasury would then decide whether to pass it on or pass on any portion of it.

Originally tax points were brought in with a reasonable degree of approval by the provinces, because attached to the tax points is the principle of equalization; so that if a province's tax- raising capacity is lower in one province than it is in another, the principle of equalization applies so that low income provinces that are using tax points, as they must under this arrangement, now have the benefit of equalization being applied to them. To that extent, there is something to be said for the tax points themselves. I make that as an observation just to illustrate what is occurring at the present time.

My honourable friend also made reference to the fact that the federal government making these grants can control what the provinces are doing, say, in the field of health. I do not think that is true anymore. From 1977 onward the block grant principle has been in place. That means that, while in the beginning these grants were strictly monitored by the federal government with respect to how the provinces spent the money on education and health, since 1987 that has not been the case. In fact, the provinces are legally and constitutionally at liberty to use this money for anything they wish. I agree with my honourable friend if he suggests that the provinces should be careful to use them for health and education. I think that is right; but, as far as the constitutional position and the legal position is concerned, they are block grants and the provinces have the right to spend the money as they wish.

Perhaps that is something that should be looked into also, because when you get too long a separation between the man who raises the money and the man who spends it, you lose the principle of accountability of the expenditure of public finances. I myself have some sympathy for those who say that it is not a good situation and that we should do something about it. I think that my honourable friend and I may be on common ground with respect to that.

However, I point out that under these restraint programs no transfers are being reduced. It is true that increases have been slowed down and in some cases have been severely capped, but equalization is quite untouched and carries on as it has always done. This bill is for a limited period. We will have to see how we get along after that period expires.

My friend is right in saying that there were numerous presentations before the committee. Those affected or who felt that they had an interest in the matter were vocal and impressive in the testimony that they presented to us. Some of them were asking for more rather than less, but, naturally, they were looking out for the interests of the particular sector of society in which they serve. I thought that these presentations came from people who were obviously dedicated and earnest in what they had to say. It is not surprising, if they were speaking from their own particular point of view rather than the broader public interest. That is the nature of things.

• (1500)

The decision for legislators is not a particularly pleasant one, or a particularly easy one. I, for one, found my sympathies fully engaged by the people who came before us to present their concerns. The problem is, of course, that these particular claims have to be weighed against what I describe as the principle of the common good, or have to be weighed against the various choices that are open to legislators in respect of this matter.

Of one thing we can be assured: that, as usual, there does not seem to be enough tax funds to pay for what the people want. I think that point was put pretty well by Judith Maxwell of the Economic Council of Canada when she was speaking in western Canada last November. She said, "There is, in fact, a large gap between what citizens want and what they are prepared to pay for." We know all about that, but it is nice to have it confirmed from another source.

When in the past we have had problems of this kind, we have tried to meet the expectations of the people who have appeared before us by raising taxes, or by increasing the deficit or the debt. That was the reaction in days gone by. I think we are coming to realize more and more that these options are not open to us today. It would not be advisable for us to adopt those expediencies at the present time. Our present fiscal deficit and our present national debt underline the seriousness of this problem when one considers the cost of debt service. It is now about 40 cents for every dollar that we gather in tax money. One can perceive that by following the increase in this debt support payment over the years, we are rather quickly eroding the capacity of the federal government to meet its current responsibilities, to say nothing of something new.

We find that Bill C-69 is directly related to the debt and the deficit and is an attempt to obtain for the federal government a little more room to manoeuvre, room for manoeuvre which is now pretty closely constrained. In fact, one would say that it is strangled. Somehow the pressure should be reduced. Bill C-69 is part of the policy that will help to relieve that pressure.

No doubt this is painful for some. I hope that it is just in the short run and that there may be hope for better things in the long run. No doubt Bill C-69 is not good news for many. It is not good news for me, for one. However, the constraints it imposes, I suggest, over this two-year period are manageable and, given the budget position with which we are faced, are indeed necessary. Our expectation and our hope is that it will protect the future.

Speaking on the same occasion, Ms. Maxwell made a remark on this matter to which I subscribe. She stated that

"for the sake of future generations, we have to make a determined effort to climb over this mountain of debt." She went on to state that "it seems inevitable that the federal government will be forced to curb existing commitments even further just to meet the new claims on the public purse within the next few years." Finally, she stated, "It will be tough medicine to take, but we must bear in mind that it will eventually bring genuine, long-term payoffs for all Canadians." In a nutshell, that seems to be the justification for this bill. On that basis, I ask the house to support it.

Some Hon. Senators: Hear, hear.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Roblin, seconded by the Honourable Senator Buchanan, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, pursuant to Rule P-3(a), I ask that the vote on third reading of this bill be deferred until 5.45 o'clock p.m. on the next sitting day, which I take it will be Tuesday.

Hon. C. William Doody (Deputy Leader of the Government): I have no problem with the deferred vote. As a matter of fact, I think it is a great idea. However, would it not be better if the whips had a chance to discuss whether the vote should be held on Tuesday or Wednesday? They have already had some discussion along those lines on another matter.

Senator Frith: Tuesday has no magic for us. For the sake of the record, it should be clear that the rule has been invoked. If the two whips come up with some different arrangement, then we can implement it by unanimous consent on Tuesday.

The Hon. the Acting Speaker: Is it agreed?

Hon. Senators: Agreed.

ABORTION BILL

THIRD READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government), for Senator Murray, moved the third reading of Bill C-43, an act respecting abortion.

Hon. Donald H. Oliver: Honourable senators, I rise in my place conscious of the fact that I have been in this chamber for a very short time and that this is the first occasion I have had to address you formally. If I inadvertently break with any of the longstanding traditions of this place, I am hopeful that other honourable members will be tolerant of my inexperience and be quick to point out my shortcomings or presumptions.

It is a tradition in this chamber, as well as in the other place, that a new member take the opportunity in a maiden speech to say a few words about his or her constituency as well as the objectives he or she would like to pursue.

Notwithstanding the fact that I was not elected to this august body, all of us having been appointed, there are four constituencies that I would be proud to represent during my tenure in the Senate. The first is my home province of Nova Scotia, a land as beautiful as it is diverse, and one of the original colonies that first joined together to create this country, full of people proud to call themselves Canadians.

Some Hon. Senators: Hear, hear!

Senator Oliver: In many areas of Canada's society and economy, Nova Scotia has much to offer the rest of the country, particularly in terms of its quality of life. While we still have much to achieve, we also have much to contribute. I want to join my voice with other senators from Nova Scotia in making that contribution and in bringing Nova Scotia's unique point of view to issues of national concern.

Nova Scotia is also a part of one of this country's key regions, Atlantic Canada. Some central Canadians tend to undervalue Atlantic Canada, pointing out the current economic dependence of the region on the rest of the country. Honourable senators, I am convinced that we in the region are poised on the edge of a new economic adventure, one characterized by an outward looking, more aggressive and entrepreneurial approach to doing business with the rest of Canada and, indeed, the rest of the world.

For the first time in a long time we are actively discussing more formal economic ties among all four provinces, export markets in New England, Europe and the Asia Pacific, as a means through which we can cooperate rather than fight with one another. I am very much looking forward to doing what I can to help this process along so that we can point to our economic progress as proudly as we can point to the quality of life in the region.

Finally, through my appointment to the Senate I believe I can represent Black Nova Scotians, and visible minorities throughout the country. As a member of both communities, I understand the need to combat racism wherever it appears and to provide equal opportunity to all regardless of the colour of their skin. Equality, fairness, justice—these are concepts that many Canadians take for granted; but for many others they are goals to which they can only aspire. But they are no longer the impossible dream.

Further, at this critical time in our nation-building efforts, fully one-third of Canadians are less than adequately represented in any of the debates that pit Canadians of English-speaking origin against Canadians of French-speaking origin. They are the people of a thousand languages and cultures. This third group does not share the historic tensions that have brought us to this place in time. They came because Canada started out as a beacon of promise and fulfilment. I want to work with them to ensure that it remains so.

Some Hon. Senators: Hear, hear!

• (1510)

Senator Oliver: I must confess that the last few months have been an interesting period for me, as I am sure they have been for all of us. To say my entry into the fierce debate was not exactly what I had in mind would be understating my feelings in the extreme.

I have long desired to be a senator, and I shall make no apologies for that ambition. When I first conceived that desire, the Senate was a chamber of noble aspirations. Despite the century-old debate over the non-elected status of senators, this place was, as seen by Sir John A. Macdonald, a place of sober second thought. It was credited with fulfilling an important national and political role and making a unique contribution in shaping the legislation which ultimately affects all of us.

To say that I want to go back to that time in the history of this body is to say that I want to move forward. Our rules of conduct and procedure, such as they are, were written for a mildly partisan gentlemen's club Senate of the 19th Century. Though honourable senators would have to be blind to believe that we are still a gentlemen's club and deaf to think that this is a mildly partisan place, what we have become is inadequate and inappropriate even in the 20th Century and, of course, we are moving rapidly to the 21st century.

The Senate must be capable of functioning smoothly if it is going to make any contribution to national unity, national strength or even the national debate over its own continuing role in Parliament. We did make an effort with the provisional rules that guide us as I speak, but it is painfully obvious that even they were put together in haste under the exigencies of the day. They will probably have little to do with the long-term reforms of our process and purpose.

Just as Canadians are debating reforms to the Senate, I believe that the Senate should be reforming itself. After all, change should start from within. Whatever happens next, we would at least have made a start towards returning this chamber to its former position, where its views actually counted for something. A useful place to start would be in reviewing the role, powers and activities of the Speaker. A strong Speaker, with the authority of modern rules of procedure, would make a substantial difference in the manner in which we conduct ourselves, particularly where there are partisan issues dividing us. I would also like to see a Senate focusing on strengthening the investigative roles of the committees. It seems to me, as I recall recent history, that the Senate has been able to makes its most significant contribution to the legislative process when it did its homework well. By that, I mean studying emerging issues on their merits and then responding to legislation of its own or from the other place from a position of knowledge and expertise. After all, I read our role as being one to advise and improve rather than to deny and discard. That is not to deny the powers invested in this body in Canada's Constitution, but only to focus on how they might be used more appropriately.

I do not believe that Canadians would be so disheartened with the current functioning of the Senate if we had been pursuing our investigative and advisory roles more effectively.

Today, nobody will deny that Canada is facing a constitutional crisis of a magnitude that we have not seen before. Just as an aside, on the radio the other day I heard a simple solution to our constitutional troubles: Get more Germans to immigrate to Canada. After all, we have spent 120 years trying to unite one country; the Germans united two countries in just nine months.

Certainly we have gone through periods of national unrest in the past, but we have weathered them. The conscription fight, the language debate, Quebec's independence referendum, to name just three, were emotionally-charged crises that threatened our tranquil state. We got through them partly because that emotion was part of a sense of Canadianness, a deep-rooted and personal commitment to our future together.

The current debate is different in a number of respects. In many parts of the country the emotion seems to have been replaced by either a "Who cares?" attitude or, as it appears in Quebec, "What's in it for us?" approach to the issue. Our traditional political institutions are in chaos. Public cynicism is growing daily, and a myriad of other problems are clouding our national vision. Who, then, are people to turn to when all else has failed? I would like to believe that we, in this chamber, could play such a role, though we seem to be having some trouble enough keeping our own house in order. Certainly we have the talent and experience and, if you like, institutional wisdom unlike that which is found in the other place.

Colleagues, in the final analysis, nothing is as important as our ability to bring sober second thought to the national constitutional debate. If we cannot or we do not, how can we expect more of anyone else? I am sorry to be so long-winded in my introductory remarks, but I felt I needed to say all of these things. I believe them deeply and I am committed to working hard with all honourable senators to help them come to pass.

Having said that, I should like to turn to the legislation currently before us: Bill C-43, the abortion bill, which has been highly controversial and will remain so, whether or not it is passed by the Senate. However, I believe that it is an important piece of legislation in that it proposes a compromise between extreme points of view which, by their very nature, are totally irreconcilable.

Though I urge all senators to support the passage of this bill, I am not prepared to argue the issues on moral grounds. I do not believe that I have the right or the ability to impose my moral judgment on people on either side of this issue. The large majority of Canadians ought to hold their own counsel as their individual consciences dictate, without imposing their views on others. This legislation is not for them; it is for those whose views run so deep and so strong that they cannot allow the other point of view to exist alongside their own.

While abortion remains the most perplexing and intractable moral problem of our time, the issues it raises are issues at two distinct levels. For those actually involved in the practice of abortion—women with unwanted or problem pregnancies, health professionals debating whether to perform abortions, and friends or counsellors attempting to provide women with advice—the problem is a direct and personal one. The question at this level is whether performing or undergoing an abortion is morally justifiable. Although the question will be confronted by many individuals, for many others it will never arise. In

other words, the personal question of abortion does not generalize to all members of society.

At the second level, abortion is a matter of public policy. Every society must decide whether and how it will regulate abortions. The basic moral question at this social level is whether undergoing or performing an abortion is to be legally permissible. Whatever the shape of the society's abortion policy, settling upon one policy or another is unavoidable. Thus, at the societal level, the moral perplexities created by abortion are also unavoidable. The choice of an abortion policy is the legitimate concern of all members of society capable of participating in the political process. Unlike the personal problem, the social problem of abortion does not confront us, only when we are involved as participants. It is addressed to all of us simply because we are citizens and, as citizens, we must define the common good.

● (1520)

Broadly speaking, abortion policies split into three sorts. A policy is permissive if it treats abortion at every stage of pregnancy as a form of minor surgery. Permissive policies will impose on abortions only those constraints applicable to medical procedures in general such as the competence of practitioners, standards of facilities and the informed consent of the patient.

A policy is restrictive if it treats abortion at every stage of pregnancy as a form of homicide. Restrictive policies either prohibit abortions outright or severely limit grounds for their justification—for instance, to cases where continuation of the pregnancy threatens the woman's life. A policy is moderate if it falls somewhere between the permissive and restrictive policies.

Moderate policies commonly impose two sorts of special constraints on abortion: Concerning the stage of pregnancy at which an abortion is performed; and the reasons for performing it. These constraints take many different forms and can be combined in a number of different ways. The result, however, is that, while permissive and restrictive policies are much of a piece, moderate policies are really a mixed bag.

The strongly held, well-established viewpoints on both sides of the abortion issue are both simple and internally coherent. Beginning with diametrically opposing valuations of the fetus, they progress inevitably to diametrically opposed abortion policies. This conflict between the established views defines the public abortion debate in most countries, including our own.

Faced with this polarization, it is easy to conclude that the established views exhaust all our available options. Either abortion is the moral equivalent of contraception or it is the moral equivalent of infanticide. Against the simplicity and power of these extreme views, more moderate positions appear muddled and indecisive.

However, in Canada and elsewhere, opinion polls tend to show that only a small minority of people support the pro- or anti-abortion stances. Most persons with views on abortion tend to seek out some middle ground which attaches significance to two factors: when an abortion is performed and why.

[Senator Oliver.]

The common sense view appears to be that early abortions are less objectionable than later ones and that some grounds for abortion are less objectionable than others.

Common sense attitudes towards abortion can only be put into practice by a moderate policy—abortion legislation that seeks the middle ground. That middle ground must set a time limit that divides early from late abortions, and it should be more permissive for early abortions than it is for later ones.

In urging senators to support the passage of this legislation, I want to stress my belief that the Minister of Justice has found the appropriate middle ground, given the views of Canadians and the ruling of the Supreme Court which struck down the previous abortion legislation.

Let me turn first to the Supreme Court decision which placed considerable limitations on the scope of any legislation designed to replace section 251 of the Criminal Code. In the judgment in the case involving Dr. Henry Morgentaler and his two colleagues, then Chief Justice Brian Dickson stated that it was not the intent of the high court to resolve the so-called abortion issue, but simply to measure the contents of section 251 against the Charter of Rights and Freedoms. The Chief Justice said:

> Although no doubt it is still fair to say that the courts are not the appropriate forum for articulating complex and controversial programmes of public policy, Canadian courts are now charged with the crucial obligation of ensuring that the legislative initiatives pursued by our Parliament and legislatures conform to the democratic values expressed in the Canadian Charter of Rights and Freedoms.

Section 1 of 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. Section 7 states that everyone has the right to life, liberty and the security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 1 of the Charter can be used to salvage a legislative provision that breaches section 7. However, this is possible only if two conditions are met: First, that the objective of the provision is of sufficient importance to warrant overriding a constitutionally protected right or freedom; and, second, that the means chosen in overriding the right or freedom are reasonably and demonstrably justified in a free and democratic society. In other words, the legislative means are proportional to the legislative ends.

Previous Supreme Court decisions have made reference to three conditions to this second aspect. First, that the means chosen to achieve an important objective should be rational, fair and not arbitrary; second, the legislative means should impair as little as possible the right or freedom under consideration; and, third, the effects of the limitation upon the relevant right or freedom should not be out of proportion to the objective we set out to achieve. Let me again quote from Chief

Justice Dickson's analysis and reasons concerning this landmark judgment. He said:

> In my view, it is unnecessary for the purpose of deciding this appeal to evaluate or assess foetal rights as an independent constitutional value. Nor are we required to measure the full extent of the state's interest in establishing criteria unrelated to the woman's own priorities and aspirations. What we must do is evaluate the particular balance struck by Parliament in Section 251 as it relates to the priorities and aspirations of pregnant women and the government's interest in the protection of the foetus. I have no difficulty in concluding that the objective of Section 251 as a whole, namely to balance the competing interests identified by Parliament, is sufficiently important to meet the requirements of the first step under Section 1. I think that the protection of the interests of pregnant women is a valid government objective, where life and health can be jeopardized by criminal sanctions.
>
> Like Beetz and Wilson JJ., I agree that the protection of foetal interests by Parliament is also a valid government objective. It follows that balancing these interests, with the lives and health of women as the major factor, is clearly an important government objective. I am equally convinced, however, that the means chosen to advance the legislative objectives of Section 251 do not satisfy any of the three elements of the proportionality component.

Later the Chief Justice continued by saying:

> The evidence has led me to conclude that the infringement of the security of the person of pregnant women caused by Section 251 is not accomplished in accordance with the principles of fundamental justice. It has been demonstrated that the procedures and administrative structures created by Section 251 are often arbitrary and unfair. The procedures established to implement the policy of Section 251 impair Section 7 rights far more than is necessary because they hold an illusory defence to many women who would *prima facie* qualify under the exculpatory provisions of Section 251(4). In other words, many women whom Parliament professes not to wish to be subject to criminal liability will nevertheless be forced by the practical unavailability of the supposed defence to risk liability or to suffer other harm such as a traumatic late abortion caused by the delay inherent in the Section 251 system.

● (1530)

Still quoting from the Chief Justice:

> Finally, the effects of the limitation upon the Section rights of many pregnant women are out of proportion to the objective sought to be achieved [by the legislation].

Chief Justice Dickson concluded that the cumbersome structure of the Criminal Code provisions not only unduly subordinated the section 7 rights of pregnant women, but may also have defeated the value that Parliament itself established as paramount, namely, the life and health of the mother.

In his reasons, Mr. Justice Beetz, although disagreeing in some respects with the Chief Justice's reasons, focused part of his analysis on the right to security of the person. He suggested that an administrative structure made up of unnecessary rules, which result in an additional risk to the health of pregnant women, is manifestly unfair and does not conform to the principles of fundamental justice. However, he does conclude that the requirement that an independent medical opinion be obtained for a therapeutic abortion to be lawful cannot be said to be a violation of the principles of fundamental justice when considered in the context of a pregnant woman's right to security of the person.

He also addressed the requirement that abortions under section 251 be performed in hospitals.

Finally, I would like to turn to Madam Justice Wilson's reasoning behind her opinion that section 251 should be struck down. This outlines the parameters set by the Supreme Court of Canada which legislatures have to abide by. Madam Justice Wilson stated that the respect for individual decision-making in matters of fundamental personal importance, reflected in American Supreme Court jurisprudence, informs the Canadian Charter.

In reviewing *R. v. Big M Drug Mart Ltd*, the Chief Justice pointed out that beliefs about human worth and dignity were the *sine qua non* of the political traditions underlying the Charter.

Madam Justice Wilson concluded:

> The right to liberty in Section 7 guarantees to every individual a degree of personal autonomy over important decisions intimately affecting their private lives. The question then becomes whether the decision of a woman to terminate her own pregnancy falls within this class of protected decisions.

She said:

> I have no doubt that it does. The decision is one that will have profound psychological, economic and social consequences for the pregnant woman. The circumstances giving rise to it can be complex and varied, and there may be, and usually are, powerful considerations militating in opposite directions. It is a decision that deeply reflects the way the woman thinks about herself and her relationship to others and to society at large. It is not just a medical decision; it is a profound social and ethical one as well. Her responses to it will be the response of the whole person.

Madam Justice Wilson goes on to conclude that section 251 not only deprives the woman of her right to security of the person, but the right to liberty as well.

While she agrees that section 1 of the Charter authorizes reasonable limits to be put on the woman's right, having regard for the fact of the developing fetus within her body, she takes a developmental focus to the gestation period. By that, she suggests that the state has a more compelling interest in the protection of the fetus in its later stages of development than in the former. However, that precise point in the develop-

ment of the fetus at which the state interest becomes compelling, she leaves to the informed judgment of the legislature, which is in a position to receive guidance on the subject from all relevant jurisdictions.

In reviewing the Supreme Court ruling, it is easy to see the limits that the decision has placed upon Parliament's ability to legislate protection of the fetus without balancing that interest very carefully with the interests and the rights of the mother. Further, cumbersome administrative procedures contained in the previous legislation were clearly seen to violate the concept of fundamental justice. However, all justices agreed that the state did have the right to impose some restrictions on the rights and freedoms of the mother in the interest of protecting the fetus.

This brings me to the bill itself and the middle ground that I think it has managed to achieve on this complex and divisive issue. Just how divisive was apparent when the House of Commons, on a free vote, passed the legislation we are now considering here by a margin of only nine votes, 140 to 131.

When the previous Minister of Justice, Doug Lewis, introduced this legislation more than a year ago, he stated that its overriding purpose was in finding an appropriate balance between the rights and interests of women and the state's interest in the protection of the fetus. He also stated that the proposed legislation, in seeking that middle ground, would not satisfy the partisans on the extremes of the issue.

As honourable senators well know, the bill is a very simple one, even though the issues that it addresses are not. It requires that any woman seeking an abortion consult with a medical practitioner. It requires that the medical practitioner satisfy himself or herself that the abortion is justified on the grounds that it threatens the life and health of the woman. It widens the definition of "health" to include mental, physical and psychological considerations, and it imposes criminal sanctions on those who violate those conditions.

I believe that the legislation satisfies the problems with the previous legislation that led to the Supreme Court of Canada decision to strike it down. There is no lengthy administrative process that would require a woman to undergo an extensive waiting period before a committee could make a decision on the issue. There is no requirement that abortions be performed in a specific facility. With the cooperation of provincial jurisdictions, this could make access to lawful abortions more equitable and fairer across the country, particularly in our remote regions. There is, in fact, more protection of the health of the pregnant woman, since it prevents non-qualified persons from supplying women with drugs or other substances for the purposes of inducing an abortion.

While I consider that others have talked about the use of the Criminal Code with respect to the abortion issue, I should again like to summarize very quickly some of those arguments. The new law comes under the Criminal Code, because it is only through the criminal law power that Parliament can regulate abortion on a national basis. Health is mainly a matter of provincial jurisdiction under the Constitution. General federal authority to legislate in that health area falls within the federal government's spending power and the criminal law power. In order to legislate directly to regulate abortion, Parliament has to use the criminal law power.

The Canada Health Act, for example, is a general funding vehicle in the health area. Legislation based on the spending power gives the provinces the option of compliance and would not provide the necessary foundation for a national regulatory scheme. It also does not allow the government to legislate directly with respect to the conduct of individuals. Enacting legislation in the Criminal Code reflects our society's interest in the protection of the public health, public order and societal values in the area of abortion. These public interests, which are the foundation of the criminal law power, find their chief expression in the Criminal Code.

• (1540)

Those of us who have been students or practioners of politics over the last few decades understand that Canada is an unusual country to govern. It is like no other. Just as we have a land mass totally out of proportion to our population, we also have language debates, regional disparities, multicultural policies and jurisdictional disputes, all of which compete with each other to dominate the national stage.

Although we approach the abortion issue as many other western nations do, the manner in which we have to deal with it depends on the national government's ability to impose its will on provincial governments. By this I mean that the issues currently under discussion attempt to balance the interests of the unborn against the interests of women, particularly with respect to their health. But health is not a matter of federal jurisdiction. The wisdom of our forefathers left health within the purview of provincial governments.

For the federal government to intervene on the abortion issue it needs a vehicle. It needs to intervene because, as a country with shared values and aspirations, a common approach to the dilemmas imposed by the abortion issue is the only way to proceed. It needs a vehicle because legislation must be based upon an area of federal competence. The only vehicle available to it in this regard is the Criminal Code. The Criminal Code may not be the most appropriate mechanism within which to deal with abortion, but it is the only one we have.

To those who suggest that the federal government is using this mechanism to make criminals out of women or doctors, I can only say: Would you leave it to the ten provinces to decide?

Hon. Royce Frith (Deputy Leader of the Opposition): To which I assume you would say no.

Senator Oliver: That is correct.

Senator Frith: You asked the question whether you should leave the decision to the provinces.

Senator Oliver: And I say no.

For those who demand that the government amend the Canada Health Act to deal with abortion, I ask if legislation

dealing with the transfer of money from one jurisdiction to another is really where such a sensitive, moral issue should be contained. We must remember that, as a country, our national ability to enter the health field resides only in our funding powers under the Canada Health Act or under the Criminal Code. The Criminal Code, despite its name, exists to reflect, to a degree, a national approach to issues of a moral nature. As a society we abhor murder, abuse of women and children, desecration of personal or public property and the like. These values are embedded in legislation that defines the limits to individual freedoms and imposes penalties on those who exceed those limits.

In that regard, let me quote from the brief of the current Minister of Justice, Kim Campbell. In her appearance before the House of Commons legislative committee studying Bill C-43, Ms. Campbell dealt at length on the Criminal Code issue. She said, and I quote:

> Criminal law power is primarily related to the protection of fundamental values and reflects our commitment to protection of life, health, human dignity, equality and social order. Society, being a cooperative enterprise, its members must realize the need to compromise, respect each other's needs and views and enjoy mutual trust and reliance. For a society to thrive and grow, it must have a measure of freedom, justice, human dignity, equality and social order. By using the criminal law power as the basis for a new law on abortion, we are enshrining a certain set of values which, in part, describes the kind of society we are... Criminal law tries to reflect deeply-held social values and attempts to balance them with the rights of individuals.

It seems to me that the justice minister, in a few carefully chosen words, summed up the entire abortion debate, which is about values, rights and balance.

Colleagues, the Criminal Code is all we have in this regard. Therefore, it is not surprising that the government has chosen to use it. For those senators who object to the Criminal Code being used to adjudicate the abortion debate, and who may feel that they should vote against the legislation for that reason alone, I urge them to consider what alternatives are available; and further, what alternatives are available consistent with the need to operate within the restrictions, which I have already outlined, imposed on legislatures by the Supreme Court.

Having said that, I think it is also appropriate to remind senators that Canada does not stand alone in this debate and on how it has chosen to resolve it. In fact, most Western democracies have also been challenged by the moral, legal and ethical dilemmas that abortion imposes on modern society. I have had the opportunity to read the research done by Senator David with respect to a number of other jurisdictions that have wrestled with this problem.

Honourable senators, I briefly reviewed the history of this and other places. It underscores the difficulty history has brought to bear and that societies similar to our own have had in coming to grips with this vexing issue. As a Member of Parliament, Benno Friesen, who helped guide this bill through the House of Commons, said:

> This bill is the threshold of what we can do as a society in order to build the kind of moral framework that will help our people to decide the moral issues that influence their lives in a way that is acceptable to all and preserves the right of freedom.

In the legislation before us today, I believe we have a reasonable, pragmatic and common sense approach to the issue. I believe it strikes a balance between the two totally opposing viewpoints on the same issue. I also believe that it satisfies the requirements imposed on legislators by the Supreme Court of Canada.

Since we already know that interest groups will challenge the legislation before the Supreme Court as soon as it is enacted, I do not believe that any inhibitions we have in this regard should stop us from passing the bill. The government's initiative vis-à-vis the Charter of Rights and Freedoms will be determined in a court superior to our own, though I believe it will pass the Supreme Court of Canada challenge. I believe we should give the process a chance. If we fail to do so, we fail the many Canadians who still rely upon this chamber as a place for sober second thought. I also think that we will fail to respect the traditions of this country in maintaining and bringing a fine balance to complex jurisdictional problems.

In the last resort, we must be cognizant of the people's right to decide. The Supreme Court has told us that. History has told us that. Other jurisdictions similar to our own are telling us that. If we reject this legislation on our own moral grounds, we are imposing our own will on the people of this country. I do not believe we have that right; we certainly do not have that mandate.

Honourable senators, I urge you to pass this bill. It is the only way we can move forward as a society. It is the only way we can bring the abortion issue into perspective in terms of the majority of people who are content with their own ideals, values and certainties.

Thank you for listening to me. I apologize for taking so long in this my first address to this chamber.

Hon. Senators: Hear, hear!

Hon. Peter Bosa: Honourable senators, I rise to make a brief intervention on Bill C-43. I could speak for hours on the material I have received from both pro-choice and pro-life groups and the division between the two. I should say that my difficulty also lies in the fact that there is division of opinion within my own family. My wife has manifested on occasion some degree of support for the pro-choice view, whereas my daughter, Angela, aged 21, is seriously in favour of the pro-life position. Consequently, I am going to limit my remarks by reading a few sentences that appeared in the *Washington Star* on April 2, 1978, entitled, "Abortion Euphemisms". The article reads, in part:

● (1550)

> It is an illusion to believe that resistance to abortion is based on religion. It is in fact based upon biology, nature

and common sense. All one has to do is look with one's own eyes upon what is being aborted. It is a living organism with every appearance of a child. It resists its own death—it struggles. Granted its own fundamental rights, it will live, grow and be born, not by faith but by nature itself.

Having read that, honourable senators, I should like to inform my honourable colleagues that I will vote against Bill C-43.

On motion of Senator Neiman, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-SECOND REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Roméo LeBlanc, Chairman of the Standing Internal Economy, Budgets and Administration, presented the following report:

Thursday, January 24, 1991

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

SEVENTY-SECOND 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 (Special Study on Veterans Affairs Estimates), for the proposed expenditures of the said Committee regarding Veterans Affairs Votes 1, 5, 10, 15 and 20 of the 1989-90 Estimates, authorized by the Senate on 2nd May, 1989. The said supplementary budget is as follows:

Professional and Special Services	$5,280

Respectfully submitted,

ROMÉO LEBLANC
Chairman

The Hon. the Acting 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 of the next sitting of the Senate.

SEVENTY-THIRD REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, January 24, 1991

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

[Senator Bosa.]

SEVENTY-THIRD REPORT

Your Committee has examined and approved the Senate Estimates for the fiscal year 1991-92 and recommends their adoption.

A summary of the Expenditure Budget 1991-92 accompanies this report.

Detailed copies of the Senate Estimates 1991-92 are available from the Office of the Clerk.

Respectfully submitted,

ROMÉO LEBLANC
Chairman

THE SENATE OF CANADA

Summary of Expenditure Budget, 1991-92

OPERATION EXPENSES

DESCRIPTION	BUDGET 1990-91	BUDGET 1991-92
Personnel	24,147,900	31,049,928
Transportation and Communications	3,850,900	3,477,615
Information	2,161,500	1,986,500
Professional and Special Services	3,573,000	3,551,186
Rentals	858,900	544,700
Purchased Repair and Upkeep	587,800	1,045,300
Utilities, Materials and Supplies	763,600	901,571
Grants and Contributions	1,023,900	1,248,400
All Other Expenses	40,000	
TOTAL OPERATING	38,007,500	43,805,200

CAPITAL EXPENSES

DESCRIPTION	BUDGET 1990-91	BUDGET 1991-92
Construction and Acquisition of Buildings	1,525,000	1,900,000
Acquisition of Office Machinery and Equipment	568,500	457,500
TOTAL CAPITAL	2,093,500	2,357,500
Less Adjustment for Federal Sales Tax	—	(421,800)
Total-Operating & Capital Budgets	40,101,000	45,740,900
Percentage Increase:	8.3%	14.1%

The Total amount of the Senate Estimates 1991-92 is therefore $45,740,900, which represents an increase of 14.1% from the previous fiscal year. This increase is due to the following factors: a) 9.8% of the increase is attributed to the additional costs incurred as a result of the appointment of new Senators. With the appointment of additional Senators during the fiscal year, Senate membership increased by 23%, resulting in a substantial increase of costs and services; and b) 4,3% increase is due to the ongoing operations of the Senate.

Senator LeBlanc: Honourable senators, with the permission of the house, I should like to give a few words of explanation; otherwise, I am afraid that some of this arithmetic might be rather confusing.

The Hon. the Acting Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Senator LeBlanc: Honourable senators, I have just tabled the Senate Estimates for 1991-92. The total amount of the Estimates for 1991-92 is $45,740,900, which represents an increase of 14.1 per cent from the previous fiscal year. This increase is due to two factors: a 9.8 per cent increase, which is attributable to the appointment of new senators in the past month, and the normal increase for la masse salariale,or the mass of salaries, which is 4.3 per cent.

I should also indicate to my colleagues that there is no increase in the authorized person years level except for the secretaries of the new senators.

I am sure honourable senators will allow me to offer thanks to members of the committee, especially the vice-chairman, Senator Doody, and Senator Lefebvre, who led our discussions in the budget committee. I also extend thanks to the other members of the subcommittee, Senator Nurgitz and Senator Kenny.

I really want to say that all senators who came to the Estimates study worked long and hard. I am sure honourable senators would want me to express their thanks to all who laboured quietly and patiently in the examination of the estimates for the Senate.

Senator Frith: Hear, hear!

Senator LeBlanc: I would also like to thank the members of the staff, particularly the Director of Finance, Madam Aghajanian, who was patient in the face of all the requests and last minute demands that we put upon her and her staff. I want them to know that our bad tempers were not directed at them; they were really directed at the problems we were trying to solve.

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

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

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT AGREEMENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-88, to provide for the membership of Canada in the European Bank for Reconstruction and Development.

He said: Honourable senators, I am pleased today to speak on second reading of Bill C-88, to provide for membership in the European Bank for Reconstruction and Development. I should like to focus my remarks on why this bank has been created, on Canada's interests in Central and Eastern Europe, and on our reasons for seeking membership in the EBRD. I will then address briefly the mandate of the bank and Canada's financial contribution to it.

• (1600)

Honourable senators, the countries of Central and Eastern Europe are undergoing political, economic and social changes of historic importance. The political and social ferment in these countries, combined with their acute economic problems, present risks and opportunities. These developments are potentially destabilizing; indeed, the recent events in the Baltic States demonstrate that, sadly, the region continues to face instability. The government has already expressed to the Soviet leadership our deep concern on the use of military force in the Baltic States, and we all hope that the Soviet Union can resolve its political problems without further loss of life. At the same time, the changes that have taken place in Central and Eastern Europe also create the potential for a prosperous, freer and more integrated European and North Atlantic community. The European Bank for Reconstruction and Development can play a central role in permitting the emerging democracies of Central and European Europe to reach their potential.

The concept of the EBRD originated from a French proposal that was quickly endorsed at a meeting of the European Community in Paris in November, 1989. Canada quickly endorsed this principle of a broad-based bank to provide a focus for worldwide financial assistance to Central and Eastern Europe, in support of the process of political and economic change then beginning in that region.

Widespread interest in this initiative quickly developed, leading to a highly compressed series of negotiating meetings. Indeed, the unprecedented speed with which the establishment of this bank was negotiated is the clearest sign of the international community's commitment to support reform in Central and Eastern Europe. This process culminated in the representatives of potential member countries signing the Bank's Article of Agreement, entitled *Agreement Establishing the European Bank for Reconstruction and Development*, which is attached to the bill before us today, in Paris on May 29, 1990.

The countries of Central and Eastern Europe are clearly backward in modern technology and are burdened by the cumbersome and unproductive structures of the communist system. However, they also have a generally well-educated workforce, a good scientific base, and considerable technical skills. With strong and imaginative political leadership and support from the industrial world, many of these countries may be able to transform their economies and societies relatively quickly—thus enabling them to enter the European/North Atlantic Community as active and self-reliant partners.

The EBRD can assist the process of modernization and structural change in Eastern Europe through the provision of financing and technical advice for the steady and systematic introduction of private ownership and market forces into these economies.

Canada has a vital stake in Central and Eastern Europe. Some 15 per cent of Canadians have direct ties with Eastern and Central Europe. Moreover, Canada's future peace and prosperity is intertwined with the peace and prosperity of Europe. As a consequence, Canada is deeply involved in the affairs of Europe through our participation in NATO, the Conference on Security and Cooperation in Europe and other multilateral forums, as well as our strong bilateral ties in both Eastern and Western Europe.

As a nation with broad political, economic, and security interests in Europe, we need to build on our traditional relations and to influence the evolution of Europe in ways conducive to our interests. This means, especially, expanding our political, social, economic, and commercial relations with the countries of this region. We must also seek both bilateral and multilateral links with the region. One key vehicle for this will be the EBRD.

From a commercial perspective, economic liberalization in Eastern and Central Europe will generate increasing trade and investment opportunities for all, including Canadian business. The Bank itself will assist Canadians to be aware of and to finance business with Central and Eastern European countries.

The bank is loosely modelled on the existing regional development banks in Latin America, Asia, Africa, and the Caribbean. However, unlike these banks, the EBRD has a distinctive political mandate. It will support the transition to market-based economies through the particular encouragement of private enterprise in those countries of Central and Eastern Europe adopting both political and economic reforms. The contracting parties of the EBRD have used the Articles of Agreement to state their commitment to democracy, to the rule of law, to respect for human rights, and to market economics. I would refer my colleagues to the preamble to the Articles of Agreement, which is Schedule 2 of the proposed legislation.

The bank is to be European in character, but broadly international in membership. Its membership will include the 12 member states of the European Community, the European Economic Commission, the European Investment Bank, the countries of Central and Eastern Europe, including the U.S.S.R., and other European and non-European countries that are also members of the International Monetary Fund. A list of signatories who intend to become members is included in the annexes to the Articles of Agreement.

The main objective of the bank is to promote the development of the private sector by focusing on those countries undergoing economic liberalization and democratization. To do so, it will need to coordinate its work closely with existing institutions such as the International Monetary Fund and World Bank. In order to establish a mechanism for selecting those countries eligible to borrow, and to ward against possible backsliding on reforms, the Articles of Agreement provide for an annual review of the bank's lending strategy in each borrowing country. This review, which was proposed by Canada during the negotiations, should ensure that only those countries consistently applying the principles of democracy, pluralism, and market economics continue to be eligible for borrowing.

The bank's central task is to build a vibrant private sector in countries that have been dominated for the past 45 years by inefficient state planning and almost total state ownership. The articles specify that at least 60 per cent of bank funding will be targeted toward lending and equity participation in private sector enterprises. Lending to the public sector will be aimed at assisting in the transition toward greater competitiveness and eventual possible privatization of public sector firms. There may also be limited lending for infrastructure projects required to support the free market economy.

I would also note that, for the first time in the Articles of Agreement of any such international institution, direct reference has been made to the bank's role in promoting environmentally sound and sustainable development. The Government of Canada attaches special importance to this element of the European Bank's objectives.

Honourable senators, the initial capital base of the bank will be 10 billion European currency units, or approximately $16 billion Canadian. Of that amount, 30 per cent must be actually "paid-in", or deposited by members with the bank. The remaining capital is "callable"—that is, capital that is not paid-in, but for which the members are liable should the bank encounter financial difficulty.

As in the case of the other development banks, the EBRD will be able to borrow further funds in capital markets at attractive rates of interest on the basis of the callable capital in convertible currency of its most creditworthy members. This will enable the bank to lend almost triple the level of funds represented by its paid-in capital. Thus, the establishment of this bank will create a multiplier effect. Every dollar that member governments provide to the institution will catalyze an additional $2 in investment capital for Central and Eastern Europe.

All powers of the bank are to be vested in the Board of Governors, which, in turn, will delegate responsibility for the bank's management and policy development to the Board of Directors. The Minister of Finance will be the Canadian

Governor for the EBRD. Canada will have one of 23 seats on the board of the bank.

Canada was present at all the negotiating sessions for the EBRD, and has been an active participant in the key political, financial, and technical discussions to ensure that Canadian interests are fully represented. Based on the negotiations among the 42 founding signatories to the Articles of Agreement, it is proposed that Canada initially purchase a share of 3.4 per cent of the capital of the bank, making us the eighth largest shareholder.

• (1610)

Canada has elected to pay its subscription during this initial period of capitalization in U.S. dollars, just as we make subscription payments to the other development banks, such as the World Bank, in U.S. dollars. A share of 3.4 per cent would entail a paid-in investment not exceeding $120 million U.S. in respect to Canada's initial subscription of shares. The total callable portion of our share would be up to $280 million U.S. Thus, Canada's total financial commitment—actual and potential—to Central and Eastern Europe through the EBRD will be some $400 million U.S., or approximately $460 million Canadian at current exchange rates. Support of this magnitude is a powerful indication of the government's commitment to political and economic change in eastern Europe.

Although the EBRD will only become operational once the process of ratification by members is completed, there are clear indications that the international business community is eager to cooperate with the bank in developing a vibrant sector in Eastern Europe. Within Canada, strong interest has already been shown by bankers, business people, the legal community, academics and many others.

I am confident that Canadians will use the resources of the EBRD to seek out a range of business opportunities in support of the economic transformation of Eastern Europe.

Honourable senators, the shares that we are proposing to purchase in the EBRD are an investment not just in the narrow accounting sense, but, in a much broader sense, an investment in democracy and pluralism, an investment in economic freedom; above all, an investment in the people of Central and Eastern Europe. We are establishing an institution that will build productive assets and let the people of Central and Eastern Europe help themselves to grow and prosper.

Honourable senators, I must emphasize that for Canada to be a founding member of the bank, the legislation allowing for the communication to the bank of our ratification of the agreement must be in place as soon as possible. I ask my colleagues in the Senate to give timely consideration and passage to this bill. I would suggest that, should it pass second reading, it should be referred to one of the standing committees of the Senate. I think the Standing Senate Committee on Foreign Affairs might be the appropriate committee, but certainly Banking, Trade and Commerce would also be entirely acceptable.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as far as I am aware, there is no objection to this bill receiving second reading. I would prefer to adjourn the debate in the name of the chairman of whichever committee Senator Doody chooses. I agree with him. From listening to his comments, it appears to be a flip of the coin as to which committee, but I think he favours Foreign Affairs.

I repeat that I know of no objection to the bill. Therefore, I do not want to see it held up unduly. If it would not be unduly held up by my adjourning the debate until Tuesday in the name of Senator Stewart, the chairman of the Foreign Affairs Committee, then I do so. I take it from Senator Doody's reaction that that is satisfactory.

Senator Doody: Yes. That is agreed.

On motion of Senator Frith, for Senator Stewart, debate adjourned.

THE HONOURABLE GUY CHARBONNEAU

MOTION OF CENSURE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Fairbairn:
>
> That the privileges of Honourable Senators having being constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.—(*Honourable Senator Kirby*).

Hon. Michael Kirby: Honourable senators, I rise today to make a few remarks in support of the motion by Senator Stanbury, seconded by Senator Fairbairn:

> That the privileges of Honourable Senators having been constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.

I should like to make two broad points in my remarks. First, I should like to examine the reasons for this motion. Second, I should like to examine the consequences of the Speaker's actions during the GST debate in this chamber last fall. But before I proceed to either of these points, I should like to make one or two remarks that I think are relevant to the history of debate on Bill C-62 and the way in which that bill was treated by the Senate.

As many of you know—I say "many of you" rather than all of you since a significant number of senators have appeared in this chamber since the summer—hearings on Bill C-62 began in Ottawa last May. At the time when the hearings began it was the view of many senators on our side that, while the bill was not a perfect piece of legislation and would require perhaps some amendment, there was certainly no intention by the members of the Standing Senate Committee on Banking, Trade and Commerce to proceed to defeat the bill when the hearings began.

Although that point may be disputed by some members opposite, I cannot resist pointing out that there were a number of private conversations, including conversations between myself and several members opposite, where it was clearly explained that one of the purposes of the hearings was to find out what changes needed to be made in the bill in order to make it a better piece of legislation, rather than conduct a series of perfunctory hearings and then kill the bill. In fact, it was precisely because we wanted to find out how to improve the bill that the Banking, Trade and Commerce Committee went across the country throughout July and most of August holding hearings in 12 cities—one in every province and one in each of the territories. It was precisely because we wanted to find out how to improve the bill that the Banking, Trade and Commerce Committee heard 370 witnesses on the bill.

What happened to the Liberal members of that committee during these hearings was that, frankly, we were absolutely overwhelmed and staggered by the depth and breadth of the opposition that existed in the country to Bill C-62. It was only after listening to all the witnesses for those many weeks all summer that we decided that the bill was so bad and would require such a massive number of amendments that the only realistic way to deal with the bill was to vote to defeat it.

In our view, to fail to recommend that to the Senate would have made a complete sham out of the entire series of hearings held all summer. We did not want to be in the position in which committees of the other place had been during, for example, the Meech Lake hearings or the House of Commons Finance Committee hearings on Bill C-62 in which, during most of those sets of hearings, no matter how much criticism was voiced on a particular proposal—in one case Meech Lake; in the other Bill C-62—the position that the government took was that absolutely not a word—or, to use the Prime Minister's favourite phrase, not a comma— could be changed. Our view was that, having heard the witnesses and having heard the evidence this past summer, it was important that we should try to reflect, in our committee report and in the actions of this place, what we had heard. We were not prepared simply to ignore, as were members opposite, everything that we had heard this past summer. It was as a result of those hearings that we decided to kill Bill C-62, or to recommend to this chamber that Bill C-62 not to be read a third time.

That background is important, because it has frequently been among members opposite that the decision to kill Bill C-62 was made long before the bill ever got here. It is a fact that the Senate Liberal caucus only considered what our action would be on Bill C-62 in the days following Labour Day. In fact, our position was born out of what the Canadian public wanted as opposed to some preconceived notion.

As a result of our position, we had the bizarre situation, during those first few days following September 24, in which members opposite conducted a filibuster on their own bill. It seems to have been forgotten that as the fall unfolded the notion of a filibuster was an acceptable proposition in those early days when it was being carried out by members of the government. They were carrying out that filibuster precisely because the Prime Minister needed time to appoint the British eight. He needed time to pack the Senate. What they were doing was simply filibustering their own bill in order to give the Prime Minister time to do that.

[Senator Kirby.]

• (1620)

What we did not understand on this side—and I concede that in retrospect we were incredibly naive—is that not only was the Prime Minister going to appoint eight extra senators, thereby ensuring he had an adequate number of votes, but that the government was absolutely confident that even if the eight were not sufficient to solve its problems, the Speaker was absolutely in the Prime Minister's pocket. He would do whatever he had to do within the rules, or outside the rules, legal or illegal, in order to ensure that the bill passed.

The fact that the government was so totally confident of this can be seen by the interview which the Minister of Finance, the Honourable Michael Wilson, gave to Mike Duffy very early in October after the British eight had been appointed. During the course of the interview the minister was asked, "What would happen if the Liberal senators were to conduct a very long filibuster?" The minister's response was, "Don't worry about it, we have a plan. We are absolutely 100 per cent confident that we will get the bill through." The naiveté on our side stemmed from the fact that we assumed that they would try to get the bill through using the rules rather than the Speaker as the means of forcing it through.

I would like to take a moment to review the actions of the Speaker which led members on this side to move ultimately the censure motion. There were five things which the Speaker did which we argue—and I think any unbiased reading of the rules would cause one to argue—were completely outside the rules. The first was that on September 27 the Senate was in session and the bells were ringing summoning senators to a vote. Without the consent of the Senate the Speaker stopped the bells, locked the doors for the weekend and proceeded to act in a manner and using authority which the rules clearly do not give him. One can argue that was relatively minor. One can even argue that it made sense. After all, why let the bells ring all weekend? What we on our side failed to pick up was that however minor that particular transgression was, it merely foreshadowed what was to come in the weeks and months ahead.

On October 4 we were in a situation in which, once again, the Senate was in session and, once again, the bells were ringing summoning senators for a vote. While the bells were ringing, the Speaker sent out a letter at 5.10 in the afternoon in which he stated that he would call the vote for 5.30. It is an amazing coincidence that the Conservative caucus was meeting at 5 p.m., and that they were all in one place just down the hall. I will comment on this more in a moment since one of our independent senators corroborates what we thought happened.

The Liberals, not having been given the advance notice which very certainly the Conservatives were given, were scattered all over Parliament Hill. In fact, some were on their way to the airport while others were in local hotels. We were left in a situation in which the Speaker, first, decided to do something

which the rules make it clear he has no power to do. Second, he proceeded to do it in a time and in a manner which ensured that the benefit of his decision would accrue directly to the government, and which could clearly not be used effectively by members of the Opposition.

Senator Frith: In fact, to their prejudice.

Senator Kirby: That is right. As many of us know, Senator Pitfield ended up voting with the government on Bill C-62. Yet, on October 9, he stood up in this chamber and made the following comments which are reported at pages 2426 and 2427 of the *Debates of the Senate*. He stated at that time:

> I now feel that the situation was born in an atmosphere of collusion between the Chair and the government. That is confirmed on the perfect voting record which the government was able to come up with . . .

That was only a few minutes after the Speaker's letter arrived. Senator Pitfield stated that not only was there a question of collusion, there was also a question of a biased, prejudiced act by the Speaker. He concluded by stating:

> . . . one must conclude that we are possessed of a Speaker who is prepared . . . to act according to his own biases against a private senator and an independent senator. In that case, Mr. Speaker and honourable senators, there is no alternative but to ask that the Speaker resign.

I quote those remarks because it seems to me that here is the view of an independent senator. He was in favour of the GST. He clearly felt that, as a result of the events of October 4 in which the Speaker proceeded to call a vote and to shut off the bells when he had no authority for doing so, the Speaker must resign.

One of the things that was absolutely remarkable about that event upon which I must comment almost parenthetically, is that in addition to doing what he did the Speaker also clearly does not know how to read the clock. The fact of the matter is that he held the vote at 5.25 as opposed to 5.30 as was stated in his letter. That proves to me that he not only broke the rules of the Senate by stating that he was going to hold the vote at 5.30, he also broke his own rule by holding the vote at 5.25.

The third incident involving the Speaker occurred on October 30 when, under the rules, members on this side were reading petitions, something which we are allowed by the rules to do. The Speaker interrupted the Liberal senator who had the floor to give the floor to Senator Doody. Senator Doody proceeded to read a petition which contained, interestingly enough—and I cannot resist making the observation—only three names. They are perhaps the only three people in Canada, other than the 53 members opposite, who were in favour of the GST. Moreover, those three names were those of three of Senator Murray's staff. That gave those of us on this side of the chamber the sense that not only could they not find people who were genuinely in favour of the GST, but that an aura of keystone cops and buffoonery, in terms of the way the other side was proceeding to handle the debate, was created.

What happened as a result was that the Speaker, after having incorrectly recognized Senator Doody, let Senator Doody insert a motion at the end of his petition stating that the Orders of the Day be now read. Having recognized that motion, the lengthy reading of petitions came to an end. Once again, we on this side were left in a position in which the biased actions of the Speaker prevented us from using legitimate tactics to delay the final vote on Bill C-62.

On November 21 Senator Waters very carefully advised the Speaker that after the vote on the final Liberal amendments which had been put forward according to the provisional rules, he would be on his feet to move a further amendment. It is worth emphasizing at this point that none of the independent senators at that point in time had moved any amendments. The only amendments that had been moved at that time had been moved by Liberals.

Senator Waters reiterated his intentions twice in this chamber. Yet, when he rose after the vote on the last Liberal amendment, he was not recognized by the Speaker. Instead, the Speaker waited until Senator Murray had risen, recognizing that his partner in crime was using the strategy they had plotted days before. The minute Senator Murray rose, and because Senator Waters was on his feet, Senator Molgat moved, correctly in our view under rule 26, that Senator Waters be heard.

● (1630)

Let me remind senators that rule 26 says:

> When two or more senators rise to speak, the Speaker shall call upon the senator who in the Speaker's opinion first rose; but a motion may be made that any senator who has risen "be now heard" or "do now speak".

Before the Speaker could break the rule, Senator Frith rose and said that it was six o'clock. As a matter of fact, it was 6.15. The rules clearly indicate that the Speaker must then leave the Chair and the chamber. Therefore, Senator Murray's motion was never on the floor. Furthermore, if it had been on the floor, it would have been out of order, because the Speaker had not yet called Orders of the Day, as is required under provisional Rule P-3.

When the Speaker ignored the provisional rules and ignored Senator Frith's call of six o'clock, a dispute erupted on the floor of the chamber and there was some milling around the Speaker's Chair. The Speaker was asked directly by several of the Liberal senators why it was that he was not prepared to allow debate under rule 26, a debate as to which senator should be heard. The Speaker suggested he could not possibly allow that debate because Liberal senators would carry on for two or three weeks. He made that remark twice in the course of the activity on the floor of the Senate in front of his Chair. That was heard by several members of the press who were in the gallery. We then said to him, "You are the Speaker. What business is it of yours if we manage to use that particular rule and that particular debate to carry on for another two or three weeks? Surely that is none of your business. That is not your issue." Nowhere in the rules does it says that a concern of the Speaker ought to be how long a particular debate takes.

It was very clear that this Speaker was prepared to do anything to enable the government to meet its timetable, whether or not the rules allowed.

The fifth and final breach of the rules by Senator Charbonneau followed shortly thereafter. Rules 27 and 28 state that each senator may speak once on each motion before the Senate. It is also clear from a reading of the rule book that there is no rule which restricts the length of those speeches. Nevertheless, undaunted by the rule book, which states that every one of us is entitled to speak on every motion and does not put any limitation on how long we can speak, the Speaker, in collusion with our friends opposite, accepted a motion to limit debate.

Those five events were spread over a period of two months. These events occurred when those of us on this side were attempting to use the rules—admittedly very creatively but, also admittedly, extremely effectively—to achieve the outcome we wanted from that debate. In spite of the fact that we continued to abide by the rules, including the provisional rules, the Speaker decided to take matters into his own hands and proceeded to achieve the government's political objectives.

On November 22, the day after the Speaker did what I call the fourth transgression, which was when he refused to allow debate on the motion that Senator Waters be now heard under rule 26, four senators—Senators Stanbury, Fairbairn, Lefebvre and myself—went to the Speaker's chamber. We did so because we hoped that the remainder of the third reading debate would proceed in an orderly fashion. We wanted to be crystal clear that we understood the rules under which the Speaker was operating.

As other senators have said—notably Senator Fairbairn and Senator Stanbury—the four of us were astounded by several things. The first was Senator Charbonneau's complete and utter lack of understanding of the rules. He commented that he really was not familiar with the rules. He conceded that there was no question that each senator had the right to speak on the debate. He also conceded that there was nothing in the rules to limit debate. At the same time, he said that he was very concerned—he was clearly worried and fretting—about the fact that, if this debate continued to go on for some time, rebate cheques would not get out; Canadians would not get their cheques before Christmas, which the government had promised them under Bill C-62. He understood that issue, even though it was obvious from his comments that he did not really understand the rules.

On hearing that, our reaction was the same as it was when he told us that he could not allow a debate under rule 26 to hear Senator Waters because the debate would go on for a very long period of time—two or three weeks. At that meeting in his office we said to him, "You are the Speaker. You should not be concerned about the fact that a third reading filibuster might make it impossible for the government to achieve its desired end of getting the cheques out before Christmas." We argued that his responsibility, as the responsibility of the Speaker in any chamber, was to ensure that the privileges of the minority party were protected and that the rules were obeyed. Yet, as we pressed him on whether or not he would allow all of us to speak at least once, it became clear that he was prepared to take that privilege away from us and not protect the right of the minority if that was what was required to get Bill C-62 passed before Christmas.

[Senator Kirby.]

Senator Charbonneau at the meeting told us that, even though we had the right to speak, and even though there were no rules to limit the length of our speeches, he would have to consider arguments from others, as he put it—from the other side—who might have ideas on how to bring the debate under control.

We reported back to Senator MacEachen that it was clear that the Speaker had in mind that the government would move, within the next day or two, to introduce a motion to limit debate. Even though the Speaker conceded that such a motion was outside the rules, he was prepared to take away the right of every senator in this chamber to speak on the motion. We reported back that the fix was already in, in spite of the fact that the Speaker kept saying to us in obscure terms that "Well, of course, someone might try to move such a motion to limit debate." He virtually gave us the motion verbatim in the course of our discussion. It was very clear from listening to him what the strategy was, that it had already been worked out and that he was part of the fix. There was no question about that.

● (1640)

What we had attempted to do was to conduct a filibuster using the rules, recognizing that filibusters always are frustrating for governments and recognizing, however, that in a situation in which the government side has a majority of votes, clearly one of the few remaining weapons which an opposition party has at its command is, the weapon of time, the weapon of using a filibuster in the hope that eventually, while the issue will come to a vote, political and public pressure will build on the government to make a change.

I might add parenthetically that the first filibuster I was ever even peripherally involved in was in Nova Scotia during the winter of 1969 when, in fact, the Liberal Opposition conducted a very lengthy and vigorous filibuster over what was also a tax increase—a sales tax increase. In that debate, the speaker allowed the debate to continue until the Liberal Opposition—small as it was—had, in fact, spoken for as long as it possibly could. There was no attempt by the Speaker in that particular instance to cut off debate.

When one looks at the writings of academic authorities on the role of the Speaker and on the role of the Senate in terms of conducting filibusters, it is worth noting one particular quote from Professor F. A. Kuntz who wrote a book called "The Modern Senate of Canada" in which he says the following:

> The Senate contrives to run its debates without the need of a presiding officer in the traditional sense. More important still is the lack of any provision for closure, with the result that there is no formal restriction on the right of any Senator to speak at any length in any debate.

> In the case of difference between Senators the matter will be discussed by the House,..

Honourable senators, that is exactly what we tried to do. We tried to use Rule 26 to recognize Senator Waters. Professor Kuntz goes on to say:

> . . . with the Speaker having no more authority than any other Senator. The fact is that the Speaker is not supposed to intervene, even if a rule is broken, unless a member calls his attention to the breach.

That description of the role of the Speaker in "The Modern Senate of Canada", flies absolutely in the face of everything Senator Charbonneau did during the debate on Bill C-62. It is precisely because the Speaker continued to intervene "constantly" as the resolution says, that we on this side of the chamber feel that he must be replaced. He clearly and deliberately broke the rules on five separate occasions and, indeed, our suspicion is that he will continue to do so on any occasion in the future as long as he is in the Chair, should his use of that power be required in order for the government to achieve its political objectives. It is the Speaker's hijacking of the Senate in order to achieve the government's political objectives, in order to enable the government to fulfil its political agenda, that has led those of us on this side to conclude that, in fact, the Speaker must be changed.

The other point I should make in considering this question, it seems to me, is that what makes his actions and, indeed, the actions of the government members opposite, particularly reprehensible, is their absolute refusal to change the rules legitimately. I would refer to Senator MacEachen's very careful remarks on this motion which are found at page 4807 of the *Debates of the Senate* of December 11. There he gives a very good description of how Prime Minister Borden invoked closure on the naval bill back in 1911. He points out exactly what the Prime Minister of the day did, which was to introduce a motion to change the rules. There was then a very lengthy debate on that motion to change the rules. The government had a majority and the government majority carried. In effect, what the change in the rules did was to introduce a form of closure. The government then proceeded to invoke closure under the new set of rules, and that, in effect, is how the naval bill ultimately passed.

What was unbelievable to us about the way the government handled this issue was that it could easily, at any time between October 5 and October 8, when it had the eight extra votes, have introduced a motion to change the rules to introduce a form of closure under the rules, to establish a closure procedure in our rule book. That certainly may have taken four or five weeks, but then a closure system would have existed and the government could then have proceeded to invoke that new rule to achieve its desired end. The government members absolutely refused to do that. What they did instead was to ensure themselves of a totally captive Speaker who would be prepared to act as their hitman whenever they needed him. They eventually got their way even though they achieved it in what amounted to a corrupt manner rather than in an upfront, straightforward manner by first changing the rules.

Finally, honourable senators, I feel there has been a tendency, since we resumed after the Christmas break, for some members opposite to fail to understand what I think are two very serious consequences of the Speaker's actions.

The first is that the Speaker has done irreparable harm to the image of the Senate, to the credibility of Senate committees, in the eyes of the public. At the outset of my remarks, when I said that we had travelled across the country listening to nearly 400 witnesses, what I did not say was that at the end of each day of hearings we allowed people who were not scheduled witnesses to speak to us for five minutes. Some people waited 12 and 13 hours to address our committee for 5 minutes. They had to miss a day at work and sit inside a cramped, hot, stuffy room, in many cases, and they did that because they wanted to express their views in this five-minute interval, to express their concerns about a tax which they saw as regressive and unfair. Moreover, as witness after witness told us, they saw the Senate as their last hope on this issue. They felt that this was the last time they could address their parliamentarians, their senators and thus have a real say in how they should be governed, have a real say in this issue and, in turn, give their last input before the final government decision was taken.

I would read you one example of the kind of comments we heard in those five-minute "walk-on" sessions at the end of the day. Donna Peconi from Peterborough came to Toronto to appear before the committee. She listened to the debate in Toronto and she stood up at the end of one of our long days in Toronto and said the following:

• (1650)

> We realize that you as appointees are being asked to override the elected body . . . What you must consider is the dilemma created when there exists a majority in the House of Commons and the House refuses to listen to the majority of its constituents.
>
> In our system of government, the line between democracy and dictatorship would almost be indistinguishable but for the Senate. The buck stops right here.
>
> The people have never called on you as they are calling on you now. The House of Commons did not have a mandate to introduce, much less pass, Bill C-62.
>
> When this bill was introduced, a majority of the Canadian people rose up in vehement opposition. We have not gone away. We do not want the Bill. We do not feel we need it. We have suggested alternatives to it.

By taking the actions he did, the Speaker is telling people like Donna Peconi, and others who spoke for five minutes in the cities across the country—people like Lawrence Pitaro of Halifax, Erwin Joseph Gordon of Toronto, Edwin Agnew of Winnipeg, Murray Carr of Regina, Mary Ellen Reiman of Edmonton and Brian Calder of Vancouver, to name just a few, as well as the dozens of others that appeared before us—that their views do not matter. He is saying to these people, "We were really fooling you. We are not prepared in this chamber to give you a fair hearing and to allow the chamber to be a

legitimate voice of sober second thought. Your views do not matter because I am the Speaker." Senator Charbonneau is, in effect, saying, "I am the Speaker and if Brian Mulroney, the Prime Minister, wants it, he is going to get what he wants entirely independent of how you feel."

The result of that, it seems to me, is that there has been a significant loss of credibility in any Senate committee hearing. I ask you why anyone, under those circumstances, would ever again bother to testify before a Senate committee? If, in fact, the evidence is crystal clear that, even though 96 or 97 per cent of the witnesses make one argument, the Speaker can take the position that it does not matter what anyone else thinks because, "if the government wants something, it is going to get it," then why would anyone bother to take the time and trouble to appear before a Senate committee in the future?

Senator Frith: Let alone wait around for 12 hours.

Senator Kirby: Let alone wait around for 12 hours. It seems to me that that is a very serious and long-lasting consequence of what the Speaker did.

The second consequence, it seems to me, is what he has done to both the atmosphere in this chamber and to the way in which members on this side of the house will feel compelled to treat future issues as long as Senator Charbonneau is in the Chair. In spite of perceptions, the fact is that since 1984 this chamber has passed approximately 95 per cent of all government bills without amendment—and let me remind the 24 new members opposite that we passed that 95 per cent of government bills even when we on this side had a majority in this chamber; so we were not worried about being outvoted. That is not why they passed. They passed because we believed that it was our responsibility to pass them.

Senator Frith: And we never lost a vote.

Senator Kirby: That is right. When we did that, we did it by abiding by both the rules and, indeed, the conventions of this place. I ask you: What conclusion can we draw from the events of last fall? What conclusion can we draw when we are now in the position where we know that, entirely independent of what the rules say, the Speaker will change the rules any time he wants in order to achieve the government's political objectives? We also know—and I say this with considerable regret, since previous dealings with Senator Murray had been very straightforward—that it is enormously unfortunate that Senator Murray would agree on October 18 to a set of provisional rules, would say in his statement to this house on October 18, referring to the provisional rules, "There are provisions that protect the right of the minority to employ the legitimate parliamentary tactic of delay," and would then break them. We took Senator Murray at face value. We passed the legislation he wanted passed in early October. We did that on the understanding that those provisional rules would apply and would give us all kinds of room to filibuster and to use the legitimate parliamentary tactic of delay, as Senator Murray called it. We believed that, in fact, we then had in place a new set of rules and that the government and the Speaker would stick to them. Obviously, we were wrong. We made a mistake; we took Senator Murray at his word. That clearly will not happen again.

It is also very clear that members on this side will never again accept the notion that the Speaker will allow us to continue to use the rules in the way they are written down, and that we must go into any controversial debate now on the assumption that, as long as Senator Charbonneau is the Speaker, he will do whatever he can to achieve the government's political objectives. I simply say to all members of this chamber that it seems to me that that kind of atmosphere—which is the atmosphere that exists and will exist as long as Senator Charbonneau is in the Chair—is not good for this institution, not good for Canada and not good for the people of the country.

So, it seems to me that we are really at the point at which the Speaker, having done his deed for the government, having played his role as judge, jury and executioner, should have the decency to resign and restore some level of cooperation and understanding between the two sides in this chamber. I honestly believed, honourable senators, that when we came back after Christmas there would, in fact, be a new Speaker in the Chair. I obviously realize now that this was once again wonderfully naive and stupid, but I honestly believed that Senator Charbonneau would have realized what he had done and would have had sufficient sense of honour and decency to have resigned over Christmas. I was wonderfully naive about the man and his style.

Faced with this intransigence on his part with respect to resignation, and faced with the fact that it will be very difficult to operate this place as long as we assume that the Speaker is going to break the rules—which, therefore, means that guerilla warfare is the name of the game—it will be difficult for this chamber to continue as it has since its inception. Therefore, in order to restore not only our confidence but the confidence of all Canadians in the Senate, we must have a new Speaker. We must have a Speaker who is, in fact, loyal not only to the Prime Minister but to the Senate. It will be impossible to achieve that sense of loyalty or to restore an appropriate sense of decorum to this chamber unless we have a new Speaker.

In concluding my comments, there is one last point which I think is worth making. I have commented on the Speaker and on the government's actions in the course of this debate. I think it is also appropriate that I make just one short comment on the performance of the members on this side of the house in this debate. Although we were outnumbered, every day of the week, in some cases seven days a week, the fact of the matter is that we clearly countered successfully every move that the government made—except for those moves made by the Speaker, and there is no way to counter his activities. The fact is that members opposite were clearly beaten in spirit, in performance, in dedication and in commitment by the performance of my colleagues on this side of the house. I must say that anyone who thinks that we are incapable of generating that spirit of commitment and dedication to a cause we exhibited in the fall, or who thinks that we can only do that once, should think again. I say that because I know that the

sort of gritty, gutsy performance that we exhibited, in defense of a cause that we believed in, is something we are prepared to do again. In fact, as long as Senator Charbonneau is the Speaker, he will invite us to do it again, because we will know that, as the debate proceeds, there is absolutely no way we can trust what he is likely to do.

• (1700)

In conclusion, honourable senators, we can no longer have an atmosphere such as this if, in fact, this chamber is to operate in the way it has done historically. For the reasons I have outlined, Senator Charbonneau's actions during the fall make it imperative that his position be changed. More importantly, his implications on the way this place is going to operate in the future make it in the interest of everyone on both sides of the house that Senator Charbonneau either resign or be fired. In any event, we must have a new Speaker. In the absence of that, it will be an absolute certainty that this chamber will not operate in the way it has done historically, which is not good for us as a chamber and as an institution; it is not good for the Parliament of Canada, and it is not good for the people of Canada.

It is for those reasons, honourable senators, that I intend to support strongly the motion of Senator Stanbury and Senator Fairbairn, and why I would urge all members of the chamber to do the same.

Some Hon. Senators: Hear, hear!

On motion of Senator MacDonald (Halifax), debate adjourned.

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—MOTIONS IN AMENDMENT—DIVISIONS DEFERRED

On the Order:

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

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:

(i) the role of the Canadian public in the process;

(ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and

(iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

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

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

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

That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;

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

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

And on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing

50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada".—(*Honourable Senator Watt*).

Hon. Len Marchand: Honourable senators, I have been in touch with Senator Watt, who is unavoidably absent from the Senate today. He has asked me to move an amendment to this motion on his behalf. Senator Watt may want to provide some background on this when he returns. But I will say that honourable senators are generally familiar with the interests of the Aboriginal Peoples, the amending process of the Constitution and any constitutional matters that have been dealt with in the last several years.

MOTION IN AMENDMENT

Hon. Len Marchand: I move, seconded by Senator Adams:

That the motion be amended by adding the following immediately after Roman Numeral (iii):

"(iv) the role of the Aboriginal Peoples of Canada and alternatives to current process and formulae for entrenching their rights in the Constitution of Canada."

The Hon. the Acting Speaker: Honourable senators, I am advised that we should deal with Senator MacEachen's motion first, and we will then hear Senator Marchand's motion.

Senator Marchand: I do not know what is going on.

The Hon. the Acting Speaker: I have just informed the senator that I was advised that we should deal with Senator MacEachen's motion first before hearing Senator Marchand's motion.

Hon. Orville H. Phillips: Honourable senators, if that is the case, I should inform the Senate that there was a discussion between the two sides today, and we have agreed that the vote on that motion will be held on Wednesday next. I would then suggest that the Honourable Senator Marchand proceed, with leave, and we can then keep our agreement on that matter.

Hon. William J. Petten: Honourable senators, I agree with Senator Phillips. There was a discussion earlier today. We agreed that a vote would be held on Wednesday. We will give leave to let Senator Marchand's motion be put.

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

Hon. Senators: Agreed.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Did you want to speak to the matter?

Senator Marchand: I have nothing to say about the motion, although I have some background notes for myself. Perhaps at some point Senator Watt might want to put something further on the record; but as far as I am concerned the amendment speaks for itself. It sets out the fact that our people, the Aboriginal Peoples of Canada, want to be involved in the amending process as it is going forward. I gave the wording to the Speaker. That is all I have to put forward.

[The Hon. the Speaker.]

Senator Murray: Honourable senators, I owe it to you to explain briefly why the government does not accept this amendment. The reasons are similar to those we invoked earlier with regard to other amendments to this resolution.

The government has tried to give the committee the broadest possible mandate to consider the amending process and possible changes to it, especially including the whole question of public participation. We have tried not to indicate a preference for any particular changes, nor to direct the committee to concentrate on any one aspect of the problem. Honourable senators will be aware that I took part in the aboriginal constitutional round that led to the First Ministers' Conference on Aboriginal and Constitutional Affairs in 1987. The representatives of the Aboriginal Peoples were at the table for all the ministerial meetings that led up to the First Ministers' Conference and at the First Ministers' Conference itself. They were there because of an amendment to the Constitution that was made during the 1982 process. They took full part in those discussions.

My honourable friend has heard me say on a previous occasion that, in my judgment, the 1987 First Ministers' Conference on Aboriginal and Constitutional Affairs did not fail because the amending formula under which we sought to make a self-government amendment was too stringent. The conference did not fail because the 7 and 50 formula was too high a hurdle. The conference failed because there was a lack of political will on both sides of the table—what I have described on a previous occasion as a mutually reinforcing intransigence from which I exclude neither certain provinces nor certain aboriginal leaders. That is why it failed.

• (1710)

The federal government's proposal for a self-government amendment had more support than any other proposal on the table. It had the support, as I recall, of the provinces of Ontario, Nova Scotia, New Brunswick and Prince Edward Island. The others in varying degrees were opposed to the federal government's proposal, and, of course, Quebec, for reasons we all know, was not at the table.

I draw the honourable senator's attention to the fact that the Aboriginal Peoples are specifically mentioned in the discussion paper that we tabled some weeks ago amending the Constitution of Canada and that the committee has the mandate to consider the participation of aboriginal peoples in the amending process and in considering alternatives to the current process and formula. As I have said with regard to previous amendments, the amendment is not really necessary, nor is it desirable, because it tends to express a preference, in some cases, on the part of Parliament for a particular formula or formulae or a direction to concentrate on one particular aspect. I can only assure honourable senators that the matters to which Senator Marchand refers are and will be fully within the scope of the joint committee under the mandate contained in the resolution I presented.

[*Translation*]

I already explained on December 21 why the government feels it is essential to consult Canadians on the constitutional amending process established in 1982.

You will recall that this process was agreed to by all Premiers, with the exception of the Premier of Quebec, on November 5, 1981, as part of the patriation package.

That package was subsequently approved by the House of Commons on December 2 that same year and by the Senate on December 8, without public consultation.

The Meech Lake debate was the first time Canadians had a chance to examine critically the amending process agreed to in November 1981 and approved in November 1982. The process was found to be defective in many ways.

As far as that process and potential improvements are concerned, I think we should be honest about the past, try to overcome the obstacles resulting from decisions made at that time and work together to seek better solutions.

I don't think it would be very useful to engage in an exercise of historical revisionism and try to rewrite the past.

[*English*]

I must say that that tendency to historical revisionism, to rewrite the past, was very present—indeed, predominant—in the speech that the Leader of the Opposition made when I presented the resolution just before Christmas.

[*Translation*]

The honourable senator claimed that in 1988, he and his colleagues supported the objective of achieving Quebec's assent to the Constitution and that they did not intend to strike down the accord.

He and his party colleagues introduced amendments that would have made the Senate's constitutional resolution incompatible with the one already approved by the Commons and three provincial legislatures before a vote was taken in the Senate.

[*English*]

These amendments, proposed by the Opposition at the time, made it incompatible with the resolution already adopted and would have required the reopening of the whole debate, with consequences that the Leader of the Opposition—

Hon. Royce Frith (Deputy Leader of the Opposition): It was adopted where?

Senator Murray: They were already adopted by the House of Commons and three provincial legislative assemblies. The reopening of that debate would have had consequences that the honourable senator is only now beginning to comprehend.

In short, the Senate, or the Liberal senators, attempted to veto the accord. Honourable senators will recall that parliamentary approval of the Meech Lake Accord was only achieved when the House of Commons adopted it a second time, without amendment, on June 22, 1988, thereby breaking the Senate's suspensive veto of six months. Senator MacEachen was correct in saying that the Liberals in the House of Commons voted for the resolution unamended when the second vote was held. He was also correct in stating that the Leader of the Liberal Party at that time, Mr. Turner, staked his political future on that, because he stood 100 per cent behind the unamended Meech Lake Accord. It is clear for the record, however, that the honourable senator did not stand 100 per cent behind the unamended Meech Lake Accord, nor did he stand 100 per cent behind his leader.

[*Translation*]

In fact, there is no indication that the honourable senator tried to persuade his friends Premier Wells and Mrs. Carstairs that it was advisable to adopt the Meech Lake Accord.

I suggest that we start these discussions on the amending process on an honest note.

[*English*]

There was one other matter that I cannot let go without comment, and that was the honourable senator's statement on December 21, and I quote:

> The truth of the matter is that wherever he went, Mr. Chrétien expressed support for the five conditions formulated by Quebec for assenting to the Constitution, including the most delicate condition relating to a veto.

Well, surely the truth of the matter is to be found in Mr. Chrétien's speech, a major policy pronouncement at the Faculty of Law at the University of Ottawa, January 16, 1990. Mr. Chrétien did not express support for the five conditions formulated by Quebec. He called them points, not conditions, and he qualified them then as a reasonable basis for negotiation. This was after they had negotiated and had produced a unanimous accord on June 3, 1987.

• (1720)

So if he meant "a reasonable basis for negotiation" with Jean Chrétien, his speech made it very clear that he would impose his conditions on Quebec's five "points" and, under no circumstances, should he, or would he, support the Meech Lake Accord. That was the position of Mr. Chrétien taken in January, 1990.

I think it would be better for honourable senators to consult the historical record rather than to indulge in historical *ex post facto* druthers.

With regard to the amendment that the Leader of the Opposition has proposed to my resolution, I remind the house again that the motion I spoke to on December 21 provides that the special joint committee inquire into, in broad consultation with Canadians, alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled *Amending the Constitution of Canada*. This discussion paper raised a number of ways of refining, complementing and supplementing the process now in place, with particular reference, as I told Senator Marchand a few minutes ago, to public participation. The paper did not favour any alternatives to the current amending formula as such, but the mandate of the special joint committee is open on this matter.

[*Translation*]

The Leader of the Opposition wanted us to oblige the committee to consider more specifically two amending formulas, namely the 1971 Victoria formula and the so-called 7/50 formula, according to which Quebec was to be one of the seven provinces.

Those two formulas would give Quebec a veto on most major changes.

I have to conclude that the honourable senator is repenting at leisure.

He turned his back on Quebec during the Meech Lake debate and now, after the demise of Meech Lake, he would do penance, at least outwardly, by implying that he would have no objection to giving Quebec a veto without giving one to the other provinces as well.

The motion I tabled on December 21 includes that possibility but does not attempt to favour a particular formula or encompass all alternatives Canadians might wish to propose.

I suggest we keep an open mind and listen to Canadians.

The Leader of the Opposition may, if he so desires, ask his colleagues to raise the two formulas he proposed or any other formula in the course of the proceedings of the Joint Committee and during our dialogue with Canadians.

However, let us not give the impression that the philosopher kings have, to all intents and purposes, narrowed the options down to the two formulas proposed by the Leader of the Opposition.

[*English*]

Honourable senators, in order to engage a full and open debate and to assure Canadians that the Senate and the House of Commons do not have a hidden agenda or a pre-conceived solution, I think the desirable course is to pass the resolution without amendment, the resolution to which I spoke to here on December 21.

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I wish to note a point of order based on the following facts which were recounted to me while I was out of the chamber for about five minutes.

I understand that Senator Marchand proposed an amendment to this resolution when the order was called and that it was ruled out of order by the Speaker then in the Chair, without any senator having raised a point of order or having asked the Speaker to intervene to make a ruling on a point of order. If those facts are correct, then I would like it noted and understood that it seems that the disease is contagious and that Senator Bélisle is now taking it upon himself to do what Senator Charbonneau has been doing for some time, namely, to decide himself when he is going to rule on something or make a ruling of his own motion, which he has no right to do.

So here we go again! The Speaker has no authority to make any ruling or to intervene as to order in this house until he is asked to. I have asked how it happened that it got to him in the first place. I am told that someone from the Table went up. I don't know what someone from the Table said, but they have no authority to raise a point of order in this chamber. Senators raise the point of order. Senators are in charge of order in this place.

I want to make it clear that any time we have a repetition of someone suffering from this disease, introduced into this place by Senator Charbonneau last fall, I will be objecting and I hope others will.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I rise simply for the purpose of stating, for the record, that I disagree completely with Senator Frith that the Speaker in this chamber has no right to declare a motion or an amendment out of order, if in his judgment it is out of order.

Senator Frith: Of his own motion.

Senator Murray: And I disagree entirely—

Senator Frith: Of course I know you disagree. You are part of the whole problem. Of course you disagree. You are the one who talked him into doing it in the first place. Don't wave at me, Senator Cogger.

Senator Murray: Calmez-vous.

Senator Frith: No, you will not "calmez-vous" me until I am ready to be calmed. Put your hand down, senator, and don't start trying to tell me to calm myself. You have no right to do that either. If you want to raise a point of order, say what you have to say, but don't talk about "calmez-vous."

Senator Murray: I have been waiting for the opportunity very quietly and calmly to reply to Senator Frith's point of order. It has been a rather long day for the honourable senator.

Senator Frith: Come on, get on with your point of order and stop the smarmy talk. Just get on with what you have to say.

Senator Murray: It has been a rather long day. There is a bit of cloud over his head from recent caucuses of the Liberal Party and he has been receiving some bad publicity—

Senator Frith: What a contemptible slob you are, sir.

Senator Murray: —so we can forgive him his bad humour.

Senator Frith: Don't bother forgiving me. I don't want your forgiveness for anything. Just get on with your point.

Senator Murray: Will the honourable senator undertake—

Senator Frith: Probably not.

Senator Murray: —that for 60 seconds I will be permitted to make my point without his interrupting.

Senator Frith: I will give no undertaking. Proceed.

Senator Murray: All right. Honourable senators, any presiding officer in any chamber, including this chamber—

Senator Frith: Wrong!

Senator Murray: —has the right and the responsibility to declare that, in his judgment, a motion or an amendment is out of order. That much is clear.

• (1730)

Secondly, that person has the right to do so without a point of order being raised by an honourable senator. Nowhere in our rules does it say that the Speaker of this place may only rise—

Senator Frith: Look who is invoking the rules. My goodness!

Senator Murray: I repeat, nowhere in the rules does it say that the Speaker may only make a declaration of that kind when a matter has been brought to his attention by an honourable senator. I have heard that statement made many times by our old friend, Senator McElman, and I have heard Senator Corbin repeat it on numerous occasions. But I find no authority for it in the rules.

Hon. Eymard Corbin: Why are you dragging my name into this debate?

Senator Murray: I am referring in a very dispassionate way to the fact—

Senator Corbin: I want an explanation. Why are you dragging my name into this debate?

Senator Murray: I am referring to statements that the honourable senator has made in the past to the effect that the Speaker has no right in this place to intervene or to declare on matters of orders without having been asked to do so by an honourable senator.

Hon. Anne C. Cools: That is true.

Senator Murray: I hear another honourable senator saying "that is true." But I find no authority for that in our rules. Indeed, the historic record—I have it checked, so we could have a debate on this at some point—

Senator Frith: Yes; let us do that.

Senator Murray: —is divided on the subject of whether the Speaker in this place can and does take the initiative himself on matters of order. The historic record is divided on that matter.

In the event that Senator Marchand moved a sub-amendment or an amendment, the senator then in the Chair made the point that a previous amendment had to be considered first; and that Senator Marchand's amendment, therefore, at that point was out of order; but, in the event, leave was given for Senator Marchand's amendment to be considered.

Thus, honourable senators, when Senator Frith says that the Speaker may not intervene, what does it mean to say that "the Speaker shall preserve order and decorum"? What else could it mean but that, namely, that, if in his judgment there is not a matter of order, he can intervene. Of course he can intervene. The honourable senator is unable to show me an authority, certainly not in our rules, that says that he cannot intervene.

Because the honourable senator raised the point of order, I simply wanted to indicate my complete disagreement with it so that there is no impression on anyone's part that his point has been widely accepted in the Senate; and to flag it as an issue on which we can have a debate at some time in the future.

Senator Frith: Honourable senators, I can guarantee that as long as I am here, there will be a debate every time the Speaker intervenes to impose his ruling without being requested to do so on a point of order. I will be interested to hear about the divided historical record. As long as I have been here, which is not longer than many, but longer than Senator Murray—

Senator Murray: By only two or three years.

Senator Frith: That is all right. It may be two or three years, or you can make it two or three months. The word "longer" is a comparative word, correct?

Senator Murray: I will not interrupt you.

Senator Frith: Is that all right?

Senator Simard: Do not do that with your glasses.

Senator Phillips: Put your glasses back on!

Senator Frith: I am ready as soon as you are through. Calmez-vous, s'il vous plaît, Senator Murray.

As long as I am here there will be a debate if the Speaker in the Chair attempts to impose a ruling of order on his own motion or her own motion.

The historical record is not divided. I shall be interested to hear this division cited. This point has been raised by Senator McElman, but this is the first time that any senator, while I have been in this house, has stood and said that the practice of this place, and the rules of this place, provide for and permit a ruling by any Speaker unless that Speaker is called upon by the Senate to do so. That is the reason why we stand and address each other. That is the reason why we do not say "Mr. Speaker." We do so for the simple and justifiable reason that we do not elect the Speaker. The Speaker is chosen by the Prime Minister. He or she comes in here and says, "I have the honour to inform you that the Prime Minister has appointed me your Speaker," to which, for 123 years, impliedly senators have said, "Well, that is fine. You sit there. Call the Orders of the Day. When we want you to intervene, we will intervene. Meanwhile, we turn and address each other. We control the order in this place." It is the usage and the practice. It is the record. It is what was included, for example, in the citation from Professor Kuntz' book cited today by Senator Kirby.

For as long as I have been here, this is the first time that any doubt has been cast on the fact and the practice of this place that the Speaker makes rulings when called upon to do so. After having made them, the ruling is then subject to appeal as a final indication that the final authority for rules of order and the preservation of order is in the hands of senators and not in the hands of the Speaker.

So we have a difference of opinion. If Senator Murray wants a debate on it, he will get it. He will get it every time we find a Speaker trying to initiate this new Charbonneau/Murray concept, which is at odds with 123 years of practice in this place. We saw what the result of it was with regard to the GST.

Senator Murray: Honourable senators, in anticipation of this debate at some later date, I would ask the honourable

senator to reflect on the following question. The duty of the Speaker, as outlined in the rule that I cited a few moments ago, is to preserve order and decorum.

Senator Frith: When called upon by senators to do so.

Senator Murray: It does not say that. It says, "The Speaker shall."

Senator Frith: That has been the practice for 123 years. This is the first time anyone has questioned that practice.

Senator Murray: It says that the Speaker shall preserve order and decorum. I would ask the honourable senator simply to reflect on how the Speaker is to do that.

Senator Frith: When he is called upon. It is very simple. That is the way it has been done for 123 years.

Senator Murray: It says "shall preserve."

Senator Frith: I do not have to reflect on it; senators have been reflecting on it for 123 years.

Senator Murray: The record is clear.

Senator Frith: But I will reflect on it. It is obvious what the answer is.

An Hon. Senator: Reflect on it.

Senator Frith: Good. You make modest questions.

Hon. Orville H. Phillips: Honourable senators, under the provisional rule, I would ask that a vote on these amendments be deferred until 5.45 on—

Hon. Allan J. MacEachen (Leader of the Opposition): The question has not been put. He has not put the question.

Senator Phillips: I now realize that the Speaker did not get a chance because Senator Frith was speaking.

Senator Frith: Yes; that is correct. He left the Chair. The Speaker who was in the Chair previously is not in the Chair now. Pay attention, for goodness sakes, sir, or put your hand up and be excused from class!

Senator Corbin: All the new boys and girls think that it is funny over there. They have a lot to learn.

Senator Frith: It was meant to be funny. I am glad they are laughing.

• (1740)

The Hon. the Speaker: It was moved by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:

> That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:
>
> (i) the role of the Canadian public in the process;
>
> (ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and
>
> (iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";
>
> That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee, such Members on the part of the Senate to be designated no later than three sitting days after the adoption of this motion;
>
> That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of their powers except the power to report directly to the Senate;
>
> That the Committee have power to sit during sittings and adjournments of the Senate;
>
> That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;
>
> That the Committee have power to send for persons, papers and records, and to examine witnesses and to print such papers and evidence from day to day as may be ordered by the Committee;
>
> That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or of proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons;
>
> That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;
>
> That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;
>
> That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;
>
> That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;
>
> That the quorum of the Committee be nine Members, whenever a vote, resolution or other decision is taken so long as both Houses are represented, and the Joint Chairmen be authorized to hold meetings, to receive evidence and authorize the printing thereof, when six Members are present so long as both Houses are represented; and

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

And on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing 50 per cent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada".

And on the motion of the Honourable Senator Marchand, seconded by the Honourable Senator Adams, that the motion be amended by adding the following immediately after Roman Numeral (iii):

"(iv) the role of the Aboriginal Peoples of Canada and alternatives to current process and formulae for entrenching their rights in the Constitution of Canada."

The Hon. the Speaker: Dealing with the amendment motions first, is it your pleasure, honourable senators, to adopt Senator Marchand's motion in amendment?

Hon. Orville H. Phillips: Honourable senators, under the provisional rules, I request that the vote on these amendments be deferred until 5.45 p.m. Wednesday next.

Hon. Royce Frith (Deputy Leader of the Opposition): I do not think that rule P-3(a) applies in this case. If I understand correctly, the whips have agreed that there will be a vote at the time stated by Senator Phillips. It seems to me that satisfies the matter. Technically, I do not think that rule P-3(a) applies.

The Hon. the Speaker: Is it agreed, honourable senators, that the vote shall be taken at 5.45 p.m. Wednesday next, January 30?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL DEFENCE

CFB SUMMERSIDE, P.E.I.—MOTION TO RECOMMEND FEDERAL-PROVINCIAL COOPERATION IN DEVELOPMENT OF SOUND ECONOMIC ALTERNATIVES—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Phillips, seconded by the Honourable Senator Macdonald (*Cape Breton*):

That, in view of the important role Canadian Forces Base Summerside plays in the economy of Summerside, Prince Edward Island, the Senate recommends that the Government of Canada and the Government of the Province of Prince Edward Island co-operate in developing sound economic alternatives to Canadian Forces Base Summerside.—(*Honourable Senator Phillips*).

Hon. Orville H. Phillips: Honourable senators, on June 29, 1989, I introduced a motion calling for cooperation between the federal and provincial governments to provide sound economic alternatives to CFB Summerside. Honourable senators will recall that I had some considerable difficulty getting that motion on the order paper. Consequently, I have left it there in order that I may report on the matter.

In my well-reasoned remarks in the original motion I made certain recommendations. These included, first, a federal agency to replace CFB Summerside; second, the use of the air base as an industrial site; and, third, the creation of $40 million federal-provincial fund to assist industry wishing to establish at the cite of CFB Summerside. I had in mind especially industries associated with aeronautics.

I am now pleased to report briefly to honourable senators the progress to date. First, there was an announcement from the Honourable Barbara McDougall of the establishment of a $5 million Community Futures fund. This is now in operation and it has recommended at least two projects. The second was the announcement of the GST processing centre. After the passage of the GST legislation it was announced that this coming summer a new processing centre will be built in Summerside. The cost of the building will be $38 million to $40 million. The centre will provide 400 jobs. It is expected that there will be another 100 jobs created as a spinoff to this centre. Honourable senators, it is interesting to note that the construction of the building itself is estimated to provide 500 to 600 jobs.

• (1750)

The federal government has announced the formation of the Slemon Park Corporation to administer the site on behalf of the community; in other words, the airbase was given to the community. In addition to that, the federal government has announced a $10 million fund to assist industries. Recently the province has made a $5 million contribution to this fund.

A week ago the Honourable Barbara MacDougall and the Honourable Elmer MacKay, in Summerside, announced the creation of the Aerospace Centre for Summerside. The first two tenants include Atlantic Turbine and Bendix Avelex. The Atlantic Turbine project totals $11.5 million. ACOA contributed $4 million to this project and the provincial government contributed $1.7 million. I should add that the Atlantic Turban project requires the construction of a test site for turbine engines, which will cost $2.2 million, and construction will begin on this during the coming summer.

Bendix Avelex announced their project totals $8 million. ACOA is contributing $1.5 million; the provincial government is contributing $650,000. The two companies signed an agreement guaranteeing the creation of 320 jobs by the year 1995.

In the meantime, ACOA and other federal agencies will continue to search for other tenants to occupy space in the hangars available at Summerside. Funds remain to assist new industries wishing to locate there.

In a study of American towns which had gone through a similar experience to that of Summerside—that is, the closing of a major air base—it was found that an educational institution of some type was beneficial to the community. A proposal has been made that a part of Holland College, the vocational institute, would be relocated in Summerside.

I am sorry if I am interrupting honourable senators opposite. I thought you might be interested in this.

Senator Frith: Your apology is accepted.

Senator Phillips: I am sure that Senator Frith will realize that he is infringing the rules and will not wish to carry on that conversation.

• (1800)

Presently, negotiations are being carried on to relocate a portion of Holland College to Summerside. Some difficulty has been encountered in meeting the requirements of Holland College to the module established for the Slemon Park Corporation. However, the advisory board, the provincial government and Holland College are working on this and I am hopeful the problem will be solved in the near future.

Honourable senators, in my remarks on June 29, I referred to the fact that Summerside was the centre of a thriving agricultural community. As a result of free trade and the anticipated removal of the federal sales tax, two of the largest potato-processing companies in Canada are expanding operations in that area.

Some Hon. Senators: Hear, hear!

Senator Phillips: McCain's, with which Senator Corbin is very familiar, announced the construction of a $40-million plant. They turned the sod approximately one year ago and today they are doing their first test runs. I think that is a remarkable achievement. Cavendish Farms, presently located at Kensington near Summerside, has gone through a $30-million expansion.

The federal and provincial governments have assisted these two companies in a very unusual way. The federal government, through ACOA, under the ERDA and the province combined to construct the sewage treatment plants. The federal government contributed $7 million to each project and the provincial government contributed $3 million. The sewage treatment plants, in turn, will be rented to the companies. This took a good deal of ingenuity and I am sure it will meet all of the requirements of GATT.

These projects will not only help the town of Summerside, they will also help the agricultural community. It is interesting to note that the two plants will be processing 30 per cent of the Island's potato production.

In closing, honourable senators, I would like to pay tribute to the Honourable Barbara McDougall and the Honourable Elmer MacKay for their contributions.

Some Hon. Senators: Hear, hear!

Senator Phillips: In fairness, I would also like to mention the Honourable Robert Morrissey, the provincial Minister of Industry who, I am sure, had his difficulties with the provincial Treasurer. That is the case in all governments. I would pay my respects to him.

I would be very remiss if I did not mention the Atlantic Canada Opportunities Agency, established under the leadership of Senator Murray, which has been very helpful.

• (1810)

The first approach of Atlantic Turbines and Bendix Avelex Inc. was made to ACOA and they carried on the negotiations. I am sure that at times they were frustrated with a great deal of bureaucratic delay. However, that has been surmounted and the projects are in place.

In ACOA, two individuals were particularly helpful: Leo Walsh, the vice president for PEI, and Roger Coffin. I 'phoned both gentlemen frequently. I sort of got the message that perhaps I was 'phoning a little too often, because they started returning my 'phone calls at eleven o'clock at night. After they did that a few times, I got the message. However, I want to offer a special thank you to those two gentlemen.

Honourable senators, due to the fact that the clock is fast approaching six, I will terminate my brief remarks, and when a new session of Parliament begins, I hope to be able to give you a further update on the immense accomplishments in the year-and-a-half.

Some Hon. Senators: Hear, hear!

On motion of Senator Corbin, for Senator Bonnell, debate adjourned.

BUSINESS OF THE SENATE

Hon. Orville H. Phillips: Honourable senators, may I suggest that all remaining orders stand?

Hon. Royce Frith (Deputy Leader of the Opposition): Not only may you suggest it, but you will get support for your suggestion.

Senator Phillips: And I move that all enquiries and motions stand.

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

Hon. Senators: Agreed.

The Senate adjourned until Tuesday, January 29, 1991, at 2 p.m.

APPENDIX

(*See p. 5169*)

BROADCASTING ACT

SEVENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE

THURSDAY, January 24, 1991

The Standing Committee on Transport and Communications has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred the Bill C-40, an Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication, has, in obedience to the Order of Reference of Wednesday, December 19, 1990, examined the said Bill and now reports the same with the following amendments and observations:

- AMENDMENTS -

1. *Page 5, clause 3*: Strike out line 39 and substitute the following:

   "(vi) contribute to national unity, shared national con-"

2. *Pages 22 and 23, clause 28*:

   (a) on page 22, strike out lines 27 to 48;

   (b) on page 23, strike out lines 1 to 28; and

   (c) renumber clauses 29 to 44, and any cross-references thereto, accordingly.

3. *Page 29, clause 45*: Strike out lines 4 to 28 and renumber the subsequent clauses, and any cross-references thereto, accordingly.

- OBSERVATIONS -

The Committee is grateful to all witnesses and those who made submissions on Bill C-40. The Committee acknowledges their cooperation in the light of the very short notice given them. The Committee notes that the witnesses are generally supportive of the need to replace the existing 1968 legislation. Some witnesses have expressed concerns on issues other than those contained in the amendments; one of these is shared by the Committee.

The Association Canadienne de la Radio et de la Télévision de Langue Française, the association representing French language broadcasters, explained the difficult economic circumstances that their members face and recommended that the mandate of the Société Radio-Canada take more clearly into account the current characteristics and conditions in the French language television market. In this regard, the Committee notes that the Bill acknowledges, in section 3(1)(c), that "English and French language broadcasting ... operate under different conditions and may have different requirements". Further, under section 5(2)(a), the Bill mandates the Canadian Radio-television and Telecommunications Commission to regulate and supervise the Canadian broadcasting system "in a flexible manner that is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate". The Committee is of the view that the circumstances of the French language broadcasters can be addressed through these provisions of the Bill and that an amendment is not required.

The Committee also notes that the Minister of Communication has mandated a task force on the economic status of Canadian television, under the co-chairmanship of Jacques Girard and John Peters, which has been asked to take account of the present competitive environment, particularly in the smaller francophone market. The Minister of Communications gave the Committee his assurances that the Bill provides the necessary authority and flexibility to the Government to follow up on the eventual recommendations of the task force in this regard.

Respectfully submitted,

FINLAY MACDONALD
Chairman

THE SENATE

Tuesday, January 29, 1991

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

Prayers.

[*Translation*]

THE HONOURABLE ARTHUR TREMBLAY
THE HONOURABLE CLAUDE CASTONGUAY

TRIBUTES ON RECEIPT OF ORDER OF QUÉBEC

Hon. Jean-Marie Poitras: Honourable senators, I would like to bring to your attention the distinction conferred on two of our colleagues last weekend.

The Honourable Arthur Tremblay and the Honourable Claude Castonguay received from the Government of Quebec the insignia of Officer of the Order of Quebec.

Some Hon. Senators: Hear, hear!

Senator Poitras: As you know, our two colleagues have been very active and a tremendous asset to Quebec throughout their careers. Both also made a name for themselves as Canadians, and their influence was felt and their contributions were appreciated throughout Canada and even beyond our borders.

Speaking on your behalf and mine, I want to congratulate them and express the hope that they will keep up the good work.

[*English*]

THE HONOURABLE D.G. STEUART

TRIBUTES ON RETIREMENT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I should like to take note of the fact that the Honourable David Gordon Steuart terminated his service in the Senate on January 26 of this year because of the constitutional provision requiring retirement at age 75. I would not like this day to pass without taking note of that fact, and paying tribute to his political career which extended over a period of 40 years.

Senator Buckwold will know better than I Senator Steuart's career. He was a native of Saskatchewan, born in Regina, and had distinguished service in the Air Force before he entered upon his political career. Senator Steuart was an alderman in Prince Albert and later served as mayor of that community.

I remember accompanying Senator Steuart to a meeting in the constituency of Prince Albert during an election campaign in which the Conservative candidate was the Right Honourable John Diefenbaker. I wondered what the point was of taking that long trip to Saskatchewan from Nova Scotia to speak in Prince Albert, but that was the wish of the authorities in the Liberal party in Saskatchewan. I understood the futility of my mission and had no enthusiasm for the task, particularly in the light of the futility and the fact that I did have in the House of Commons reasonably amicable relations with the late Mr. Diefenbaker. But I understood much better after the dinner meeting, because while everyone proclaimed himself or herself a Liberal they made it quite clear that they intended to vote for John Diefenbaker in any event, and David Steuart was not at all surprised about that reality.

We know that Davey served in the Saskatchewan Legislature for quite a number of years. He served in several portfolios—for example, public health, natural resources and several crown corporations. He was the Leader of the Opposition for a period of time and was active in the political life of the province of Saskatchewan at a dynamic period in its history. Those of us who have served with Davey in the Senate know what a lively personality he is. He was described at one time as one of the funniest men in politics. The Senate can ill-afford to lose a colourful and lively personality like David Steuart. As I look around me, I must confess that I do not see many lively and colourful colleagues.

Some Hon. Senators: Shame!

Senator MacEachen: Do not object; you can say the same when you get up. David Steuart was that: lively and colourful. He was able to enjoy the humour that he bespoke, not only about himself but also about others.

On behalf of his Liberal colleagues—and, I am sure, on behalf of all senators—I want him to know that we regret the passage of time that has brought about his retirement. We wish him many years of health and enjoyment in the future.

Some Hon. Senators: Hear, hear!

Hon. Sidney L. Buckwold: Honourable senators, I stand to follow our distinguished leader in paying tribute to now retired Senator David Steuart—or Davey Steuart, as we always affectionately called him.

I thank Senator MacEachen for a warm reference to a unique political figure. He was perhaps not quite so unique, having come from Saskatchewan, as have a lot of us—a province that breeds its own particular style of political activist, a product of the Depression and hard times. I often think of the leadership of political parties in Saskatchewan. Most of its leaders were small, from Jimmy Gardiner, Tommy Douglas, Allan Blakeney and Premier Devine, to the greatest of all: Senator Barootes, from Saskatchewan!

Some Hon. Senators: Hear, hear!

Senator Buckwold: The only reason I can give for that is that most of us who were raised during those hard times in Saskatchewan probably did not get enough nourishment to bring us up into the world. We had to fight for everything that

we got out there in Saskatchewan—and we are doing it again these days.

Davey was a product of that environment. I have known him for at least 40 years. He was the mayor of Prince Albert in the days when I was the mayor of Saskatoon and our paths would cross. But wherever he was it was lively and good fun. He was easy to bruise but he was quick to heal, as many of you have seen exhibited during recent debates.

Davey could say the most outrageous things—Senator Barootes might even attest to that—but everyone knew that it was not meant in a vicious or mean way. He rose to the occasion. He got carried away with his enthusiasm and the next day probably regretted it and maintained his friendship with all political opponents with whom he came in contact.

• (1410)

His career in the Saskatchewan Legislature was a brilliant one. Senator MacEachen has indicated the variety of portfolios he held—all important ones. He was the right-hand man of Premier Thatcher at one time and later became Deputy Premier of the province.

Wherever he went he was welcome, although he always said that no-one ever voted for him. In his own constituency of Prince Albert he was known as "landslide Steuart" because the average victory was about 100 votes. Nevertheless, for a Liberal to be elected in Prince Albert was quite an achievement during those years. I might say that it would still probably be an achievement.

Davey managed to keep himself in politics in difficult elections mainly because of the kind of esteem in which he was held by the voters in his area. He is a self-effacing man. He is the type of person who would downgrade his own abilities, which were considerable. He is an extremely bright person. One would have had to work with him in government to know just how able he was.

I am told that when he was made Chairman of the Board and minister in charge of the Saskatchewan Power Corporation, Saskatchewan's biggest business as far as I know, he knew nothing about elective power. One of his assistants called me the other day and recounted the first meeting he had with Davey. He was called into the office of the minister in charge of the Saskatchewan Power Corporation who was preparing for a trip to New York to meet some investment bankers. The corporation needed to borrow several million dollars. It was a big financial deal. The purpose of this particular visit to the minister's office, according to the gentleman with whom I spoke, was to explain to Davey what a kilowatt was. Davey always enjoyed talking about that. After all, here he was, off to talk about an immense expansion of the Saskatchewan Power Corporation, and he really did not know what a kilowatt was. Yet, he got the money he was after. In addition, he made friends with all the investment bankers concerned.

Davey had an illustrious career. If honourable senators want to hear some hilarious stories about what an airman could do in Ireland, then they should get together with Davey some time on a quiet evening. He will regale you with some of his adventures.

When he retired from provincial politics to come to the Senate he was not ashamed to say that he wanted to be a senator. One of the funniest evenings I attended with Davey was at a great banquet in Regina where he was being honoured for his appointment to the Senate. Prime Minister Trudeau was there, and so were most of the Liberals in Saskatchewan, maybe a thousand of them. It was an immense crowd of Liberals.

Davey got up and said that most people never admitted they really wanted to get into the Senate—they were not anxious to become senators. He said, "But I want you to know that I wanted to be a senator. I spoke to everyone I knew about becoming a senator." This was at a public gathering. He said, "I asked ministers, I asked premiers, I used every contact I had, and the answer was always the same: 'Don't worry, you will get the call.'" He said, "My reply was always 'I don't need a call, a whisper will do.'" He then told about the day his telephone rang and when he answered he found that it was the Prime Minister on the other end. According to what Davey told the people gathered at the banquet, he said, "The answer is yes." The Prime Minister said, "I haven't even asked the question." Davey said, "That doesn't matter, the answer is yes, yes, yes." That is how Davey Steuart became a senator.

There are many marvellous stories to be told about Davey. I could go on at length telling honourable senators all the humorous things that went on in his career. He was a great golfer. I remember being on a trip with him which took us down to El Paso, Texas, to play golf. When we arrived we found that the club house was an immense building, just as one would imagine for Texas. Davey looked at it, goggly-eyed, a little prairie boy from Prince Albert and said, "Good Lord, the first nine are under cover." It was almost big enough for that.

Davey was a very honest individual. He did not make any pretence of being anything than what he was. That is what made him loveable and respected by all with whom he came in contact.

I remember when Tommy Douglas, his arch political rival, passed away. This chamber paid tribute to Tommy, and rightly so, on his great political career. I looked up the *Debates of the Senate* for March 4, 1986, to see what Davey had said, because I recalled that it was quite unusual. Davey did not fall into the pattern, like everyone else, including myself, of saying how great Tommy Douglas was. Davey Steuart said:

> Honourable senators, as I read the newspapers and listened to what has been said about the late Tommy Douglas in this house, I sometimes wondered if we were talking about the same man that I knew for all those years. Senator Roblin and Senator Robichaud said they could not imagine that he could ever say an unkind word to anyone.

You remember this, Senator Roblin. That is what you said. Davey continued:

> My God, they never sat in the legislature opposite Tommy Douglas. I can recall Ross Thatcher saying that if you had a debate with Tommy Douglas, he took the hide off you layer by layer and your own wife never spoke to you for about two weeks after he was finished with you.
>
> I got into politics because of Tommy Douglas. If someone said he cannot imagine Tommy Douglas having an enemy, then, by God, at times, I could not imagine Tommy Douglas having a friend.

He went on to say:

> He stood for everything that I stood against . . .

and then, in his usual self-disparaging way, he said:

> . . . we did not win even one tiny battle against him.

He went on to say:

> The honourable senator from Regina . . .

that would be Senator Barootes,

> . . . could also mention one or two things. There was the odd person who disliked Tommy Douglas over the years. He used to say about things like that: "You can't make an omelette if you don't break a few eggs." Well, you could look at some of the broken eggs here—and Senator Barootes is one of the broken eggs that went into making Tommy's omelettes.

Then he concludes:

> I got into politics because of Tommy, because I wanted to defeat him—but I never succeeded. But I stayed on; "I came to scorn and stayed to pray." I stayed on and developed a great admiration for what he did, and, in fact, we became good friends.

I think that is typical of Davey. He let you know how he felt, and gave you the basic feeling that he had. He had such battles in the Saskatchewan legislature that what you saw here in the Senate with the GST was probably child's play; it was like kindergarten compared to what steadily went on, and probably does to this day, in that unique assembly of the Saskatchewan legislature.

Honourable senators, all of us are going to miss Davey. I spoke to him just last week. He is enjoying his golf in Phoenix, Arizona. I hope, in due course, that he comes back to say goodbye, when we can again properly recognize him. I can say, on behalf of all of us, that we will miss him as a senator. He has been a great Canadian and a great citizen of this country. He has made a significant and important contribution to the welfare of the people of Canada.

No tribute to Davey can be complete without a reference to his dear wife Eunice, who supported him in every way and occasionally brought him down to earth, when she thought that necessary.

My best wishes are extended to both of them for a happy and healthy retirement.

● (1420)

Hon. Efstathios William Barootes: Honourable senators, David Gordon Steuart came from Prince Albert, Saskatchewan. Prince Albert has made a tremendous contribution to this country. It once elected Prime Minister William Lyon Mackenzie King, then later Prime Minister John George Diefenbaker and, finally, it gave us David Steuart, who today is probably the best known and perhaps the most notorious Liberal in all of Ottawa. Colourful, quick witted, as impish as an Irish leprechaun, he has entertained and enlivened this chamber and most of Canada with his remarks. At times they were the serious and enraged remarks of a statesman, and sometimes they were the remarks of a court jester. He is the master of the spontaneous one-liner.

We have all seen how, with one single heckling remark, he could devastate the rhetoric and serious debate in this chamber, bringing us all into derisive laughter and annihilating, if you will, the reasoned argument of the speaker of the moment. Usually those witty remarks were laced with sufficient humour that they left the opponent almost helpless to object. As a matter of fact, it was almost—I say "almost"—a pleasure to be insulted by him.

Davey Steuart was also an expert of the great put down, the put down of deflating a self-inflated politician, bigot or big shot. I recall the story of his introducing Prime Minister Trudeau to a very large dinner gathering in Prince Albert at a time when the Prime Minister was less than greatly admired in Saskatchewan. Davey introduced him by speaking of the enthusiasm and the enormous excitement that he had brought to Prince Albert by his attendance.

"In fact," he said, "Mr. Trudeau, this is the most excitement we have had here since the convicts burned down the penitentiary." Then as he looked around and noticed that there were not too many Liberals but quite a few Conservatives, "NDPers" and "CCFers" in the crowd, he said, "I think, Mr. Trudeau, some of this large crowd may even vote for you." That was his put down.

David, as others have said, was an excellent raconteur of political stories and of situations he had observed. His stories improved with each telling. They were always interesting and each one was new because he embellished it with some new details and with that self-deprecating sense of humour that he put into the put down. John Diefenbaker and he lived two doors apart in Prince Albert. Between them was a home for Anglican unmarried mothers. Well, you can imagine what Davey did with this situation. He used to tell the crowd when Diefenbaker was around that between Prime Minister Diefenbaker and himself they had more unmarried single mothers than any two politicians in Canada.

Our friend held very strong opinions on many issues, and he was very quick to express them to anyone. You knew where he stood. To him, issues were black and white, never grey. He never compromised.

He loved campaigning, particularly at the grass roots. He prided himself in his success in door-to-door confrontation and discussions, and in person-to-person encounters on Main Street. The simplicity of Dave's explanations of issues made them quite understandable to voters. Perhaps that is why the

harsh and sometimes autocratic edicts of Premier Thatcher were passed on to the Deputy Premier, David Steuart, to explain, to polish, to administer, and to execute. He had that facility of softening and presenting these harsher policies in a more acceptable form and in a better manner.

However, the main tenet of David Steuart's political philosophy was loyalty: loyalty to his leader; loyalty to his party—I might add a characteristic much less evident in the modern politicians of ambitious bent that we see today; and finally, loyalty to the support of the policy of his party, no matter how strongly he might have objected to that policy in the discussion groups and in caucus.

We have been good friends for more than four decades. As has been recounted by others, he was born, raised and educated in Saskatchewan. Like Senator Buckwold and myself, he also had a distinct advantage, an advantage that has been denied to so many of our recent generations—the advantage and the experience of growing up and surviving in the Great Depression of the prairies. As one author commented, reflecting on his post-war generation, "Their parents gave them everything but poverty." We had that and I think it helped us appreciate what we did get when we grew up.

Our friend has given 50 years of his life to the Public Service of Canada: in time of war as a navigator in a bomber in the Royal Canadian Air Force; later, in peace, as an alderman and mayor, as has been mentioned; from 1962 to 1976, as a member of the Saskatchewan legislature, as a cabinet member, Deputy Premier and, later, Leader of the Opposition; and most recently, from 1976 until 1991, as a senator of Canada.

I will miss him, as I know will many other senators in this chamber. He has left his mark on all of us, perhaps particularly on myself. Perhaps his retirement will also put an end to the repeated and embarrassing apologies that I have received from him—no less than 16 to date—which he has needlessly offered to me and to many others in here for things that have been said, and forgiven, in the heat of political battle.

In paying tribute to David Steuart, I wish Dave and his lovely wife, Eunice, a happy and healthy retirement. I hope he comes back to Regina in the spring with better golf scores than he had last year. Thank you very much.

Some Hon. Senators: Hear, hear!

OFFICIAL REPORT

HONOURABLE ROYCE FRITH—WITHDRAWAL OF REMARKS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I wish to call attention to remarks that I made in the Senate, which appear in the *Debates of the Senate* for last Thursday. This is my first opportunity to do so. At page 5194 of the *Debates* for that day I described the Leader of the Government in the Senate in a clearly unparliamentary way by describing him as a "contemptible slob". I wish to withdraw both the adjective and the noun. Obviously, I still feel that what he said was foolish, but it was not then of a character to justify the word "contemptible". I want to withdraw the noun because I just do not think the word "slob" properly applies to the Leader of the Government in the Senate.

[*Translation*]

Hon. Eymard G. Corbin: Senator Frith, do you also withdraw the French version? Because you said: Quel plouc méprisable vous faites, monsieur! Do you also withdraw the French?

Hon. Royce Frith: Yes. To use two other languages—French and Latin—I withdraw those words as well, *mutatis mutandis*.

GOVERNMENT EXPENDITURES RESTRAINT BILL

CLARIFICATION OF SENATOR'S REMARKS—QUESTION OF PRIVILEGE

Senator Leblanc: Honourable senators, to get back to the *Debates of the Senate* of Thursday, January 24, 1991, I noticed that the Honourable Duff Roblin said in his speech, and the French version appears on page 5174, that: "I also think the chairman was right to say that the bill should be supported."

However, at the end of my speech I said:

> I certainly cannot vote for this bill.

The bill was Bill C-69.

I fail to see why Senator Roblin is putting words into my mouth.

• (1430)

[*English*]

Hon. Duff Roblin: Honourable senators, I certainly accept my honourable friend's words with respect to what he has just said. If I have misrepresented him in any way, I regret it. I do recall that at the beginning of his speech he gave the impression that the bill had some merit, although I agree that in the end he decided not to support it. Perhaps I stretched too far in implying his complete support.

[*Translation*]

Senator Leblanc: Going back to the beginning of my speech, I said that as chairman of the committee, I acceded to the repeated requests of Conservative members. It was talking about expenditure control measures that were to apply until the end of the next fiscal year. This may be what caused Senator Roblin to think that I supported Bill C-69.

[*English*]

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like the permission of my colleagues to run through a suggested program for the Senate for this week, and perhaps next week, although I hope not.

Obviously there are bills that the government feels it has to have passed before we break, and I do not think there will be

much argument among our colleagues about their importance. The Joint Committee on the Constitution will be voted on tomorrow. That is of great importance. With respect to Bill C-40, the Broadcasting Act, there are some amendments to be dealt with, but it is my understanding that debate will be joined either today or tomorrow, depending on the progress of Bill C-43, the abortion bill. Bill C-69, the restraint of government expenditures bill, will be voted on today.

Bill C-84, which is the Petro-Canada Privatization Bill, is presently before the Energy committee. I understand that meetings are scheduled and that the committee has already met a number of times. It is my understanding that the committee hopes to report that bill Thursday evening or Thursday afternoon, with a view to dealing with it at third reading or at the report stage and third reading on Friday. Then there is Bill C-88, which is the European Bank for Reconstruction and Development Agreement Bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Are we still under the "have to haves"?

Senator Doody: Yes. The reason we need passage of the European bank bill, which arrived in this chamber belatedly from the other place, and which was proposed for second reading by me on Thursday past, is a March 31 deadline for Canada's participation. March 31 would obviously give us plenty of time to deal with it if we do not get involved in prorogation. I have no way of knowing what the plans of government are in terms of prorogation, but I do know that it is a bill which Canada, as a participant in the European scene and the recovery particularly of Eastern Europe, would be most anxious to have passed so as to allow it to involve itself in that bank. I discussed this briefly with Senator Stewart before we sat today and he and Senator Roblin have talked about it. I think they would like to find a way to facilitate our desire to pass that bill before we break for a recess. We would be most appreciative if that could be done. If it cannot be done this week, then a way will have to be found to do it next week.

Honourable senators, that brings us to the debate on Bill C-43, the abortion bill, which I think will continue today and this evening, if enough honourable senators wish to speak. My understanding, certainly from this side and from what I have heard on the other side, is that a number of senators wish to participate in this debate. I believe some senators want to propose amendments. In order to facilitate that and to try to keep things in a reasonable timeframe, I would suggest that we sit this evening and continue with that debate. Tomorrow afternoon, if other senators wish to speak, then that debate will continue.

When we have finished with Bill C-43, we will get into the amendments and the main motion on Bill C-40, respecting the Broadcasting Act. Then, on Thursday or Friday, as I suggested, we would try to deal with the Petro-Canada privatization bill.

Senator Frith: You have left the debate on Bill C-43 dangling somewhat.

Senator Doody: Well, I did not mean to. We will continue the debate today, tonight, tomorrow and as long as senators wish to speak. Then, when senators have finished with the bill, we will have a vote. But I cannot at this time say when that will be, obviously because I do not know how many senators want to speak, how long their speeches will be, or, indeed, how many amendments might be proposed. All I can say is that the time will be made available to senators who want to participate and the vote will be held at a time convenient for both whips to deal with it. It is our hope that it will be done within the timeframe of this week. The same is true of these other bills.

Hon. Stanley Haidasz: Honourable senators, I should like to ask Senator Doody whether, once we begin the debate on third reading of Bill C-43 this afternoon, it will be continued uninterrupted until we come to a vote.

Senator Doody: The debate has already been started. It is now adjourned in the name of Senator Neiman, as I remember. It is the second order on the order paper today and, although I am being presumptuous, I think Senator Neiman will take up the debate and continue today. It is my hope that it will be continued until senators have finished what they have to say and that we can then get on with the vote.

We then come to Bill C-40, the Broadcasting Act. Honourable senators, these are tenuous grounds. This is not the House of Commons, where one lays down one's orders and says, "This is what we are going to do." What I am doing is asking for a consensus from senators, the ultimate object being to give senators a break by the end of this week. As I suggested the last time I went down this difficult lane, I myself am not as concerned about that as perhaps are others, because I spend most of my time here in Ottawa anyway. But I know that others have different plans and programs. If we can pull this together, and if things happen as I suggest they should, then we could perhaps look at an adjournment until the last week of February or even a little beyond that to early March. Once again, an adjournment date of that nature would, as always, be subject to a recall should something of importance arise, or should the Commons come up with some urgent legislation, or we do, or if the Gulf Crisis intervenes. Of course, we all know that; that is not something new.

• (1440)

I was just about to touch on two bills which we would like to deal with as well and which I had thought were sailing through without any difficulty. Bill C-81 deals with the United Nations convention on contracts for the international sale of goods. I remarked to the chairman of the committee that it would hardly upset the electorate in Twillingate if that bill did not pass immediately. However, it is such a small bill that it would look rather absurd remaining on the order paper without being dealt with. The Legal and Constitutional Committee has made arrangements to look at that and hopefully they will get it back to us in time for Friday.

The other bill, Bill C-82, deals with the port wardens for the harbour of Quebec and the harbour of Montreal. That is also a bill with which I am not very familiar, but one which I thought

was not controversial and involved no great problems. It was scheduled to be dealt with by the Transport and Communications Committee this morning, but the meeting was cancelled and the committee decided not to look at it. I would very much appreciate it if that could be reconsidered and we could try to move along with that bill. However, once again, it is not an item over which I would ask the Senate to deny the membership a break.

There are a number of other bills which I will not bother enumerating at this point because they are either waiting for Royal Assent or are about to be reported. The Management Development Centre is to be reported from Finance, and one or two other bills are ready for third reading or Royal Assent.

Honourable senators, that is the timetable I propose. I would appreciate it if we could try to work together to achieve that end. We are entirely in the hands of the Senate. If honourable senators find this timetable is inconvenient and they cannot handle the schedule I have laid out, then of course we are available to come back next week or for however long it takes. I join with my colleagues in stating that I do not want to come back next week to deal with those bills, but I am quite prepared to do so.

Senator Frith: Honourable senators, I do not think I can add anything. Senator Doody has reviewed the government's program and I have nothing strong, positive or negative, to say about it. I understand his plans and he said nothing that would provoke a strong negative reaction from me.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, petitions against the GST addressed to me continue to come in. In each case, unless I make an exception, the petition contains approximately 20 names.

The first group is from Rochebaucourt in the province of Quebec. Some petitioners have given their postal code, which is J0Y 2P0. In each case, the petitioners are asking for the Senate to do everything it can—

[*Translation*]

> For these reasons, we humbly pray that senators and members of the Commons, the real representatives of the people, do whatever they can to oppose the new tax on goods and services, and we demand that a general election be held immediately.

[*English*]

The next petition is also from Quebec. It is personally signed by all the petitioners, many of them from the same area of Rochebaucourt. It seems that the petition has been circulated because it is in the form of an envelope with the printed address to me at my office here. On the front it states:

[*Translation*]

> **No to the GST**
>
> Please sign this petition.

[Senator Doody.]

[*English*]

I take it that the petitions are circulated and signed as they go around, which is some indication of the strength of feeling of these citizens from Rochebaucourt.

There are also some petitions from Montreal. All in all, there are nine petitions with some 20 to 25 names on each petition.

The next petition has a combination of names from Quebec and Ontario. There are also 12 petitions from Ontario, each of them fully signed in handwriting and every line taken up. Some of the addresses are in Oakville. There are a large number from Cambridge, which is the old City of Galt.

Here is one petition signed by a senior aged 73. Here is another one from Glencairn Avenue in Toronto. This petition contains a group from Mississauga. The next petition is fully signed by residents of St. Denis. The next two petitions are fully completed and are from Kitchener. There is a single petition from Regal Road in Toronto. The last one in today's batch is from Mississauga.

These petitions show that the people of Canada still oppose this tax and wish an opportunity to have an early election so that Parliament can do something about it.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, perhaps I could return to the business of the Senate for one second. Since I sat down, several senators have said to me that I did not mention the fact that there was to be a division this afternoon at 5:45 p.m. I do not want to mislead anyone. There is indeed a vote on Bill C-69, the restraints bill, at 5:45 p.m.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

DEADLINE EXTENDED FOR PRESENTATION OF COMMITTEE REPORT RESPECTING CHILD POVERTY

Hon. Brenda M. Robertson: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That notwithstanding the Order of Reference of December 20, 1989, and the Order of Reference of June 27, 1990, the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to continue its examination of child poverty in Canada, be empowered to present its report no later than Thursday, March 28, 1991.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Before voting on the motion, I take it that the reason is that the committee is not fully ready to make its report. Does it require any more hearings or is it just a matter of getting the

report ready and that the committee feels it can easily achieve the March 28 deadline?

• (1450)

Senator Robertson: We expect to table the report by Thursday of this week, Senator Frith.

Senator Frith: I see. I thought you said March.

Senator Robertson: It will be tabled this week. It is all ready for tabling, but Senator Marsden will not be here until tomorrow. There were a couple of technical difficulties. We had trouble getting the report out, as you probably know, and we lost our due date last fall with the other commotion. We want to table the report this week and get on with it.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

TRANSPORT

PORT OF HALIFAX—IMPENDING COMPETITION—GOVERNMENT POSITION

Hon. Finlay MacDonald: Honourable senators, I have a question for the Leader of the Government in the Senate. In this morning's *Globe and Mail* there is a story that the Port of Halifax may be in trouble from the Port of New York and the Canadian Pacific's strategy in buying the Delaware and Hudson Railway.

The president of the Port said that if CN would buy $30 million or $50 million worth of double-stacked container cars the port could combat this challenge. There is no cost saving in CN in buying this type of equipment—in fact, it is no cheaper than the equipment that they have now—but if someone else would supply it, then CN would be relieved of the ownership costs and could then pass this on. That is the only way to lower Halifax's costs to the shipping community, which are their largest customers.

I have two questions: First, is the government prepared to acquire this equipment and thereby relieve CN of equipment costs and return Halifax to a competitive position?

Secondly, is any government—presumably the Government of Nova Scotia—prepared to adjust taxes and other things to CN at the level that the U.S. government charges its carriers in taxes, depreciation, and so on? I believe that is what they term, to use an overused expression, a level playing field.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the questions raised by Senator MacDonald are as complex as they are important. I offer him a couple of alternatives. First, I would ask the minister who reports to Parliament for Canadian National, Mr. Lewis, to let me have a report on the position of the railway in this matter.

I can tell the honourable senator that the government has not considered taking the kind of initiative that he suggests—that is, to purchase those cars ourselves and provide them to Canadian National.

The other possibility is for the chairman of the Standing Senate Committee on Transport and Communications to call the Minister of Transport, his officials and the Chief Executive Officers of Canadian National before the committee with a view to discussing the competitive position of the Port of Halifax and the various ways in which that position might be improved.

Perhaps if Senator MacDonald of Halifax had a word with the chairman of the Standing Senate Committee on Transport and Communications we might be able to ventilate these issues in the proper forum.

PERSIAN GULF WAR

CANADIAN INVOLVEMENT—GOVERNMENT POLICY

Hon. Gildas L. Molgat: Honourable senators, my question is to the Leader of the Government in the Senate with regard to the Persian Gulf situation.

In the original discussions in the United Nations, if I understand their resolutions, the objective was to liberate Kuwait. Increasingly, however, we hear from American sources that their intention may be further than that and may involve completely breaking the war-making capacity of the Iraq government.

As this could conceivably mean a land advance at some stage beyond Kuwait and into Iraqi territory, could the minister indicate what the position of the Government of Canada will be in that regard? Will we support such a course of action, or are we simply involved in the liberation of Kuwait?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, in a word, the objectives of the Government of Canada are the objectives spelled out in the various United Nations Security Council resolutions pertaining to Iraq and Kuwait.

Senator Molgat: But, as I understand those resolutions, they deal strictly with the liberation of Kuwait. Do I take it, then, that the minister is saying that the Government of Canada and the Canadian forces will not be involved if it goes beyond the liberation of Kuwait?

Senator Murray: Honourable senators, I cannot say more than that Canada's objectives in the Gulf do not go beyond those spelled out in the resolutions that we supported and in some cases co-sponsored at the Security Council.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to ques-

tions asked by Senator Haidasz on November 15 and by Senator Kinsella on January 23.

PERSIAN GULF

PROTECTION AGAINST NERVE GAS—TESTING OF ANTIDOTE

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 November 15, 1990, by the Honourable Stanley Haidasz regarding the Persian Gulf—Protection Against Nerve Gas—Testing of Antidote.

(*The answer follows:*)

The Canadian Government has the obligation to provide Canadian Forces personnel with the greatest protection possible against chemical attack. This is particularly important in that Iraq has in the past demonstrated its willingness to use chemical agents against military targets and its own civilian population.

Members of the Canadian Forces currently in the Persian Gulf are all adequately protected against a chemical attack. They are equipped with protective gear including masks and suits, and have all received training in the proper procedures in the event of a chemical attack.

As well, members of the Canadian Forces now in the Persian Gulf have been issued HI-6, which the Department of National Defence considers to be the most effective antidote available against all known nerve agents.

After review of the DND animal and laboratory test data, the results of similar tests carried out in other countries and the studies of HI-6 administration to humans in other countries, Health and Welfare Canada agreed to a study proposal from DND involving a small number of Canadian volunteers.

The Department of National Defence plans more tests with HI-6. However, HI-6 is considered by DND and Canadian Forces medical and scientific experts to be the most effective medication available against lethal nerve agents, and for this reason, it has been selected to protect CF personnel deployed in the Persian Gulf.

Early clinical trials with drugs are aimed at testing acute tolerance of the drug. In the case of HI-6, the Department of National Defence wanted to establish that HI-6, at the doses expected to be effective against nerve gas poisoning, would not cause such severe side effects that those who would be treated would be unable to function.

The consent form which was signed by volunteers participating in the HI-6 clinical trial had been carefully reviewed by Health and Welfare staff. The form met the Department's guidelines, as well as the ethical requirements established through the Medical Research Council's Guidelines on Research involving Human Subjects and the Declaration of Helsinki.

[Senator Doody.]

The consent form used in the HI-6 clinical trial contained a strong warning that potentially serious effects, including fatality, are always a possibility, as well as listing side effects and the possibility of sperm damage.

DND has submitted additional laboratory studies to Health and Welfare, as part of a request for the approval of a second clinical trial. These studies contain further evidence that HI-6 is a mutagen. Therefore, to provide additional information to volunteers, Health and Welfare has requested that the consent form for the second clinical trial contain a statement on the possibility that HI-6 may cause cancer.

CHARTER OF RIGHTS AND FREEDOMS

HATE LITERATURE LAWS—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the following reply is in response to a question raised in the Senate on January 23, 1991, by the Honourable Noel Kinsella regarding the Charter of Rights and Freedoms—Hate Literature Laws—Government Policy.

(*The answer follows:*)

A federal-provincial working group was formed in 1988 at the direction of Federal, Provincial and Territorial Ministers Responsible for Criminal Justice to examine the operation of the Hate Literature provisions of the Criminal Code, including section 319 which deals with the wilful communication of statements promoting hatred. The working-group, comprised of representatives from the Department of Justice and the provinces of New Brunswick, Québec, Ontario, Alberta and British Columbia began a review of the issues in September, 1988. On June 6, 1988 the Alberta Court of Appeal released its judgment in *Keegstra v. The Queen*, holding section 319 invalid under the *Canadian Charter of Rights and Freedoms*. On July 29, 1988 the Ontario Court of Appeal upheld the section in the cases of *Andrews* and *Smith*.

In view of the appeals taken to the Supreme Court of Canada in these matters, completion of the working group's study was deferred pending their outcome. On December 13, 1990 the Supreme Court of Canada delivered its judgments in *Keegstra* and the related cases upholding the legislation.

The working-group has been re-convened at the call of the New Brunswick chair to complete its work in light of the Supreme Court's Reasons for Judgment in the recent decisions. The working-group is not a public forum. Any representations that community groups may wish to present concerning the legislation should be forwarded to the Department of Justice for consideration.

ABORTION BILL

THIRD READING—DEBATE SUSPENDED

On the order:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips for the third reading of the Bill C-43, and Act respecting Abortion.—(*Honourable Senator Neiman*).

Hon. Joan Neiman: Honourable senators, I defer to Senator Fairbairn.

Hon. Joyce Fairbairn: Thank you very much, Senator Neiman. Honourable senators, it is with the same concern and difficulty that all of us share that I rise to speak on Bill C-43, the bill that would amend the Criminal Code to re-establish the framework for what constitutes a legal abortion and under what circumstances it may take place.

● (1500)

This, as all senators appreciate, is a divisive, complicated and emotional issue. It is why we wanted to have full committee hearings, and it is why we are having a free vote on this bill.

In January, 1988, the Supreme Court struck down Canada's previous abortion legislation contained in section 251 of the Criminal Code as contrary to the integrity of a woman's person. I would like to quote from the judgment of former Chief Justice Dickson who stated:

> At the most basic, physical and emotional level, every pregnant woman is told by section 251 that she cannot submit to a generally safe medical procedure that might be a clear benefit to her unless she meets criteria entirely unrelated to her own priorities and aspirations . . .

He went on to state:

> Forcing a woman, by threat of criminal sanction, to carry a foetus to term unless she meets certain criteria unrelated to her own priorities and aspirations, is a profound interference with a woman's body and thus a violation of security of the person.

Former Madam Justice Bertha Wilson found that under section 251 a woman's capacity to reproduce was subject not to her own control, but to the control of the state, thereby depriving the pregnant woman of both her right to security as well as her right to liberty.

While section 251 specified what constituted a legal abortion, its very form contributed to uneven and increasingly restricted access across the country. Senators will remember that under that section it was provided that abortions could take place on the judgment of a therapeutic abortion committee in Canadian hospitals, and that the procedure would be performed by a doctor who had not been part of that committee. It was left up to the hospitals across the country as to whether or not these therapeutic abortion committees would be set up. In some parts of the country, as we all know, they were not. Indeed, in one province of Canada, that of Prince Edward Island, there was no committee whatsoever.

The stated intent of this new bill is to ensure equal access on a national basis to ensure that the decision to have an abortion is based on sound reasons of the health or life of the female person being under threat, and to ensure that the procedure is performed safely by qualified medical personnel. For the purposes of the bill health includes physical, mental and psychological health. Under this amendment those who perform or undergo abortions that can be proven to have been performed outside the framework of the law are liable to criminal prosecution as specified in the amendment.

It is hard to see how this new provision will avoid, in my opinion, being struck down on the same grounds as its predecessor when it is constitutionally challenged, as we can be sure it will be, if proclaimed. This is an area of the legislation which I know will be discussed by other members of the committee.

It was the conclusion of many of our legal witnesses who appeared before the committee, including Professor Lorraine Weinrib of the Faculty of Law at the University of Toronto, who is also a senior advisor to the Government of Ontario in matters of constitutional law.

As a medical procedure, the safety of abortion, like the safety of any other medical procedure, is already covered under the Criminal Code and provincial health regulations pertaining to health care administered in a criminally negligent manner. If access were really the central issue, then, as suggested by the Government of Ontario, it could be addressed under the criteria of reasonable access in section 3 of the Canada Health Act, which reads as follows:

> It is hereby declared that the primary objective of Canadian health care is to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers.

In its presentation to our committee the Canadian Public Health Association suggested that abortion and pre- and post-abortion counselling be included in the Canada Health Act as essential or basic services. If not provided, then transfer payments could be withheld from provinces accordingly.

The Canadian Medical Association took the narrower view that under the Canada Health Act the federal government has jurisdiction only over payment for service—only the provinces have jurisdiction over whether a particular service will be provided. Nevertheless, the CMA also felt that the Canada Health Act could be used to apply financial sanctions. As senators will know, we had very conflicting evidence on this point from the Minister of Health, Perrin Beatty, and the Minister of Justice, Kim Campbell, who disputed whether the Canada Health Act could be a vehicle under which abortion could be covered.

Honourable senators, clearly there is more at stake here than medical safety and access. Bill C-43 has been deemed necessary because the government has promised that it will legislate in the area of abortion, whether or not it was really possible to devise truly good legislation. Added to that is the fact that abortion is clearly among the most emotionally charged and sharply divisive issues that we as legislators and, indeed, as a society, face today.

Despite fears in some quarters, the statistics indicate that the lack of an abortion law in the last three years has not resulted in an upsurge in the number of procedures. Neverthe-

less, the government in its wisdom has chosen to restore abortion to the Criminal Code rather than using the Canada Health Act. It has put Bill C-43 before Parliament as the compromise.

Like many of us, honourable senators, I have listened closely to the testimony of those who came before the Standing Senate Committee on Legal and Constitutional Affairs and I am convinced that the bill is an acceptable compromise to virtually no one.

Those who want to prohibit abortion point out that Bill C-43 does not address their concern of guaranteeing and protecting the right to life of the fetus. To accomplish this, honourable colleagues, we would have to entertain an amendment to the Constitution, since no other law protects the fetus either.

We were told by groups such as the Alliance for Life and by witnesses such as Father De Valk that this law was not a law that they even wanted to amend. They did not want an abortion law. What they wanted was a law which would protect the right to life of the fetus from the moment of conception. The testimony is there to read. It is very compelling; in some cases, very stark. As we were told, in fact, this kind of law is truly an evil law because none of us—not one of us—has any right at any time to interfere with the right to life of the fetus.

● (1510)

We should note that the only protection of the fetus at this juncture exists not in Canadian law but in the medical Code of Ethics of doctors themselves through the surgeons' groups that exist—physicians and surgeons councils that exist in each province, as well as nationally. This protection is in the form of time limits on how late in a pregnancy an abortion can be performed. It is in the area of the doctor's own ethical commitment and policing that the only protection for the fetus currently exists.

Those who want access to abortion and the doctors who are caught in the crossfire point to the withdrawal of services that has already taken place in anticipation of the bill's proclamation. Both sides are united in their opposition to Bill C-43, and both sides presented well-reasoned arguments for why it is not an acceptable compromise. Both sides conclude that the government is simply wrong in claiming that the bill protects the fetus on the one hand and, on the other hand, offers a framework for equitable access for an abortion in Canada.

The Minister of Justice asked us in committee to try to distinguish between our own political position and our role as parliamentarians and the need to find common ground. In fact, it would not be too much to say that she gave us a bit of a lecture on this. She asked us to distinguish between the substantive value of the bill and concerns that have been expressed about its possible effect.

Honourable colleagues, I have to ask this: How can we evaluate the substantive value of a bill unless we listen to witnesses and consider the possible effects it may have and, in the case of the bill, the effects it is already having? It seems to me that a crucial test of the substance of the bill is whether it will have the effects that the government intended on those who must function under it. Will it do what the government claims for it?

The problem with this bill is that, as the saying goes, it is neither fish nor fowl. It glosses over the fundamental problem and avoids it, rather than attempting to provide clear guidance.

The Minister of Justice told the Senate committee that there were extraordinary distortions about the bill and its effect. She maintains this in spite of the fact that some of those opposed to abortion have vowed publicly to use this bill in every way they can to stop abortion and in spite of the numbers of physicians who have said they will withdraw their services when Bill C-43 is proclaimed.

A survey completed recently by the Society of Obstetricians and Gynaecologists Canada showed that 343 of the 760 practising obstetricians and gynaecologists who responded to the survey will cease to perform abortions if Bill C-43 becomes law. This number increased by 14 per cent since the first widely-published survey came out last July, in which 275 physicians said that this bill's passage would cause them to withdraw their services.

Further, in this latest survey, 60 doctors indicated that they had stopped doing abortions in the last six months, meaning that a total of 403 or 53 per cent of respondents either have withdrawn or plan to withdraw their services.

Honourable senators, one might conclude that if Bill C-43 itself has created such distortions even before it is passed, then it is truly a flawed piece of legislation, as virtually all of our witnesses told us. The most recent survey of the obstetricians and gynaecologists also showed that 112 or 15 per cent of the respondents have personally experienced harassment in the last two years. On behalf of its members, the society sought legal advice on what doctors might do to protect themselves from court action subsequent to providing abortion within this new law. Their members examined these proposed guidelines and found that complete compliance was virtually impossible. In their opinion, the use of such guidelines would create heavy pressure for desperate women to lie.

In addition, the cost to hospitals of administering these new psychiatric, psychological and psychosocial evaluations would be major in a time of health care restraint. Yet, without adopting such procedures, doctors who continued to perform abortions will have limited defence against those who say they will use this bill to escalate their harassment to the courts.

Ms. Campbell has said that it is shocking and outrageous that doctors would withdraw services in the face of potential consequences of this bill. They should refuse to be intimidated and they should clearly indicate such refusal. Well, it is easy to say that when one is far from the front lines of this issue. I suppose, honourable senators, if one reflects on the history of this issue over the last two decades, there are not very many doctors in Canada or in any other country who would willingly choose the kind of life that Henry Morgentaler has, as he has pursued this issue through the courts and, indeed, in jail.

● (1520)

As Nicole Duval Hesler, representing the Attorneys Against the Criminalization of Abortion, pointed out:

> Doctors are not heroes, nor should they have to be. The state ought let people be ordinary and the state ought not to make requirements of anyone that they be heroes. Let them lead ordinary lives using ordinary talents and ordinary commons sense.

Honourable colleagues, doctors are like any other professionals. In their field they perform with great skill and dedication many procedures other than abortion. They have many patients under their care and they have careers, families and homes. Why should we or the minister expect them to put everything at risk by continuing to perform this procedure once Bill C-43 is proclaimed, if it passes this house? For it is not criminal conviction so much as an escalation in harassment, violence and disruption that physicians fear most from the passage of this bill. The very initiation of a court challenge, whether or not it results in a conviction, constitutes a clear and inestimable threat in terms of time, stress, reputation and legal costs, both to their professional and personal lives.

We heard graphic testimony from service providers who have experienced intense harassment to the extent of picketing of private homes and families of doctors, and, in the case of a clinic, Everywoman's Centre in Vancouver, the purchase of property right next to the centre so that harassment could be carried on continually and without respite by those who oppose the freedom to have an abortion at that clinic. That clinic has also undergone considerable violence and was invaded and destroyed early last year by people who oppose the issue.

Members of the Criminal Lawyers Association believe, from the cases brought to date, that this law will definitely be used as an instrument of harassment against doctors. They observed that the bill is already having a chilling effect on the availability of therapeutic abortions and that things will only get worse. Representatives of the lawyers feel so strongly about this that they advised the Senate committee to request the government to provide transcripts of the legal opinions prepared for the government on this bill along with an assessment of the legal experiences of those who prepared those opinions. They provided a chronology of legal and harassing actions to support their contention, including private complaints against Dr. Morgentaler and Dr. Machebee in Quebec and the Daigle and Dodd cases which transfixed the nation two summers ago, the prosecution of Doctor Scott of the Scott Clinic in Toronto for assault and the tactics of some groups throughout Canada, which include sending children to the homes of clinic staff and their neighbours to say that the staff were killing babies.

The Canadian Medical Association feels so strongly about the potential danger of this bill that it has now dropped its recommendations to amend the bill and has asked us to defeat it outright. They point to the tremendous energy and resources that have been spent on the abortion issue in the face of desperately needed policies to prevent the need for an abortion in the first place, including counselling, family planning and contraceptive education. So physicians and lawyers understand the environment into which this bill will be thrust, should it become law, and they have conveyed its potential danger to us in the plainest of terms.

However, women are the persons most directly affected in this situation. Abortion becomes necessary to women when they find themselves pregnant without with the means, whether physical, emotional or financial, to bear and raise a child. Abortion is not a procedure that women choose lightly. Women do not become pregnant alone, yet often women must bear the consequences of an unwanted pregnancy alone. Women choose abortion, not as an alternative to contraception, but as a last resort in most cases. The fact that women must resort to it as much as they do tells us quite a lot about how we deal with our sexuality and with unwanted pregnancy in our society. Abortion can certainly be seen as one measure of our collective incapacity to prevent unwanted pregnancy. It is also an indicator that current forms of birth control are still unavailable or unworkable or unsafe for many women in Canada, and, clearly, it is an indicator of our inability to educate both our young men and women to respect one another and to take mutual responsibility in the areas of sexuality and reproductive health.

The demand for abortion is a symptom of a set of societal attitudes and causes that will not be addressed by criminalizing the symptom, nor by ignoring the kind of public harassment that has developed and is threatening access to safe medical procedures. We should not overlook another set of pressures which are so pervasive that no member of our society, least of all the vulnerable, can escape. We live in a highly visual environment in which we are continually bombarded with powerful, sophisticated images about the potential of our sexuality, about possible interactions with the opposite sex and the euphoria that will magically occur. The risk itself, as we were told by witnesses, becomes part of the thrill, and for young people and those with few opportunities in their lives it becomes a part of escaping from existences constrained by boredom, poverty and lack of direction and opportunity. In such an environment, as we heard from our witnesses, unwanted pregnancy should not really come as a surprise to any of us. In stark contrast to the imagery of popular culture, including music, film, television and commercial advertising, there is a dearth of strong, simple messages to promote healthy and equitable relationships, to maintain sexual health and to help individuals take practical responsibility for the consequences of their own actions. In the communication of information pertaining to virtually every other field, we are operating at increasingly aggressive and sophisticated levels. Yet, in the field of information about human sexuality, we are still largely in Victorian times. I think the AIDS crisis has brought this situation very graphically to the fore. Abortion, along with child and spousal abuse, has been the subject of less dramatic attention than AIDS, but clearly they are symptomatic of social inequity and the consequent personal tragedy that is every bit as unnecessary as the spread of AIDS.

• (1530)

Some groups, such as Alliance for Life, have advocated that we teach our children to say no to sex, to maintain their chastity. I can understand the desire to return to a simpler, more sheltered time, but, from a practical perspective, I cannot image how such messages would be an effective counter-measure in the prevailing climate. Also, I think that historically sexual ignorance and repression have not worked particularly well in the past, and in the current climate their effectiveness seems even less likely.

So, to my mind, unless we can give women and young people the tools of knowledge and self-esteem in the area of personal sexuality, we will not get very far in changing the circumstances that lead to unwanted pregnancy and abortion. We certainly will not eliminate the need for abortion by making it increasingly difficult to obtain a safe procedure.

From a jurisdictional perspective, this government has argued that it is up to the provinces to ensure that abortion services are provided and are accessible. It has been pointed out that the harassment of doctors and clinics is a matter of provincial, not federal, jurisdiction. That is fine in theory, except that the provinces have done very little to date to protect doctors, and that is certainly part of the reason why some doctors have already withdrawn services and why so many others say they are going to do so. Many of our witnesses, including the Government of Ontario, pointed out that provincial Attorneys General have been most reluctant to take action.

Regarding the availability of abortion services, we are hardly starting from a positive position. As I said earlier, I really do not have to tell you that access is highly uneven across the country, and in several provinces there is little or no service whatsoever. In most rural areas, and in the north, abortion services are non-existent.

The Minister of Health for Ontario enumerated for us a 70 to 80 per cent withdrawal of services in the regions of Ontario outside of Toronto. How can this bill establish or improve access when its main effect, even before passage, has been to drive doctors away from providing the service where it has been previously available? Withdrawal is expected to be greatest in hospitals because their public boards are likely to come under greater pressure than clinics, and yet, in most provinces, the procedure is only covered by health insurance if it is performed in a hospital. This trend will restrict access even further for those with the least ability to pay.

Honourable senators, I keep referring to the Ontario government because, although we invited participation from every provincial government on this issue, as the Legal and Constitutional Affairs Committee does on any issue that has a jurisdictional element to it, only the Ontario government chose to appear before our committee, and they wondered how the provinces could act to improve or even maintain access, even if they have the will and the resources to do it, if, under the new bill, fewer and fewer doctors are willing to perform the service?

[Senator Fairbairn.]

Further, in the face of this bill, areas like Toronto and Montreal, that have been reasonably well served by hospital procedures, are rapidly losing doctors willing to take the risk. We were told that the Montreal General Hospital, which provides a large proportion of the abortion services in the province of Quebec, will stop all procedures if this bill is proclaimed. Women's College Hospital in Toronto expects to have similar problems and, at the moment, is on notice by 30 per cent of its doctors that they will withdraw services if the bill becomes law.

The consequence can only be that desperate women, who lack the means to travel to the few remaining services or outside the country, will have to bear children they cannot support, or they will once again be forced, as they were 20 years ago, to submit to so-called back-street measures that will place their health at great risk. These are women who know they cannot nurture and care for a child as it should be cared for. In their situation, in their minds, an abortion is a more reasonable decision than bearing a child they cannot look after and who may end up neglected, abused or abandoned. In many cases, another child would mean that children already in a family would also suffer.

I find it incongruous that one of our witnesses advocated a complete moratorium, if we were able to get the national will to do it, on abortion for a number of years so that a substantial financial investment could be made in research on artificial ways of saving and sustaining fetuses when, as a society, we lack the means to look after and nurture the children and the families that are already here.

During the decade of the 1980s a constant one million Canadian children lived in poverty, a figure that is not improving. It became common public knowledge in the past decade that at least one out of ten Canadian women are abused by their partners and that about one out of four girls under the age of 18 are sexually abused. Do we really want legislation that puts further pressure on these women and the families they are trying to hold together? I ask that because we should understand that those women and very young teenagers are the ones who will bear the brunt of this law. They are the ones without the means or the support to travel even farther afield for the procedure.

Honourable senators, if we pass this legislation, are we, in good conscience, prepared to follow up with funds and policies to reduce the need for abortion? While the government has pledged money for research over the next three years—$500,000 a year—it is going to take much more than research to counter poverty and to educate and to change attitudes. We have yet to see the long-promised national child-care program from this government, something that is desperately needed to assist single and low-income parents in becoming self-sufficient.

Another indicator of our approach to family policy leads us to consider the fact that the Family Allowance has steadily declined in real value since its introduction in 1945. Related to this, food banks have become a major source of nutrition for families on welfare, who cannot absorb even one extra expense

each month, such as a medical prescription. More and more the food banks and soup kitchens report that children are coming in on their own.

● (1540)

Honourable colleagues, abortion is a symptom of family and individual ignorance, poverty and desperation. I do not believe Bill C-43 addresses those symptoms in a way that would be beneficial for those who are most likely to have to resort to it. It does not deal with the reasons why abortion becomes necessary, nor will it reduce the demand for abortion. As parliamentarians, we, as much as our colleagues in the House of Commons, are charged with making workable legislation whose intent is clear and unequivocal. If we cannot bring ourselves to give credence to the expert witnesses and the responsible citizens who presented their cases in good faith before our committee—if our only response to them, their experience and well-thought-out concerns is to talk about distortion and rhetoric—then I wonder whether we are living up to our responsibilities.

I have been persuaded by what the committee heard that this is a badly flawed and potentially dangerous bill. The Minister of Justice said many times, including during her first appearance before the committee, that Bill C-43 will not be proclaimed if the effect of proclamation is to thwart the intent of Parliament. Honourable colleagues, the stated intent of Parliament to ensure access through Bill C-43 has already been thwarted by the fact that, in direct anticipation of its passage, so many doctors have either withdrawn their services or have stated they will do so.

The message of our meetings was clear, and we, as individual senators, have choices to make. We can pass the bill and hope for the best. We can amend Bill C-43, and some of my colleagues have amendments they would like to bring forward. A possible amendment would be to make it mandatory for the Attorney General to give consent for pursuing prosecutions under this law. But the minister feels that any amendment should come from the government and has asked us to pass the law and leave it to her to deal with the separate process after Royal Assent. We do not have an ironclad guarantee she will do so, although she has said in good faith that she will. We also do not have a guarantee that any successor, if there were to be a change, would be bound by the commitments of the current minister.

Our third option is to defeat the bill. One does not come to this conclusion lightly. Based on my convictions, which were heightened by the testimony of the witnesses heard in committee, I will vote against this bill; and I would urge my colleagues on both sides of the house to consider the evidence heard by our committee, which is now available to us in proper form, in an effort to consolidate their views and make up their individual minds. Thank you.

Some Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Senator Spivak?

Hon. John Lynch-Staunton: If Senator Spivak would allow me a moment I would like to say that I appreciated the thoughtful presentation of Senator Fairbairn. I hope she will allow me to correct an error that was made by a witness she quoted; that is, that were this bill to be passed, the Montreal General Obstetrics Department would no longer allow abortions to be performed on its premises. Since it performs 4,000 abortions per year and is one of the largest facilities of its kind in Canada, I was startled by that assertion, and I took it upon myself to check with Dr. Gillett, the head of the department, who assures me that, while he and his colleagues are unhappy with this bill, they feel that their professional ethics are such that they must provide certain services within the department, including abortion, and that it is not their intention to close down that facility if this bill is passed.

Senator Fairbairn: Thank you, Senator Lynch-Staunton. As you know, we heard this from more than one witness. It was startling and, indeed, disturbing because the Montreal General serves not only Montreal but a huge part of the province of Quebec; and I am pleased to hear that.

Hon. Mira Spivak: Honourable senators, what is striking about the testimony before the Senate Committee on Bill C-43 was not that all representatives of groups, institutions and communities told us to oppose the bill, but that those who did so had such divergent opinions on the vital matter under discussion. The Minister of National Health and Welfare, the Minister of Justice, as well as the Law Reform Commission, which appeared before us, supported passage of the bill. But women's organizations, labour groups, church groups and clergymen, legal and constitutional experts, doctors, and community organizations that provide reproductive health services for women, urged us to reject the bill.

It seems, then, that the laudable objective of attempting to find a legislative compromise between strongly-held positions on the question of abortion has failed the empirical test. Bill C-43 is not viewed as an acceptable compromise by those who appeared before us, as Senator Fairbairn pointed out, nor can one say that it is supported by a majority of Canadians.

The Minister of Justice and the Minister of National Health and Welfare, notwithstanding the testimony, before both the House of Commons and the Senate, urged senators, as parliamentarians, to show leadership and pass this bill. In my opinion, one could only do so if one decided that the testimony of those most directly affected could be dismissed as having no compelling logic, and as being the voice of special interest groups. But I am not at all convinced that that is the case. As one of those who was present for most of the committee meetings, and because the report of the committee was deliberately brief, I think it is important to delineate the arguments and reasons, based on the evidence, that led to my conclusions about this bill.

Those who appeared before us supporting the anti-choice position rejected this bill because it permits abortion for therapeutic reasons, not only when the life of the mother is at risk. As Senator Fairbairn pointed out, they wanted a law to protect the fetus from the moment of conception. For me, however, the arguments against the bill that were most convincing were those that expressed the view that the use of the

criminal power to regulate abortion is inappropriate, unnecessary, and should be opposed for reasons of principle and practice.

The real question here is not only abortion in isolation, but the issue of the reproductive health of women. One of the constitutional experts told us that one cannot produce a "system of reproductive health and one cannot protect and forward reproductive health values through the instrument of criminal law." The Canadian Medical Association told us that the "decision to perform an abortion is a medical act and should continue to be a confidential decision made between the patient and her physician in a responsible, informed way after all options have been carefully considered."

In presenting the bill, the Minister of Justice defended the use of the criminal power as the only substantive area of federal jurisdiction under which an abortion law can be created. In her remarks to the committee she said, and I quote:

[*Translation*]

> The only power Parliament has under the Constitution in this respect is the power it has to legislate in criminal matters. When we tabled Bill C-43, we used that power to create a national standard that would provide under what circumstances abortion could or could not be induced in Canada. The legality of all abortions induced in Canada would depend on whether or not they were done for reasons of health. What we are saying is that abortion is a health matter. The provinces must bear this in mind when they budget for health services.

● (1550)

[*English*]

Yet constitutional and legal experts appearing before us testified that Bill C-43 neither provided a national standard of entitlement nor affected provincial jurisdiction. Requiring medical justification for legal abortion will not create a national standard of entitlement of abortion for Canadian women. In essence, the argument that was given is that an exemption from prohibition in the Criminal Code based on life or health such as that contemplated in Bill C-43 carries no greater weight in guaranteeing access to abortion or limiting provincial jurisdiction than would exist if there were no abortion law.

The existence of a federal criminal law prohibiting abortion in certain circumstances does not preclude valid provincial laws whose effect is to restrict access to abortions in other circumstances. Provincial laws will stand or fall based solely on the determination of the courts as to whether they encroach upon the federal criminal law power and whether they violate provisions of the Constitution.

Professor Lorraine Weinrib, in her testimony before the committee, stated that:

> . . . what provides a national standard of entitlement is the Charter. The Supreme Court of Canada has said that section 7 of the Charter guarantees women access to health care free of liability under the criminal sanction . . . and that that standard applies federally and provincially.

[Senator Spivak.]

We were also told that the vagueness of the eligibility criteria, which will cause uncertainty and inequity in interpretation, militates against the establishment of national standards.

The Canadian Medical Association, the Criminal Lawyers Association, the Canadian Abortion Rights Action League, the Society of Obstetricians and Gynaecologists, as well as other groups, all presented arguments against the inappropriate and unnecessary use of the criminal law power to regulate abortion. A summary of the basis of the opposition might go like this, and I will try to be brief because Senator Fairbairn has dealt in some detail with the harassment issue:

First, the bill singles out abortion as the only recognized medical act to attract criminal sanctions. Second, the inclusion of abortion in the Criminal Code threatens the value of the physician-patient relationship. Third, the bill will have a "chilling" effect on the provision of services, as doctors have threatened to withdraw services if Bill C-43 is passed, thus reducing access to services and perhaps leading to a violation of a woman's right pursuant to section 7 of the Charter. It could lead to the potential harassment of women and providers of abortion services, not just doctors. The standard of life and health in the proposed legislation is unacceptably vague and an inadequate standard for determination of criminal liability. The decision to permit an abortion ought not to be premised on whether a woman must be physically or mentally unwell. Bill C-43, it was claimed, is not only unnecessary but poses a real threat to existing abortion services and women's reproductive health.

Of course, legal and constitutional experts claimed also that the bill was unconstitutional on the face of it, or would prove to be unconstitutional after its passage generally on the same grounds as the old legislation. I await Senator Beaudoin's comments on this and will not go into it.

I want to deal briefly with some of the issues. It was argued that it is the threat of prosecution, even the spectre of frivolous prosecution, of the nuisance value and publicity, not necessarily the fear of conviction, that will have a chilling effect on doctors and patients. We were reminded that changes to the Criminal Code in 1969 came about because doctors did not want to be subject to criminal liability. It was not through the action of women's groups, which were then not sufficiently organized.

Under the old section 251 of the Criminal Code, doctors were shielded from criminal liability by hospital therapeutic abortion committees. The retreat that doctors are now making from performing abortions, those that are, and the threat of further retreat is a reaction to the mere inclusion of abortion in the Criminal Code. We were told that the number of physicians threatening to withdraw services, as Senator Fairbairn said, increased after the Minister of Justice sent out an information document in October 1990 for the simple reason that physicians began to understand more fully the risks involved, and indeed had been advised of their position more fully by consultation with legal counsel.

This could create problems of access, especially for young women, poor women and women in rural communities, which, coupled with the problems of delay, uncertainty, stress and ultimate denial of abortions in some cases on grounds other than therapeutic, gave rise to concerns that this bill will have a negative impact on the provision of health care services. One can easily envision that hospitals will introduce multi-step processes, psychiatric assessment, psychological testing, psychosocial evaluation to minimize the chance of prosecution. It suggests, as I have said, that the same access problem that was fatal to the validity of the previous legislation in the Morgentaler case of 1988 could occur under the new legislation.

Women seeking abortions, those who have had abortions, physicians and health care workers may be harassed under this legislation, legal and medical groups claimed, through the laying of private information. Women can face aiding and abetting charges and counselling and conspiracy charges for trying to end an unwanted pregnancy.

The Daigle case was pursued in the absence of a criminal law in place; the injunction was based on the alleged father's rights. Under Bill C-43, according to the Criminal Lawyers Association, one could be able to allege that a crime was about to take place. It is this threat that prompted the Canadian Medical Association, as well as the Canadian Bar and the Criminal Lawyers Associations, to recommend an amendment to Bill C-43, while the bill was being considered in the House of Commons, to the effect that there be no prosecution under the legislation without the consent of the provincial Attorney General. The Minister of Justice, as we have heard, is sufficiently alarmed to have promised that the bill will not be proclaimed until doctors' fears are allayed. Yet neither the amendment nor the delay in proclamation will remove the criminalization of the abortion procedure.

A very significant aspect of the bill causing concern to doctors and those providing the service to women is the impact this legislation may have on the physician-patient relationship. The principal vehicle for the delivery of health care in our society is the doctor-patient relationship. Trust and confidentiality is integral to that relationship and so is the ability of the patient to be frank. From the point of view of the woman, this legislation may discourage frankness, without which proper diagnosis, prognosis and prescription may be threatened. A woman's entire medical record may one day come under the scrutiny of a criminal trial. Her "priorities and aspirations" must be seen by the doctor to satisfy the statutory standard.

From the point of view of the doctor, he has to "operate with an eye to the possible legal actions that will be permitted because of the bill." The advice given to the Society of Gynaecologists and Obstetricians is witness to the feeling of doctors that they need to document, and to exercise extra care. It was claimed that this poisons the doctor-patient relationship, that it attacks it at its core.

These arguments speak to the inappropriateness of using the Criminal Code to regulate abortion. But witnesses have argued that the enactment of Bill C-43 is unnecessary. To quote the Canadian Medical Association again:

> If it is believed that professional standards are sufficient grounds on which to base medical opinion—and if abortion is a medical procedure, and if abortions really are justified when they are based on medical opinions formulated on the basis of standards of the profession—then what need is there for the bill?

For 14 years Quebec has operated without enforcing the criminal law and for three years since the Morgentaler decision the rest of Canada has done so, and the situation has been characterized by a responsible adherence to medical standards. The view of the Canadian Medical Association is that there is no need for "further legislated regulation of abortion and even less need for the imposition of criminal sanctions." Other groups testified that abortion, like any other health matter, is already regulated by legislation, regulation and policies at the federal and provincial levels.

● (1600)

Various sections of the Criminal Code all speak to the prevention of abuses. Provincial health disciplines legislation prohibits the practice of medicine by people who are not doctors, and establishes medical standards. Doctors can also be disciplined by their professional bodies such as the College of Physicians and Surgeons or the Medical Society. All provincial physicians' associations, as well as the Canadian Medical Association, have adopted abortion policies.

Some witnesses argued that the Canada Health Act could be used to solve the problem of unequal access to abortion services, through the withholding of federal medicare transfer payments to provinces which fail to meet the standards within the act. The evidence presented was inconclusive. Some argued that it was a question of amending the Canada Health Act, some of enforcing its provisions, but agreed that such actions were surely dependent upon the political will of the federal government. However, there was agreement that leadership should be exercised by the federal government in producing a coherent policy on sexual and reproductive health, (which was omitted from the Department of National Health and Welfare's "Health for All" policy initiative.)

Apart from all these arguments surrounding criminalization, Bill C-43, in my view, is based on an equally flawed premise, that being the position in which it places a woman in need of abortion services, vis-à-vis her attending physician. In fact, I consider this premise to be the paramount reason for rejecting this legislation.

Under this legislation the ultimate decision as to whether or not to terminate her pregnancy, essentially a profound moral and ethical decision as well as a medical one, is made not by the woman herself but by her doctor who, representing the state, must apply the test of whether the pregnancy she wishes to terminate is likely to threaten her life or health, "mental, physical or psychological". This is conceptually contrary to the doctrine of informed consent, which assumes an autonomous patient. The role of the physician is to inform the patient, the role of the patient is to decide. What should the role of the state be in this fundamentally important and private decision?

Madame Justice Bertha Wilson in the Morgentaler decision presents us with the clearest views on this issue. Basing her decision in that case on the fundamental principles of liberty, security of person and freedom of conscience in a free and democratic society, guaranteed in the Charter, she begins her argument with the right to liberty guaranteed in the Canadian Charter. She states:

> Thus, an aspect of the respect for human dignity on which the Charter is founded is the right to make fundamental personal decisions without interference from the state. This right is a critical component of the right to liberty.

She goes on to quote Justice Blackmun of the American Supreme Court, who stated:

> "Few decisions are more personal and intimate, more properly private, or more basic to individual dignity and autonomy than a woman's decision—with the guidance of her physician and within limits specified in Roe—whether to end her pregnancy. A woman's right to make that choice freely is fundamental".

Justice Wilson concludes that the "right to personal liberty contained in Section 7 guarantees to every individual a degree of personal autonomy over important decisions intimately affecting their private lives" and that a woman's decision to terminate her pregnancy "falls within this class of protected decisions."

In speaking to the question of the right of security of the person, and whether the old Section 251 had violated that right, she makes the fundamental statement of principle, which I believe is applicable to this bill as well. If a woman's capacity to reproduce is not to be subject to her own control, but to that of the state, then she is truly being treated as a "means to an end which she does not desire but over which she has no control. She is the passive recipient of a decision made by others as to whether her body is to be used to nurture new life. Can there be anything that comports less with human dignity and self-respect?"

The freedom of conscience argument for the right of the woman to choose is summed up thus:

> "Accordingly for the state to take sides on the issue of abortion, as it does in the impugned legislation, by making it a criminal offence for the pregnant woman to exercise one of her options is not only to endorse, but also to enforce, on pain of further loss of liberty through actual imprisonment, one conscientiously held view at the expense of another".

One should note that, in Justice Wilson's opinion, a woman's right here is not unlimited but is limited by the stage of development of the fetus, so that in the early stages the woman's autonomy would be absolute; but at some point in the development of the fetus, the state's interest in its protection becomes "compelling", that point, perhaps, falling somewhere in the second trimester. This view is based on the decisions of the American Supreme Court, particularly *Roe vs Wade* which held that a pregnant woman had the right to decide whether or not to terminate her preganancy in the first trimester, subject only to the requirement that a physician must do the abortion, but that once the fetus is viable, that state interest becomes compelling. The state may thus proscribe its premature removal, except to preserve the mother's life or health.

The fundamental values of our society protected under the Charter, values of individual dignity, equality and fairness, were those which the Supreme Court used as the basis for its deliberation on the old law, and those that it upheld.

In the opinion of one constitutional expert, the significance of the Morgentaler judgment is that, "through the the established modes of Charter review, the members of the majority rejected those substantive features of Section 251 that undermined the autonomy and equality of women in Canadian society. The yet unlearned lesson of Morgentaler is that the state cannot subordinate the constitutionally protected autonomy and equality of women in Canadian society to other concerns that bear a lesser constitutional weight."

Justice Wilson makes the point that women's needs and aspirations are only now being translated into protective rights. The right to reproduce or not to reproduce is one such right and is properly perceived, she says, as an integral part of modern woman's struggle to assert her dignity and worth as a human being.

Thus, I think that Bill C-43 is a backward step, not just because it criminalizes abortion, but because it fails to conceptualize within its provisions the status of women, equally capable as men, of making decisions about the use of their own bodies.

In fact the bill has been quaintly termed "antique," because of its attempt to approach new issues with an old instrument. It does not deal with new technological developments in medical science, engendering different and difficult ethical considerations, now being studied by a royal commission. It does not address the need for an improved reproductive health care policy; the vital need to reduce the high incidence of abortions, especially late abortions; sex education, family planning assistance, access to safe early abortion, and other important questions.

If this bill is passed, the struggle in Canada will then focus on its constitutionality. If it is not passed, the efforts of all those involved will be directed to providing women with health care for their needs. Frankly, my choice is the latter.

Hon. Michael Kirby: Honourable senators—

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I wonder if we can have leave to interrupt this debate to permit Senator Stewart to speak on a bill that was referred to by Senator Doody in his "must have" list today, so that that bill can be referred to committee. I believe that Senators Roblin and Stewart have conferred and have agreed that the bill in question could go to committee quite smartly if we allowed Senator Stewart the opportunity to speak at this point. We can then resume the debate on Bill C-43.

• (1610)

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

Hon. Senators: Agreed.

Debate on third reading of Bill C-43 suspended.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT AGREEMENT BILL

SECOND READING

Leave having been given to proceed to Order No. 4:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Roblin, P.C. for the second reading of the Bill C-88 An Act to provide for the membership of Canada in the European Bank for Reconstruction and Development.—(*Honourable Senator Stewart* (*Antigonish-Guysborough*)).

Hon. John B. Stewart: Honourable senators, Bill C-88 would provide for membership of Canada in the European Bank for Reconstruction and Development. On Thursday last Senator Doody moved second reading of this bill. I recommend his carefully prepared explanation of the bill to all honourable senators.

I do not want to comment now on the substance of the bill, but it would be helpful if the bill received second reading at this time and then be referred to the Standing Senate Committee on Foreign Affairs. That would permit the committee to meet as early as tomorrow to hear witnesses, with the thought that if nothing unexpected appeared we would be able to report later in the week.

In saying that I make two assumptions: One is that the government would provide all the necessary witnesses to defend the bill before the committee; the other is that the committee could have permission to sit tomorrow afternoon, even though the Senate might then be sitting. On the basis of those two assumptions, I think the bill should be given second reading at this time.

The Hon. the Acting 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 this bill.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have little to add to what Senator Stewart said. I thank senators for their consideration in this regard. I certainly will do everything I can to ensure that the necessary witnesses are made available. We will certainly try to make the necessary arrangements for a committee room, and so on, and when the appropriate time comes I will move that the bill be referred to the appropriate 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 Doody, bill referred to the Standing Senate Committee on Foreign Affairs.

ABORTION

THIRD READING—DEBATE RESUMED

Leave having been given to revert to Order No. 2:

Resuming from earlier this day the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips, for the third reading of Bill C-43 An Act respecting Abortion.—(*Honourable Senator Kirby*).

Hon. Michael Kirby: Honourable senators, in rising to speak on Bill C-43, I should like to address three broad concerns. First, I wish to comment briefly on the debate in this country about the basic issue of whether or not a new abortion bill is necessary.

Secondly, I want to focus more specifically on the legislation before us, Bill C-43. In so doing, I should like to explain why I believe that this is an extremely poor piece of public policy.

Finally, I shall conclude by explaining why I intend to vote against this bill and why, at the very least if this bill is to pass, it must be amended in at least one way.

The first issue I should like to address briefly is the ongoing debate on the abortion issue in this country. This debate has been with us ever since the Supreme Court struck down the law on abortion in 1988. Since that time, in 1988 both pro-life and pro-choice groups have been battling each other in legislatures, in the courts and in the media. Indeed, it is fair to say that massive public relations efforts have been mounted by both sides of this issue in an effort to influence the government and the legislators' response to the Supreme Court decision.

Before beginning a detailed examination of the resulting legislation, Bill C-43, it is helpful to comment briefly on the public debate that has surrounded this bill, because it is only through an understanding of the contrasting arguments on this issue that one can begin to decide whether or not to support or oppose this bill. I wish to add parenthetically that it was in the course of such an examination that I concluded that I could not support this bill.

Canadians have varying moral, philosophical and religious beliefs about the issue of abortion. Unfortunately, by focusing exclusively on these beliefs, public debate in this country has effectively obscured much of the other aspects of the abortion issue. If we are to look at abortion in a fair and balanced way, we must also examine the issue from a public health perspective, as well as from the perspective of the implications of this law not only on the fetus but also on the pregnant woman. Indeed, any discussion of abortion must involve not only the pregnant woman and the fetus but also the resources and support services available to the pregnant woman. In a

moment I will comment specifically on the lack of these services and of financial support.

Before doing that I should like to make the observation that there is one element of inconsistency in this public debate which has troubled me for some time. It is somewhat ironic that the rights of the pregnant woman are essentially ignored by the pro-life movement in its arguments against abortion. To the pro-life movement the pregnant woman becomes essentially merely a receptacle or a baby-machine and pro-life or anti-choice advocates ignore the rights of the pregnant woman while concentrating their entire attention on the rights of the fetus. If we accept that argument, we are essentially saying that one individual—in this case, the fetus—can dictate to another, namely, the pregnant woman, how she should live her life. If the fetus can dictate to the mother to carry it to term, why can't the pregnant woman decide what to do with her own body? In other words, we are left inevitably with the dilemma of trying to balance the rights of the fetus on the one hand and the rights of the pregnant woman on the other.

It was exactly to that issue and that balance of rights that the Supreme Court addressed itself when it wrote its decision on Morgentaler in 1988. In that decision Chief Justice Dickson, writing for the majority of justices who decided that the previous abortion bill should be thrown out on constitutional grounds, said the following. I call the attention of senators to this quote because it crystallizes the fundamental problem in dealing with this issue in the law. Chief Justice Dickson stated:

● (1620)

> Forcing a woman, by threat of criminal sanction, to carry a foetus to term unless she meets certain criteria unrelated to her own priorities and aspirations, is a profound interference with a woman's body and thus a violation of security of the person.

I strongly support Chief Justice Dickson's position and would argue that any abortion bill which violates this position should not be supported by honourable senators or by Parliament.

Indeed, it is worth noting that Canadians as a whole reflect Chief Justice Dickson's position. When they are asked for their views on the abortion issue in public opinion polls, support for the so-called pro-life position has continued to hover around 10 per cent to 15 per cent, while more than 60 per cent of Canadians have shown consistently in poll after poll they are in favour of the pro-choice position. In particular, they are opposed to Bill C-43.

A Gallup poll conducted in January, 1990 found that only 12 per cent of Canadians supported the pro-life position. Similarly, a public opinion poll conducted last October came up with exactly the same result. Moreover, when Canadians have been asked in public opinion polls whether they agree or disagree with the criminalization of abortion as contained in Bill C-43, again, consistently, 60 per cent to 70 per cent have said they disagree. When asked specifically whether or not they agree with the idea that an abortion is a medical decision that should rest with a woman in consultation with her physician, roughly 75 per cent of Canadians agree.

[Senator Kirby.]

I give honourable senators this public opinion data not because I believe that we ought to make decisions in this chamber based on the results of public opinion polls, but because I think that repeated polls on this particular issue show that the view of the abortion issue, as expressed in the quote of Chief Justice Dickson from his 1988 decision in Morgentaler is a view supported by a vast majority of Canadians.

It is wrong to suggest, as some do, that being pro-choice means being in favour of abortion on demand. As long as abortion is a medical procedure it will not be available on demand. The decision to have an abortion involves a confidential decision-making process between doctor and patient, after they, together, have reviewed the clinical situation and the psychological position of the pregnant woman and the options open to her. This is not abortion on demand.

Indeed, since the Supreme Court of Canada struck down the abortion law, over three years ago yesterday, doctors and patients have been left to make their own private decisions. Frankly, in my opinion, this system has worked well. The rate of abortions in this country has not increased in spite of the very dire predictions by pro-life groups at the time or the Morgentaler decision came down that the result would be that the number of abortions would spiral unless a new law were in place. All the evidence shows that has not happened.

On the other hand, if we look to international experience in other countries with abortion legislation we learn that restrictive legislation is not the answer. For example, in Ireland, the rights of the fetus are enshrined in the constitution. Yet, in spite of that fact, statistics from the World Health Organization show that Ireland has the highest per capita abortion rate of any developed country in the world. Clearly, it does not follow that abortions will be limited simply because the fetus is granted rights. What does follow is that abortions which are dangerous to the health of the pregnant woman—so-called back-alley abortions—will increase dramatically, as the experience in Ireland has shown.

To take another international example, in Brazil abortion is frowned upon by church and state. Nevertheless, Brazil leads the world in the absolute number of abortions conducted in any country. In a country of 145 million people, between three million and five million clandestine abortions take place every year. About 10,000 women die each year of self-induced abortions in Brazil. Statistics from the World Health Organization show that worldwide some 200,000 women die annually of complications related to illegal abortions.

These facts and others which are available tell us clearly that the way to reduce the number of abortions in Canada is not through criminalization. A key ingredient in reducing the number of abortions in Canada is clearly education. Educating Canadians, in particular young Canadians, about sexuality, birth control and contraception will help to reduce abortion. International statistics bear this out.

International statistics also show that another way to reduce abortion is through improved social services which help single mothers to cope psychologically as well as financially. This is how the number of abortions in Canada can be reduced.

One thing that seems very clear to me is that the number of abortions in Canada will not be reduced by cutting funding to people who need abortion services or, indeed, to mothers who want to keep their children but find it financially difficult to do so. The fact of the matter is that since this government came to power in 1984 the annual government contributions to Planned Parenthood have been cut by 50 per cent. Clearly, the government has abdicated its role in education. Indeed, when one looks at the cuts this government has made in other areas of social services we see that it has also abdicated its role in the provision of social services to women who would like to keep their children.

Polls show that less than one-half of Canadians feel that they have sufficient access to family planning information services. In my region of the country only one-third of Atlantic Canadians say they have adequate access to family planning information of any kind. Nationally, nearly one-half the schools in Canada do not offer any sex education classes.

This government, through Bill C-43, wants to introduce legislation criminalizing abortion, but it is not ready to address the more effective methods of redressing the number of abortions, such as through education or financial support for pregnant women. Surely, honourable senators, the prevention of unwanted pregnancies and support for pregnant women must be the watchword if we are to reduce the number of abortions in Canada. Restricting abortion without addressing any of the causes of abortion will achieve nothing except more back-alley abortions.

Bill C-43 will reduce access but not the number of abortions. A closer examination of this legislation shows this extremely clearly. It is to this issue that I would now like to turn.

Bill C-43 is bad legislation in law, and bad public policy. It is bad legislation in part because, as I have already indicated, on a moral basis it is not representative of the views of Canadians. It is bad public policy because this bill will not achieve its stated objective of reducing the number of abortions. I emphasize this because of the position taken by the Minister of Justice before the Senate committee. Bill C-43 will not be applied uniformly across the country. Indeed, in her testimony before the Senate committee, and in a variety of interviews she has done elsewhere, Justice Minister Campbell has offered the following two arguments in support of the proposed legislation. I will state her arguments and then tell you why both arguments are completely fallacious. I find it hard to believe that the Minister of Justice does not understand that.

• (1630)

The first argument as to why honourable senators ought to support Bill C-43 is the following: The Minister of Justice said that requiring a medical justification for a legal abortion will create a national standard of entitlement to abortion for Canadian women. In a moment I will show you how patently false that statement is by simply referring to the Atlantic region.

The Justice Minister makes a second argument as to why we should support Bill C-43 by saying that it is necessary for Parliament to use its criminal law power to restrict the ways in which provincial legislatures can restrict access to abortion. With respect to this second point, 17 leading legal scholars from across the country say that the federal government is wrong to make that claim.

I should like to cite Professor Ryder, of Osgoode Hall Law School, because he is constantly being quoted by the Minister of Justice for his outstanding legal opinion on this issue and on a variety of other issues. Professor Ryder, addressing specifically the points which I just gave, namely, that Justice Minister Campbell has made, said the following:

> Bill C-43 creates no entitlement whatsoever. It will do nothing to remove the provinces' ability to replace restrictions on funding and access to abortion. The purpose of criminal law is to punish, deter and stigmatize conduct that is inimical to the public interest. Criminal law takes the form of a prohibition, coupled with a penalty. Given these characteristics of criminal provisions it is an oxymoron to speak of a criminal law entitlement. Indeed, recriminalizing abortion will place the procedure once again under a shroud of immorality, and consequently will deter women from seeking access and will deter doctors, hospitals and governments providing abortion services. This suggests that the true basis of Bill C-43 is the government's accordance of a moral status to the fetus that transcends and is independent of a woman's priorities and aspirations.

Professor Ryder concludes his remarks by saying:

> The Justice Minister has claimed that "by occupying the field" of abortion regulation with Bill C-43, the doctrine of federal paramountcy will prevent the provinces from further restricting access. With all due respect, the Justice Minister is relying on a long abandoned conception of federal paramountcy.

I give you that quote, honourable senators, because Professor Ryder is regarded by the Minister of Justice as a very strong constitutional and legal expert whom she has quoted on many occasions in connection with this issue as well as several others.

Sixteen other legal scholars concurred with that statement by Professor Ryder. Professors at the University of Victoria Law School, for example, said that the Minister of Justice was simply wrong. The University of British Columbia Law Faculty said that there was no legal foundation for the minister's arguments. Professors from the Law Faculty of the University of Ottawa said that the minister's arguments were totally without merit from a constitutional point of view. Experts from the Law School at the University of Saskatchewan agreed. They called the minister's arguments fallacious and

not representative of a sound interpretation of constitutional law.

It is clear, honourable senators, that the legal validity and logic of the second reason why the Minister of Justice said that this bill ought to be supported—that is, that it is necessary for Parliament to use its criminal law power to restrict the ways in which provincial legislatures can restrict access to abortion—has been completely destroyed by leading scholars from one end of the country to the other.

Yet the Minister of Justice continues to turn a deaf ear to those comments. She continues to adopt the position which this government has adopted with respect to other issues. One thinks notably of Meech Lake and the GST. The minister continues to take the position that "It is my way or no way," and that no amendments can be made to this bill.

It is interesting to note the testimony of witnesses who have appeared before the House of Commons committee and the Senate committee on this bill. The House committee heard 52 witnesses. Of those 52 witnesses, 46 were opposed to the bill. Yet not one amendment came from the committee. Similarly, the Standing Senate Committee on Legal and Constitutional Affairs heard 38 witnesses. Only four of those 38 witnesses expressed support for the bill, and two of those four witnesses were federal cabinet ministers.

Indeed, Senator Nurgitz, in reporting to this house on January 23, said, on page 1536 of the *Debates of the Senate*, the following:

> The remainder of the witnesses opposed the bill. They did so on religious, medical, social, legal, constitutional and conceptual grounds.

Groups that call themselves pro-life were adamantly opposed to this bill. They wanted the bill killed. The maker of the film, "The Silent Scream", which is a very controversial pro-life film, told the Senate committee that the bill should not be supported.

The Society of Obstetricians and Gynaecologists told the Legal and Constitutional Affairs Committee that over 200 more doctors will cease performing abortions if this legislation is passed. These 200 doctors are in addition to the 60 or 70 who have already stopped performing abortions, according to the Society of Obstetricians and Gynaecologists. The society then proceeded to present to the committee a poll of 760 of its members. This poll showed that over 85 per cent of the obstetricians and gynaecologists in Canada oppose this legislation. Only 13 per cent were in favour of Bill C-43.

The President of the Canadian Medical Association, Dr. Lionel Lavoie, said that if Bill C-43 is passed, it will result in a series of legal battles. He argues that the bill will perpetuate the harassment of doctors and women by picketers, which will inevitably lead to frivolous legal charges that could permanently destroy professional reputations.

Testimony before the Senate committee by Dr. Judith Kazimirski of the Canadian Medical Association echoed these sentiments. Under the Criminal Code, medical practitioners are liable if they make a mistake. That is what malpractice suits are all about. However, this bill—Bill C-43—will make doctors, their assistants and nurses, liable for performing a legitimate medical procedure. Pro-life groups in Canada have already indicated they are willing to use this law to lay charges against all those involved in the procurement of an abortion. Thus, pro-life groups are saying that they will use Bill C-43 to harass doctors and their patients, even though the doctors will be performing a legitimate and legal procedure under this bill. It is for this reason—for this harassment reason—that doctors are saying that access to abortion will be reduced under Bill C-43.

• (1640)

Honourable senators, we have in Bill C-43, now before us, a bill which, as I have already indicated in quoting the views of legal scholars, fails in the eyes of the legal profession. It fails in the eyes of the medical profession and it fails in the eyes of Canadian society as a whole. In spite of these obvious and glaring failures, the Minister of Justice continues to push for passage of this bill.

I said a few minutes ago that the Minister of Justice has a second reason why she supports this bill. She has argued that it is essential in order to create "a national standard of entitlement to abortion for Canadian women." To show you what a ridiculous argument this is, let me use the Atlantic region, my part of the country, as an example. Senators should understand that Bill C-43 will not change the situation I am about to describe. Witness after witness told the committee that the bill would not, contrary to the claims of the Minister of Justice, and could not, create a "national standard of entitlement" and would simply make access to abortion even harder than it is now.

In Newfoundland there is only one doctor outside the Morgentaler Clinic in St. John's Newfoundland who performs abortions. The St. John's General Hospital has a policy that dictates that abortion be approved by a gynaecologist, psychiatrist and social worker and that the procedure include counselling with a registered nurse. Bill C-43 will do absolutely nothing to remove these hurdles to a woman getting an abortion in St. John's, Newfoundland. In Prince Edward Island abortions are not performed anywhere. The provincial government will not pay for an out-of-province abortion unless a five-doctor panel approves the woman's reasons for having an abortion. This means that few applications are approved and that travel expenses to obtain the abortion are never reimbursed by the provincial government. Bill C-43 will not improve the situation for the women of Prince Edward Island with respect to their ability to obtain an abortion.

In Nova Scotia Dr. Morgentaler has been continuously harassed by the provincial government. When he first opened his clinic the government proceeded to take legal action. When the government lost the case in court it decided to appeal in order to prolong the legal harassment of Doctor Morgentaler. In the meantime, however, the provincial government, in spite of the fact that it lost the first court battle, continues to refuse to pay for abortions done at the Morgentaler Clinic. Indeed, the vast majority of legal abortions performed in Halifax are

performed currently at the Victoria General Hospital. Doctors at this hospital have said that if Bill C-43 passes they will cease to perform abortions. In that event, Nova Scotia will be virtually at the point where the only legal abortion that can be obtained, if this bill passes, will be at the Morgantaler Clinic.

In New Brunswick a woman must get the approval of two doctors before the provincial government will pay for an abortion, and Bill C-43 will not alter this requirement in any way.

This review of the situation in Atlantic Canada shows that, contrary to the claims of the Minister of Justice, Bill C-43 will do absolutely nothing to, in the minister's words, "create a national standard of entitlement to abortion for women in Canada."

Bill C-43 will do nothing to eliminate the two tiered level of access which now exists in the Atlantic region. Those women who can afford the added expense will continue to travel, as they do now, to the United States, Quebec or Ontario to terminate their pregnancies. However, poor women, single mothers and women on welfare will be forced to carry the pregnancy to term or, worse, be forced to seek illegal abortions.

Bill C-43 is a particular affront to women. Reproductive choice is fundamental to social equality of women, as was argued very clearly by several judges in the 1988 Morgentaler case. Yet Bill C-43 implies that women are not sufficiently competent or responsible to make their own decisions. What Bill C-43 does is tell women that they do not have control over their own bodies.

I ask my colleagues to consider what I have said today when they vote on Bill C-43. When exposed to the harsh light of reality, this bill fails every test. In particular, it fails the test established by the government itself through its chief spokesperson, the Minister of Justice. More importantly, Bill C-43 continues to demean women in the way that the previous abortion bill did, and, in the words of Chief Justice Dickson, "It is a fundamental interference with a woman's body and thus a violation of the security of the person." That is why I intend to vote against this legislation, and I would urge honourable senators to do the same.

However, if this bill is to pass, if a majority of members of this chamber believe that this bill ought to become law, then I urge you to make one amendment. I believe that this amendment is essential and one that, it seems to me, ought to be acceptable to sponsors of this bill. The purpose of the amendment is to prevent the law and the courts from being used in frivolous prosecutions to harass doctors who are performing legally a legitimate medical procedure. Let me explain.

The Canadian Medical Association told the Senate Committee that the passage of Bill C-43 in the House of Commons has already resulted in increased harassment of doctors and their patients. The Criminal Lawyers Association told the committee the proposed legislation has the very real potential to lead to the harassment of women, of doctors, of medical care workers and health care workers involved in providing abortion services. Indeed, the Criminal Lawyers Association went on to tell the Senate committee last week that Bill C-43 would have a "chilling effect" on doctors, on health care workers and on patients. The Criminal Lawyers Association argues that Bill C-43 provides antiabortion activists and biological fathers with the opportunity to harass women seeking abortions, women who have had abortions and doctors who have performed abortions.

Witness after witness told the Senate committee that Bill C-43 puts the physician-patient relationship in grave jeopardy because of the fear of private prosecutions. Indeed, in their testimony before the Senate committee, the Criminal Lawyers Association explained in some detail how a private prosecution works.

• (1650)

In fact, they suggested at the end of their testimony that the net effect of Bill C-43 would be to lead to a situation in which individuals will feel reluctant to engage in an otherwise perfectly legal and legitimate medical procedure because of fear of being harassed through the courts with frivolous prosecutions— prosecutions which may well not be laid by government officials—that will seek only to ruin lives and reputations rather than uphold the law.

I think it is very clear that all members in this chamber would accept the basic principle that the Criminal Code should not be used to harass people. We have an obligation, it seems to me, in this chamber to ensure that this does not happen. Indeed, I would argue that we absolutely must make sure that it does not happen. We also have an obligation to ensure that the doctor-patient relationship is not placed in jeopardy.

In an effort to ensure passage of Bill C-43, former Justice Minister Lewis and the current Just Minister Campbell have engaged in a massive public relations effort to convince physicians that the Crown will act responsibly and that provincial Attorneys General will only act in accordance with the Charter of Rights and Freedoms. In spite of these efforts by two Ministers of Justice, the fact is that their assurances are not reflected in Bill C-43. In order to put these assurances into the bill, in order to ensure that, at the very least, if this bill passes, it cannot be employed as a means of using the courts and the criminal law system to harass people, at the conclusion of my remarks I will move an amendment that clause 1 of the bill, at page 2, be amended by adding, immediately after line 8 the following words:

> No proceedings for an offence under this section may be instituted without the consent of the Attorney General of Canada.

This amendment will help ensure continuity and uniformity in the way charges are laid under this act. It will help meet the stated objectives of the Minister of Justice, both with respect to creating a national standard of entitlement and with respect to the way in which Bill C-43 is applied nationally. Moreover, it will help prevent radical activists from using the legislation as a tool to harass doctors and women. This amendment will

ensure that cases brought to court under Bill C-43 are consistent with the legislation, and with the spirit of the legislation, and are consistent from one end of Canada to the other. This amendment will help to ensure that cases brought to courts under Bill C-43 are not inspired by the views of a minority seeking to harass people.

If this legislation is to pass, I believe that we in this chamber have a fundamental responsibility to inject some sober second thought into the process in order to ensure that Bill C-43 is a coherent bill, one that will be applied uniformly across the country, and one that meets the stated objectives of its supporters. That is why, in my view, at the very least, this amendment to Bill C-43 must pass.

MOTION IN AMENDMENT—DIVISION DEFERRED

Hon. Michael Kirby: Honourable senators, therefore, in completing my remarks on this bill, I move, seconded by Senator Neiman, that Bill C-43 be not now read the third time but that clause 1 of the bill, at page 2 thereof, be amended by adding, immediately after line 8, the following:

> (4) No proceedings for an offence under this section may be instituted without the consent of the Attorney General of Canada.

The Hon. the Acting Speaker: Honourable senators, it is moved by the honourable Senator Murray, seconded by the honourable Senator Phillips, that this bill be read the third time.

In amendment, it is moved by honourable Senator Kirby, seconded by honourable Senator Neiman, that Bill C-43 be not now read the third time but that clause 1 of the bill, at page 2 thereof, be amended by adding, immediately after line 8, the following:

> "(4) No proceedings for an offence under this section may be instituted without the consent of the Attorney General of Canada."

Is it your pleasure, honourable senators, to adopt the motion in amendment?

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, with a view to keeping order in our proceedings, and knowing that more amendments will be proposed, although I do not know how many, I would offer the proposal that the government should have to deal with the voting on all of these amendments only at one time. This need not be a formal deferral of vote under the provisional rules, but perhaps we could encourage the whips to come to some agreement that, when debate is completed in accordance with the suggestions made by Senator Doody earlier today, we might let these amendments accumulate and vote on them before we vote on the main motion. That, of course, assumes that none of the amendments carry; some of them may. If my suggestion is implemented, I do not intend to include an embargo against points of order on the receivability of amendments, but even if there are such objections, if we end up with some amendments before us plus the main motion, then the whips might like to consult on a way to have all the voting take place on one occasion.

The Hon. the Acting Speaker: Is it agreed, honourable senators, that the divisions on the amendments be deferred?

Hon. Senators: Agreed.

Division on Senator Kirby's motion in amendment deferred.

THIRD READING—DEBATE RESUMED

Hon. William M. Kelly: Honourable senators, I appreciate the opportunity to speak to Bill C-43, an Act respecting abortion. There are very few bills that have come before us in my time in this chamber on which it has been difficult for me to decide how to vote, but on this bill it has been very difficult for me to decide the right course of action for me personally.

Senator Frith: In spite of the fact that you do not like partisanship in this place?

Senator Kelly: I know what you are driving at, senator.I am sure this feeling of uncertainty has been present with many members of the chamber, and is certainly emphasized by the intense moral dilemma in which we all find ourselves over Bill C-43. I have been uncertain about my proper course of action on this bill not because I am undecided about whether to support the goals or objectives of Bill C-43, if those are, in fact, to limit access to abortion; not because I am uncertain about whether Parliament should be legislating through the Criminal Code or otherwise, and certainly not because I have any moral questions or uncertainties about where I personally stand on the question of abortion. I have been uncertain because I could not judge in my own mind—and perhaps no one can—what the practical impact of Bill C-43 will be. Will Bill C-43, once implemented, have the practical effect of reducing access to abortion or freeing access to abortion, and how will medical practitioners and the courts interpret Bill C-43? These questions or issues were at the root of my uncertainty, an uncertainty which, I must admit, was compounded by statements from the government and, in particular, from the Minister of Justice and her department—a minister whom I admire very much, I might say.

Let me take Bill C-43 as written. On the face of it, in my simple layman's understanding and language, it allows a woman to obtain an abortion only if two conditions exist: first, that the life or health of the woman is threatened by the pregnancy; and, second, that a qualified medical practitioner reaches a considered opinion that the health or life of the person seeking the abortion is indeed threatened.

Senator Frith: In accordance with certain standards.

Senator Kelly: Having met those conditions, the abortion may proceed lawfully, but only if induced by or under the direction of a qualified medical practitioner.

Honourable senators, I am troubled by this formulation. I understand that the Supreme Court of Canada has held that there is no constitutional recognition in Canada of the inherent right to life and security of the fetus, and that an unborn child

is not included within the ambit of the term "everyone" in Section 7 of the Charter of Rights and Freedoms.

• (1700)

I point out, however, as Senator Haidasz and others have before me, that the Supreme Court in the *Daigle* case invited Parliament to define the level of protection to be afforded to the unborn, since that definition required consideration of broad social, political, moral and economic issues on which Parliament is better placed than the courts to make judgments. On the face of it, Bill C-43 provides insufficient protection to the unborn, in my view. In fact, it could readily be argued that Bill C-43 provides no effective protection to the unborn. As such, Bill C-43 is, in my view, inadequate.

It has been suggested to me that the abortion issue illustrates a collision of rights—the rights of the woman versus the rights of the unborn child. It is indeed unfortunate that an issue could be reduced to a conflict of rights between mother and child. But let us accept for a moment that that is what it is—a conflict between an unborn child and the woman who carries that child. If that is the case, Bill C-43 has come down clearly and emphatically on the side of the rights of the woman, if the child's continued existence threatens the mother's "health or life".

I have to ask myself if that is right. Surely in a just society we must see first to the protection of those who are defenceless and helpless. In that case, there is nothing more helpless and defenceless than an unborn child: one who did not ask to be conceived; one who is totally innocent of anything; and one who relies on the care and succour of society if he or she is to live and grow.

There is no point, so far as I am concerned, in debating the issue as to when "life" begins, although I have been involved in many debates on that issue, or when the fetus becomes a "person" and, therefore, begins to enjoy the existing constitutional or legislative guarantees and protections. In the absence of conclusive medical evidence one way or the other, such discussions are equivalent to the debate on how many angels can dance on the head of a pin.

I believe I can appreciate and sympathize with the agonizing debate that those in the government responsible for preparing this bill must have gone through on this question. Having said that, I note with sadness that Bill C-43 establishes no limits on when an abortion may occur during the gestation period, including, I assume, up to and including the fetus' full term.

There are other things that I find troubling about Bill C-43. One is the very broad definition given to the word "health", as in threatening the "health" of a woman in the bill. Health is defined in proposed subsection 287(2) as including "physical, mental and psychological health". I understand that before 1940 almost all therapeutic abortions were performed for medical reasons. Thereafter, abortions for "psychiatric reasons" came into vogue, and by the 1950s more than half of the abortions were performed for that reason. Now, I understand that more than 90 per cent of the therapeutic abortions performed are for "psychological or mental health reasons". I cannot help but believe that this represents "abortion on demand" by another name.

I am concerned that Bill C-43, as written, may exacerbate this situation, if that is possible. I was alarmed to read the explanation of the government's intent as described in a document dated October 1990, emanating from the Minister of Justice and entitled "Canada's Proposed Abortion Law—Concerns of Doctors". I shall return to discuss this document in a wider context in a moment, but, for the time being, allow me to quote a few lines from page 3:

> The legislation is designed to protect a doctor from being convicted under the new law, where the doctor was of the opinion that there was a likelihood of a threat to a woman's physical, mental or psychological health if the abortion were not induced . . . doctors would be entitled to take into consideration any matters which, in their opinion, are likely to adversely affect and thereby threaten the woman's physical, mental or psychological health. These factors could include rape, incest, genetic defects and socioeconomic factors . . .

And finally:

> Doctors who follow the requirements of the law will be legally protected from second guessing by any other person, including other doctors.

And, I assume, by the courts.

I have emphasized those words or phrases that cause me particular concern and submit that this explanation entails a significant broadening of the provisions of the bill, to the point where I suggest that the bill may not really limit access to abortion at all.

I am particularly concerned with the formulation "likely" to adversely affect a woman's health. Rather than focusing on the current, objectively verifiable situation, the physician may look into the very uncertain and subjective future. I am concerned about the addition of socioeconomic factors. What right or expertise does a physician have to make judgments on such matters? In fact, who can morally judge that any given socioeconomic situation is "likely" going to be incompatible with the birth of a child?

I am concerned that "genetic defects" are brought into the consideration. To me, this may put us on the very dangerous and slippery slope of using abortion for genetic engineering purposes. To legalize abortion to avoid genetic defects, no matter how minor they may be, is morally repugnant to me.

I would also suggest that the explanations given in this document by the Department of Justice as to the practical impacts of Bill C-43 are somewhat at variance with statements given earlier by the current and previous Ministers of Justice. I see no balance between women's rights and the rights of the unborn child in Bill C-43. What I am afraid I see is the requirement for a procedure to be followed to legalize abortions. In short, if doctors who are inclined to give abortions want a carte blanche to do so, I fear the Department of Justice has given it to them through this document's interpretation of the impact of Bill C-43.

In this regard I am not encouraged by what I understand to be the British experience. A law similar to Bill C-43 has been in place in Britain since 1967. A combination of clinical experience and court decisions has had the effect of significantly increasing the number of abortions carried out by medical doctors.

In Canada, if Bill C-43 were passed, I doubt that courts would either be likely to or often try to penetrate the veil of a doctor's clinical judgment and second-guess his or her opinion on whether an abortion was, in fact, warranted. Bill C-43 provides no clear or objective standards for the courts to question such an opinion. Hence, my initial reaction to Bill C-43 was that it was, in essence, a licence to conduct abortions at the instigation of the mother for medical doctors who were inclined to use it as such. As a consequence, at that point in my emotional journey, Bill C-43 was unacceptable to me.

It was surprising to me, therefore, to hear and read that a large number of medical doctors would refrain from providing abortions under fear of prosecution, particularly prosecutions instigated by pro-life groups or individuals. If this were truly to be the practical impact of Bill C-43, I could, albeit with some misgivings, support the bill. I would be concerned, however, that this impact would wane over time, unless the antiabortion movement and provincial attorneys general were to be particularly vigilant and aggressive.

In any event, I do not think it is the right and proper role of Parliament, or this chamber, to pass a bill whose impacts are ambiguous or unknown. The Supreme Court challenged the government and Parliament to enunciate a clear position, and I believe Canadians have the right to expect no less.

I am also concerned that the bill, if passed, would authorize abortions in cases of rape or incest. There is no question that this is a tough issue—that the act of conception has occurred under compulsion; under the most hideous and physically and emotionally painful of circumstances. But is a carte blanche to abort in such cases right? What about the rights of the fetus, who is totally blameless? Should the rights of the fetus be a function of the circumstances of conception? I think not. If a child is no less human because of the way in which it is conceived, why should the case be different for a fetus? In addition, although the pro-choice lobby makes much of this very emotive issue, I understand that less than 1 per cent of abortion patients are victims of rape or incest.

I am very much aware, however, that if the Senate does not pass this bill, there is little likelihood of any legislation on abortion for some time. That concerns me, because the status quo is something that I find morally offensive. Some will say that having no law is better than having a bad law, and, in many cases, I would be inclined to agree. I wonder, however, if this bill and the circumstances it is designed to address are in many ways unique and if the practical realities do not call for legislation—any legislation.

● (1710)

Honourable senators, the debate on this bill has raised a lot of heat, which I guess should have been expected given the nature of the issue and the strong, radically divergent, moral and ethical positions taken. I regret to say that, in my opinion, the government has been unwittingly responsible for much of this dissention by tabling a bill which lands soundly on both sides of the issue and by presenting the bill as being all things to all people.

In trying to create a "balanced" bill, the government created a piece of legislation that realistically provides no protection to the fetus, no matter at what stage in the pregnancy, and furthermore does not allow a pregnant woman the freedom to choose abortion. The moral and ethical decisions are transferred to the poor, beleaguered medical practitioner. It is almost as if Parliament and the government had thrown up their hands in despair and said, "Let someone else make the decision."

That would have been bad enough, but I wonder about the rationale behind the Minister of Justice's putting out papers, making speeches and touring the country meeting doctors to assure them that the chances of prosecution under Bill C-43 are remote. As an example, and as I have said before, I found the "justice information" document dated October 1990 to be particularly one-sided. I think that it was well intentioned but that it was one-sided.

If anyone's rights are to be protected by any law, those who would disregard or break that law must know that they are in constant and imminent danger of criminal or civil prosecution. If the threat of prosecution is really a cosmetic sham, the law is of no practical use.

It is with these thoughts, concerns and often conflicting notions that I have tried to decide the best course of action for me to take on Bill C-43. I have consulted friends, both male and female, medical practitioners and church leaders. Like many senators, I have received mail expressing both the "pro-choice" and "pro-life" points of view.

I have concluded, honourable senators—and I will admit with some misgivings—that I will vote in support of Bill C-43, not because it is a good bill but because it is better than nothing. I have reluctantly concluded that failure to pass this bill will leave a legislative vacuum indefinitely and allow the continuation of the current state of lawlessness. If I thought that defeat of Bill C-43 would result in something better, I would gladly join those who will vote against this bill. But I have no such expectation.

In closing, let me say that obviously I am very much opposed to abortion. I believe that society has an obligation to protect to the fullest degree the rights of the unborn child. To the extent that rights collide, the rights of the more defenceless and vulnerable party—the unborn child—must prevail.

Having said that, I want to disassociate myself from some of the tactics used by the radical fringes of the antiabortion or pro-life movement. Violence or the threat of violence to achieve one's ends, no matter how important those ends, have no place in Canada. The pursuit or threat of violence and some of the other disreputable tactics that have been followed do no justice to and do not advance the antiabortion cause.

Honourable senators, I have often spoken in this place with the objective of convincing the unconvinced to a certain point of view. I do not do that in the case of Bill C-43. I know that each senator must look into his or her heart and the very individual system of personal morality and ethics that each of us has to decide the best response to Bill C-43.

I have spoken on this bill only to put on the record my own very personal journey towards the decision I have made to support its passage.

Hon. John M. Macdonald: Honourable senators, at various times past I have spoken in this chamber against the passing of bills that would permit abortion on request. Indeed, on June 13 last I spoke on second reading of Bill C-43 and expressed my opposition to its passage. At that time I gave my reasons for my opposition and I do not propose to repeat them now. However, honourable senators, there is one point with which I did not deal and I wish to do so now.

I believe that human life begins at conception and that from that point on such life is entitled to all the protection our legal system gives to the protection of human life. And I think it is an acknowledged fact that the main and fundamental purpose of our legal system is the protection of human life. This must be so, as otherwise all other laws would serve no useful purpose.

Honourable senators, it is my profound conviction that abortion is wrong. I believe it violates the God-given right to life which every person should enjoy from the moment of conception. It denies to those conceived but not yet born the fundamental of all rights, the right to life—the right to be born. And since Bill C-43 does not in any way even acknowledge the right to be born—since, in my opinion, it is a major defeat for the pro-life advocates and a sell-out to the pro-abortionist forces, I am against its passage into law.

Honourable senators, after I spoke on June 13 last I was followed by the Honourable Jacques Flynn, also a Roman Catholic and then a member of this house. He did not agree with my contention that the bill should be defeated. While he was not satisfied with the bill, he thought it was better to have it as law than to have no law regarding abortion. In support of his opinion he quoted from a statement made by the president of the Canadian Conference of Catholic Bishops dated May 29, 1990. This statement said, in part:

> While we deeply regret that the bill was passed (in the House of Commons) without amendments, it is nevertheless better to have this law that declares abortion a criminal offence than to continue the legislative vacuum which existed for the past two years.

Honourable senators, I am a Roman Catholic, a practising Roman Catholic, and I treat with great respect any statement on public matters made by the Canadian Conference of Catholic Bishops. However, honourable senators, I believe the point of view or opinion expressed by the president of the Canadian Conference of Catholic Bishops to be wholly wrong. In effect, it is saying that any law with regard to abortion is better than no law. How he came to such an astonishing conclusion I do not understand.

Now, I am not alone in my belief that Bill C-43 is not a good law. I am not alone in my belief that the statement made by the president of the Conference is wholly wrong. Let me give some opinions by others. I quote in part from an editorial in *The Catholic Register* of November 3, 1990:

> What is incomprehensible to many readers of *The Catholic Register* is the present statement of Bishop Robert Lebel, President of the Canadian Conference of Catholic Bishops. On May 29th he informed members of the House of Commons that Bill C-43 is better than the legislative vacuum which existed for the past two years. When Catholics complained about this stunning endorsement the Bishop reminded them of his earlier (April 5) statement when he said: "If the bill remains as it is it cannot have our approval". The editorial continued, "Well, the Bishops' President cannot have it both ways. He either endorses the stand of the Minister of Justice, or he opposes it. He is for the bill or he is opposed to it."

Let me give you one more quotation which I think endorses my point of view. It is from Bishop Colin Campbell of the Diocese of Antigonish, Nova Scotia, which, by the way, is the diocese to which I belong. I take this quotation from a weekly newspaper feature called "Dialogue with Bishop Campbell", dated June 6, 1990, on the question of abortion. He wrote, in part, and I quote:

● (1720)

> Even Catholic bishops have used the pluralistic society argument. What do I mean by this?

They have fallen into the trap of thinking that the Church must mute the truth because we are not all members of the Church in Canada. I continue the quotation:

> In my view this is nonsense. Abortion is the direct killing of human life. This is wrong. It is wrong not because the Catholic Church says it is wrong but because it is an objective moral evil. Therefore the Church should shout from the tree tops that it is evil even if the Catholic population of Canada was only 6/1000 of the total population.

I continue the quotation. The bishop added:

> Does the above sound rather strong? Probably. It comes down to the question—does one believe that there are absolute moral norms? If right is right and evil is evil, we must proclaim it even if we lose all popularity polls in doing this.

Honourable senators, I believe even the qualified endorsement given to Bill C-43 by the president of the Conference of Catholic Bishops to have been most unfortunate. I think it gave the impression, at least, that the antiabortion people had softened their atttitude on their fight against abortion. Certainly when a highly respected and influential person such as the Honourable Jacques Flynn was satisfied to accept the position of the Conference of Catholic Bishops—and as I mentioned he is also a Roman Catholic—it must have

influenced the thinking and the position of many in the antiabortion movement. Personally, I believe that to accept Bill C-43 simply because it calls abortion a crime in some rare cases is a complete sell-out to the pro-abortion forces, and I think the statement from the president of the Canadian Conference of Catholic Bishops did a great disservice to the antiabortion cause.

Honourable senators, let us be realistic. Under Bill C-43 abortion is only a crime unless the abortion is induced by or under the direction of a medical practitioner who is of the opinion that if the abortion is not induced the health or life of the female person will likely be threatened. Let us be realistic again: Under that provision it would take a minor miracle to ever convict anyone.

Honourable senators, I believe the fundamental issue to be resolved by abortion legislation is this: Are we going to allow all human life to be born and to protect it at all its stages or are we not? That is the standard I use and by that standard Bill C-43 fails completely.

But it has been said that this bill is a compromise. I do not know how there can be a compromise when human life is at stake. Either those conceived and not yet born have the right to life or they do not. There can be no compromise in this situation. Certainly it is no compromise to say that abortion is a crime and then not treat it as such.

Honourable senators, if this bill is passed I think we can assume that no other bill dealing with abortion will be introduced by any government in the foreseeable future—the issue is too emotional. But if we defeat this bill nothing will be lost, as in effect it is abortion on demand as it is at present. But certainly it will give time for those who believe that all humans have the sacred right to life to work for a better law.

Honourable senators, to answer those who believe that any law on abortion is better than no law, I quote from excerpts from briefs to the parliamentary committee on Bill C-43 by Campaign Life Coalition:

> Given our opposition to Bill C-43, we have been asked by some Members of Parliament if we would prefer to have no abortion law at all, if our choices are limited to Bill C-43 or no law for a short time. Bill C-43 would entrench in law the principle that killing pre-born children is acceptable. We cannot accept this principle; we cannot compromise. Therefore, a state of lawlessness (while we work towards the enactment of a law which will protect all human life) is preferable to a bad law.

I also quote from a newsletter from the Campaign Life Coalition of Nova Scotia, which stated, in part:

> It is very strange to hear some pro-lifers saying this law would be better than nothing. Please do not believe this nonsense. We are not saying we do not want a law—we are saying it is better not to have this bill which would allow for the wholesale killing of unborn babies throughout the full nine months of pregnancy.

[Senator Macdonald.]

Honourable senators, the first sentence in the November editorial of the *Catholic Register* from which I have already quoted sums up my own position, and I quote it:

> The choice facing honourable senators this fall as they debate Bill C-43 is simple: either save the bill and kill the baby or save the baby and kill the bill.

Honourable senators, I say let us kill the bill.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, there have been a lot of things said about this bill. It has been the centre of a great deal of very impressive debate and very impressive interventions. Many of the things that have been said and many of the reasons advanced against the passage of this bill I agree with. I want to focus on just one part of the bill and its results.

At second reading I objected to the bill on two principles. One, that I thought that the choice of a medical procedure should be the choice of the patient, the woman, and that if there was to be—as there would normally be—consultation between the patient and the doctor that the decision arrived at by the doctor and the patient should not be the subject of criminal consequences.

I want to add a perspective from the point of view of the physician as it would present itself in real terms to the physician.

I do not think that the legal position of the physician needs to be the subject of very sophisticated legal advice. I do agree with Senator Macdonald that there might not be many convictions under this law, but that would be of little help to the physician in his day-to-day life. You are a doctor; a patient comes to your office and says she wants an abortion. Leaving aside for the moment all the agony that she might have gone through in coming to that decision, agony that none of us who are not women can fully appreciate, the patient is seated opposite you and, whatever she has gone through, she is asking you for an abortion. If this bill is passed the first thing you had better do is reach for your Criminal Code—that is, the Criminal Code as it would exist if this bill were passed as amended by Bill C-43. As a doctor, and before you went any further, if you prudently reached for your Criminal Code, what would you read? You would read section 287(1), which would state:

• (1730)

> Every person who induces an abortion on a female person . . .

Here you would have to say, "That is me. I am a person and I am being asked to induce an abortion." It would then go on to state:

> . . . is guilty of an indictable offense and liable to imprisonment for a term not exceeding two years . . .

So far so bad. What would make me want to go on past that point? But I do, because it states:

> . . . unless the abortion is induced by or under the direction of a medical practitioner who is of the opinion—

That sounds better. All I have to do is "come to an opinion". It continues to state:

> . . . that, if the abortion were not induced, the health or life of the female person would be likely to be threatened.

I might then consider putting my Criminal Code aside and asking the patient for more detail so that I could decide whether, in my opinion, if the abortion were not induced the health or life of my patient would likely be threatened. But if I am really prudent, I will read on and turn the page, because the statute states, in Section 287(2), the definition section:

> "opinion" means an opinion formed using generally accepted standards of the medical profession.

That might tempt me to think that I have only to respond to the opinion of my colleagues as to the generally accepted standards of the medical profession. But I will not have to justify my opinion simply to my colleagues, as I do in my practice to any of my disciplinary committees. I have to justify it to a court. The book that I am looking at is the Criminal Code. So if I am trying to look ahead, as a doctor, as to what body I must face or procedures I must go through, I should not envisage appearing before a disciplinary committee of my colleagues; I should envisage a charge under the Criminal Code. I should plan hiring a lawyer. I should envisage the lawyer telling me the date of the preliminary hearing and the date of the adjourned preliminary hearings. I should realize that I will probably have to sit in court at a preliminary hearing and listen to the opinion of my colleagues, who will be called by the Crown, as to whether or not I have followed, again the words, "generally accepted standards of the medical profession." How will the prosecution establish that except to call my colleagues? They will be in the witness box and will be asked whether what I did—and this is all before I have done anything—

The Hon. the Acting Speaker: Honourable senators, it is now past 5:45 p.m..

Senator Frith: We sometimes do not see the clock. I am almost finished.

Senator Doody: Do you want to go on?

Senator Frith: Yes. I am close to finishing my remarks.

Senator Doody: Well, ask for leave.

Senator Frith: May I have leave to complete my intervention, honourable senators?

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

Hon. Senators: Agreed.

Senator Frith: So before I have said a word to my patient, I am envisaging a charge, hiring a lawyer, and there is a preliminary hearing as to whether I have followed generally accepted standards of the medical profession. Finally I see myself in court. I will then go through the whole thing again, assuming that the judge finds that there is sufficient evidence to proceed with my case. After that, I will find out whether or not I am guilty; and then I will find out whether or not I will have the right to an appeal. That all flashes through my mind, or should, before I go any further with this patient who has come in and asked me whether I will perform this medical procedure.

The difficulty with this bill is that it criminalizes these procedures. That means that I, as an individual doctor, have to think of criminal procedures instead of medical procedures. Most doctors will simply say, "Why bother? Why should I get myself into that?" If this bill were left without that definition, and simply left the opinion to the full discretion of the doctor, it might be a different matter. But it sets up these standards. As a result, it sets up this vision of criminal procedure before I even get a chance to think or visualize medical procedure.

For the two reasons that I mentioned on second reading, honourable senators, namely, that there should be a choice by the woman—God knows that it is no easy choice—and that the procedure should not be criminalized, nothing that I have heard since second reading has changed my opinion that the bill should be defeated. I will be voting against it.

Debate suspended.

GOVERNMENT EXPENDITURES RESTRAINT BILL

THIRD READING

The Hon. the Acting Speaker: Honourable senators, as it is now past 5:45 p.m., we shall proceed to the deferred division on the motion for third reading of Bill C-69. Please call in the senators.

Senator Frith: Your Honour, in order to invoke the rule you must call for the "Yeas" and "Nays". We then appeal, under Rule 49, and then you call in the senators.

Senator Doody: Even though it was done last week?

Hon. Duff Roblin: To refresh my memory, my memory is that when this item came up last week the "Yeas" and "Nays" were put. It was at that stage that my friend asked for the postponement of the debate. I presume that we can proceed at once to ring the bells.

Senator Frith: We did not have the voice vote; we should have.

The Hon. the Acting Speaker: I am willing to abide by what you say, Senator Frith, but since it was debated last week and the "yeas" and "nays" were called for, should we do that again?

Senator Frith: The problem is that we forgot to do that last time. But let us assume that it did occur, with leave, and proceed to call in the senators—that is, so long as we know that under Provisional Rule P-3(a) we should do that.

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

Hon. Senators: Agreed.

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

• (1750)

The Hon. the Acting Speaker: The doors of the chamber will now be locked.

Motion agreed to and bill read third time and passed on the following division.

YEAS

THE HONOURABLE SENATORS

Atkins	Lavoie-Roux
Barootes	Lynch-Staunton
Beaudoin	Macdonald (*Cape Breton*)
Berntson	MacDonald (*Halifax*)
Bolduc	Marshall
Buchanan	Meighen
Castonguay	Molson
Chaput-Rolland	Murray
Cochrane	Nurgitz
Cogger	Oliver
Comeau	Phillips
David	Poitras
DeWare	Robertson
Di Nino	Roblin
Doody	Ross
Doyle	Simard
Eyton	Spivak
Forrestall	Sylvain
Grimard	Teed
Johnson	Tremblay
Kelly	Twinn—44
Keon	
Kinsella	

NAYS

THE HONOURABLE SENATORS

Bonnell	Lefebvre
Bosa	Lewis
Buckwold	Lucier
Cools	MacEachen
Corbin	Marchand
Davey	Molgat
De Bané	Neiman
Frith	Perrault
Grafstein	Petten
Graham	Riel
Haidasz	Rizzuto

[The Hon. the Speaker.]

NAYS

THE HONOURABLE SENATORS

Hastings	Stewart
Hébert	Stollery
LeBlanc (*Beauséjour*)	Thériault
Leblanc (*Saurel*)	Turner
	van Roggen—31

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Acting Speaker: I declare the motion carried. Let the doors be opened.

The Hon. the Acting Speaker: Since it is now past 6 p.m. I will leave the Chair until 8 p.m.

The Senate adjourned until 8 p.m.

At 8 p.m. the sitting of the Senate was resumed.

ABORTION BILL

THIRD READING—DEBATE RESUMED

Hon. Stanley Haidasz: Honourable senators, we are well into the process of third reading on Bill C-43. It is my privilege to continue to debate this very important legislation, Bill C-43, in respect of abortion.

I wonder whether any subject would be more pertinent to our consideration today as the eyes of the world look on in dread and foreboding at the spectacle of possible megadeath in the Persian Gulf war. I say that without meaning to make capital of the enormous threat to world peace and the tragedy of destruction of lives and livelihoods already under way in the East.

But Mother Teresa, in her address on receipt of the Nobel Peace Prize in 1979, said, "Today the greatest destroyer of peace is abortion." The social scourge of unwantedness of human life itself, an ailment of hopelessness, needs a cure; and abortion is not the cure. A society that declares any of its members to be unwanted, as happened in the late 1930s during World War II, when Hitler walked rampant across Europe, cannot find peace, nor can its campaigns for peace and victory sustain the scrutiny of the God who made them.

Honourable senators, in its received form, Bill C-43 is a very dangerous wedge, acting to chock open a door on abortion between the lifesaving sentiments of persons of conscience, commonly called pro-life, and the lifesaving vocation of per-

sons of training, or doctors and health care personnel. We are told that it occupies the middle ground between extremes of antiabortion restraints and pro-abortion advocates. Perhaps that, indeed, is its intent, but that is not its nature.

Bill C-43 does not even so much as mention the object of its protective interest, if it has one. It does not detail, nor does it even mention, in fact, what abortion is. It does not say whether abortion is the killing of a child before it is born. Yet it appears in the section of criminal law that concerns itself with offences against a person, in company with other sanctions against harm to a child.

Honourable senators, I doubt very much whether the auspices under which abortion is promoted in society are really impeccable. But when a bill is promoted by the government itself it has the aura of authority. How else could we say, as we do, that "law is the greatest teacher"? Legislators have a most profound authorship and responsibility for what they enact, and that is what we are about to do.

I note that even in 1970 well-aware medical professionals knew perfectly well that human life begins at conception. But there was also, as always there may be, an unprofessional dimension among many, of social policy advocacy to displace the old ethic. Yet there is nothing amiss with the "old ethic" inasmuch as it loves, embraces, supports and defends the common good, which starts with human life itself. To advocate a displacement of these values is the essence of sedition.

After the lessons learned in the earlier world wars—World War I and World War II—of this century, first with the muddy carnage at Flanders and Vimy and later with the holocaust of Auschwitz, Dachau, Belsen and Maidanek, the Declaration of Geneva expressed a conscience of the West in 1948 by stating:

> I will maintain the utmost respect for human life from the time of conception, even under threat. I will not use any medical knowledge contrary to the laws of humanity.

Indeed, abortion was declared at Nuremberg a crime against humanity.

Even as recently as 1969 the International Code of Ethics stated:

> A doctor must always bear in mind the importance of preserving human life from the time of conception until death.

Of course, this means natural death.

In Oslo in 1970, the World Medical Association reaffirmed this by stating:

> The first moral imposed upon the doctor is respect for human life, as expressed in the Declaration of Geneva. I will maintain the utmost respect for human life from the first moment of conception.

Honourable senators, let us beware of the unheralded danger to the whole body of Canadian law and jurisprudence by attempting to enact in statute a law that is fundamentally a breach of the ethics we have long defended. The facts will show, as we continue to debate and study the testimony of witnesses presented to our committee, especially those witnesses who are truly expert, that abortion is never required medically, either to save the life of or to improve the health of, no, not even to complete the valid aspirations of, a woman as espoused by the Minister of Justice.

As I will show, honourable senators, it is possible to amend Bill C-43 so that it successfully accomplishes the valid objectives of protection of human life and of the professional standards of doctors and health-care persons. It is also possible to amend it so that it really does not deter a woman from obtaining the health care that is necessary to her, even when a pregnancy complicates that care.

Statistics Canada revealed to us that 72,693 abortions were reported to them in 1988, and all paid by our premiums and taxes. Furthermore, Statistics Canada revealed another horror. In 1987 no less than 13,271 pregnant women were repeating abortion, some for the second, third or fourth time. Therefore, for the good of our society and for the survival of Canada we must do everything we can not only to decrease and discourage abortion but to outlaw it. Care for health and life must be increased; otherwise, why do we suppose we shall recover from the present grip of depravity and despair that is pervading our society?

• (2010)

The vote on Bill C-43 appears to be very close. Let us then, honourable senators, be very careful and prudent. Should Bill C-43 be carried, I think we would want it to be improved so that it will truly protect the innocent and helpless pre-born children, as well as the health and life of the mother. That is why I am offering to you, honourable senators, for your consideration, seven amendments in order to try to achieve this goal. I have asked the Clerk to make these amendments available to you in both official languages.

My first amendment is to increase the penalty from two to 10 years.

MOTION IN AMENDMENT—DIVISION DEFERRED

Hon. Stanley Haidasz: Honourable senators, I move, seconded by the Honourable Senator Corbin:

> That clause 1 of Bill C-43 at page 1 thereof be amended by striking the line 10 thereof and substituting therefor:
>
> imprisonment for a term not exceeding ten.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Corbin:

> That clause 1 of Bill C-43 at page 1 thereof be amended by striking line 10 thereof and substituting therefor:
>
> imprisonment for term not exceeding ten.

Senator Haidasz: In explanation, honourable senators, this amendment, I think, is self-evident. If Bill C-43 seeks to state its disapprobation of something, it is necessary to carry with the offensive act an appropriate penalty. Of course, it is a basic principle of fundamental justice: that the punishment meet the

crime. A maximum of two years' imprisonment is a disproportionately light maximum sentence for the criminal act of abortion. I do not have to emphasize that abortion is the causation of the death of a child, before it has proceeded from its mother's womb, by a wilful act or the omission of life-saving support after a wilful act.

None of the expert testimony before your committee, honourable senators, that had anything medical to say about the matter, attested that there is ever a medical indication for the deliberate act of abortion. On the contrary, testimony by Physicians for Life, corroborated by Dr. Teresa McKenna and by Dr. Bernard Nathanson of New York City, is that most abortions are, in fact, performed for non-medical reasons.

In many public speeches, Dr. Nathanson has stated unequivocally, and I repeat, that there is never a medical reason, including the emergency exigencies of saving the life of a mother, for the deliberate destruction of the child in her womb. So, honourable senators, I propose a maximum penalty of ten years' imprisonment for the criminal abortionist. Such a penalty shows a great deal of clemency, I believe.

Offenses of intentionally killing a child close to birth are already punishable by life imprisonment under the Criminal Code section 238. Also punishable as homicide is so injuring a child anytime before birth that it dies afterwards, as set out in section 223(2). Such homicide may be proven culpable with maximum penalties of up to life imprisonment. A sentence of just two years trivializes the crime, even committed by the much hated back-alley coat-hanger abortionist who neglects the rudiments of safety even for a mother. Such abortions already occur in far-off lands in a black market hungry for fetal organs and other tissue. Surely, no one in his right mind would want to equate Canada's level of disapproval for mob-run abortion rings, with its level of disdain for leaving the site of an accident or annoying someone with a noxious substance. Even setting potentially harmful booby-traps is more punishable.

Honourable senators, for the sake of the one duty left to us, that we address this legislation with a sober and long second look, I urge you to support this amendment to increase to a deterrent level of 10 years' imprisonment the maximum penalty for a criminal abortion outside of the provisions already laid out in Bill C-43. To fail to do so would be unworthy of the duty and wisdom that is ours.

The Hon. the Speaker *pro tempore:* It was moved by the honourable Senator Haidasz, seconded by the honourable Senator Corbin:

> That clause 1 of Bill C-43 at page 1 thereof be amended by striking line 10 thereof and substituting therefor:
>
> imprisonment for a term not exceeding ten.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

POINT OF ORDER

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, on a point of order, earlier today the Deputy Leader of the Opposition suggested that the whips should confer with a view to organizing the votes on these various amendments at the same time at the end of the debate on third reading. I believe those discussions are going on between the whips and, therefore, if no other senator wishes to speak to the amendment just proposed by Senator Haidasz, perhaps we could agree to put off the vote pending some agreement between the whips, and Senator Haidasz could proceed to move, as I understand he intends to do, some other amendments.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to defer the vote and have it called when an agreement is reached by the whips?

Hon. Senators: Agreed.

MOTION IN AMENDMENT—DIVISION DEFERRED

Hon. Stanley Haidasz: Honourable senators, I should like now to proceed to my second amendment, which is the requirement of evidentiary support for a medical opinion. I move, seconded by the Honourable Senator Corbin:

> That clause 1 of Bill C-43 at page 1 thereof be amended by immediately following the word "opinion" as it appears at line 13 thereof inserting:
>
> based upon verifiable medical evidence.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Corbin:

> That clause 1 of Bill C-43 at page 1 thereof be amended by immediately following the word "opinion" as it appears at line 13 thereof inserting:
>
> based upon verifiable medical evidence.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Senator Haidasz: Again, honourable senators, by way of explanation, this amendment has rather obvious legal benefits that I think recommend it to us. Again, if it is the point of Bill C-43 to seek the disapprobation of anything, it fails to do so where it is not clear about the ground of the escape clause, as the saying goes. If a piece of criminal law says that such and such is a crime, it usually adds words either in the pertinent section or in a related section for similar offences that spell out the circumstances that mitigate the offence.

• (2020)

The substance of this exculpatory provision is already present in Criminal Code sections 45 and 216 dealing with necessity. The commonplace understanding of "necessity" has always been the imminent or proximal likelihood or reasonable belief that there is such a likelihood that, without the medical intervention attempted, the recipient of the treatment would die. Even the section that is often cited as the necessity grounds, section 45, for surgical operations, does not entirely absolve one of responsibility to assess the situation; that is, the circumstances of the case, and that it be reasonable to perform the operation. Moreover, section 45 additionally requires,

unlike some circumstances envisioned by section 216, that "the operation is performed with reasonable care and skill." Dr. Bethune was reportedly incensed with the righteous indignation at finding that surgical care in China was often administered without antiseptics. That basic indignation reflects the mind of "the reasonable man" as enshrined in section 45.

Honourable senators, I believe we should take note that an exculpatory provision is well reasoned and proportionate when it is not so wide that it practically negates the defence erected against an undesirable activity. Abortion is such an activity, especially as a fast growing industry. We know that, contrary to what certain uninformed witnesses claimed before our committee, abortions have continued to increase in number since the abortion law was struck down three years ago yesterday.

In 1988 Statistics Canada recorded a 4 per cent increase in the number of reported abortions. Furthermore, Statistics Canada admits that it includes abortions for freestanding clinics only in Quebec. Filed claims for medicare coverage of abortions performed at two Ontario clinics revealed that in the first half of 1988 953 more abortions were performed than for the same period in 1987, representing an increase of 56 per cent. The same source shows an increase of 8 per cent in Ontario hospitals for the same period.

To return to the need for a clear exculpatory provision, it should be evident, as I said earlier, that Justice Dickson and others on the Supreme Court Bench in 1988 disdained a law that was unclear about this. The health grounds of 1969 to 1988 already led to abortion on demand. The Chief of Obstetrics at the Ottawa Civic Hospital, Dr. Beresford, admitted before our committee that there were no applications for abortion turned down. The Badgley Report found as much, and the records show that no one was ultimately convicted for performing an abortion with or without a hospital committee's approval. The reality one discovers upon investigating these matters is that in many cases supportable evidentiary records concerning the alleged health grounds for abortions had not been kept until recently. Yet, for other health or life saving treatments, even cataract removals, the practice has been to maintain a medical chart, including details pertinent to the medical decision to intervene.

In the other House, members argued for a better or tighter definition of "health" in Bill C-43. However, the past 20 years indicate that such an approach has little chance of making a difference in requiring physicians or abortionists to show cause, as it were. That is, whatever definition we try to place on "health," if there is no more requirement than that the physician simply form an opinion, the exculpatory provision is wide open. A person need only state before a court that he is competent and formed an opinion thus and thus and so and so. We forget that the onus of proof to the contrary is upon the court. Such proof of any criminal activity or its intent would be impossible without an evidentiary record, which I call for in this amendment.

Therefore, honourable senators, I urge you to support this amendment, which simply requires that a physician's opinion be based on medically verifiable grounds. The verifiable medical evidence requires that the evidence be verified by a court. To be verifiable by a court, the evidence should be recorded in a reliable manner, free from easy tampering and in accordance with whatever practices the provinces may ascertain for keeping of one's licence to practice medicine. I urge you, honourable senators, to adopt this amendment.

The Hon. the Speaker *pro tempore:* If no other senator wishes to speak, is it your wish, honourable senators, to follow the practice previously adopted of deferring the vote on this amendment to the time settled by the whips?

Hon. Paul David: May I ask a question?

The Hon. the Speaker *pro tempore:* Senator David?

[*Translation*]

Hon. Paul David: Honourable senators, I would like Senator Haidasz to tell me what he means by the word verifiable.

[*English*]

Senator Haidasz: As I mentioned in my last few sentences, Senator David, the verifiable medical evidence requires that the evidence be, first, verifiable by a court. To be verifiable by a court, the minimum that should be required is that the evidence should be recorded in a reliable manner, free from easy tampering and in accordance with whatever practices the provinces may ascertain for keeping of one's licence to practice medicine.

The Hon. the Speaker *pro tempore:* Is it your wish, honourable senators, that the vote be deferred?

Hon. Senators: Agreed.

Hon. John B. Stewart: Honourable senators, may I have leave to interrupt the debate briefly in order to ask for leave to revert to Motions? It would be my intention then to ask for leave to move a motion concerning a committee meeting tomorrow.

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

Hon. Senators: Agreed.

Debate suspended.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to motions:

Hon. John B. Stewart: Honourable senators, 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 at two thirty o'clock in the afternoon tomorrow, 30th January, 1991, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

If senators wish, I will be happy to explain the purpose of our proposed meeting.

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

Hon. Senators: Agreed.

Motion agreed to.

● (2030)

ABORTION

THIRD READING—DEBATE RESUMED—MOTION IN AMENDMENT—DIVISION DEFERRED

Hon. Stanley Haidasz: Honourable senators, my third amendment is before you. It provides protection of the foetus from conception to implantation. I move, seconded by the Honourable Senator Corbin:

> That clause 1 of Bill C-43 at page two thereof be amended by striking lines 4 through 8 thereof, where is set out section 287, subsection (3).

Honourable senators, by way of explanation, this amendment would eliminate subsection (3) of proposed section 287 of Bill C43. I do not have to read that subsection since it is before you in the form of Bill C-43. However, for aid in clarifying the intent of this subsection, honourable senators, allow me to point out that it quite simply creates an artificial vacuity in criminal law with respect to what may or may not be done to a child in the first week to ten days of its life.

Bill C-43 as it stands before us is presented as some means of filling a vacuity in law with regard to the killing of a child before delivery from the womb. Yet the drafters of Bill C-43 decided not to go so far as to erect even a pretense of legal protection of the life that has begun at conception until the project of life has been rooted by a placenta in the womb. They have, with subsection 287(3), expressly set out to maintain the vacuity for the Criminal Code in the case of a child's existence prior to its implantation in the womb, in the wall of the uterus.

But what verifiable basis is there for choosing the time of implantation, I ask, as the moment at which the state should begin to express an interest in protecting the child? It is certainly not found in the Canadian Charter of Rights and Freedoms. All I can see there, as I said earlier on June 26 last and more recently in November of last year, is evidence that life, liberty and security of the person, as expressed in the Charter, belongs to everyone from the moment he or she begins to exist in the eyes of God, upon whose supremacy the rule of law is tested.

Honourable senators, when I was in Poland two weeks ago I learned that the upper house of the Polish chamber, also called the Senate, stated, in drafting a bill on criminal abortion, and I quote:

> It is no longer a matter of honest scientific disputation whether human life begins at conception. Every civilized society in the world knows the authoritative fact that from the moment of conception a living being is in existence and that being is human.

Honourable senators, furthermore the evidence that was presented by world-renowned human geneticist, Dr. Jerome Lejeune of Paris, when he appeared in the Saskatchewan Court of Appeal for the Borowski case, was uncontroverted and was accorded standing, which it retains today before the Supreme Court of Canada. Further, the testimony of Dr. Bernard Nathanson of New York City, who appeared before the committee a few days ago and who finally stopped performing abortions in New York after the scientific evidence had mounted up before his eyes, was that indeed no one reasonably disputes, in the world of medical education or research, that the conceptum is an entire human being. All that is added therefrom are the same things that are added for the growth of a teenager—food and water.

But, honourable senators, I do not think that is really the issue. I do not suppose that any of us really takes the legal fiction invested a century ago in what is now subsection 223(1), to define a human being for the purposes of the Criminal Code, as having some sort of factual basis. Such a view would be entirely untenable with the reality that even fraternal twins are born at different times. It could hardly be said that the younger was not a human being when its twin had already seen the light of day and been accorded humanity. Therefore, the issue here is whether it is prudent or even sober for a bill that the government has undertaken to bring forth, in response to the long and sustained clamour of Canadians to fill a painful and destructive vacuity of law, to deliberately retain an essential vacuity in the most tenuous and fragile moments of human life.

It is all the more an issue on consideration of the fact that recent history has shown that IUDs such as the Dalkon Shield can do real, even fatal, damage to women, and that their importation and marketing ought to continue to be disbarred by colourable criminal law.

However, I want to bring to the attention of honourable senators a new spectre that has arisen on the shores of Canada and the United States—indeed, the whole world. It originated in France. It is the abortifacient drug called RU-486, and its more recent sophisticated derivatives, as Dr. Nathanson described them to us. They are most effective at impeding or preventing implantation of the conceived and fully human child.

A physician could very well prescribe such a drug even before signs of pregnancy were confirmed. There are no absolutely reliable tests of whether implantation has in fact occurred at the moment or hour or day that it does occur. As a result, a physician could also find himself in the circumstance of prescribing a so-called contragestive drug after implantation, without knowing it and without having to know it; and when the miscarriage ensues, he could hardly be culpable of a breach of section 287. As evidence about implantation is always unreliable, he may, in fact, be acting indiscriminately or, even worse, on a discriminatory basis, to cause the desolation of many pregnancies and the annihilation of many human lives, with impunity.

Honourable senators, I maintain that in that section there is hidden an even greater catastrophe. That, honourable senators, is the wanton, unrestricted harvesting of and experimentation

on human beings in the embryonic hours of their lives. No self-respecting Christian, Jew or Muslim in Canada can, with conscience, endorse such a travesty as this. Complete disregard in law for the interest that a peaceful state may have in its own generation from the beginnings of that generation is a mark not of civilization but of total disintegration. To pave the way for such disregard, honourable senators, would be irresponsible in the extreme and I therefore urge you to support this amendment.

• (2040)

The Hon. the Speaker *pro tempore:* If no other senator wishes to speak, is it your wish, honourable senators, that the vote on this amendment also be deferred?

Hon. Senators: Agreed.

Senator Haidasz: Honourable senators, the fourth amendment that I propose, which is before you, deals with the protection of health personnel based on religious beliefs, oaths and conscience.

MOTION IN AMENDMENT—DIVISION DEFERRED

Hon. Stanley Haidasz: Honourable senators, I move, seconded by Honourable Senator Corbin:

> That Clause 1 of Bill C-43 at page 2 thereof be amended by adding after line 16 thereof, prior to the final quotation marks of Clause 1:
>
> Coercion 289.(1) Every person who requires a physician or medical practitioner or nurse or employee of a medical practitioner or other employee of a health-care facility, as a condition of their employ or under threat or the fear of any loss, to perform or assist at or otherwise arrange for an induction of abortion is guilty of an offence and is liable on indictment to imprisonment for a term not exceeding two years.
>
> Discrimination (2) Every person who discriminates in any manner against a physician or medical practitioner or nurse or other employee of a medical practitioner or employee of a health-care facility or against an applicant for employment in any such health-care capacity or against an applicant to medical school or other health-care education or against a candidate for certification for the practice of medicine or other health-care who is or is believed to be unwilling to perform or assist at or otherwise arrange for an induction of abortion is guilty of an offence and is liable on indictment to imprisonment for a term not exceeding two years.

POINT OF ORDER—SPEAKER'S RULING RESERVED

Hon. Nathan Nurgitz: Honourable senators, I rise on a point of order. Amendment No. 4 deals with health personnel within the health-care facilities in Canada. As one reads the coercion section of the amendment it seems that we are talking about physicians, nurses or employees as a condition of their employment. In the discrimination section, it is a matter of discrimination in any manner against doctors, nurses, other employees or against an applicant for employment.

Honourable senators, this appears clearly to be a matter of provincial jurisdiction. I do not think we can regulate any other employment standards within a province, and we do not, and that it is what constitutional experts would call property and civil rights within the province. I am not trying to take away from Senator Haidasz's right to move amendments, but I think clearly this amendment is beyond the jurisdiction of the Parliament of Canada to legislate. It is *ultra vires* of this Parliament in that it is currently within the jurisdiction of the provincial legislature in each province.

Hon. Stanley Haidasz: Honourable senators, the reason I brought in this amendment was because of representations I have received from a group of nurses called Nurses for Life, individual nurses, and doctors in the hospital where I practice who related to me that there are surgical interns, in particular in gynaecology and obstetrics, who have been forced to perform abortions or else they would not get a licence to specialize in what they are studying, obstetrics and gynaecology. It is actually in response to them. I asked them: "Are you not protected by the provincial Human Rights Associations and the Canadian Human Rights Agency?" and they said, "No."

Therefore, in a few paragraphs, I now intend to bring that out.

Senator Nurgitz: Honourable senators, I could not be more sympathetic to the cases raised by our colleague. The question that he asked the individual intern or doctor is very appropriate. It seems to me that what he has described is a human rights violation of the worst kind, especially if the particular person was finding it unconscionable to do that kind of work on religious grounds. Without being an expert in that field, it seems to me that it would be a gross violation of that person's human rights.

Having said that, and expressing to Senator Haidasz a sincere sympathy for that kind of case, I again raise the question, because he has not dealt with it, of how one overcomes the fact that this is property and civil rights within the province, that what we are doing is legislating over and above what colleges of physicians and surgeons do in each province, or what particular departments of health do in terms of standards imposed for the operation of hospitals and health-care facilities in each individual province. I am suggesting, honourable senators, and would even ask the Speaker to rule, that this clearly is well beyond the power of the Parliament of Canada under the British North America Act.

Senator Haidasz: Honourable senators, in response to Senator Nurgitz, and anyone else who brings up such an argument, I still say that the nurses, in particular those from the organization Nurses for Life, stated that they have sought provincial protection against such discrimination and harassment and they failed to get any protection. The federal Parliament, we here in this chamber, should have at heart national standards to apply for every Canadian across the land. Senator Nurgitz shakes his head negatively. We are dealing with abortion. The

law of abortion will apply to everyone from coast to coast in this country, and so should the standards by which this law will operate. I am sorry that Senator Kinsella is not here. He was a chairman of the Human Rights Commission of New Brunswick. He could have given his viewpoint in this matter. I have proposed the amendment in response to the health-care personnel I have mentioned. I believe we should protect them. We are here to protect them, and that is what I am doing by this amendment.

Hon. Michel Cogger: Senator Haidasz, may I ask you a question? I do not want to address the substance of the amendment. Perhaps you can help me, or perhaps your seconder, Senator Corbin, can. It seems to me a serious flaw inasmuch as the French version is meaningless. It does not seem to correspond with the English version in its last part. Perhaps your seconder would like to take a look at it.

Senator Haidasz: We can always ask our interpreters to translate it into French as closely as possible. This translation is not mine, Senator Cogger. I gave the English versions to one of the people at the Table. He sent it out for translation. If you can correct it for me, then, fine; or perhaps the translators will correct it for us. We are not voting on it now. I do not think we will vote on it until tomorrow. We will have another French version tomorrow.

• (2050)

Senator Cogger: I want to point out to you that we are not talking about a newspaper article here. We are talking about a legislative text that in its current form in French is incorrect. Surely I am allowed to read it in French, vote on it in French and make my mind up on it in French. This document is incomprehensible. It does not make any sense.

Senator Haidasz: I accept your remarks, Senator Cogger. I can only repeat what I said. Hopefully, the translation will be to your satisfaction tomorrow, because I am sure that we will not vote on it tonight.

Senator Nurgitz: Honourable senators, again I reiterate what I said before—that is, that I am sympathetic to the cases raised by our colleague, Senator Haidasz, about these particular matters, but they are matters well beyond the jurisdiction of the Parliament of Canada under the British North America Act. We cannot regulate those various things that are ongoing within health care facilities anywhere in Canada. He is absolutely correct, we are attempting to regulate or legislate with respect to abortion. We can do that by means of regulating it as a crime—that is, within the Criminal Code. But terms and conditions of employment, and how people are discriminated or are not discriminated against clearly come within all of those various laws that are passed by an individual province. Honourable senators, it would perhaps be simpler if I said that I would be pleased to leave the matter in the hands of the Speaker.

Senator Haidasz: I agree, honourable senators.

The Hon. the Speaker *pro tempore:* Honourable senators, if no other senator wishes to speak on the point of order, as this is a legal matter I will take it under advisement and then report on it tomorrow.

[Senator Haidasz.]

MOTION IN AMENDMENT—DIVISION DEFERRED

Hon. Stanley Haidasz: Honourable senators, my Amendment No. 5 before you involves a substantive clarification of principle allowing for emergency medical intervention. It is similar to that which I gave notice of the other day, which is found in today's Orders of the Day under Order No. 4. I am replacing that amendment with another amendment. Therefore, I ask the Senate to allow me to strike this amendment as it appears before you, that is, to strike out Motion No. 4, which involves the same amendment.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Corbin, that Clause 1 of Bill C-43 at page 1 thereof be amended by striking lines 21 and 22 thereof and substituting therefor:

> "medical practitioner", in respect of a medical procedure performed in a province, means

and striking lines 11 through 16 thereof and substituting therefor:

> years, unless the procedure is performed with every precaution to preserve the life of the child throughout the procedure by or under the direction of a medical practitioner who is of the opinion that, if the procedure were not performed, the life or health of the female person would be likely to be endangered

and striking lines 4 and 5 thereof, substituting therefor:

> 287(1) Every person who performs on a female person pregnant with a child a medical procedure that delivers the child prior to term with the effect of the death of that child before it has proceeded from the womb is guilty

renumbering succeeding lines accordingly,

and that Clause 1 of Bill C-43 at page 2 thereof be amended by striking line 5 thereof and substituting therefor:

> and section 288, performing a medical procedure does

[*Translation*]

Senator David: Senator Haidasz, I am very surprised to see that your fifth amendment was not translated into French.

[*English*]

Senator Haidasz: I asked for a translation. Nevertheless, I asked to have it struck because I have another one in its place. I am replacing it with another amendment.

Senator Cogger: Will it be translated?

Senator David: Will it come later with the other one?

Senator Haidasz: Yes; it will come later. The substantive amendment is No. 7.

[*Translation*]

Senator David: I do notice one thing, Senator Haidasz: the whole page is in one language only, and is absolutely blank on the other side.

This seems to me a strange way of going about things, but I will not insist.

[*English*]

Senator Haidasz: I gave the English translations to a person at the Table. He sent it somewhere to be done. I did not do the Xeroxing of the copies.

Hon. L. Norbert Thériault: Honourable senators, on the point that is being made by Senator David, I notice that the same thing applies to amendments six and seven. Perhaps it would be wise to delay moving these amendments until the translation is provided.

Senator Haidasz: If that is the wish of the Senate, I will agree and abide by the suggestion made by Senator Thériault. Again, I will gladly bring—

Senator Thériault: I do not blame you.

Senator Haidasz: I am not blaming anyone. A mistake has been made. I am not responsible for it. If the French translation is missing, I will bring the rest of the amendments up for discussion tomorrow. Therefore, I adjourn the debate.

[*Translation*]

Senator David: Senator Haidasz, I don't know if my colleagues will agree with me, but if you can provide me with a French translation of that document, I would readily accept that there has been a translation error for which you are not responsible.

I think it would be preferable to go through all amendments because—

Senator Thériault: Honourable senators, I object to the introduction of legislation in this House if we are not provided with a copy in both official languages.

[*English*]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with the greatest of respect, the reason that we have simultaneous translation in this place and the other place is so that honourable senators may be able to move motions or amendments in the official language of their choice. There is no obligation upon an honourable senator moving an amendment to provide official versions in both languages. That is the responsibility of the Senate.

Our colleague, Senator Haidasz, as a matter of courtesy, attempted to provide us with a French version of the amendments that he had proposed in the official language of his choice, namely, English. It turns out that the French versions—at least the one that I glanced at, namely, the one to which Senator Cogger referred—are quite inadequate. Therefore, we will have to rely, as we frequently and usually do, on the services of the Senate to provide an official version in the language other than that used by the mover.

It would be quite within our rules and our practices here to accept an amendment moved by an honourable senator in either English or French and to depend upon the services of the Senate to produce an official version in the other official language.

Senator Thériault: Is the Honourable Senator Murray saying that the government could introduce legislation in this place in only one language?

Senator Murray: The government would not, of course, do so. No.

Senator Thériault: But it could?

An Hon. Senator: Not the government.

Senator Murray: I think not, honourable senators; but an honourable senator may do so. That is why we have simultaneous translation.

Senator Frith: Is that so?

● (2100)

Senator Thériault: I am sorry, but I do not agree with the interpretation of the Leader of the Government as to why we have simultaneous interpretation. The reason he gave is not the reason why we have it. Can he show me some place in the law where it is stated that is why?

Senator Murray: I am sorry, I did not mean just simultaneous translation but translation services in Parliament.

Honourable senators, there is no obligation upon an honourable senator moving an amendment to provide an official version in both languages. If the Official Languages Act means anything, it means that an honourable senator may speak and propose an amendment in the official language of his choice. Thereupon it is the responsibility of the Senate to provide an official version of that amendment in the other language.

Senator Thériault: Honourable senators, Senator David made the point. The point has been made many times in committee over the last 12 years that I have been in this place. It is the custom. There is not only that to consider, but the fact that decisions have been rendered by the courts stating that legislation passed even by Quebec in one language is not valid.

Senator Murray: Of course.

Senator Thériault: Suppose that these amendments were to pass, they would then become law. They would be presented in only one language. I do not think that is the intent of the act which made the Parliament of Canada and l'Assemblée nationale du Québec bilingual.

Senator Murray: Honourable senators, they would certainly not be voted on in one language. They would be presented to the house for debate and a vote in both languages. My point is that it is not the responsibility of Senator Haidasz to provide the official version in both languages. It is the responsibility of the translation services of the Senate to provide the official version in the official language other than the one spoken by the mover of the amendment.

Senator Thériault: That is the point I am making. It is not the responsibility of Senator Haidasz, or any other senator, but the responsibility of this house of Parliament to provide legis-

lation in both langauges. That is the point I make. I think it should be done. I do not know why we should make an exception tonight.

The Hon. the Speaker *pro tempore:* If I can be of any help, I understand that Senator Haidasz did submit his amendments for translation. That is taking place now. It is expected that we will receive the translations during the course of the evening. The problem is with the translation service.

Hon. Nathan Nurgitz: Honourable senators, because we have decided to sit this evening and because this problem has arisen—and no one is blaming Senator Haidasz—other speakers are ready to proceed. Would Senator Haidasz agree to yield to another senator so that the debate may continue?

Senator Haidasz: Agreed.

[*Translation*]

Hon. Solange Chaput-Rolland: Honourable senators, there are times when in our society, a number of men and women are given a formidable mandate: to choose, on behalf of the rest of society, between legislation and the absence thereof, in the knowledge that either decision will have serious consequences for those concerned.

The abortion bill before us today is fraught with both moral and legal issues, but above all, it concerns women.

To remove any doubts as to where I stand, I want to make it clear from the outset that although like many women, I find this very difficult, I feel bound by my conscience to vote in favour of this bill, although like most of us, I am as uneasy about the consequences as I am about the reasons that led the House of Commons and the Senate to support it.

I was told there would be a free vote. But free to do what? To decide for future generations that abortion, something that has been practised for centuries, by men or by so-called "angel-makers", will be legal, thereby preserving a measure of a woman's dignity if, for some very serious reason, she should resort to abortion after consulting with a physician.

We all know that abortion has been practised since time immemorial, but there is always a veil of secrecy, of silence and shame, and a fear of being compromised, both for the man or woman practising abortion and for the woman resorting to abortion, more often than not against her innermost feelings, her feelings as a mother, and her family.

I must admit that now, at the age of 71, I feel guilty about voting in favour of this bill, but I would feel even worse about deciding today what may happen tomorrow to our young people or to small children whom we want to protect against cruelty and violence, and also, I think, against having to resort to methods which we never would have dared to discuss openly in the past.

Yesterday's and today's children, although they may be more liberated and freer of social and religious constraint, do not accept, any more than did people of my own generation, those backroom abortions that scarred a woman for life. Even if they know that a woman is medically entitled to an abortion,

they do not feel comfortable about it, and this is psychological, mental and social.

Of course it is easy to lie to doctors, and it is easy for doctors to betray the trust of their patients, to use fear as a pretext for refusing to practise abortion openly, according to certain standards.

Our society is one of violence, sexual assault, human solitude and superficial and mostly cruel judgments. Women have always been controlled by men in their most intimate circumstances. I am reminded of women who died because their spouses refused to sign a consent form so that the surgeon could do an operation that would have saved their lives. A victim of rape is usually censured because she probably deserved it or asked for it, and there is still this myth that she probably enjoyed the whole process.

On radio and tv, I interviewed young girls of 13 or 14, who were pregnant. I found this a shattering experience, especially when I asked the girl: What are you going to do with the baby when you go back to school or when you get started on a career? In 98 per cent of the cases, the answer was: Mom will look after it. One glance at the almost desperate look on the mother's face, a woman who had already raised four or five children, was enough to realize that in this particular case or in the case of a rape victim, abortion should probably have been compulsory.

[*English*]

I have received many letters condemning me in advance for my anguished decision to support this law. I can understand the reasons of those who are pro-life and those who remain pro-choice. Both are valid. Both options are born out of dignity and some sort of morality.

But who am I to condemn today the kind of society in which our grandchildren will live tomorrow? Who am I to repeat the injustices of yesterday and to condone the unknown justice of their future? It is not only for the fear of judgments almost always passed by men who neither know nor understand the terrible anxieties many women experience, with or without their partners, lovers or spouses when asking for an abortion—to terminate the life she bears; for women are not only bearers of children, they are part of a society who fear not to brutalize them in our sexual or social life.

• (2110)

The present morality is not the one in which I was born. The laws of our frightening future will not correspond to today's ethics. Would we give birth to a child in a nuclear environment or become pregnant without fear in a chemical war? Who ever thinks of the son or daughter who one day learns that he or she is the product of a mother who was raped? Do you believe that such a child could live with himself and his mother without more pains than we have ever experienced in our society, so sadly prone to judge rather than forgive, more tolerant for murderers than for the murdered, more lenient to the rapists than to the raped ones?

I do not like this law, nor the doctors who, for fear of being caught thinking and acting wrongly, might make life and

death even more difficult for women. Am I obliged to believe that they would prefer their clandestine interventions of yesterday to practising today legally and openly?

And, as usual, men will go free, with or without the law. If a woman seeks an abortion in a small village, she is bound to be criticized and vilified. The doctors might go free if their practice is according to the specification which will make their intervention legal and normal.

I have seen buses full of women, young and old, leaving for some towns in the U.S.A. As a journalist I stood not far from the buses as they came back with the same women pale, crying, and almost in agony. Today they will not have to go to another country to obtain what they want. An honest doctor will, I hope, advise her of all the positive aspects of a normal birth, but will also listen with compassion to her reasons to seek his help.

If, despite the law, which is a sane and honest compromise between the "no" and the "yes" to abortion, a woman of 1991 goes through the same agonies of days of yore, I shall blame some doctors who might not shoulder their own individual medical and legal responsibilities.

I refuse to invoke murder and crime in light of the spirit and letter of this difficult law. Too many are committed with the consent of a dormant society facing violence with indifference, but who refuse a woman the right to dispose of her own body, if forced to require medical help patterned upon the will and the understanding of her tragedy by men who seldom look back on their own responsibilities.

Today, as I speak, thousands of babies, born or unborn, are killed in the name of war. Who cares? Who condemns the aggressors on both sides of this agonizing issue? Generals, soldiers, priests in uniforms? No one.

I would indeed have chosen to let women decide among themselves—among women judges, doctors and lawyers—what kind of life or motherhood they want; but I can see the feminist rationale of my reasoning.

Therefore, I shall pray so that women are not abused because of this law and do not lie in order to seek an abortion, for little do they know how long they might suffer from a hasty decision. I shall also pray that doctors fulfil their responsibilities as described in this law with honesty, courage and compassion. Finally, I shall hope that, as a consequence of this law, sexual discrimination may be more and better explained, not by ads on television but by understanding parents and serious teachers. Adoption agencies might begin a campaign for adoption.

Finally, I hope that our society will copy with more courage and intelligence to curb violence and sexual exhibitions in its advertising and films. This country needs children; but children also, and more so, deserve to be raised in a sane environment. Death is not always the end of life; at times it is the beginning of life.

[*Translation*]

. . . on this earth torn by violence, the murder of older people as much as that of unborn children.

I condemn the social conditions which somehow forced us to enact this law, which I prefer to the absence of legislation because in this great moral and legal vacuum, in the end, everybody, women, men and children, will lose bits of their humanism.

Thank you, honourable senators.

[*English*]

Senator Haidasz: Honourable senators, I have been told that a French translation to my amendments 5, 6 and 7 is on its way. Perhaps another senator who wishes to take part in debate on third reading can proceed.

• (2120)

Senator Cogger: Senator Haidasz, please believe me, I did not insist on a French translation, and I would ask you to proceed. The purpose of my initial intervention was to point out to you that I thought the French translation was faulty, and I wanted you, as well as your secretary, to be aware so that it could be corrected in due course. As far as I am concerned, you may proceed.

Senator Thériault: Honourable senators, it was not Senator Cogger's point that got me thinking about it, but Senator David's point. As far as I am concerned, the Leader of the Government can grin all he likes. It is not my first time in a legislature where we have to legislate in two languages. I have been around and I am worried. I am worried because what could have happened is that those amendments could have become law after being presented to this house in only one language, and that would be the precedent that this could cause. I am worried about it. It is not at all Senator Haidasz who is responsible for the translation, or it should not be if it is. It should be this house of Parliament.

Senator Murray: Right.

Senator Thériault: I would not feel very good if I were presenting legislation in French only when 75 per cent of the people could not understand or read the legislation, because if amendments are passed, they become law. The people might understand what I say, but I could say one thing and the legislation could say another. This is something that I have not seen, in this house or in the New Brunswick legislature when I was there after the Official Languages Act was passed, and I do not think it is right. That is all. Go ahead and proceed. If you want to proceed and create a precedent, then go ahead and do it.

Senator Murray: The situation that my honourable friend describes could not happen. It could no more happen that we could pass legislation in one language in this house than it would happen that my friend's words, spoken tonight in English, would not appear tomorrow in French, as they will. There will be two *Hansard*s, as there always are, a French version and an English version, which, as we know, have equal official status. We do not legislate in one language. We legislate in two languages, but it is the right of any honourable senator to speak, as my friend has just done, in the language of his choice and to present a motion or an amendment in the language of

his choice. It is the duty of the administration of this place to provide the official version in the other official language.

Senator Thériault: If I understand the requirements of the law in my province, in the Parliament of Canada and in the Parliament of Quebec, after the Official Languages Act was passed, and as a result of a decision of the Supreme Court of Canada, by which legislation in the province of Manitoba was annulled because it was passed in only one language, then it does not matter what language I speak, because what I say is not law; but the amendments that are proposed tonight would be if they passed. I know that the Leader of the Government in the Senate knows that he is going to defeat these amendments. That is his prerogative. He has a bunch of people over there who are going to vote against the amendment. However, it could have been some minor amendment on other legislation that passed without anyone saying anything, and it would have passed in one language only, and I think it could be a precedent. I am not sure. I am not a legal expert. I am not sure whether it would be a legal precedent. It is some sort of precedent, and some 20 years down to the road, somebody may look it up to see what happened. I have said what I wanted.

[*Translation*]

Senator David: Honourable senators, with your permission. I could make my speech tonight so that you could prepare the appropriate documents for tomorrow, as suggested by Senator Thériault.

Instead of discussing the procedure for half an hour, let us proceed with the speeches on the substance of this issue.

With your permission, Senator Haidasz.

Senator Haidasz: Agreed, Senator David.

Senator David: Honourable senators, the abortion debate was revived by the January 28, 1988, decision of the Supreme Court striking down section 251 of the *Criminal Code* and abolishing the institutional therapeutic abortion committees. It has given me the opportunity to express my views on the issue in this House on two occasions.

On June 16, 1988, I spoke on a motion put forward by Senator Haidasz introducing Bill S-16 concerning abortion. I opposed this bill which called for life imprisonment for inducing an abortion and a term of two years for the woman requesting it.

I had tried to strike an equitable balance between my personal and medical convictions on the one hand and my parliamentary accountability on the other.

The fundamental value, for me as for Senator Haidasz, was and still is the right to live. I agree with the majority of scientists who assert that life is passed on at the time of conception and that the age of the resulting human being is that of its development. At any stage of development, to destroy the embryo or the foetus is to destroy the life on which the human structure is built.

From the Hippocratic oath to that taken in Geneva in 1948, the medical ethic always had the same objective: absolute respect for life.

[Senator Murray.]

In 50 years, attitudes in our so-called civilized society have changed, and the rules of medical ethics have become more flexible. Tolerance has taken the place of rigid individual values, and medical students no longer swear a Hippocratic or Geneva type oath.

In the past 20 years, the number of abortions, as you pointed out, Senator Haidasz, has varied from 60,000 to 72,000 annually. That is the reality that we, as a parliamentarians, must face, whether we want to or not. My conclusion was that abortion was still a reprehensible act, but I could not condemn a woman who had an abortion. I had foreseen that any legislation would be judged to be too permissive by the pro-lifers and too restrictive by the pro-choice people. That is why I felt that the motion, you put forward that year, Senator Haidasz, was incompatible with the present context of our society, and that is why, as a parliamentarian, I sincerely objected to that motion.

In the summer of 1989, the Chantal Daigle case, perhaps too soon forgotten, was given spectacular coverage by the media. The government was judged very severely by many editorial writers because there was no national legislation on abortion. To sound out the views of members, three motions covering a range of alternatives, from the most permissive to the most restrictive, were tabled in the House. None of these motions was accepted and the government was accused of failing to act responsibly because it avoided tabling specific of legislation.

Meanwhile, honourable senators, to try and get a better perspective on this very complex debate, I did some research on the way legislation developed in five democratic countries, our own, the United States, England, France and not at the time—this was only two years ago—was called West Germany. This study, which I called the abortion dilemma, was the subject of my second speech on June 19, 1990, on second reading of Bill C-43.

Interestingly, in all countries covered by the study, the abortion debate provoked intense discussion and division. Nevertheless, all polls taken in those five countries showed that the majority—60 per cent—of citizens wanted legislation that would be a compromise between the two extremes of pro-life and pro-choice. The health of the pregnant woman is almost always the key issue in the various types of legislation proposed. It is often generally interpreted in its broadest sense, including physical, mental, psychological, and sometime social and economic considerations. The general trend in these countries was, generally, a transfer from criminal legislation to health legislation.

Canada's case is unusual, because the federal government has exclusive authority in criminal matters, while the provinces have jurisdiction over the *Civil Code* and health matters. I think this is particularly important if we are to understand and accept the particular status of Canadian federalism.

Bill C-43, within the only possible context of the *Criminal Code* of this country, sets forth three basic principles.

First, abortion is a medical act and is thus covered by the Canada Health Act. Women can therefore take advantage of this legislation which provides for free health care, portability and accessibility. We will get back to this last aspect later on.

Second, only a certified physician in the province where the abortion takes place can perform the operation.

Third, the abortion can be performed if, in the opinion of the physician, the health of the pregnant woman is threatened for physical, mental or psychological reasons.

Its seems to me the advantages of Bill C-43 far outweigh its disadvantages. Considering that in that respect no country has been able to reconcile all viewpoints, I voted in favour of this bill which amounted to a compromise that seemed to me to be more acceptable than a legal void.

These thoughts which I tried to sum up as briefly as possible are the essential points of my previous speeches.

Today, honourable senators, I will try to convey my feelings about the arguments made by medical organizations that are in favour of rejecting the bill. The brief presented by the Canadian Medical Association in particular which speaks for 45,000 Canadian physicians in all provinces and the two territories surely deserves very serious consideration.

I fully appreciate the opposition of physicians to "the criminalization of abortion" because it is "the only medical act subject to criminal charges". However I believe that active euthanasia as well as certain genetic and reproductive techniques will eventually be deemed to be the object of special legislation. Still I will limit my comments to abortion.

Honourable senators, in the eyes of a good many people abortion, whatever the gestation period during which it is performed, is in itself a criminal medical act inconsistent with medical ethics. This is why, even though as a medical act it is a relatively simple and banal medical procedure, the very purpose of the act makes it altogether different from all other medical procedures. In any case and as far as I know, it is the only medical act which simultaneously has to do with the health or life of two patients—one might say two "persons"—which is aimed at bettering the life of a patient while destroying a potential life, that of the foetus.

• (2130)

In my opinion, the decision to perform an abortion greatly exceds the "normal context of a physician-patient relationship". In fact, Canada's obligation to deal with abortion in the *Criminal Code* rather than in a health program which would be outside its jurisdiction might be the lesser of two evils because it emphasizes the seriousness of a medical procedure which, according to the Canadian Medical Association, should be carried out only "after a consciencious analysis of all the other solutions". In this sense, Bill C-43 greatly reduces the triviality of this technique and reminds us that this procedure can be used only for causes which might jeopardize the physical, mental and psychological health of the woman involved.

In this context, I have difficulty agreeing with the statement to the effect that the government "should have concluded that abortion should be considered like any other medical procedure".

Honourable senators, the insistence on the word "criminalization" seems to me to be both abusive and alarmist. It overlooks the facts that the sub-sections which were struck out by the Supreme Court in January 1988 were also part of the *Criminal Code* and that this legislation referred to "health" without any definition. The precisions in this legislation seem to me to be very relevant to avoid the criminalization of this procedure. Previously, a pregnant woman had to submit her case to the members of a therapeutic committee (where the presence of her physician was mandatory) and obtain the necessary authorization. Today, the decision is left to only one person, her physician.

By comparison, Bill C-43 appears to me to be a real progress, because the definition of health includes physical, mental and psychological considerations. The therapeutic committee's authorization certainly removed a heavy burden of responsibility from the shoulders of the physician carrying out the abortion, but it interfered just as much, if not more, with the normal physician-patient relationship. The elimination of this restraint should in fact increase accessibility. The Canadian Medical Association stated that usually a patient seeks the advice and professional help of her physician who should be able to assume that she is telling the truth. The same remark could apply to the therapeutic committees in 1969.

A bill which would foster lying could not be in the best interests of our country, according to the Canadian Medical Association which stated that it is not in favour of abortion on demand and that this procedure should not be considered as an alternative to contraception. Considering that a physician can always refuse to treat a patient, except in an emergency, I believe it is his responsibility not to recommend an abortion if he feels that it is not warranted.

The Canadian Medical Association focuses on the increasing number of physicians who would refuse to perform abortions. It also emphasized the fact that they will be subject, to harassment and possible court proceedings. The Society of Obstetricians and Gynaecologists provided figures which certainly impressed several parliamentarians. It is important to note that 873 physicians were polled by this organization and that out of 464 who had performed abortions, 275 indicated that they would stop if Bill C-43 were adopted. The Association felt that this percentage has increased since that poll was taken. Personally, I am quite skeptical, not about the figure of the expressed intentions, but about the middle and long-term realism of their significance.

My impression is that a physician who keeps well structured files in keeping with the not very restrictive demands of this bill will be well protected and free of all sanctions. I think it makes perfect sense that the physician has the same responsibilities with respect to this medical act as he or she does for any other medical act. Today's doctors, as we all know, must practice "defensive" medicine to avoid exposing themselves to court actions which are becoming more and more frequent.

The best defence is properly kept medical files and in this case, a good relationship with the patient.

As far as harassment is concerned, I don't think Bill C-43 clarifies anything whatsoever, and I think it may in fact aggravate certain situations. Harassment already exists in this area and will continue, I imagine. We can expect test cases to be brought before the courts to test the validity of the legislation and eventually, the Supreme Court may be expected to rule on its constitutionality. I will let colleagues with more expertise than I have—I hope you will clear up this point Senator Beaudoin—discuss these legal and constitutional issues.

Honourable senators, accessibility in remote areas appears to be another concern of the Canadian Medical Association. To my knowledge the problem already exists. Thanks to praiseworthy efforts by the provincial governments, progress has been made but mainly in general practice. As far as abortion is concerned, there are two factors that must be considered: there is often a lack of doctors who do abortions in remote areas and there is also the desire of members of these communities to remain anonymous. As in every specialty, a medical act tends to be safer when the appropriate technique is used by enough patients to ensure that the practitioner is capable. However, we must not underestimate the desire for anonymity. And in this respect, our large urban centres, whether we like it or not, are better equipped to meet this need than small towns.

A final argument is the additional resources that will be needed to meet the criteria. The Canadian Medical Association referred to the systematic psychiatric evaluation of psychological tests and a psycho-social evaluation, in order to minize the risk of criminal proceedings. Assuming the statement is not exaggerated, I personally see this as an advantage. It would give the women involved some time—within reason—for reflection and possibly for making a more considered decision and dealing with ways to plan and to achieve more effective use of preventive measures and of course education, especially when we are talking about teenagers who cannot always depend on finding adequate resources in their family or social environment.

Finally, doctors admit that making abortion a "medical act" is the only way to make the provinces responsible for including it as part of universal and free health care services. That being said, I fail to understand why some witnesses claim that the bill discriminated against the poor, the young and immigrant women. I find it hard to understand why this bill would be judged to be useless and inappropriate. I wonder why Canada, of all industrialized democratic countries, should be practically the only one without abortion legislation. In testimony before the committee, Mr. Gilles Létourneau, president of the Law Reform Commission of Canada, said:

● (2140)

[*English*]

> If we look at the history of legislation on abortion we will see that in Canada, at least, roughly every 20 years the issue comes back again. I think it was discussed in the early fifties, then in 1969 and now in 1991. The law is not a static thing. It evolves to suit the needs of the population.

[Senator David.]

[*Translation*]

In his preamble, he said:

> We all know that this bill deals with a very delicate issue on social, moral, ethical and religious grounds. We all know that the ideal solution, which would solve all problems, does not exist in our world already so imperfect. [. . .] We sincerely believe that Bill C-43 represents such a compromise et we are here today to support this bill.

Honourable senators, I have covered two of the three aspects outlined in the committee report, that is criminalization and accessibility, due to the opting out of some of the medical practioners. I leave the matter of the bill's constitutionality to more knowledgeable colleagues.

In conclusion, the committee did not propose any amendment in its report. I am convinced that any proposal to amend this legislative text would jeopordize the delicate balance of Bill C-43.

Honourable senators, I find the designations of the two groups opposing this legislation, the pro-life and the pro-choice, better suited than the one suggested by some members of this House as anti or pro-abortion. In fact, I do not think that any member of the Senate is for abortion *per se*. The choice is between rigid basic principles and more flexible attitudes of human compassion.

As parliamentarians, our role is precisely to try to support a consensus of 60 per cent of the various populations surveyed in our research effort who are in favour of a law which would be neither too permissive nor too restrictive.

It is only by taking such an attitude of compromise that the Minister of Justice, Mrs. Kim Campbell, who in fact declared herself as pro-choice, and myself, always a pro-life, accept the proposed legislation, because we know very well that no law could be applied if it were completely satisfactory to the supporters of one group or the other.

Given these conditions, we cannot expect to escape the reality that abortion has become a feature of our modern societies. It is much easier to criticize this bill than to try to devise another one which would be acceptable to every group heard by the committee.

Honourable senators, by voting down this bill, the Senate would take responsibility for a renewed "legal vacuum" which has been strongly condemned after the events of the summer of 1989. Such an action would have the effect of transferring our legislative responsabilities to the various judicial levels. In my opinion, this would show the people that we have neither the courage, nor the expertise, nor the wisdom to legislate on an issue which has been the centre of countless debates, studies, opinions and suggestions, ever since the Supreme Court rendered its decision, three years ago today.

All these considerations led me to share the views of the representatives of the Law Reform Commission of Canada, which recommended that Bill C-43 be passed.

To conclude, I would like to suggest, honourable senators, that the federal government, in cooperation with the provincial governments, shows leadership by launching an education and prevention campaign to reduce the number of abortions. I think that I am unwittingly repeating what Senator Chaput-Rolland was saying. We must do everything possible to prevent that a medical procedure almost without risk become an alternative to family planning.

We must promote the family and give back to our people the desire and the pride of having children. We should plan for a greater consistency in order to do away with irritants, both social and economic, which prevent couples from raising a family. We have to lessen the burden of children on working mothers, without neglecting the value of the work performed by the mothers who chose to stay home.

Honourable senators, I am glad I had this opportunity to share with you my thoughts on a subject which has been troubling me for a long time. I thank you for your kind attention at this late hour.

• (2150)

[*English*]

Senator Haidasz: Honourable senators, I believe you have received a French translation of my amendment No. 6.

Senator Phillips: I have not received an English translation.

Senator Haidasz: It is an oversight.

The Hon. the Speaker *pro tempore:* Honourable senators, before we proceed to Amendment No. 6, is it agreed that Amendment No. 5 will be deferred, as with the previous amendments?

Hon. Senators: Agreed.

MOTION IN AMENDMENT—DIVISION DEFERRED

Senator Haidasz: Under Amendment No. 6 I move:

> That Clause I of Bill C-43 at page 2 thereof be amended by striking lines 1 through 16 thereof and at page 1 thereof be amended by striking lines 4 through 24 thereof and substituting therefor:
>
> 1. Section 287 of the Criminal Code is repealed and Section 223 of the Criminal Code is amended at subsection (2) thereof by deleting from the last line thereof the final words "after becoming a human being."

Honourable senators, the vacuity in law which both former Section 251 as amended and the present Bill C-43 were created to fill was itself created artificially in an amending formula of the Omnibus Bill of 1968-69. This vacuity has led to abortion on demand in this country regardless of efforts to clarify such matters as a definition of health or the protection of physicians by hospital boards. The amendment I propose here will close the vacuity by allowing section 223(2) of the Criminal Code to provide protection for the unborn child, as it used to, under former section 206(2) of the Criminal Code.

Until we can find agreement on the most effective way to deter criminal abortions and the veritable holocaust of Canadian children, we should follow the advice of Doctor Bernard Nathanson, who appeared before the committee some few days ago and advised us to "put a moratorium on all abortions." This advice comes from the man who deeply regrets having helped to start the whole seditious ball rolling in New York, where he founded the Abortion Rights Action League, supervised many thousand abortions, and invented the tactics of false statistics on back-street abortions and slogans, such as "every child a wanted child." Today he is thankful for the voice of truth which, in a tiny nun, Mother Teresa, cries "Every child is a wanted child."

Honourable senators, to prove it, let us close the vacuity in Canadian law by adopting this amendment.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that this amendment shall be deferred, as were the previous amendments?

Hon. Senators: Agreed.

MOTION IN AMENDMENT—DIVISION DEFERRED

Senator Haidasz: Honourable senators, I come now to the final amendment, Amendment No. 7, which is substantive in nature. I believe you all have the French translation, as I have one here. I move:

> That Clause 1 of Bill C-43 at pages 1 and 2 thereof be amended by striking out section 287 as set out in that clause and substituting therefor the following:
>
> Abortion or induction of miscarriage
>
> 287.(1) Every person who by any instrument or by any drug or poison or by any means causes with intent the death of a nascent human being is guilty of an offense commonly called "abortion" and is liable on indictment to imprisonment for a term not exceeding ten years.
>
> Medical intervention to deliver
>
> (2) A procedure to deliver a child prior to term from its mother's womb is not an offence under section 287 when the procedure is performed with every precaution available to medicine to preserve the life of the nascent human being throughout the procedure by or under the direction of a medical practitioner who in good faith has formed the verifiable medical opinion that the life of the mother is endangered by a condition of health that is complicated by the condition of pregnancy.
>
> Definitions
>
> (3) for the purposes of this section and for the purposes of this Act,
>
> "medical practitioner" means, in respect of a medical intervention performed in a province, a person who is lawfully permitted to practice obstetrical or gynaecological medicine in that province;

"medical opinion" means a medical assessment of the mother's situation which is formed using generally accepted standards of the medical profession and based on verifiable medical evidence;

"deliver a child" means to undertake a procedure to bring forth the nascent human being by surgical or chemical means, abdominally or vaginally, or by severence of the fallopian tube in the event of ectopic pregnancy in accordance with standard medical practice;

"mother" means the female person whose body produced the ovum that generated the nascent human being, or when that female person is not recognized in law, the person who is pregnant with the nascent human being;

"nascent human being" means the living product of a union of a human spermatozoon and a human ovum.

"life" means the state that belongs to one or more products of conception by human beings in such manner as produces, when not interrupted, the living state of every human being defined at Section 223 of this Act."

"living" means existing in the state of life."

Honourable senators, it should be clear by now, from our discussion, from the remarks made in this chamber, and everything that went on in the committee and is included in the report, that I believe there is real confusion over the intended principle of Bill C-43. Those who believe that Bill C-43 is meant to criminalize abortion, albeit weakly, have shown support for strengthening penalties against hardened abortionists for providing for conscious exceptions from abortion procedures by medical staff and even for according what little protection Bill C-43 offers to a child in its first days of life. On the other hand, there is support for a principle for providing a national standard for the conduct of physicians and health-care providers in dealing with procedures that terminate pregnancies, especially when the procedure can result in the unintended death of the child. Let us recall, as Senator Fairbairn also noted earlier today, that the reason for devising special legislative guidelines for abortion in 1969 was the concern of doctors about the risks of prosecution when their otherwise healing arts, in cases of necessity, required that they interfere with the course of pregnancy to deliver health care to a mother. Interfering with pregnancy often resulted in death to a child; as often as not, death after delivery.

● (2200)

I see it as a genuine desire to afford greater protection still for physicians who may have doubts about what risks they may undertake to a child in delivering health care to its mother, that there is support for the requirement that attorneys general, even at the federal level, initiate any proceedings against an alleged criminal abortionist.

But, honourable senators, support has been uneven in all these areas, since there are still many who suppose that ever since 1988 Canadian law cannot introduce restrictions on access to abortion. I have already pointed out how incorrect that view is. The abortion of approximately 80,000 Canadian children a year must definitely be restricted, reduced, even eliminated. Truly is it said that "one cannot legislate morality," but one starts with the law. Certainly it is seditious in the extreme to legislate immorality.

As senators probably know by now, the issue of Bill C-43 is really two-fold. First is the need to criminalize abortion in order to protect the human fetus. As every Justice of the Supreme Court agreed in the 1988 Morgentaler case, including the much-cited former Justice Bertha Wilson, protection of the fetus—and I underline protection of the fetus—is a legitimate and primary objective of a law on abortion. Why else would we be here, honourable senators, discussing Bill C-43?

Legal expert, Gwen Landolt, appearing before our committee, put it succinctly in her analysis of the rather political opinions put before your committee under the guise of legal facts. She pointed out that the Supreme Court of Canada made quite clear, even in the earlier 1976 Morgentaler decision, that the purpose of the abortion law has always been to protect the lives of unborn children against abuses of liberty. In one simple way of looking at it, many crimes may be seen simply as abuses of liberty.

I want to bring to your attention the contents of my speech in this chamber on June 26 of last year when I spoke not only to my Bill S-16 but also to Bill S-7. I do not want to repeat all that evidence. However, I would like to make the following remarks at the present time.

The protection afforded by the Canadian Charter of Rights and Freedoms, of the rights and freedoms of all its subjects, expresses the need in Canada to preserve and continue that society at its very point of origin, from the hand of the Creator whose supremacy is the foundation of the self-same Charter, the Canadian Charter of Rights and Freedoms Section 1, until natural death. The protection to human life, given since earliest times at common law, always incorporated protection of the child, before and after birth, a reflection in part of the desire of human beings to preserve and perpetuate human society. The Supreme Court of Canada requires the guidelines of a normative or definitive nature, concerning the law's protective interests in mothers and their children, for the common good, as one finds in reading the judgment in the Daigle case of 1989, to which Senator David referred a few moments ago. That is precisely what a clearly-worded bill achieves, whose intent is also clear, and not the politically coloured intent of one minister of Justice or one justice of the Supreme Court.

As one final word, honourable senators, let me repeat to you what I am duty bound, as a thinking Christian, to say, for those who must want to know the clear teaching of the Christian church. I refer you to the observations made earlier today by my friend and colleague Senator John Macdonald of Cape Breton to the effect that some Catholic bishops in Canada are too fearful of seeing Bill C-43 disappear from these houses of legislature with nothing to replace it. It may encourage you to note that at last I received, as of Friday last,

from the Permanent Committee of the Canadian Catholic Bishops, a letter written by their chairman, Bishop Lebel, in which he says the following:

> The position of the Conference remains that outlined in our submission to the parliamentary committee on January 31, 1990. We said then the bill was "seriously flawed" and we called for a number of amendments.

The letter goes on to say, with regard to the amendments I had suggested to them as late as last week, "Your proposed amendments," Senator Haidasz, "are in general of a kind that we had in mind and, as such, have our support."

It may also interest honourable senators to note that in one point at least we are at a juncture where the pro-life movement, as represented by Campaign Life Coalition, and the Christian Church, are in agreement even on method: boths arms have expressed the support for the substantive amendment that you have before you.

Father Alphonse De Valk, who embodies the very unity of faith and morals this agreement should represent, speaking of Bill C-43 in its unamended form stated:

> When Roman Catholics vote in favour of this bill, they vote against human reason, Christianity, and the teaching of their (own) church. These teachings have been consistent for 2000 years in absolutely rejecting the legitimacy of killing the unborn. There is no such thing as a woman's right to kill her unborn baby.

To demonstrate that this is not just an opinion, I must quote again the statement of Canada's Western Bishops who are also in agreement. They stated: "Bill C-43 as it stands, does not provide the required protection for the preborn." All bishops, to teach with authority, assent to this statement from Rome, which reads, for the good of all society:

> . . . it must be taken as absolutely certain that one may never obey an intrinsically unjust law, such as a law approving abortion in principle. One may not take part in any movement to sway public opinion in favour of such a law, nor may one vote for that law.

For what it may mean to honourable senators, and for me it is the gospel truth, Bill C-43 is a dangerous sham as worded, and the only way it can be shaken down to something I can vote for, and I suggest the same is true for many of you, is through this substantive amendment which is before you.

Honourable senators, may I conclude by stating that I refute what Senator Kirby stated earlier in the chamber about so many Gallup polls that are in favour of pro-choice. In 1989 and 1990 I conducted a poll by myself which was sent to 67,000 homes across Canada, and not the 1,400 telephone calls that these Gallup polls make. With the approval of honourable senators, I should like to table as an appendix to today's *Debates of the Senate*—because it is already 10:15 p.m.—the results of that survey. It is two pages long.

• (2210)

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

Hon. Senators: Agreed.

(*For text of survey, see appendix, p. 5245.*)

Senator Haidasz: Thank you very much, honourable senators. That is the end of my intervention. I thank you for your great patience and understanding.

Hon. Orville H. Phillips: Honourable senators, it is not my intention to intervene in this debate. However, I should like to point out that earlier in the day Senator Frith suggested that in accepting the amendments we were not bound to the view that the amendments were in order.

This evening Senator Nurgitz raised a point of order on at least one amendment. It may expedite the debate from here on in if the Chair would rule on all amendments as to whether or not they are in or out of order. It would expedite the debate from here on in if the Chair would do so. When the Chair is ruling on amendment No. 5, for example, it would rule on all the amendments. We may thereby save a lot of time debating whether amendment such and such is in order.

I am sure the Chair would find a number of us on this side, myself in particular, in agreement with the Chair's ruling. I am thinking of a previous occasion. I would hope that the Chair would not have the difficulty with the other side that it has had on previous occasions. Therefore, with the greatest of respect, I would request that the Chair rule on all the amendments.

As I said earlier, it is not my intention to speak on Bill C-43. I know there are others who, in their wisdom, are not present at this hour of the night. Therefore, I wish to move the adjournment of the debate with the understanding that anyone who wishes to speak may have the floor.

Hon. William J. Petten: Honourable senators, I would agree with what Senator Phillips has said. We have at least one person on this side who would like to take part in the debate tomorrow. I am in complete agreement.

On motion of Senator Phillips, debate adjourned.

BUSINESS OF THE SENATE

Hon. Sidney Buckwold: Honourable senators, may I ask whether it is possible for the Senate to meet tomorrow morning, say, at 10 a.m., in view of the fact that there are no caucus meetings? Is there any reason why we cannot do that? It may interfere with committees, but normally there is caucus. However, I gather that is not taking place tomorrow. It may save us some time towards the end of the week.

Hon. Orville H. Phillips: Honourable senators, I did not know that the Honourable Senator Buckwold had cancelled our caucus for tomorrow morning. As chairman of our caucus, I rather resent the cancelling of our caucus.

The Hon. the Speaker *pro tempore*: Honourable senators, we have not settled the question of the seventh amendment. Is it your wish that the seventh amendment be deferred as the previous amendments were?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable Senator Phillips has proposed that the Chair should rule on the admissibility of all the amendments. I should like to point out to honourable senators that normally when the Chair is asked to rule it is because there is contention and argument is given on both sides. However, if it is the wish of the Senate that we look at all of the amendments, we can do so. Is it agreed, honourable senators?

Hon. Senators: Agreed.

• (2220)

Hon. Peter Bosa: Honourable senators, I concur in what Senator Buckwold suggested earlier with regard to sitting at 10 a.m. tomorrow morning. I suppose that he was not aware that there was a caucus meeting tomorrow of government supporters.

However, I would point out that Thursday morning is free and that if we cannot dispose of all the legislation within these two days, then perhaps we could start early on Thursday morning to cope with the workload.

Senator Phillips: Honourable senators, I think that we can leave the question of Thursday until we see how things go tomorrow. I hope that we will be able to make considerable progress tomorrow and possibly end the debate on Wednesday with a vote on Thursday. Prior to that we can probably deal with the broadcasting bill.

I know that the honourable senator wishes to get back to Toronto on Thursday. I think he can relax and plan to take the six o'clock flight.

I move that all remaining Orders, Inquiries and Motions stand.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 5243*)

ABORTION BILL

NATIONAL SURVEY ON ISSUE — PRESS RELEASE

THE SENATE OF CANADA LE SÉNAT DU CANADA

Hon. Stanley Haidasz
Toronto - Parkdale
(613) 992-2713

213-15 East Block
Ottawa, Ontario
K1A 0A4

PRESS RELEASE

Senator Stanley Haidasz conducted a national survey seeking the opinion of Canadian adults on the important issue of abortion.

The abortion survey was conducted in the winter of 1988-89. A total of 67,000 questionnaires were sent out, prefaced by a letter and up-to-date information about the abortion issue in parliament. Delivery achieved was 64,555 - that is 94.3%. Total response received was 10,188 which represents a participation level of 16.4%. As the average number of adults in each home is 2.1, the data collected therefore represents opinions of 21,395 adults.

The survey also showed clearly a strong desire to have access to abortion severely restricted. Only 14% of respondents wanted unrestricted access to abortion, as is now the case -- abortion on demand -- following the January 28/88 majority decision of the Supreme Court of Canada. In view of the vacuity in abortion legislation and the inaction of the federal government revealing its own lack of **leadership and moral courage, Senator Haidasz introduced in the Senate** proposed legislation restricting abortion. This legislation called Bill S-7 received first reading in the Senate on September 26, 1989. **This bill responds to the majority view of respondents to this survey.**

RESULTS OF THE SURVEY

1. HOLD STRONG VIEWS ON ABORTION ISSUE 75%
   Consider other issues more important 22%
   Little or no interest 2%

2. Aware there have been 1 million approved abortions since 1969:
   Yes 41%; No 59%

3. Aware that most abortions were paid for by Medicare:
   Yes 50%; No 48%

4. BELIEVE INDIVIDUAL HUMAN LIFE BEGINS:

AT CONCEPTION	66%
At 12 weeks	12%
Later	5%
At birth	16%

5. CONSIDER AN UNBORN CHILD AT ANY STAGE TO BE A HUMAN BEING;
   YES 73% No 25%

.....2

6. Do you agree that all human beings have an ABSOLUTE RIGHT TO LIFE AT EVERY STAGE OF THEIR DEVELOPMENT UNTIL NATURAL DEATH?

AGREE	69%
Disagree	23%
No opinion	8%

7. On which STANDARD would you most prefer a new abortion law to be based:

a) ABORTION to be ILLEGAL unless the MOTHER'S LIFE ENDANGERED 53%

b) Abortion permitted up to: 8 weeks 12%
12 weeks 14%
16 weeks 8%
of a pregnancy; illegal therafter.

c) Abortion permitted on request at any time: 14%

8. If answer to previous question was b), which of these reasons do you consider acceptable for an abortion:

Child may be born with an abnormality	25%
Financial reasons	8%
If child may not be of sex wanted	0%
If pregnancy from rape or incest	31%
Any reason (free choice)	14%

9. Do you object to the use of Medicare funds for abortions?

YES 50%; No 50%

10. Would you approve of public funds being allocated to provide financial assistance to pregnant women in poverty circumstances so that their children will be born, then kept or adopted?

YES 77%; No 23%

11. Do you know where your MP stands on the issue of abortion?

Yes 23% NO 77%

NOTE: About 1% of respondents did not answer every question.

THE SENATE

Wednesday, January 30, 1991

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

Prayers.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, petitions against the GST are still coming in, and like the previous ones, they are all addressed to me.

I will start with seven petitions from the province of Quebec. Here is one I picked at random, from the Montreal area.

(*Names of signatories read*).

I have another one here from Amos, Quebec.

(*Names of signatories read*).

In all cases, the petition was duly signed by all petitioners.

I have a third one from Amos, Senneterre, Val d'Or and Hull, in Quebec.

(*Names of signatories read*).

I see here many names from Rochebaucourt, an area in Quebec which I mentioned yesterday.

(*Names of signatories read*).

This one is also fully signed.

I shall continue with a petition from Amos, in Quebec.

(*Names of signatories read*).

It seems most of these petitions are from people in rural communities.

I shall continue with another petition from the province of Quebec, also from Rochebaucourt.

(*Names of signatories read*).

Honourable senators, I have another one here from Senneterre, Amos and Val d'Or, Quebec.

(*Names of signatories read*).

For today, those are all the petitions I have from Quebec. As usual, these petitions are worded as follows:

> Wherefore your petitioners humbly pray and call upon senators and members of the House of Commons, as true representatives of the people, to do everything in their power to oppose the new goods and services tax, and we insist that an election be held immediately.

These seven petitions contain about 20 names each, which gives us a total of about 140 names.

[*English*]

Honourable senators, I have four petitions from Cambridge, in which the petitioners are calling upon senators and MPs, "true representatives of the people," to do everything possible to abolish the new goods and services tax and to demand a general election immediately. These Canadian producers—some of whom, I take it, are farmers—are busily pursuing their activities and flooding the market with products, yet they have no financial improvement. The petition states that the government must therefore set up a national credit office to create the money required by the existence of new wealth and abundance.

Honourable senators, I have more petitions from Rexdale. Included is the name of a petitioner from Cambridge.

(*Name of signatory read*)

Some signatures are from Cambridge and some are from Toronto.

(*Names of signatories read*)

The third petition is from Oakville, Ontario. Most of the signatories are from Oakville.

(*Names of signatories read*)

Today alone, honourable senators, some 220 Canadian citizens point out that petitions against the goods and services tax and the demand for an immediate election are, to quote Senator MacEachen on an earlier occasion, apparently infinite.

I have an additional petition with only three names on it. It says "DDO." I am not sure what that is, but I will file the petition nevertheless. The petition is indicative of the continued unpopularity of the government and demonstrates the rage of Canadians against the present government and its infamous tax.

ABORTION

PRESENTATION OF PETITIONS ON BILL C-43

Hon. Lorna Marsden: Honourable senators, I have three petitions to present from citizens who are protesting Bill C-43. They are calling upon the Senate to defeat this bill for reasons which have been clearly explained in speeches in this chamber over the last day or so.

The first petition contains six names of people from Cranbrook, Kimberley, and Wasa, B.C., who are calling upon us to defeat Bill C-43.

The other two petitions are signed by people from Toronto and the surrounding area. The first one has on it 65 names. They have extended this petition by several pieces of paper. All of these petitioners, who are Canadian citizens, are distressed at the thought that Bill C-43 may pass, and they urge the Senate to defeat this bill.

The third petition is signed by 11 citizens from Toronto, who call on the Senate to defeat Bill C-43. I hope that honourable senators are paying attention to the breadth and depth of the petitions we are receiving.

THE CONSTITUTION

NEGOTIATIONS WITH QUEBEC—NOTICE OF MOTION TO REQUEST RESIGNATION OF PRIME MINISTER AND MINISTER OF STATE FOR FEDERAL-PROVINCIAL RELATIONS

Hon. Philippe D. Gigantès: Honourable senators, I give notice that tomorrow, Thursday, January 31, 1991, I will move:

> That the Prime Minister and the Minister of State for Federal-Provincial Relations resign because they do not have the confidence of Canadians to speak for the federation in negotiations with Quebec.

• (1410)

QUESTION PERIOD

CANADA POST

ADHERENCE TO REGULATIONS—GOVERNMENT ACTION

Hon. Phillipe D. Gigantès: Honourable senators, the post office is passing from the sublime to the ridiculous. On Sparks Street, at the corner of Elgin and Sparks, there is a sign in the post office that states "Postal products destined for foreign countries are not subject to the GST." The sign is in white letters on red. Ahead of me in the line was a young lady who said, "Why are you making me pay GST? I am sending this letter abroad." The employee behind the counter said, "I have my orders. You pay the GST or your letter doesn't go"; so the young lady paid the GST. I was next in the line and I said, "The young lady said there is a notice there. Why do you want me to pay the GST?" He said, "If you are going to start that, then I am going on a coffee break."

I should like the Leader of the Government in the Senate to please instruct whichever minister is responsible for Canada Post either to take down the sign or to tell the employees to obey it. This is typical of this government: they always speak out of both sides of their mouth.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall see that Canada Post, which is an autonomous crown corporation, is made aware of the honourable senator's representations.

[*Translation*]

BUSINESS OF THE SENATE

HONOURABLE JACQUES FLYNN—STATUS OF ACCOUNT

Hon. Eymard G. Corbin: Honourable senators, I would like to ask the Leader of the Government if he received Mr. Jacques Flynn's statement of account.

Hon. Lowell Murray (Leader of the Government in the Senate and Minister of State (Federal-Provincial Relations)): No, honourable senators.

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to three questions that I would ask to be printed as part of today's proceedings. The first is in answer to a question by Senator Hays, dated January 17, requesting plans for further Outlook Conferences. The second is in answer to a question asked on January 22 by Senator Olson regarding short-term financial assistance for farmers. The third is in answer to a question asked on January 24 by Senator Olson regarding the scheduled resumption of the GATT meetings.

AGRICULTURE

PLANS FOR "OUTLOOK" CONFERENCE

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 January 17, 1991, by the Honourable Dan Hays regarding Plans for further "Outlook" conferences.

(*The answer follows:*)

> The Minister of Agriculture with the "Growing Together" Conference of last year established a format for interchange and exchange of ideas between all stakeholders in the agri-food industry and government—a format which he intends to continue.
>
> The Minister of Agriculture in fact proposed to his provincial colleagues at the Federal-Provincial Meeting of Agriculture Ministers in Winnipeg last November, that a similar type of forum be held this spring. The consensus in Winnipeg was that the spring was not the most opportune time and therefore the decision was taken by federal and provincial ministers to postpone plans for such a conference until another time this year.

AGRICULTURE

GENERAL AGREEMENT ON TARIFFS AND TRADE—CANADIAN SHORT-TERM FINANCIAL REQUIREMENTS

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 January 22, 1991, by the Honourable H.A. Olson regarding short-term financial assistance for farmers.

(*The answer follows:*)

> On October 13, 1990, the government announced the Cash Flow Enhancement Program to provide interest-free advances to farmers for the 1990-91 crop year. This program was announced as an interim measure to assist farmers facing serious cash flow problems until a more

effective long-term safety net program could be put into place.

The Cash Flow Enhancement Program allows farmers to receive interest-free cash advances of up to $50,000 under the Prairie Grain Advance Payments Act (PGAPA) and the Advance Payments for Crops Act (APCA).

As of Jan. 2, 1991, $1.3 billion had been advanced under the PGAPA and $245 million under APCA. Some of this money can be used by farmers to cover their operating costs.

Agriculture Canada estimates that this program will provide a benefit of about $95 million in interest relief for the 1990-91 crop year.

In addition, the federal government announced a new generation of safety net programs on January 11, 1991. The new programs, called GRIP (Gross Revenue Insurance Plan) and NISA (Net Income Stabilization Account) will help farmers obtain operating credit this spring because the support is targeted to individual farms and farmers will know the guaranteed revenue for each crop on their farm before seeding.

Farmers can take this information to their lenders when making credit arrangements. The program will also ensure assistance goes where it's needed most because the program is based on individual situations.

The new safety net program isn't going to solve all farm problems. There is uncertainty surrounding GATT negotiations, continuing low grain prices, input costs, requirements for diversification and the need for improved management skills. The problem is multi-faceted and the solution must be multi-faceted. But until the new safety net programs are in place, it is impossible to judge the requirements.

GENERAL AGREEMENT ON TARIFFS AND TRADE

SCHEDULED RESUMPTION OF MEETINGS

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 January 24, 1991, by Senator Olson regarding the scheduled resumption of the GATT meetings.

(*The answer follows:*)

The Vice-President of the EC Commission responsible for External Relations, Mr. Andriessen, met with Ministers from Argentina, Brazil, Uruguay, Chile, Colombia and Mexico on January 25 and attended meetings in Washington on January 28 and meetings in Ottawa on January 29 including a meeting with the Minister of International Trade. In each of these meetings, Mr. Andriessen explored the prospects for resuming the Uruguay Round negotiations.

The Brussels Ministerial meeting reached an impasse last December, mainly as a result of an impasse over the thorny issue of agriculture. Since that time, there has been intensive efforts among the key participants aimed at resuming the negotiations.

Mr. Arthur Dunkel, the Director General of the GATT, has indicated that while he is "cautiously optimistic" he is still in the process of developing a "platform" paper on agriculture which he hopes could provide a basis for resumption.

It is expected that the Dunkel consultative process will reach a critical stage over the next week or so. Canada has been working hard since the Brussels meeting to help develop a basis for resuming the negotiations. We have had extensive ministerial level contacts with the USA, EC and Mr. Dunkel. In all of these discussions, we are stressing the importance of resuming the negotiations and concluding them in the original time frame envisaged under the USA fast track authority.

Following his conversations with Mr. Andriessen, the Minister of International Trade remains cautiously optimistic that a basis for resumption will emerge in the near future. However, for this to occur, all participants will need to show flexibility.

ABORTION BILL

THIRD READING—MOTIONS IN AMENDMENT—SPEAKER'S RULING

On the Order:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips, for the third reading of the Bill C-43, an Act respecting Abortion.—(*Honourable Senator Phillips*).

The Hon. the Speaker *pro tempore:* Honourable senators, before we proceed with the debate on this Order, the Chair was asked, at the last sitting, to rule specifically on what we might call Amendment No. 4 from Senator Haidasz. I have looked over the amendment and would refer honourable senators to *Beauchesne's* Fifth Edition, page 79, citation 240, which states:

> The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

I find that this particular amendment, and the question that was raised, is one of constitutionality and law, which must be settled by honourable senators themselves and not by the Chair. Hence, I leave it to the Senate to decide as to its validity.

I was also asked to rule on the matter of the other amendments presented to us. I have looked them over, and while there might be some questions of form, I find that the amendments are in order and that there is no conflict between them. Because of the procedure we are following, of suspending the vote on the amendments, there was a potential problem of some amendments superseding or contradicting others, that in

the process of voting on them we might find ourselves in some difficulty. However, after looking them over carefully, I see no problems in that regard. Therefore, they are all in order.

THIRD READING—DEBATE CONTINUED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first, I wish to thank Senator Doody for having spoken on my behalf and on behalf of the government in presenting this bill for second reading last June.

The issues raised by this bill—that is, the philosophical, moral, legal, constitutional and administrative issues—have been carefully and conscientiously studied by the Standing Senate Committee on Legal and Constitutional Affairs. Witnesses appearing before that committee have represented the widest possible range of opinion not only on this bill but also on the complex and sensitive subject of abortion itself. All of these witnesses have received the respectful attention of the committee.

I thank the Chairman, Senator Nurgitz, and his colleagues on that committee, for their excellent work. Let me also thank and congratulate all honourable senators who have taken part in the debate so far for their thoughtful and thought-provoking speeches on such a difficult subject.

What can I add to the debate at this stage? In January 1988, when the Supreme Court of Canada struck down the 1969 abortion law, namely, section 251 of the Criminal Code, I became chairman of an ad hoc committee of the cabinet to consider this matter. I mention this because it is already a matter of public knowledge, having been referred to on several occasions in the media. In light of this experience, I will try to address two questions today. First, why are we proposing any legislation on the subject of abortion? Second, why this bill and not some other approach? Why legislate on abortion at all? Let me say a word about public opinion on this matter, because it has been referred to in the debate most recently in the course of Senator Kirby's speech yesterday.

Superficially it appears polarized between what I might call the classic pro-life and pro-choice positions. In reality, however, the majority of Canadians believe that abortion should be permitted under medical criteria and that this should be legislated by Parliament. The January 1988 judgment of the Supreme Court of Canada created a legislative void. From that day forward there have been demands that the government and Parliament act to fill the void. The majority of Canadians, to the extent that their opinions are reflected in the polls that we have all seen, do not support the proposition that Parliament should do nothing. Canadians expect Parliament to legislate on this matter. This is understandable. Abortion is a medical procedure, but Canadians know that it is not simply a medical procedure. Even in the polls that we have all seen on this matter, and which, as we know, have difficulty capturing all the nuances on a subject as complex as this, we can see Canadians instinctively trying to find the balance between the woman's rights and her health on one side, and the protection of the fetus on the other.

● (1420)

In addition to public sentiment weighing on Parliament to fill the void, we have also received a clear invitation from the Supreme Court of Canada to draft a law in accordance with the majority judgment in the Morgentaler case. Senator Kelly referred yesterday to the judgment of the Supreme Court in the Chantal Daigle case wherein the judges invited Parliament to legislate on this matter. When they brought in their judgment striking down the 1969 law they told Parliament, in effect, to try again.

[*Translation*]

The court stated that even if its role was to examine legislation to determine whether the balance which a given law seeks to establish among various interests is compatible with the constitutional guarantees, first it is up to Parliament to establish that balance.

As to the use of the Criminal Code and the federal constitutional jurisdiction over penal matters to pass regulations governing abortion, the court did not question the fact that the purpose of the legislation is to protect the health and the life of the woman and the foetus. Mr. Justice Beetz said that this was a valid objective of Canadian criminal law.

[*English*]

Our colleague, Senator Oliver, has already placed on the record, in the course of an excellent speech on January 24, the statements of Chief Justice Dickson in the 1988 judgment that protection of the interests of pregnant women is a valid government objective, and that the protection of fetal interests by Parliament is also a valid government objective. These references may be found at page 5179 of the *Debates of the Senate*.

To that I would add, for what it is worth, that other countries which legislate on abortion, and I have a list of 25 of them, do so through criminal law prohibitions subject to certain legal exceptions. If Parliament is to legislate on abortion, it is only at this level that we can deal with it; that is, under the criminal law power. Parliament cannot regulate abortion as a national health issue under the Canada Health Act because there is no authority for health to be dealt with in this way at the federal level. The Canada Health Act, as honourable senators know, is not a statute regulating health. It is a statute enacted under the spending power. If this statute were used to regulate the provision of abortion services, it would clearly infringe upon the provincial responsibility for the delivery of health-care services, such as abortion.

This brings me to another important consideration arguing in favour of parliamentary action to legislate on abortion. The 1969 abortion law was in effect for 19 years. Whatever its deficiencies—and these have been defined by the Supreme Court—it had the virtue of providing a legal framework within which the provinces, who are responsible for delivery of health services in our federal system, could act on this sensitive and controversial matter. The provinces decide what health care

services are medically necessary and, therefore, insured under medicare. Generally speaking, they accepted as medically necessary those abortions which were permitted under the 1969 federal law. Once that law was struck down, the provinces were on their own. In most cases they demanded that the federal government and Parliament provide guidance. The provinces demanded that we fill the legislative void. In some cases the provinces moved to fill the void by enacting regulations as to when, where and under what circumstances abortion could be performed and/or insured in the provinces.

I heard Senator Kirby yesterday refer to the uneven situation that exists from province to province and state that Bill C-43 could make no difference in that situation. Well, I cannot foresee the future any better than can Senator Kirby, but the fact of the matter is that some of these provincial initiatives were taken in the absence of a law—that is, after the 1969 law had been struck down by the Supreme Court of Canada. It seems to me that it is the absence of a federal law that encourages or incites provinces to move in and fill the void rather than the passage of a law such as Bill C-43.

• (1430)

As I have indicated, for almost 19 years the provinces, for their purposes, accepted, as medically necessary, abortions that were permitted under the 1969 federal law. Honourable senators will be aware that some of the provincial initiatives to which I referred have been, and still are, the subject of constitutional challenges in the courts. Whatever the final outcome of those cases, they underline the problems caused by uncertainty as to what the law is, especially in a system where constitutional jurisdiction in health is shared between the federal and provincial governments.

To a great extent it was to remove uncertainty about abortion that a previous Parliament was persuaded to act in 1969. When Mr. Trudeau, as Minister of Justice, introduced the amendments which eventually became law, he referred to the pre-1969 situation as follows:

> In fact, no one can say with any degree of certainty what the present law in Canada is in relation to such abortions . . . Some experts claim that there is no defence whatever to a charge of procuring a miscarriage based upon medical considerations; others argue that a miscarriage may be procured if it is necessary to preserve a woman's life; and still others maintain that the law is not being amended in substance in Bill C-195—

which was the bill that he presented

> —but is merely being codified and that the Bill simply reflects what is now being done in hospitals under responsible management by ethical members of the medical profession with the tacit, if not the express approval of those responsible for the administration of the criminal law . . . Whatever divergent views may be held concerning what the law should be, there is, I believe a real need for clarification of this very important matter—important not only to the medical profession but to the public generally.

[Senator Murray.]

That was from a press release from Justice Minister Trudeau dated March 15, 1968.

Now, the uncertainty that prevailed in 1968 is not, in substance, the situation that exists in 1991, but we do have a legislative void federally. We have no legislative framework or guidance from which provinces can take their cue.

[*Translation*]

I think it is necessary to establish a legislative framework concerning abortion. Therefore, it is incumbent upon the federal government to use its criminal power for that purpose.

It is obvious that the adoption of this law will not prevent provinces from regulating abortion using the power they have in the area of health.

However, Bill C-43 makes it clear that abortion is a medical act performed for health reasons. This bill creates a national standard that defines the conditions under which abortions may be performed. That norm will have to be complied with by all levels of government.

[*English*]

This bill, I repeat, would indicate Parliament's view that abortion is a medical act which requires the direct involvement of a medical practitioner. It defines the conditions under which abortions may be legally performed, and it responds to the provinces' request for federal guidance in this area by providing a legal framework for the medical profession and the provinces to determine medical necessity and the provision of insured services in respect of abortion.

• (1440)

Honourable senators, let me say a few words about how we arrived at this particular bill and not some other proposal from among the many that have been suggested. When, after considering the Supreme Court decision of January 1988 in the Morgentaler case, the government announced its intention to draft new legislation on abortion, we had to bear in mind two tests it would have to pass. First it had to pass parliamentary approval; it would then have to pass any challenge in the courts. It would have to be drafted to make sure, as certainly as we could, that it would pass such a legal challenge. We had already determined that we would not invoke the "notwithstanding" clause to shield our legislation from a challenge under the Canadian Charter of Rights and Freedoms.

By way of testing opinion in the House of Commons prior to bringing in legislation, in July 1988 the government gave that chamber the opportunity to vote on a "Sense of the House" resolution, calling on the government to legislate on the basis of the so-called gestational approach in which restrictions on abortion increased over the term of the pregnancy. Perhaps I should add at this point that this so-called gestational approach—what is sometimes called the trimester system, in which you would have minimal restrictions on abortion in the first trimester of a pregnancy; somewhat more severe restrictions in the second trimester; and abortion possible only under the most exceptional circumstances in the third trimester—probably most faithfully reflects the state of Canadian public opinion on this matter. I have been advised that this is the

approach that would most accurately track the majority judgment of the Supreme Court of Canada in the Morgentaler case.

In July 1988 in the House of Commons five amendments were permitted to the main resolution, which covered the full range of options with regard to an abortion law, from the most permissive to the most restrictive. Honourable senators can consult the divisions in the House of Commons, as recorded in the Commons Hansard of July 28, 1988. All five amendments were defeated. The main resolution was defeated 147 to 46.

Hon. Royce Frith (Deputy Leader of the Opposition): No party lines?

Senator Murray: On a free vote, as I recall, on which both ministers and private members were able to vote according to their personal views. The closest vote, 118 to 105, came on the defeat of an amendment which would have permitted abortions only in life-threatening situations on the declaration of two medical practitioners. Such a provision, if enacted into law, would, in the opinion of most experts, not survive a challenge in the Supreme Court.

So the main resolution put before the House of Commons in a "Sense of the House" resolution, and five amendments representing the entire range of opinion on abortion, were all defeated in July 1988. The general election of 1988 intervened. In 1989 the subject of abortion was once again before the courts, notably in the Borowski appeal and in the case of Chantal Daigle. While the decisions and reasons for judgment in those matters are, I think, crystal clear, they are no substitute for a legislative framework on the subject. That was the conclusion of the government and of members of the House of Commons who again urged us to bring in legislation during the summer of 1989.

Bill C-43 was introduced in the House of Commons on November 3, 1989. Although there had been numerous changes in that House as a result of the 1988 general election, the debate on Bill C-43 in that House convinced me that, on the subject of abortion, it is almost as difficult to arrive at a consensus in the 34th Parliament as it was in the 33rd. I am as certain as one can be that a bill more liberal or more permissive than Bill C-43 would not pass the House of Commons in a free vote. I am also certain, on the basis of all the advice that I and the government have received, that a bill more restrictive than Bill C-43 would not survive legal challenges in the courts.

Honourable senators, what has helped to discourage or defeat other middle-of-the-road initiatives on abortion has been a voting coalition between those at either extreme: those who are opposed to legalizing abortion under almost any circumstances, and those who want no legal restrictions on abortion. I am sure I have heard, during the course of debate in this place, some honourable senators at either pole of this issue now combining to kill any idea of compromise and to vote against and kill Bill C-43. But Bill C-43 is the result of a compromise between those pro-choice and pro-life members in the other place who came to the conclusion that a legislative void was unacceptable. In that respect there is little doubt, as I indicated earlier, that members of the House of Commons reflected the opinion of a majority of Canadians who call for legislated standards on this matter.

The essence of the compromise for the pro-choice members was that the law would define abortion as a medical act and would therefore protect a woman's health as well as her right to security of the person subject to minimal restrictions. For the pro-life members, the compromise was that they accepted, however reluctantly, that the restrictions be minimal so long as the law made no distinction between life at various stages of the pregnancy. This was the principle that they were determined to preserve. They would support no bill based on the gestational approach.

• (1450)

In any event, Bill C-43 passed third reading in the other place on May 29 last year by a vote of 140 to 131. It had the support; indeed, it was the product of efforts of people as prominent on the pro-choice side as Lise Bourgault, MP, and of people as prominent on the pro-life side as Mr. John Reimer, MP and Mr. Benno Friesen, MP. As honourable senators heard, when the committee met it had the support of ministers responsible, who supported the bill though they came at the question from quite different perspectives: the Minister of Justice, Ms. Campbell, from one perspective—not just official but personal—and the Minister of National Health and Welfare, Mr. Beatty, from quite another personal as well as official perspective.

[*Translation*]

Some groups say that the bill has already had a disastrous impact on the availability of abortion services in Canada.

Physicians have nothing to fear from Bill C-43, as long as they use good judgment in performing their duties and act in accordance with medical ethics. We are told, however, that physicians are afraid they will be subject to abusive prosecution and harassment if they continue to perform abortions once Bill C-43 is adopted.

Harassment is already taking place, even without federal abortion legislation, and it is unlikely that the passage of Bill C-43 will make it possible to eliminate all forms of harassment.

However, this legislation will make it clear that abortions performed by physicians are medical acts authorized by law. Unwarranted prosecution by private citizens of physicians who perform legal abortions would have little chance of success, since it would then be necessary to prove, beyond any reasonable doubt, that the physician concerned did not form the requisite medical opinion on the question whether the woman's health or life was threatened.

[*English*]

Now, honourable senators, it is up to the Senate to decide. Amendments have been proposed. One in particular, proposed by Senator Kirby, astonished me, given his implacable opposition to the bill and his intention to vote against it. That amendment would provide for a federal Attorney General fiat before a prosecution could be launched in law.

I do not exclude the possibility of an Attorney General's fiat as a matter of principle, nor, I believe, does Ms. Campbell; but in our system the administration of justice is a provincial responsibility. Parliament should not simply, by amending a law, confer a fiat upon the federal Attorney General without canvassing all of the implications of such an action with the provinces. Indeed, I understand from Ms. Campbell's testimony before the committee that it is her intention, immediately this bill receives third reading, to consult with her provincial counterparts on all aspects of its implementation. That would surely include the question of whether a federal Attorney General's fiat or, indeed, a provincial Attorney General's fiat, should be provided for in respect of prosecutions under this law. Therefore, I believe it would be premature for Parliament to legislate such a fiat for the federal Attorney General now. I will vote against the amendment recognizing that the federal Attorney General and the Minister of Justice will be consulting with the provinces on all aspects of the implementation of this law.

If you believe, honourable senators, that no law on abortion is a desirable state of affairs or that no law is preferable to Bill C-43, then you will vote against this bill. The defeat of this bill will mean that there will be no law on abortion and no further government initiatives to bring in a law during the present Parliament.

I do not know, nor does anyone know for sure, the consequences of perpetuating the legislative void, the absence of law, on abortion. It is hard to see how the public interest is served by such a legislative void. As I have said, most Canadians expect us to act on this matter. If you believe, as I do, and as the government does, that we have a duty to give the country a law on abortion, then I urge you to support this bill as being the only alternative available after a long and exhaustive legal and political process. In a word, it is simply the best that the House of Commons could do on this matter for the foreseeable future.

Honourable senators, do spare a thought for our elected colleagues in the House of Commons and what they must face. They have been, as are all candidates for federal public office, under unrelenting pressure from the advocacy groups at either end of the pole on this issue—under pressure to take an uncompromising stand, yes or no, for or against, "align yourself with one camp or the other." That is the choice with which they are confronted at all candidates' meetings and in the conduct of their public duty as candidates and members of Parliament.

Honourable senators, members of the House of Commons have their own private consciences, of course, and their public duty. Our elected colleagues in the House of Commons, informed by their private consciences and discharging their public duty, have given us a law that they believe to be philosophically sound, constitutionally valid, administratively workable and, if it does not represent a consensus in the country, at least it represents what Mr. Turner calls an accommodation on this extremely difficult issue. They have done the best they could after much agonizing debate. It would be unfortunate if the Senate were to reject now what they have brought forward in good faith.

[Senator Murray.]

● (1500)

I urge you, honourable senators, to resolve your doubts in favour of giving this bill a fair chance to provide the legal framework and the guidance that other governments and the health professions require on this matter and which Parliament has a duty to give.

Hon. P. Derek Lewis: Senator Murray, in your remarks you mentioned the void there would be if there were no abortion provision. As I understand it, the old provision was struck down as a result of the Morgentaler case of approximately three years ago. For the last three years we have had no provision with respect to abortion. Yet, in the testimony before the Legal and Constitutional Affairs Committee, the evidence was that during that three year period there has been no appreciable increase in the number of recorded abortions performed in Canada than there was before the striking down of that provision. I wonder what difference you feel it would make if there was no provision for abortion?

Senator Murray: I can only repeat, honourable senators, that the experience after the 1988 decision was that in some cases the provinces moved into the void. We believe that is not a desirable state of affairs, given our responsibility and theirs in this field. Some of the initiatives that the provinces took have been and still are the subject of challenges in the courts. This creates a climate of uncertainty over this matter that we believe is not a desirable state of affairs in terms of public policy.

Further, the provinces themselves, which have a responsibility for the delivery of health services, and from time to time the Attorneys General, have asked that we, the federal Parliament, provide legislative guidance; that we fill the legislative void in this matter.

Finally, to the extent that one takes polls seriously, just about all of them in a considerable majority believe that Parliament has a duty to legislate on this matter.

Hon. Stanley Haidasz: Honourable senators, I rise on a point of order on the statement made by Senator Lewis. I took the trouble to check on the statistics. I telephoned Statistics Canada and asked them for the number of abortions that were performed since 1987. In 1987 there were 67,266 reported abortions in Canada. In 1988 there was an increase to 70,754. In 1989, one year after the striking down of Section 251 by the Supreme Court of Canada on January 28, 1988, there was not a big increase, but there was an increase from 70,754 in 1988 to 72,693.

Hon. Royce Frith (Deputy Leader of the Opposition): What was the population increase over the same period?

Senator Haidasz: I do not know.

Senator Frith: That would be relevant, would it not?

Senator Haidasz: I guess there was a slight increase. For 1990 there are no available statistics.

Senator Lewis: I am only going by the evidence.

Senator Murray: The relevant statistics have to do with abortions per thousand births. My recollection is that it had not increased substantially over the years.

Senator Frith: That is a more significant statistic.

Senator Haidasz: The relevant statistics are the following. In 1987 it was 18.2 per 100 live births; in 1988 there was a slight increase to 18.8 per 100 live births. Unfortunately, I have not figured out the same statistics for the increase in 1989.

Senator Frith: Honourable senators, I want to ask the Leader of the Government in the Senate a question arising out of my intervention yesterday. Can he tell me whether the government ever seriously considered presenting Bill C-43 without the definition of "opinion"?

Senator Murray: The definition of "health"?

Senator Frith: No, "opinion." Clause 287(2) under "Definitions" states:

> "opinion" means an opinion formed using generally accepted standards of the medical profession.

Did the government ever consider presenting the bill in such a way that the discretion would be left entirely to the doctor, so that it would read "the direction of a medical practitioner who is of the opinion"; so that, as far as the criminal law is concerned, all that a doctor would have to show in a defence was that he was, in fact, of that opinion. Of course, he would be subject to his own association's disciplines within that, but the consequences of not fulfilling the standards imposed by his medical or profession association would be those flowing from the breach of his standards, not criminal consequences. What happens, of course, is that the generally accepted standards of the medical profession are incorporated into the criminal law and given criminal sanction which they otherwise would not have. I say that because my own attitude to the bill would change if it did not criminalize breach of standards.

I confess that I could have done my own research overnight on the question, but the Leader of the Government in the Senate may have the information. Was any amendment presented to simply remove the definition of "opinion" and leaving the word "opinion" stand as it is within Clause 287(1)? Did the government ever consider presenting it in such a way that medical standards were not defined and thereby criminalized, but simply left to the profession to discipline? Second, was any such amendment presented, according to his knowledge?

● (1510)

Senator Murray: In answer to the second question, I am not aware that any amendment was proposed to remove that provision from the bill. I do not specifically recall the discussions that led to incorporating that definition of "opinion" into the bill, but I am reasonably certain that it was put there out of an abundance of caution, more to protect the position of medical doctors and their relationship with their patients than to increase or make more severe the criminal sanction.

Senator Frith: As I said yesterday, if one is put in the position of a doctor, with a patient asking for an abortion, because of that definition the position of the doctor is one that would require the doctor to think seriously of going on with the discussion at all; whereas, if it were left simply to the discretion of the doctor and sanctions only from the medical profession, the doctor might then be prepared to go further.

I elaborated on that yesterday and I will not go any further with it now.

Senator Murray: I just asked one of my colleagues whether the profession had objected to this particular provision. Senator David says that it did not. I do not see why it would.

Senator Frith: Then that means that I did not persuade you yesterday. Reread what I said yesterday and see if that changes your mind.

Senator Murray: Yes, I heard you and I read it; but, once again, it is codifying the existing practice. What other standards would the doctor use except these standards?

Senator Frith: That is not the point.

Senator Murray: Yes, I know that it is not your point, but it is an additional assurance for the profession in that the "opinion" that we are talking about is the one formed using generally accepted standards in the medical profession.

Senator Frith: But the difference is that the doctor takes his chances with his colleagues instead of with the criminal courts. That is the difference.

Senator Lewis: Honourable senators, I wish to ask another question. In the previous section of the Criminal Code—and I believe it is section 251 concerning the general prohibition against abortion—the words used are anyone who "induces a miscarriage"; but in the new section, which is worded to start the same as the old section, states "anyone who induces an abortion." It then goes on to repeat the same wording.

Is there any great significance to changing that wording? There was some indication at our hearings in the Standing Senate Committee on Legal and Constitutional Affairs that, technically speaking, abortion to the medical profession appeared to refer only to the first trimester, that thereafter it was an interruption of the pregnancy. That must be followed up. Do you know if there was any great significance in that change?

Senator Murray: What I do recall from the process was that there was the closest contact among the drafters in the Department of Justice, the medical profession and the legal profession as to the appropriate terms to be used in a 1991 law. That is not to say for a moment that the Canadian Bar Association or the Canadian Medical Association necessarily support this bill—I think you know where they stand on the matter—but the Law Reform Commission does support it, as the honourable senator knows. There was close discussion over a long period of time about the terminology that would be appropriate in a 1990 or 1991 law in this matter.

Senator Lewis: I wish to ask another question. Would you then look at section 288, which concerns supplying a device or a drug knowing that it is intended to be used to induce an abortion. There is strange wording in that section. It states that anyone who unlawfully supplies a device, knowing that it will be used to induce an abortion, is guilty of an indictable offence.

Is the word "unlawfully" used in the wrong context? Should it not be included further on? Should it not state that anyone who supplies a device knowing that it will be used for an abortion commits an unlawful act? The wording of that section probably comes from the previous Criminal Code, even before the 1969 legislation.

Senator Frith: Where do you say the word "unlawfully" should be?

Senator Lewis: It is found in section 288.

Senator Haidasz: Yes; it is in the first line of the section.

Senator Frith: I have it right in front of me. You say that it should be elsewhere in the section?

Senator Lewis: Yes, because it states: "everyone who unlawfully supplies."

Senator Frith: What do you think it should state?

Senator Murray: Where do you say "unlawfully" should be located?

Senator Frith: That is what I am asking too.

Senator Murray: Should it be before "to induce an unlawful abortion"?

Senator Lewis: Yes, that is what it is. I don't know if there is any particular advice that is peculiar to abortion. So that anyone who produces that—

Senator Murray: It is no mistake that the adjective "unlawfully" is placed where it is.

Senator Frith: You mean adverb, do you not?

Senator Murray: Yes; adverb. It states "everyone who unlawfully supplies." There is no mistake that it is there. A physician would unlawfully supply or procure a drug or other noxious thing, and so on, whereas anyone else would not lawfully supply or procure a drug intended to be used to induce an abortion. I am sure that these matters came up at the committee.

Senator Lewis: No, they did not.

Senator Murray: I ask for some assistance from my colleagues who were there.

Senator Lewis: It did not come up in our committee. It seems to me that anyone who supplies such a device would certainly know that it is to be used for an abortion.

Senator Murray: Yes.

Senator Lewis: But it really means supplying it for an unlawful abortion. There are exceptions in the other section. Abortion is unlawful, except in certain cases. Then it may or may not be unlawful to supply that device.

[Senator Murray.]

Senator Murray: Well, a self-induced abortion would be unlawful under this act.

Senator Lewis: It strikes me that this section may be open to Supreme Court challenges.

Hon. Philippe Deane Gigantès: Honourable senators, I rise to speak on this delicate issue. I have listened to the Leader of the Government in the Senate with increasing desolation. By every test that he himself proposed, this law is unnecessary or ineffectual. Any law on a subject such as this should improve the situation by allowing something or by forbidding something. Improve the situation. It is not enough to make a law. A law which is made must do something. Let us consider some of the tests.

• (1520)

The judges wanted equality of access in their 1988 decision. This law does not give equality of access. On the contrary, it might make it even harder. By that test, this law fails.

Senator Murray quoted Judge Beetz as saying that he wanted protection for fetal interests. How can anyone say that this law in any way protects fetal interests?

Senator Murray says that this bill fills the legislative void. What void, and how does it fill it? The law does not meet any of the tests. It does not do anything. Nothing cannot fill a void. A void is being added into a void.

Senator Murray said that provincial measures to fill the void have already been taken. He said later that there is nothing the federal government can do about that because the issue comes under provincial jurisdiction.

He implies that it is undesirable that doctors be harassed, but he opposes an amendment that would protect them.

He said that this is the best that the House of Commons could do, and asked us to think of the pressures to which our elected colleagues are subjected. Does anyone here believe that if this law passes Members of Parliament will still not be under constant pressure from pro-choice groups who will want abortion decriminalized and by pro-life groups who will say that this law is a licence to unrestricted abortion.

In other words, what we have before us is a negation of what Senator Murray says Canadians expect the government to do something about. The government has passed a law that does nothing. Truly, I could vote for this law or against it and there would be no effect.

Senator Murray is putting on the look that we have come to expect of him, one which we have seen on TV. He looks like a startled deer found in the searchlights of a hunter at night. He does nothing. He does not please one side. He does not please the other side. He does not do what each side does not want to happen; and he does what each side does not want to happen.

If this bill is not passed, the situation will not change. If it is passed, the situation will not change.

He tells us that doctors will not be harassed successfully. Then why are we passing a law that will do nothing? Why has

he taken about an hour of our time to tell us, as he usually does, contradictory things about the same issue?

A law should be passed if it will do something or prohibit something. I tell honourable senators to read the text of Senator Murray's remarks. They will not pass any of the tests he has set. This bill will not do any of the things he hopes it will do. It will do all the things he hopes it will not do. It is a bad law. We should vote against it.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, the report of the Committee on Legal and Constitutional Affairs was brief, for the reasons given in the report. However, I think there are a number of points that deserve further discussion. Today I would like to address the legal and constitutional aspects. I agree that abortion is an issue that goes well beyond the purely legal aspects of the case, but I would rather not make this a long, drawn-out debate. Others, like Senator Thérèse Lavoie-Roux, will discuss other aspects or have already done so, as did Senator Solange Chaput-Rolland, Senator David and many others. I will stick to the legal issues, and I would like to go back over a few points raised by Senator Lowell Murray. We cannot afford to ignore the legal issues in this debate.

Constitutionally, the subject raises two fundamental questions:

> First, can Parliament, under our Constitution, intervene as far as abortion is concerned? And if so, how? Where does it stand as far as the division of powers is concerned?
>
> Second, does Bill C-43 respect sections 7 and 1 of the *Canadian Charter of Rights and Freedoms* which, as we know, is part of the Canadian Constitution?

The report of the Committee on Legal and Constitutional Affairs stated that most witnesses spoke out against Bill C-43 and that only four endorsed the bill. In law, however, arithmetic is not the only criterion. We must also consider the qualifications and expertise of the expert witnesses that testified. Those who endorsed the bill included, of course, the Minister of Justice, the Minister of National Health and Welfare and also the Law Reform Commission of Canada.

The Law Reform Commission is an independent body, created by the Parliament of Canada in the early Seventies, which has always included top quality legal experts among its membership. Members have been judges, law professors and lawyers. Some went on to become members of provincial courts of appeal, the Federal Court and even the Supreme Court of Canada.

I am always impressed by the quality and depth of the work done by the Law Reform Commission. The commission has been studying abortion for a number of years. Legal experts on the commission, both male and female—I insist on this last point—have studied the question and published a very interesting paper on the subject in 1989.

The commission, speaking through her chairman, Gilles Létourneau, a recognized criminal law expert, reached the conclusion that Bill C-43 respected the division of powers outlined by the Constitution and also respected the *Canadian Charter of Rights and Freedoms*. There is a double test: the division of powers and the Charter. No legal expert is infallible. The same applies to the Law Reform Commission. Legal experts who draw the opposite conclusion are not infallible either. In any case, the Supreme Court of Canada will have the last word. I am quite comfortable with that.

[*English*]

Criminal law enshrines certain basic values and establishes national standards and national norms.

• (1530)

The Supreme Court of Canada, in the Morgentaler case of January, 1988, came to the conclusion that section 251 of the Criminal Code, which was dealing with therapeutic abortion, was violating the Charter but not the division of powers. The seven judges are unanimous on the point of division of powers.

Mr. Justice Beetz has written:

> I agree with McIntyre J. and the Court of Appeal that there is no merit in the argument that s. 251 is *ultra vires* of Parliament.

He was talking about the division of power. He goes on to say:

> In Morgentaler (1975), *supra*, this Court unanimously held that s. 251 is not colourable provincial legislation in relation to health but that it constitutes a proper exercise of Parliament's criminal law power pursuant to s. 91(27) of the Constitution Act, 1867. I agree. Indeed, as I have decided, s. 251 cannot be said to be simply a mechanism designed to protect the life or health of the pregnant woman. While this ancillary objective explains, in part, certain of the requirements of the exculpatory provision in s. 251(4), it does not represent the principal objective of s. 251 as a whole, which is to protect the state interest in the foetus. Parliament established the indictable offence of procuring a miscarriage . . .

At that time they used the word "miscarriage."

Senator Frith: Do you say the words "miscarriage" and "abortion" are exactly the same?

Senator Beaudoin: I do not claim to be an expert in medicine, but the only difference is that an abortion is a provoked miscarriage and a miscarriage is something that occurs accidentally or naturally. Senator David, of course, as a doctor, is in a better situation to explain the difference between the two words, but that is the difference I see.

Senator Frith: Was there not evidence before the committee to say that the words have a different meaning than the definition that the Canadian Medical Association has given them?

Senator David: I am a cardiologist, not an obstetrician. A miscarriage is a natural process, and an abortion is an artificial process.

Senator Frith: I was hoping that Senator Beaudoin had been at the committee meetings. I have it second hand that the issue came up at the committee. The difference had something to do with the weight and size of the fetus and that there was a

medical distinction between the two. If he knew about that, I would be interested in his comment as a lawyer, because of the fact that the original section uses the word "miscarriage" and the present word is "abortion." However, if he was not at the committee and is not aware of what I am talking about, then I cannot expect him to comment on the legal consequences of the difference. In other words, the difference between using the word "miscarriage" in one section and the word "abortion" in the present section might have legal consequences.

Senator Beaudoin: I have been at the committee meetings. I understand your preoccupation. However, for the purpose of the quotation of Mr. Justice Beetz, legally speaking it does not—

Senator Frith: I understand. For the purpose of his quote it is not important. I simply piggy-backed on it when I heard the word to ascertain if you wanted to say something about that difference. You said at the time the word was "miscarriage", which is quite correct. Of course, you are talking about the comment of Mr. Justice Beetz at the time. He could not be expected to see what we are concerned with. However, it is a fact that it may be more than accidental, or at least it may have more than accidental legal consequences, that the word picked was "miscarriage" in the original section and is now "abortion".

Senator Beaudoin: I have to be quite prudent because I am quoting this with regard to the division of power between Ottawa and the provinces. I believe you will agree with me that "interruption de grossesse" in that context is a domain where the federal authority may intervene for a particular reason under the Constitution of Canada. That is the only reason why I quote Mr. Justice Beetz. Senator Nurgitz remembers very well that some experts who appeared before the committee said that it is not criminal law, that it is colourable legislation. My answer to that is that whether we like it or not it is criminal law.

The Supreme Court has rendered two decisions in that regard; the Morgentaler case of 1976 under the Canadian Bill of Rights, prior to the Charter, and the Morgentaler case of January 1988 under the Charter. In both cases the Supreme Court said very clearly that the Parliament of Canada may use the criminal law power to give a "cadre juridique" to the question of abortion. In my opinion it is clear-cut.

Senator Frith: I was not arguing about that.

Senator Beaudoin: Mr. Justice Beetz concludes by saying:

I consider this a valid exercise of the criminal law power.

[*Translation*]

It was under sections 7 and 1 of the Canadian Charter of Rights and Freedoms and section 52 of the Constitution Act, 1982 that section 251 of the Criminal Code was declared unconstitutional, and not under section 91.27 of the Constitution Act, 1867.

Bill C-43 differs from section 251, which was judged unconstitutional by the Supreme Court. The therapeutic abortion committees provided under the old section 251 will no longer exist. According to C-43, it will be exclusively a matter between a woman and her physician. The definition of "health" in Bill C-43 is broad. The bill cannot be compared with section 251 of the Criminal Code. The two provisions have nothing in common.

There is probably more than one way to legislate abortion. I do not disagree. We can also decide whether to legislate or not to legislate, but the consequences will not be the same.

We must look at the Canadian Constitution and its division of powers. To have an efficient national standard on abortion, some legal experts—and I agree with them—say we should use section 91.27 of the Constitution Act, 1867 and legislate accordingly. Federal powers in health matters are too weak in this respect, being based only on spending power. The residual federal power to maintain peace, order and good government cannot, in my opinion, be used, and there are several reasons why this is so. In any case, very few legal experts have used residual powers to support their arguments.

When Parliament uses its criminal law power to protect persons and property, it occupies its legislative field and sets national standards.

• (1540)

[*English*]

This is what we call in constitutional law "The paramountcy doctrine." If I am not mistaken, Senator Kirby said that doctrine is obsolete. But I do not think the paramountcy doctrine is obsolete in Canadian constitutional law. It has been used by the Supreme Court many times. It was used in 1990 in the case of *Banque de Montréal c. Hall* in the Supreme Court of Canada.

[*Translation*]

We must not forget that basically, the provinces have jurisdiction over health matters under sections 92.7, 92.13 and 92.16 of the Constitution Act, 1867. The famous Chief Justice, Sir Lyman Duff, said so very clearly in 1938, in the reference on the Ontario Adoption Act. The courts have continued in this vein. The Parliament of Canada cannot impose an efficient national standard solely on the basis of its limited powers in health matters.

Others claim there is no need for the federal government to intervene through legislation. I feel that access to abortion must be protected at the national level. How this is done is up to the Parliament of Canada, which must legislate on the basis of its criminal law power. Otherwise, there is a risk of Balkanisation. Of course, the provinces cannot occupy the criminal field if the federal government fails to do so. However, by deciding not to intervene, the Parliament of Canada would indirectly help the provinces to restrict access to abortion. The provinces can do this under sections 91.7, 92.13 and 92.16. It is not the first time and it will not be the last that the Parliament of Canada passes legislation to occupy this field. As Senator Lowell Murray said earlier, several other countries have done so. France, the United States, the United Kingdom and West Germany, to name only a few, did not, as Senator David said yesterday, opt for a legal vacuum.

[*English*]

Some experts have said that section 45 of the Criminal Code covers the subject already so that there is no need to intervene now in the field of criminal law. That section cannot be relied upon as constituting an efficient national standard in the field of abortion. Section 45 of the Criminal Code fulfils another aim, as the Law Reform Commission of Canada has said. It concerns surgical operations and establishes criminal responsibility. That section does not address abortion as such, or in particular. Section 45 says:

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

I might say here, incidentally, speaking of the doctors, that the medical acts are, of course, protected by the presumption of innocence, which is enshrined in the Canadian Charter of Rights and Freedoms. Very few witnesses spoke about that, to my complete surprise. A doctor is not presumed to have committed a criminal act. A doctor is presumed to be innocent. We have to take that into account. It is already in black and white in the Canadian Constitution.

Senator Frith: It might take them a lot of time and money to find out, though.

Senator Beaudoin: The fact is that it is a fundamental principle of our values in Canada that everyone is presumed innocent.

[*Translation*]

Legislative void in itself is not the preferred option, as evidenced by what I called the summer 1989 "war of injunctions"; the Daigle case came up when we did not have legislation, if I may recall that fact.

We must not always let the Supreme Court alone make the final ruling. Legislators must also face up to their responsibilities.

The Law Reform Commission argued that, in a way, by protecting certain values through criminal law, Bill C-43 contributes to providing the foetus with some protection and achieving a certain balance between the rights of the mother and the rights of the child to be.

My colleague Senator Spivak referred to the opinion of Madam Justice Bertha Wilson in the Morgentaler case.

[*English*]

This learned judge, Madam Justice Bertha Wilson, for whom I have the greatest admiration, is referring to the American doctrine of the three phases which were considered in the famous American case of *Roe v. Wade*. That is obviously a possible solution. I would certainly accept such a possible solution myself. That has not been the selected position, because there are many others, and the Canadian government has finally selected the mechanism provided for in Bill C-43.

[*Translation*]

In the January 1988 Morgentaler case, Madam Justice Bertha Wilson, ruling with the majority as we know, writes on page 183 that Section 251 of the Criminal Code breaches Charter Section 7 because it takes away from the woman at all stages of pregnancy the decision to seek an abortion.

Bill C-43 does not at any stage of pregnancy take away from the woman the decision to seek an abortion.

It cannot be said to be "a complete denial of the woman's constitutionally protected right under Section 7, and not merely a limitation on it".

● (1550)

[*English*]

The proposed limitation to section 7 of the Canadian Charter appears to respect the *Oakes* test of 1986, which was elaborated by former Chief Justice Dickson.

[*Translation*]

Finally I conclude by saying that if a number of witnesses spoke out against Bill C-43, it is not because they all think the same way or are all in agreement. On the contrary, many of them reach that conclusion on the basis of altogether different premises and as a result of diametrically opposed reasonings.

It is therefore necessary to say so to avoid concluding prematurely that there is a clear majority, a majority which in fact does not exist with respect to motives.

Unfortunately the abortion debate quickly polarized and the two major lines of thought owe their ultimate junction only to the absolute positions advocated in their arguments.

I conclude that Bill C-43 is a valid and worthwhile attempt, in law, to resolve an extremely difficult and delicate issue over which the views are strongly opposed and probably irreconcilable.

[*English*]

Hon. Raymond J. Perrault: Honourable senators, it is not my intention to speak at length in this debate, for we have had some thoughtful speeches regarding the content of Bill C-43 from both sides of the house. The fact is that there are sensitive, sincere people on both sides of the argument who hold their views with great conviction.

I have serious concerns of conscience. Without being judgmental, I am concerned that we live in a society where the abortion option is increasingly being pursued by those who feel incapable, unwilling or unable to bring new lives into this world. The inevitable conclusion is that society is simply not providing enough aid and support to those we expect to give birth to the next generation of working and producing Canadians.

Indeed, all of us should be concerned about a Canada whose birth rate is so reduced now that our population will take 82 years to double. By contrast—and I checked this with a data bank last night—Iraq's population will double in 20 years. In a practical way we should be concerned that Canadians are

reproducing at such a low rate that we are faced with the fact that a predominantly aging population may make it impossible to fund social plans such as the Canada Pension Plan, medical care and so on. This is an inevitable result of a low rate of birth.

While it may be inevitable that abortion in some form, legal or illegal, will always be with us, we must ask ourselves whether society is providing enough counselling for young people regarding the life and death issues of pregnancy and abortion and the challenges and difficulties presented by unwanted pregnancies. Are we sufficiently mindful of the plight of pregnant teenagers and frightened, battered and abandoned pregnant women? I think not. They require infinitely more aid, counselling and understanding than the lectures and advice generated and professed by certain self-proclaimed moralists; and when these women resort to abortion, which is a serious decision, they do not need to be lectured by a group of male politicians.

Yesterday, despite our opposition, the government passed its spending restraint bill which will only serve to provide less help and assistance to the pregnant women of Canada.

Senator Haidasz: Shame!

Senator Perrault: They will be some of the victims. Ironically, we have no trouble at all providing funds for our participation in the Gulf war, but what are we doing about serious social problems here in Canada, including the severely declining birth rate? I suggest we give life a chance. Are too many of us losing our reverence for human life?

A few months ago in our extended family a pitifully small little boy was born. He was an extreme so-called "preemie"—a fetus who was not expected to survive. This little boy spent weeks in an incubator. He was the recipient of the best that medical science could offer. The entire hospital staff, nurses and doctors rallied around him to support his gallant fight to survive, and survive he did. He is my grandnephew, little Michael. He is a wonderful, playful, intelligent and healthy new Canadian—a great tribute to Canadian medical science and his own indomitable spirit. His successful battle for life inspires me to ask myself how many potentially great Canadians are lost through abortion each year in this country.

I am reminded of Arthur Rubenstein's story in which he said that he was a sixth child and that his mother had given serious consideration to having him aborted. Thank God for Arthur Rubenstein and thank God for an environment in which his mother felt secure and confident enough to proceed with the pregnancy.

I have another personal observation. I will never forget the call I made during the last election campaign in Burnaby, British Columbia. The door was answered by a very distraught looking woman. After requesting her support for our candidate, she replied by saying:

> I have been a nurse for 16 years at the local hospital. I quit my job last week. I could no longer assist at abortions. It has affected my conscience too severely. I was trained to save life and not to take life.

[Senator Perrault.]

We all approach the sensitive and critical matter of abortion in different ways, and I believe that everyone's right to hold his or her views deserves respect, but a respect for life, or lack of it, is manifested in many ways. Some of us have heard about the new organization in one European country whose members advocate the right to have a baby "put to sleep humanely"—that is their expression—if, within 30 days of its birth, it presents its parents with too much stress and too many emotional problems. Imagine! That report was on the CBC a few months ago. Few of us have found any of our youngsters who are not an emotional stress for at least a month or two months after they have been born. This is normal. The views of such an organization are utterly appalling. Voluntary euthanasia is given increasing credibility in certain countries of the world. In my view, these are ominous developments for the human race.

I have agonized over this bill. I will make my decision how I will vote between now and tomorrow. While it purports to offer better than what we have now, it has been condemned by responsible members of the Canadian medical and legal profession, as well as some members of Canada's churches. That is disturbingly significant. I wish it could be said that the bill before us answers the concerns of those Canadians concerned with preserving the sanctity of life and reducing the need for and the number of abortions in our nation. I do not think it does. It would, in fact, establish abortion on demand.

Where are the positive proposals to promote responsible sex education, affordable daycare, responsible birth limitation, security and assistance for prospective mothers, efforts to make it more attractive for pregnancies to be carried to full term, and, yes, measures to make adoption easier and more attractive? There are hundreds of thousands of Canadians who have been waiting for years to adopt a child. From the province of British Columbia and other provinces many people have served missions over to Romania and have brought back dozens of Romanian orphans for adoption because of a shortage of adoptable youngsters here in Canada.

• (1600)

The additional supportive actions to which I referred a few moments ago are simply not in this bill and no assurances have been provided that auxiliary measures to assist the mothers of Canada will be introduced. For these and other reasons it will be difficult for me, in conscience, to support a bill so deficient in its content and so flawed in its construction. Better the status quo, perhaps, and a return to the drafting process than a halfway measure relating to abortion which could be enshrined for many years to come in the statutes of Canada.

[*Translation*]

Hon. Thérèse Lavoie-Roux: Honourable senators, I suggest that almost everything has been said over and over again in this House on this notorious Bill C-43.

I decided to rise, first because I am a woman, and also because the duties I have carried out over a great many years in public life brought me many times face to face with this problem.

The abortion issue has always been and still is the object of impassioned debates, so that public opinion remains divided not only in the various provinces of this country as well as the country as a whole, but also I would venture to say in the other developed countries in the Western world.

As a matter of fact, because of our democratic parliamentary system, parliamentarians reflect this polarization ever-changing public opinion. Some—there are fewer and fewer of them—are implacably opposed to the very notion of abortion under any circumstances. The lesser uncompromising among them may make an exception for rape and incest.

At the other end of the spectrum can be found a greater number of people who advocate abortion on demand, while the vast majority stands somewhere in between the two extreme pro-life and pro-choice positions: they try to find an uneasy balance between their respect for life on the one hand, and the freedom of the mother, of the woman who has to deal with an unwanted pregnancy on the other.

According to a Gallup poll carried out last October, Canadians are divided along the same lines. The figures are not absolutely identical to those supplied by Parliamentarians: in other words, 12 per cent of them would be absolutely against any abortion; 26 per cent would be for abortion on demand, while a little over 60 per cent would want abortion to be authorized within a legislative framework.

Clearly, it would be better if the State did not have to legislate in an area which some consider as the sole responsibility of women. Unfortunately, this is not an issue where one can remain neutral. Abortion has been the subject of debates for decades, if not longer, in all societies, which shows conclusively not only that there exists no perfect solution which might satisfy everybody, but especially that all societies are interested in this issue. Life and death are two basic choices about which no society can remain indifferent.

Over the next few minutes, honourable senators, I will try to disprove very briefly some of the arguments presented in committee, in the news media or in the mail we have received these past few months.

Those who support the pro-life approach, whether on religious or moral grounds, are against abortion in any shape or form. I suggest their position is completely disconnected from reality in today's society. I suggest it should be emphasized, in order to dispel a number of myths, that no woman or teenage girl unfortunately, most of them are teens and women 20-35 years of age—seeks abortion without reluctance. This decision remains always extremely painful for all women and those who support the pro-life position do not seem to realize that there are social, psychological and, of course, health reasons which may sometimes compel women to use this last recourse solution.

I take this opportunity to tell you that I find quite deplorable that a number of pro-lifers should use unacceptable pressure tactics against those who do not share their opinion. To suggest today that abortion should never be allowed is to ignore a reality which we all wish would be different but which unfortunately remains part of our daily life. On the other hand, I would not want to imply that all pro-lifers condone this attitude. In fact, a great many of them are among this majority I referred to earlier. They use no harassment tactics and show no intolerance against those who do not share their views.

The most vocal group both by their testimonies before the parliamentary committee and by the representations they made in meetings at our offices, et cetera, were the pro-choice.

On the other hand, and I want to put this on the record, I think that we all want that abortions be perfomed by medical practitioners. Some of the pro-choice women do not want the medical practitioner to have any say, even as a third party, in the decision the woman has to make.

That is another example of how unreal this whole thing is. There is no doubt that, and everybody agrees on that point, the reason of an abortion must be the physical and psychological well-being of the woman. It must be performed under the best conditions possible. The medical practitioner has to form an opinion whether we like it or not. So, to think or to argue that it is up to the woman alone to decide is unrealistic. I wonder who would perform the abortion then.

A lot was said about criminalizing, or rather recriminalizing abortion, about the increased risk of prosecution for doctors limiting access to abortion services.

I would like to refer, at this time, as others may have before me, to the brief the Law Reform Commission of Canada presented in committee. I will quote the Commission mainly because it is an independent group composed of eminent lawyers. If I remember correctly, the present chief justice of the Supreme Court of Canada, Justice Lamer, was once part of this Commission. I think these are extremely competent people who certainly command a considerable amount of credibility in their field. Allow me to read one paragraph of their brief dealing with Bill C-43:

> Critics have said that, under such conditions, the practitioner would risk criminal prosecution by third parties starting private prosecution and face needless harassment. This concern is not justified. Private prosecution is very uncommon. It is also difficult to overdo it, given the safeguards provided for in our criminal system. First, the plaintiff must convince the judge he has prima facie evidence. Otherwise, the judge will refuse to lodge a complaint.
>
> Second, once a complaint is filed, a private prosecution can be suspended at any time by the attorney general who is empowered to intervene and stay proceedings.

That is precisely what happened to Quebec in 1976.

> Third, if private prosecution is started and fails, the plaintiff may be ordered to pay costs. These three provisions of our criminal law are, in our opinion, sufficient safeguards against excessive private prosecution. Moreover, civil law proceedigns for damages can be instituted in case of excessive prosecution and, if found guilty, the

defendant may be ordered to pay exemplary damages over and above the regular ones.

Legal proceedings are rare in that area. It should be pointed out, and I think Senator Beaudoin mentioned it earlier, that it is the same thing in the cases of repeated injunctions we had in Quebec, Manitoba and Ontario. Perhaps for me who is from Quebec the Daigle case was the biggest to hit the headlines. It happened in the absence of legislation.

In a legislative vacuum, nothing can stop anybody who is really intent on harassing to launch civil proceedings. To think that Bill C-43 will result in more harassment or proceedings is to put facts in a different light than they should truly be.

Many protested against the fact that the law criminalizes abortion, that physicians and women are considered as criminals. Personally, I think that was strongly exaggerating. Even under the legislation that had been passed in 1969 by the Trudeau government and was in effect until 1988, I do not remember or know any case where a woman was jailed for getting an abortion in Canada. Yet, that is what we were told by people at the committee. There were attempts to raise the biggest threats possible.

● (1610)

Some wished that the abortion law would be incorporated into the Canada Health Act. I think that real efforts were made to find another legislative framework than the Criminal Code.

Unfortunately, the Canada Health Act—as certain senators have mentioned it last night—is not convenient since it is intended for the financing of the health case system based on certain principles and since it provides, generally by speaking, for certain surgical, medical and pharmaceutical services.

This law does not contain any definition or very precise list of medical acts. It does not seem to me to be an adequate legal framework for an abortion law.

Much was also said in this House, to say the least, about the fact that doctors who perform abortions will stop doing them to the extent that access to abortion will decrease.

I think our duty is to see to it on the one had that abortions are performed under the best physical and psychological conditions for women and on the other hand that access to abortion is mostly the same everywhere in Canada.

I think that yesterday one of my colleagues—Senator Lynch-Staunton, I believe—has corrected figures that had been given concerning Montreal General Hospital, among others, where most abortions in Quebec are performed and where they would not be done anymore. There are no grounds for that. I have also spoken to other groups that have indicated that those figures were far from being accurate.

That being said, I think that this law, contrary to the one that was passed in 1969, is providing for a better access on the one hand in eliminating the famous therapeutic committee which not only caused undue delays before an abortion could be performed but was much too vague since it only referred to the mother's health.

In the present bill, we say that an abortion could be procured for physical, mental and psychological health reasons. This, I believe, leaves the door wide open as to allow abortion on demand.

The argument that this bill will reduce accessibility as doctors will be reluctant to procure abortions surprises me, because from 1969 to 1988, when abortion was under the Criminal Code, doctors never mentioned the fear of prosecution. It could be argued that they were protected by the famous therapeutic committees. I can tell you that a good number of abortions were performed in private clinics and that, to my knowledge, there never was any prosecution. I am speaking, of course, about the Province of Quebec that I know best.

Unfortunately, law or no law, the harassment of doctors who perfom abortions is likely to continue. We can only hope that in cases of abuse, judicial actions could be taken against those people who demonstrate their intolerance. Were such actions ever taken? I will have, once again, to ask some of my friends in the legal profession. I don't believe actions were ever taken against individuals who had damaged the property of other persons who were legally authorized to perform abortions. I don't think we always used the legal means at our disposal to prevent excesses.

We have already come a long way. There was a time when we did not even talk about abortion, about whether or not to allow abortion. Today, we recognize that, in our society, abortion is a medical act to which we can have access. Let us hope that, in the years to come, whatever is left of intolerant behavior will disappear.

As to accessibility, I was saying a moment ago that the fact that we broadened the reasons for allowing an abortion improves accessibility. Moreover, the fact that Bill C-43 establishes a national standard and a strong legal framework is probably the best guarantee that the provinces which still refuse it, will have more difficulty restricting access to abortion. Let us hope that more progress will be made in the years to come.

I don't understand why women who came to argue in favour of free choice whatever the circumstances used arguments that were rather superficial, and failed to show any concern for Canadian women who do not have access to abortion. We know that in the Maritimes—in any case in Newfoundland, Prince Edward Island and Nova Scotia—and also in some places in Western Canada, there are major restrictions, even on performing an abortion that normally would be recognized as legitimate and feasible.

I think it is quite true that the provinces, considering their jurisdiction in health matters, may intervene and add further restrictions. At least, this legislation will give women solid ground on which they will be able to argue with their respective governments and ask them not only to make these services available when necessary but to pay for them as well, as do the majority of Canadian provinces when an abortion is performed.

Honourable senators, in concluding I may recall that Bill C-43 makes abortion a medical act and provides greater access for all women by expanding the conditions for inducing an abortion. This bill protects their physical and psychological well-being, and by eliminating therapeutic abortion committees and the obligation to perform abortions only in accredited hospitals, what we have here, in addition to the national standard provided by Bill C-43 is greater access to abortion for women.

I would also like to get back to some of the points raised by previous speakers. Beyond the abortion issue, there are probably a number of other questions we should ask.

What are the causes that lead women to consider terminating a pregnancy? Why are we talking so much about abortion? Couldn't we set aside our pro-life and pro-choice concerns for awhile to understand what is really going on and ask some questions about the causes, however remote they may be, that lead a person to make a decision that should always be a last resort?

It would probably be a good thing to take a more objective look at life, how it is programmed and planned and what we expect of it. Things are not as clear as they seem.

If we consider the causes and motivations that lead an adult woman or teenager to consider terminating her pregnancy, perhaps it would make us less affirmative and a little more compassionate and encourage us to become more active in areas such as sex education, family planning and developing more satisfactory family policies.

Honourable senators, I do not claim this is a perfect bill. However, I think it can offer a better balance between our respect for life and women's autonomy in a society that recognizes life and liberty as fundamental values.

Thank you.

• (1620)

[*English*]

Hon. Richard J. Doyle: Honourable senators, for more than five years it has been my great privilege to represent this chamber as a member of the Standing Senate Committee on Legal and Constitutional Affairs. In that time, members have been asked to look into many of the most vexing aspects of the laws which govern our country. For me, there has been no task so unrewarding, no experience so frustrating, no exercise so humiliating as being the sounding board for the enthusiastic critics of Bill C-43, an act respecting abortion.

Much of the argument that we heard against the bill was not new in 1948 when Canada signed the UN declaration to have "the utmost respect for human life from the moment of conception". It was not new in 1969, when we gave hospital committees the right and the responsibility to determine when abortion should be permitted. It was not new when the court sank the committees.

What seemed to be new to some of us in that compression chamber of a committee room in 250 East block—surely the most depressing of all parliamentary gathering places—was the fact that the defenders of the right to life, through uninterrupted pregnancies and the champions of a woman's entitlement to prepaid abortion, for the most part agreed that the bill should be killed-not argued to death; not modified; not amended in any way—simply defeated by us, the members of this chamber.

Such a circumstance should make for easy decision-making on our part—except, perhaps, for old-fashioned reactionaries, blimps and such who might argue that senators have no business destroying what the House of Commons has wrought—even when a free vote has been allowed.

But easy decisions, honourable senators may agree, should be looked at with much suspicion. After all, east is east and west is west and when the twain start meeting we must not ignore Mr. Kipling's cynicism. And just as well, for we find that the right to life faction is interested in rejection as a means of avoiding anything that might look like endorsement of abortion in any way. The right to lifers are impatient to be done with Bill C-43 so they can get on with a new bill restoring a law against all abortion except that which might be needed to save the life of an ailing mother. We find that what the freedom of choice gang wants is abortion on demand—no voice for a father; no advice from a parent; no opinion from a doctor, although the physician's oath may specifically instruct him or her to prescribe no treatment he regards as unnecessary and require him to consult with his patient on the implications of any treatment sought.

• (1630)

Between the right to lifers and the freedom of choicers in the great debate stand the doctors: the gynaecologists as a specialized group; the Canadian Medical Association; the activist arm of professional healers. They also oppose the legislation, but they put their emphasis on access and produce surveys and polls to show that as things stand some of their members are already refusing to supply abortion services. Not surprisingly, they anticipate harassment from either side if the legislation is enacted.

If any abortions are to be considered as criminal, what is to stop civil as well as criminal actions in the courts that could drag on over two- or three-year periods and ruin a doctor's reputation even where innocence is established? If the law is passed, we are told, there will certainly be a stampede toward denial of service.

It was the very point that the Canadian Abortion Rights Action League took up last week in a letter to senators. In the copy that came to me, Kit Holmwood, President of CARAL, said:

> If the government were to ignore the doctor's withdrawal of abortion services, which occurred after the bill passed the lower house, that would indicate a . . . profound defeat for democracy and parliamentary government . . . The Senate has a moral duty to stop this pernicious bill before it wreaks havoc on the provision of a necessary medical service.

Perhaps we will be forgiven if we see, in the haste of some doctors to deny service to patients, a reaction similar to that

which we witnessed among doctors in 1962 when they responded to the introduction of medicare with a denial of service to their patients in Saskatchewan.

The Minister of National Health and Welfare, the Honourable Perrin Beatty, addressed the concerns of physicians in his appearance before the Legal and Constitutional Affairs Committee. He said:

> The House Legislative Committee examined the feasibility of amending the bill so that any charges laid under the act would require an attorney general's fiat—that is, the prior consent of a provincial attorney general. On consideration of this matter, the committee decided not to recommend such an amendment because of a fear of altering the delicate balance of the bill.

What is involved in the "delicate balance" Minister Beatty speaks of? It has to do with the spirit and the letter of the Canada Health Act which, Mr. Beatty reminds us:

> . . . respects the supremacy of the provinces in the delivery of health care services. To attempt to control or direct the provinces' delivery of abortion services would be inconsistent with this approach and inconsistent with the constitutional division of powers with respect to health. It would be treating abortion in a way in which no other medical procedure is handled under the Canada Health Act.

Fine balance could be tipped if provincial attorneys general were simply told to rule on federal interventions at any stage.

The Minister of Justice, Kim Campbell, reminds us that laws can be changed after they have been passed. She has promised to convene a meeting of provincial attorneys general "to ensure that Parliament's intent be served." She said, "We share a public responsibility to ensure that the law is not used to harass people."

Could there be clarification after passage of Bill C-43 to dispel the impression that abortion is a criminal act—not a lawful medical procedure which is the way Health Minister Beatty described it? Certainly, the two ministers say that they are willing to consider anything that would lessen the likelihood of spooking doctors and patients.

Indeed, such a second look could do much to clear the air of misconceptions brought into the debate by organizations and individuals who chose sides in the great debate.

Honourable senators, to remind you of what I mean by choosing sides, let me come back once again to the advocacy of the Canadian Abortion Rights Action League. In the last month of 1990 the following story appeared in the Montreal *Gazette* under an Ottawa dateline:

> Two thirds of Canadians are opposed to the Government's proposed abortion law, a new poll shows. The poll, commissioned by CARAL, shows 66 per cent of Canadians disapprove of the bill while 25 per cent approve and another 9 per cent don't know.
>
> League executive co-ordinator Jane Holmes said her group hopes the poll will help persuade the Senate to defeat the bill.

[Senator Doyle.]

> The poll, conducted by the Environics Research Group, asked 1,495 Canadians whether they agree or disagree with the federal government's attempt to put abortion into the criminal code.

Let me read part of that question again. It is whether they agree or disagree with "the federal government's attempt to put abortion into the criminal code."

In my opinion, polling is not a particularly useful political pastime. At best, we are told, it produces snapshots of the fluctuating moods of the public. But what kind of snapshot are we to expect when the camera is jiggled by a loaded question?

• (1640)

Again, may I quote Mr. Beatty:

> The criminal law has traditionally been used to regulate abortion. Under the old law, performing an illegal abortion could bring a penalty of up to life imprisonment for a person performing an abortion. Under the new law, the maximum penalty would be a term not exceeding two years. To secure a conviction, the Crown would have to demonstrate either that the doctor had been negligent or failed to enquire as to the woman's medical condition, or that he had performed an abortion after having formed an opinion that there was absolutely no valid reason to believe that carrying the baby to term would have any effect on the health of the mother . . . Abortion is a lawful medical practice.

Honourable senators will understand, perhaps, why members of our committee chose not to make changes or recommend passing Bill C-43 as it stands. Instead, as Chairman Nurgitz explained, we opted to leave the future of the legislation in the hands of the senators themselves, who have only to answer to their consciences in proposing amendments or casting their votes.

All senators have access to the printed record of the words we have heard. They have had a very long time to consider the bill itself and ponder their personal response.

Senator John M. Macdonald drew on a lifetime of advocacy to give us his thoughts seven months ago. He was, as always, plain spoken, direct and sincere. He said:

> I believe Bill C-43 to be a deceitful bill in that it gives the impression and the illusion of protecting the unborn when, in fact, it does no such thing . . . The so-called safeguards are meaningless window dressing to appease, if possible, those who oppose abortion.

Six days later, on June 19, 1990, we listened with great care to the advice of Senator Paul David. Like Senator Fairbairn and others who have spoken or testified since, he urged us to design and provide "generous, consistent, effective and dynamic programs to support the family." He said:

> We must eliminate the social and fiscal irritants that are perceived as obstacles by parents who want to have a child. The negative right to abortion could then be compensated by a positive right to more and multiple benefits for those who take on the responsibility of providing for the human enrichment of our country.

And then Senator David said this:

> In the Canadian legislative framework, I cannot imagine a more reasonable compromise than the one that is presented to us (in Bill C-43), a compromise that ensures accessibility, universality and transferability for all Canadian women, no matter in which province they live.

After two weeks of concentrated testimony from impassioned witnesses, I find myself, as I told Senator Macdonald last night, coming back again and again to the principal thrusts of the debate as they were described in this chamber more than half a year ago. Nowhere were they outlined so clearly.

First, Senator Macdonald held up for our approval the summing up he found in a brief from the Campaign Life Coalition. He said:

> We cannot compromise. Therefore, a state of lawlessness (while we work towards the enactment of law which will protect all human life) is preferable to a bad law.

And then Senator David, offered us the summing up of research that he and lawyer Mollie Dunsmuir had undertaken in 1988 of the evolution of abortion law in the United States, England, France, West Germany and Canada. He said:

> Our study clearly showed that in all the countries considered, the opposition of these two groups (for and against abortion) led to years of deadlock. In spite of these difficulties, each country developed legislation to fill the legal vacuum that was much more harmful than an imperfect law.

Honourable senators, I have taken too much of the chamber's time, but this debate is the denouement of the drama which began with the Supreme Court challenge of the law of 1969. It is not the end of the matter, I am certain.

I am also certain that whatever way we may wish to move in the future, we will have the need of law and of a standard of service that can be achieved only through federal effort and dedication.

These are my reasons for voting for Bill C-43, as I shall when the roll is called.

Like Senator David, I favour the imperfect law to lawlessness. Like our old comrade, Jacques Flynn, I believe in the principle that respect for life demands that abortion must be justified.

Hon. Joan Neiman: Honourable senators, in the few days we have had to discuss the very troubling issues which have been raised by Bill C-43, we have heard canvassed once again the full range of personal dilemmas which the subject of abortion makes us confront. This has not been a political debate but a discussion, as it must be. I am grateful that so many senators have taken the time to share with the rest of us their deeply-felt beliefs, as well as their misgivings; but I have to tell you that, although much of what we heard in our committee has been echoed and repeated here, there was very little evidence of misgiving on the part of the witnesses who appeared before our committee. Indeed, I think Senator Doyle and some of my other colleagues on the committee would think that some of the witnesses were somewhat over-decisive in giving their opinions.

The message was clear. Thirty-four out of 38 groups told us unequivocally to reject Bill C-43. So why this uneasiness in the chamber? We know that the bill passed by a small majority in the House of Commons and we know that the committee received a clear message from 34 groups, representing literally millions of people, that we should reject the bill. At the same time, we heard from several of them that the problem has not worsened appreciably in Canada since the Morgentaler decision three years ago, nor, more significantly, in the province of Quebec where, for about 14 years, the government has refused to use criminal sanctions to deal with it.

● (1650)

We know that in the most recent polls well over 60 per cent of Canadians have indicated that they do not want to have abortion recriminalized. Yet here we are struggling with it within the criminal context. Why are we doing it? The simple answer is that the government has fallen into a trap, that of listening to often well-meaning people who think that if there is a problem, slap a criminal sanction on it and it will go away. Then it heard from those people opposed to recriminalization of abortion, and finally it came up with a compromise in Bill C-43 that pleases virtually no-one.

Again, senators may ask: How can this happen? I believe it is because some people have not separated the factors which give rise to a demand for abortion, which they regard as immoral or simply bad, from the remedies which could help to correct the situation. Professor Lorraine Weinrib, who appeared before the committee, has just completed a very scholarly analysis of the 1988 Morgentaler decision and the reasons for judgment of the various judges who, coming from sometimes quite divergent points of view and reasoning, all agreed that the offending sections then in the criminal law regarding the provision of abortion services must be struck down. Professor Weinrib argued very cogently before us that, based on the same reasoning, Bill C-43 would eventually fail.

Let me give you a few of her comments. This is one observation she made regarding one of the reasons for the failure of the 1969 amendments:

> The Department of Justice did not do its homework properly and did not remember that the major change in 1969 was not the addition of a therapeutic exemption, because the common law provided that and doctors were providing therapeutic abortions across the country, the problem was that the doctors did not want to be subject to criminal liability . . .

Now, I do not want to go into all the arguments or the positions put forward by the doctors themselves, because you have heard them already today. I simply want to say that, given what we have heard in this committee and what has been made patently clear to the Minister of Justice, access to a physicians' services is going to deteriorate over what it is today.

Professor Weinrib continued, referring to the 1969 amendments:

> The access problem combined with the problems of delay, uncertainty, stress and ultimate denial of abortions in some cases on grounds other than therapeutic, all suggest that the same access problem that was fatal to the old legislation in *Morgentaler* occurs under the new legislation.

Another interesting aspect of the access problem is that when the Minister of Health, the Honourable Perrin Beatty, appeared before us, he told us that the federal government can do nothing to guarantee women equal access to abortion across the country. The federal government can do nothing. That is obvious. It is not within its competence to do that. These are provincial responsibilities; so how can we assure any kind of a national standard, as the Minister of Justice has, over and over again, assured our committee and assured people in letters and in communiques and interviews, and has assured the doctors? How can we possibly say that there is a national standard? There simply will not be, cannot be, under this new law. In fact, the very lack of it, which will be worse than what we had, is going to make this law just as flawed as the previous law.

Another important area of the judgment to which Professor Weinrib referred was the question that has been raised from time to time about the protection of the fetus, with which I think many people are concerned. The minister herself has implied in her statements that somehow this law was going to provide a balance between the health of the woman and the protection of the fetus. Well, may I just offer honourable senators another quotation from Professor Weinrib? I should say that, in explaining to us her position and her reasoning with regard to Bill C-43, she emphasized that she was drawing on the most conservative areas of the judgments that were made in the Morgentaler case; that is, those parts of the judgment which would probably stand the test of future challenges and different judges sitting on the Supreme Court of Canada.

All the three Justices—

and here it was Dickson, Beetz and Wilson

> —in the majority when they turned to section 1 of the Charter which, as you know, permits limits on Charter rights, agreed that what they had declared as the rights to fundamental justice and to security of the person were more important constitutional values than the protection of the fetus.

● (1700)

Many people in this chamber may disagree with those points of view in their concern for the protection of the fetus, and I do not criticize anyone for that. But there is nothing in the Morgentaler judgment which directs Parliament to deal with this. It is an important issue, and it must be addressed, in the first instance, by the Commission on Reproductive Technology, which is now under way. It is something we are going to have to deal with. There is nothing in Bill C-43 that addresses this, and to import it into the legislation is a trifle fanciful.

[Senator Neiman.]

I agree that Madam Justice Wilson spoke carefully about what is called the third trimester period in American jurisprudence. She said that some day the state would probably have to intervene at that point. She used the word "state"; she did not use the word "Parliament". There again, I think we have been misled, inadvertently perhaps, by several people who talked about this. Today Senator Murray said in his remarks that "Parliament has been directed", "Parliament has been asked", and "people have asked Parliament." That is not what the polls say that were taken on abortion. They are not saying that Parliament has to deal with it; they are saying that something must be done. If Parliament is not the proper instrument to handle this issue, obviously it has to be our provincial governments. I will refer to that area in a moment.

I will briefly quote the opinion of one other distinguished lawyer, Madame Duval Hesler, who represented the Attorneys Against Criminalization of Abortion. She argues that Bill C-43 is illegal because

> . . . we have a superseding Charter which takes precedence over bills or laws which infringe upon the constitutional guarantees of that Charter.

The decisions in the Morgentaler case were based on the Charter. Professor Weinrib also argued that the only national standard we have today is the Charter. It is the only instrument that can set standards that will be applicable to all Canadians. Professor Weinrib made this comment:

> However, I want first to say that Bill C-43 is antique. It is outmoded, even before it was introduced and before it is passed. A real policy about abortion must not be a policy about abortion at all, because any country and any civilized society wants to eliminate abortion.

I cannot believe that anyone here would disagree with that point of view.

Of course, there have been continuing demands by many concerned people and groups to do something about the problem of abortion, and also about the unplanned and unwanted pregnancies that caused it for a variety of socio-economic reasons: pervasive poverty, lack of sexual education and responsibility, and a dearth of social and support services. Of course, people want legislation if and where it will help. I would dispute Senator Murray's statement that there is a governmental void at the moment or that Parliament—that is, the federal government—has been asked to fill it by imposing criminal sanctions once again.

I must confess that I had always hoped against hope that if the federal government insisted upon entering the field, it would do so by setting some parameters regarding the funding of health services. The issues giving rise to this problem of abortion, health services, education and societal standards are clearly within the jurisdiction of the provinces under section 92. As I mentioned, the Province of Quebec has made great strides in spite of and without criminal sanctions. The Province of Ontario is moving swiftly and decisively in this field and has asked the federal government, through our committee, in effect to stay out. However, the federal government could, and

I think should, for the foreseeable future have a role to play through the Canada Health Act by refusing to fund insufficient or non-existent health services, of which abortion, as a recognized medical procedure, is one. But the federal government has consistently declined to accept its responsibility. I stress that I am not only referring to this federal government but also to preceding governments.

Let me read the opinions of some distinguished professors of law. They are from the University of Ottawa, and were solicited with respect to the constitutional validity under sections 91 and 92 of certain statements repeated frequently by the Minister of Justice concerning Bill C-43. This first opinion was given by two professors of constitutional law at the University of Ottawa. They wrote:

> The most obvious vehicle for ensuring national standards of entitlement to abortion for all Canadian women is not the Criminal Code, but rather the Canada Health Act.

They go on to speak of the federal role under the criminal jurisdiction. Then they add:

> However, the provinces may also regulate abortion, as a health care matter, pursuant to their constitutional jurisdiction over health, civil rights, and matters of local concern in the province, under sections 92(7),(13) and (16) of the Constitution Act, 1982.
>
> As explained above, provincial legislative authority in this regard remains unaffected by the existence of federal abortion legislation, criminal or otherwise. Provincial legislation in relation to abortion is constitutionally permissible so long as it represents a valid exercise of provincial authority over health care, and does not offend the Charter.

I would remind honourable senators that the Minister of Justice and the Minister of Health and Welfare both said on several occasions that the provision of abortion services is a healthcare service.

● (1710)

I would like to quote extensively from an opinion of Professor Bruce Ryder of York University, who, as Senator Nurgitz pointed out the other day, has impressed the Minister of Justice from time to time with his opinions in various areas of constitutional law. He stated:

> The question arises whether the federal government has the constitutional ability to create a national standard of entitlement—

Those are words that the Minister of Justice has used from time to time,

> —to abortion by some other means. The perversity of using the Criminal Code to accomplish this objective is further underscored by the presence of an effective alternative.
>
> The regulation of the medical profession, hospitals, and health care generally are matters within exclusive provincial jurisdiction. Thus, the federal government does lack the ability to directly regulate provision of abortion or other health care services.

Further on he states:

> . . . the Canada Health Act requires that provincial health plans meet the criteria of comprehensiveness, accessibility, universality, portability, and public administration in order to qualify for full federal funding.
>
> The federal government could insist that abortion is a medically necessary service under the Act, and that any province that fails to provide fully funded access to abortion will disentitle itself to federal funds. Federal fiscal pressure of this nature was used to ban extra-billing across the country when that practice was thought to jeopardize our social right to equitable access to health services.

Is this not a comparable situation, honourable senators? He goes on:

> Similarly, the Canada Health Act could be employed to promote a national standard of entitlement to abortion. This mechanism is not perfect: a province could decide to restrict access to abortion and forfeit federal funds.

I interject here that it is perfectly entitled to, but it would be a little more difficult for it to take that decision.

> In practice, a province would not likely pay the high price of deviating from national standards. The Canada Health Act thus provides the most effective federal means of promoting a national standard of entitlement to abortion.

Senators have heard from various speakers the vast discrepancies that are now occurring across Canada in the provision of abortion and other related health care services. As was pointed out to us by Doctor Kazimirski of the Canadian Medical Association, this very unfair and inequitable situation could be corrected if the federal government had the political will to use the power at its command.

I would like to believe, honourable senators, that these authorities might have convinced you that Bill C-43 is unnecessary, illegal and unconstitutional. Unfortunately, once again it will take many years of unnecessary wrangling and court challenges to prove that this is so. If senators vote for this bill, however, because they sincerely believe that it helps to obtain or sustain some of the moral, ethical and social objectives that they hold dear, I believe they are simply deluding themselves. The solution to the terrible problems which gave rise to unwanted pregnancies and to the need for abortion does not lie in the Criminal Code; it lies within each one of us as individuals in our community, and as senators representing our provinces, to assist in and upon the support of our churches, our schools and our local governments to provide the proper kind of social and health services so that we can all begin to eradicate the roots of the problem.

In voting for this bill we may be salving our consciences temporarily, but what we are really doing is exacerbating the problem once again for those least able to help themselves: the poor, the disadvantaged and those in remote parts of Canada—and senators are aware that we have many remote areas.

Senator Murray said that Bill C-43 was the best solution. I say it is one of the worst. It is badly conceived, totally unnecessary and bound to do more harm than good. I ask senators to reject this bill and to concentrate their efforts in their provinces, where they will do the most good for all Canadians.

On motion of Senator Doody, for Senator Nurgitz, debate adjourned.

PETRO-CANADA PUBLIC PARTICIPATION BILL

ELEVENTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Dan Hays, Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, January 30, 1991

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred the Bill C-84, An Act respecting the privatization of the national petroleum company of Canada, has, in obedience to the Order of Reference of Thursday, December 21, 1990, examined the said Bill. After consideration of testimony of ten witnesses, some of whom supported the Bill, some who did not, and considering that the Government has not responded to ENERGY AND CANADIANS INTO THE 21ST CENTURY, A Report on the Energy Options Process, tabled in the House of Commons, August 10, 1988; nor to the House of Commons Standing Committee on Energy, Mines and Resources' Report on the study tabled on June 11, 1990 nor to this Committee's Report on Petro-Canada tabled in the Senate June 12, 1990; nor has it articulated in more than in a general way the Government's energy policy objectives, the Committee recommends that Bill C-84 should not be passed by the Senate, and new legislation to privatize Petro-Canada should not be introduced for a period of at least six months.

The Committee further recommends that: (1) the Government forthwith implement the second recommendation of this Committee's Report on Petro-Canada (see page 13); (2) if the Government is to proceed with the privatization of Petro-Canada and if the Government intends to change the Board of Directors of the company, that these changes be made as soon as possible; and (3) privatization should not be contemplated until such time as energy markets, now disrupted by the Persian Gulf Crisis, have stabilized.

DISSENTING OPINION

[Senator Neiman.]

The members of the Committee who support the Government are not in agreement with these recommendations, and urge that the Senate adopt Bill C-84 without amendment.

Respectfully submitted,

DANIEL HAYS
Chairman

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

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

● (1720)

BROADCASTING ACT

BILL TO AMEND—CONSIDERATION OF SEVENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the Seventh Report of the Standing Senate Committee on Transport and Communications (Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio-communication, with three amendments), presented in the Senate on 24th January, 1991.

Hon. Finlay MacDonald moved the adoption of the report.

He said: Honourable senators, I wish briefly to explain the amendments, which I meant to do the other day.

There are three amendments and one observation in this report. The first amendment adopted by the committee concerns a clause dealing with the programming provided by the Canadian Broadcasting Corporation. This amendment would add the expression "national unity" to the wording of Bill C-40. The purpose of this amendment is to ensure that national unity remains one of the objectives pursued through the programming of the CBC. The terms which were in that original clause continue to be in it: "contribute to shared national consciousness and identity."

The second amendment adopted by the committee concerns section 28, a clause dealing with the power of the Governor in Council to set aside or to refer decisions back to the CRTC. Through this amendment the committee proposes to delete this section entirely. The committee does so because it is of the view that the Governor in Council should not be given this power concurrently with the power to issue policy directions to the commission.

The third amendment adopted by the committee concerns section 45, a clause requiring the board of the CBC to establish English and French-language broadcasting committees. Through this amendment the committee proposes to delete this section entirely. The committee feels that the establishment of these two committees would detract from one of the CBC's objectives, which is to contribute to the development of national unity.

There is one observation which is explained in full in the report I tabled last Thursday.

Hon. Keith Davey: Honourable senators, with your permission I would like to have several senators speak to these amendments. I believe Senator Stewart will speak on one amendment, Senator Graham will speak on another and I will speak on the third.

Hon. John B. Stewart: Honourable senators, I am speaking on the amendment that deals with national unity. The amendment which has been made to the bill by the committee, if not removed by the Senate, would make it incumbent upon the CRTC in its programming to contribute to national unity. One wonders why the words of the original act, the act now in effect, were changed by the bill brought in by the government to remove national unity as a programming objective of the Canadian Broadcasting Corporation.

For the benefit of honourable senators who have not had an opportunity to look into this matter, I ought to explain the act as it now stands, then the provision in the bill before it was amended in the committee, and finally the provision in the bill as reported by the committee.

The broadcasting act which is amended by this bill, provides that the national broadcasting service—that is, the CBC—should, among other things, "contribute to the development of national unity and provide for a continuing expression of Canadian identity." Those are the words the government found no longer acceptable. The government proposed to replace those words with the provision that the programming of the Canadian Broadcasting Corporation should "contribute to shared national consciousness and identity."

The bill as amended by the committee would restore the reference to national unity. As amended by the committee, the bill would provide that "the programming provided by the Corporation should contribute to national unity, shared national consciousness and identity."

In other words, the purpose of the amendment made by the committee is to restore national unity as an object of the programming of the Canadian Broadcasting Corporation.

The government has sought to expunge the expression "national unity" from the bill. One wonders why, particularly at a time when national unity in Canada needs no gratuitous turmoil or aggravation. Surely we have enough trouble maintaining national unity in the country without asking Parliament to vote that national unity no longer be a goal of the Canadian Broadcasting Corporation.

Those words "national unity" that are the object, the target of the government's action. The evidence for that is in the bill. We find that no change was made to the earlier part of the same section where references are made to the health of the Canadian body politic. Let me read the first two sections of the broadcasting act as they now stand and compare them with the language that the government proposes to use instead thereof. Honourable senators will see that in this particular case there is virtually no change in the substance. We are told in the original Broadcasting Act, in section 3, that:

• (1730)

> It is hereby declared that
>
> (a) broadcasting undertakings in Canada make use of radio frequencies that are public property and those undertakings constitute a single system, in this Act referred to as the Canadian broadcasting system, comprising public and private elements;

This relates, honourable senators, not specifically to the Canadian Broadcasting Corporation but to broadcasting generally in Canada. We are talking about both the public and private elements.

Subsection (b) reads:

> the Canadian broadcasting system should be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;

Let us look now at the bill. The substance of those provisions remains unchanged. We find that clause 3(1)(a) states:

> It is hereby declared as the broadcasting policy for Canada that
>
> (a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians;

Paragraph (b) deals with the operation of an English and French language sector. We then turn to paragraph (d), which states:

> The Canadian broadcasting system should
>
> (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,

The clauses of the bill that deal with safeguarding, enriching and strengthening the cultural, political, social and economic fabric of Canada are different, but the burden of the legislation is exactly the same. The Canadian Broadcasting System—under the bill as under the present act—is "to serve, safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada." That is to remain virtually the same. It has not changed at all in substance.

Having seen that there is no change there, one wonders why the expression "national unity" became the object of a proposed change by the government, particularly at a time when the whole question of national unity needs no gratuitous aggravation.

If a change is to be made, surely in these circumstances it is one for which there is a clear and urgent requirement. In the committee we were not given any evidence of a clear and urgent practical requirement for the elimination of the expression "national unity." There was talk about journalistic integrity. The phrase "promotion of national unity by the Canadian Broadcasting Corporation", we were told, might offend against journalistic integrity. Surely we have to move from that kind of elevated generality to specifics.

What is the clear and present requirement for a change in the language of the act to strike national unity from its provisions? We are not dealing here with semantics. We have

a political problem in this country, and it relates to national unity. For the government to propose the removal of the expression "national unity" from the purposes of the Canadian Broadcasting Corporation is clearly offensive to many Canadians.

I put it to honourable senators on both sides of the house that the committee report should be supported. This is not the time for the Senate of Canada to be voting against the promotion of national unity.

I invite honourable senators to support the report of the committee that the words "national unity" be included in the bill so that the clause would provide that the Canadian Broadcasting Service should contribute to the development of national unity and contribute to shared national consciousness and identity. Those words are hardly offensive. In the absence of a specific and present requirement that they be set aside, those words should be sustained.

Hon. Alasdair Graham: Honourable senators, I wish to begin by saying that I welcome what has become known as the Broadcast Act and to say that it is needed and is long overdue.

You will be thankful to know that I do not intend to address all of my concerns and reservations about the bill. Rather, I will make a few general remarks and then address the specifics of one of our amendments, namely, the deletion of clause 45.

I have always thought that the central role of the Government of Canada is to preserve this country. One of the pathfinder institutions that was created to help in this process is the Canadian Broadcasting Corporation. The CBC was meant to be the articulate voice of Canadian sovereignty. It was meant to be one of the determinants of our endurance as a national association in this unique country at the northern end of the world. It was meant to help link and bind the fragile regions. In that respect, if we do not remain true to the basic characteristics of this country we will fall apart, because we are a vast, sparsely-populated territory.

We are enhanced by the presence of two official languages, along with a myriad of multicultural voices which dot the landscape of this, the second largest country in the world. But we do sleep next to the elephant. We are threatened not only economically but also culturally. It is not just by locker coincidence that we have endured as a nation, but because successive governments and the people whom they represent have ensured that those institutions like the CBC are not and have not been dismantled or divided.

I have enough trouble with the CBC cutbacks back in my home area of Cape Breton, where CBC Sydney has been reduced to a store-front operation. In that instance, as in so many others across the country, we are losing one of our most effective vehicles to communicate about our successes, our difficulties, our culture, our traditions, and our distinctiveness to communicate with one another and with the rest of the country. We are being trapped at the end of a one-way street. Like it or not, we are being faced with the prospect of being force-fed with information and propaganda from Toronto and Ottawa and, in the case of Cape Bretoners, from Halifax. That wealth of talent, inherent to a very special part of Canada, is losing another vehicle for development. That means a further boost to the forces of marginalization and the process of disintegration presently at work in this country.

[Senator Stewart.]

● (1740)

I want to quote briefly from a speech made by Pierre Juneau, the former president of the CBC, a former chairman of the CRTC, when he spoke to Le Cercle canadien in Toronto on June 23. He said:

> Stations such as CBFLT in Toronto or those in Rimouski, Calgary or Sydney are not so many attached to the body of the CBC. Instead, they are the branches and leaves of a tree which allow that tree to breathe and capture the sunlight, or, putting it another way, the roots that provide nourishment to the tree as a whole.

He argued that the closing of regional stations—he said that the so-called local station closings were actually regional ones—is "contrary to the letter of the law of both the 1968 broadcasting Act and the new Broadcasting bill that is expected to replace it shortly."

I am also concerned that the bill undermines the independence of the CRTC and that its ability to act in the public interest is being weakened.

I want to turn specifically to clause 45 of the bill. I will read two of the sub-clauses of clause 45. Clause 45(1) states:

> The Board shall establish a standing committee of directors on English language broadcasting and a standing committee of directors on French language broadcasting, each consisting of the Chairperson, the President and such other directors as the Board may appoint.

Clause 45(4) states:

> The standing committee on English language broadcasting shall perform such duties in relation to English language broadcasting, and the standing committee on French language broadcasting shall perform such duties in relation to French language broadcasting, as are delegated to the committee by the by-laws of the Corporation.

At first blush, clause 45 might sound innocent enough or structurally sensible. But such a change was considered and recommended by the parliamentary committee when preparing for the Broadcast Act passed in 1968, which at that time was rejected by the government. If such a proposal were rejected in the mid-1960s, there is all the more reason to reject it in 1991.

I wish to quote from the remarks of the president of the CBC when he appeared before the standing committee of the Senate. He said: "In our view, the creation of separate committees on French and English programming would run counter to the spirit of those objectives and would introduce at the board level a division which would be counterproductive, particularly at this point in time."

I view clause 45 as a worrisome, dangerous precedent, not the evolution of a fair balance between regions and cultures but, rather, an actualization of discord. As I understand it, the

CBC has had an unwritten tradition of collegiality between directors representatives of the two founding languages.

[*Translation*]

> This, in my opinion, is a recognition of our cultural mosaic and of the need to maintain an awareness of the interests of both the English and French languages.

[*English*]

But there is a vast difference between an unwritten tradition of collegiality and the entrenchment of permanent separate decision-making centres at the heart of the CBC which would only ensure permanent division. In my opinion, it would contribute to a permanent rupture. If the CBC cannot ensure collegial decision-making between English and French, in the name of heaven what national institution can? It strikes me that clause 45 will only contribute further to misunderstanding, to jealousy, to selfishness, to regionalism—all those things against which the CBC should stand.

We are, I fear, embarked upon a dangerous trend. It is a further decline in the CBC's original mandate to contribute to a spirit of national solidarity. We have a responsibility in this chamber, particularly at this most sensitive and crucial time in our history, to use every means at our disposal to ensure that our traditional will to endure, to work together, to live together, is not diminished. That to me would be the consequence of the passage of clause 45.

Our nation is under attack as never before by the forces of narrow regional isolationism and, I believe, the me-first syndrome, the protect-your-own-backside syndrome. We can no longer leave the survival of our country to luck or to coincidence. We can no longer leave it to chance. The entrenchment of clause 45 with separate and distinct committees, one to look after English language broadcasting and the other to deal with French language broadcasting, is, in my opinion, a giant leap for Canadians in the wrong direction. I urge all honourable senators to support the amendments as proposed.

Hon. Keith Davey: Honourable senators, my amendment has to do with clause 28 of the bill. The 1968 Broadcast Act authorized the Governor in Council to have the power of review over various CRTC broadcast activities. To be fair about it, from then until now it has been a power seldom used.

Bill C-40 would have the government retain this power, but, as well, add a power of direction. This power of direction would allow the government to issue directions on matters of broadcasting policy. This may be realistic in this era of remarkable ongoing and continuing technological change. Besides, there are safeguards.

However, these two powers combined—the power of review and the power of direction—in the words of David Colville, the freshly-minted new chairman of the CRTC, suggest the "weakening of the independence of the Commission through double-barrel government intervention on a particular issue by both Direction and Review." We on this side certainly agree. When it comes to government intervention into broadcasting, enough is enough.

In that spirit, we seek to remove the government's power of review, especially since such matters should and could be left to the courts.

On motion of Senator Atkins, debate adjourned.

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 not withstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, January 31, 1991, at eleven o'clock in the forenoon.

Motion agreed to.

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE— MOTIONS IN AMENDMENT NEGATIVED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:
>
> That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consult broadly with Canadians and inquire into and report upon the process for amending the Constitution of Canada, including, where appropriate, proposals for amending one or more of the amending formulae, with particular reference to:
>
> (i) the role of the Canadian public in the process;
>
> (ii) the effectiveness of the existing process and formulae for securing constitutional amendments; and
>
> (iii) alternatives to the current process and formulae, including those set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";
>
> That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee, such Members on the part of the Senate to be designated no later than three sitting days after the adoption of this motion;
>
> That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of their powers except the power to report directly to the Senate;
>
> That the Committee have power to sit during sittings and adjournments of the Senate;
>
> That the Committee, or a sub-committee, have power to travel, and hold public hearings, within Canada;
>
> That the Committee have power to send for persons, papers and records, and to examine witnesses and to print

such papers and evidence from day to day as may be ordered by the Committee;

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

That the parties represented on the Committee be granted allocations for expert assistance with the Committee work in proportion to the representation of the said parties in the House of Commons;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee submit its report not later than July 1, 1991, provided that, if the Senate is not then sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee for Members of the House of Commons be effective immediately after notification thereof, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

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

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

The Hon. the Speaker *pro tempore:* Honourable senators, it is 5:45 p.m. The Senate must now proceed to the deferred divisions on the motions in amendment to the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody, respecting the proposed special joint committee on amending formulae.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we have no objection to voting on the two amendments together. We will be asking for a standing vote. There is no reason to vote separately on them, because they are not contradictory or competitive.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that we shall vote on both motions together?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Please call in the senators.

[Senator Doody.]

• (1750)

The Hon. the Speaker *pro tempore:* Let the doors of the chamber be locked.

• (1800)

Honourable senators, by agreement of the Senate, there are two questions before the Senate at this time. The first is: It was moved by Senator MacEachen, seconded by Senator Frith:

That the motion be amended by deleting the fourth paragraph thereof and substituting the following therefor:

(iii) alternatives to the current process and formulae, including an amending formula based on regional representation, as proposed in the 1971 Victoria Charter; and a formula based on seven provinces representing 50 percent of the population, with a clause added stipulating that Quebec must be one of the seven provinces; and the alternatives set out in the discussion paper prepared by the Government of Canada entitled "Amending the Constitution of Canada";

The second question is: It was moved by Senator Marchand, seconded by Senator Adams:

That the motion be amended by adding the following immediately after Roman Numeral (iii):

"(iv) the role of the Aboriginal Peoples of Canada and alternatives to current process and formulae for entrenching their rights in the Constitution of Canada."

Motions in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Lefebvre
Bosa	Lewis
Buckwold	Lucier
Cools	MacEachen
Corbin	Marchand
Davey	Marsden
De Bané	Neiman
Fairbairn	Perrault
Frith	Petten
Graham	Pitfield
Haidasz	Rizzuto
Hastings	Stanbury
Hays	Stewart
Hébert	Stollery
Leblanc (*Saurel*)	Thériault
	Turner
LeBlanc (*Beauséjour*)	van Roggen—33

NAYS

THE HONOURABLE SENATORS

Atkins	Keon
Barootes	Kinsella
Beaudoin	Lavoie-Roux
Beaulieu	Lynch-Staunton
Bélisle	MacDonald (*Halifax*)
Berntson	Macdonald (*Cape Breton*)
Bolduc	Marshall
Buchanan	Murray
Castonguay	Nurgitz
Chaput-Rolland	Oliver
Cochrane	Phillips
Cogger	Poitras
Comeau	Robertson
David	Roblin
DeWare	Ross
Di Nino	Rossiter
Doody	Simard
Doyle	Spivak
Eyton	Sylvain
Forrestall	Teed
Grimard	Tremblay
Johnson	Twinn—46
Kelleher	
Kelly	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore:* Let the doors be opened.

The Hon. the Speaker *pro tempore:* Honourable senators, the main motion is not actually before us at this time. It is No. 7 on the Order Paper. Is it your wish, however, to proceed with the main motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, it was moved by Senator Murray, P.C., seconded by Senator Doody:

That the Senate do unite with the House of Commons in the appointment of a—

Some Hon. Senators: Dispense!

The Hon. the Speaker *pro tempore:* Will those honourable senators in favour of the motion please rise.

Hon. Royce Frith (Deputy Leader of the Opposition): We do not need a standing vote on this. I said earlier, and I want to clarify this, that we wanted our amendments supported, but they have been defeated. However, we are not against the main motion and never have been. We simply wanted those additions made to it. So, it may carry.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, that the main motion shall carry?

Some Hon. Senators: Agreed.

Senator Frith: Perhaps you should call the "Yeas" and "Nays" so that we do not stand.

The Hon. the Speaker *pro tempore:* If I call the "Yeas" and "Nays" there will then be no question about it. Will those honourable senators in favour of the main motion please say "Yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the main motion please say "Nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "Yeas" have it, and I declare the motion carried.

Motion agreed to on division.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that all remaining orders, motions and inquiries stand.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 11 a.m.

THE SENATE

Thursday, January 31, 1991

The Senate met at 11 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I continue to receive petitions addressed to me. Today, I have several to bring to your attention.

[*Translation*]

I have three petitions from Quebec, mostly from the region of Saint-Hyacinthe. The first one has been signed by 20-odd people.

I have another one also from the region of Saint-Hyacinthe, in the Province of Quebec. It is drafted much in the same way as those we have had so far.

Three more from the Montreal and Granby regions, each bearing the signatures of about twenty petitioners. All told, we are looking at 60 signatures from residents of the Province of Quebec.

From Ontario, only one today and it comes from the region of Oshawa.

As usual, they are worded as follows:

> Wherefore your petitioners humbly pray and call upon senators and members of the House of Commons, as true representatives of the people, to do everything in their power to oppose the new goods and services tax, and we insist that an election be held immediately.

Honourable senators, the petition from the Oshawa region, in Ontario, bears a single name.

As far as I can recall, this is the first time I have received from British Columbia this kind of petition addressed to me personally.

[*English*]

There are six from British Columbia dated January 26.

Senator Simard: Are they from Vancouver Quadra?

Senator Frith: I do not think so, but it is possible. If you are so curious, I will give you some addresses and you may know whether or not they are from the riding of Vancouver Quadra. Most of them are from New Westminster, which is another riding; but I would not be at all surprised if there were some from Quadra. It seems that every riding is represented by citizens who are enraged by this government, particularly regarding the goods and services tax.

I have another group of petitions from Vancouver, New Westminster and Surrey. One petition contains a picture of a mother of six. That was affixed to the last of the six that I have from British Columbia.

As I stated, the rage against the government, and the wish for an immediate election so that the people can express their rage, continues.

The six petitions from British Columbia contain 20 signatures each, which amounts to 120 from British Columbia today. Including the 60 citizens from Quebec, the total is 180 in today's batch of petitions.

ABORTION

PRESENTATION OF PETITIONS

Hon. Lorna Marsden: Honourable senators, I have a petition in which 12 citizens of Edmonton, Alberta, ask the Senate to defeat Bill C-43. They oppose the recriminalization of abortion and remind us that a majority of Canadians feel the same way. They ask us not to pass Bill C-43. There are 12 names on this petition, seven women and five men, all of whom are from Edmonton.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

TWENTY-THIRD REPORT OF COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, January 31, 1991

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

TWENTY-THIRD REPORT

Your Committee, which was authorized to study and report on childhood poverty and certain significant and costly social problems that manifest themselves in adult life and on measures that might better alleviate such problems, has, in obedience to its Order of Reference of Wednesday, June 21, 1989, proceeded to that inquiry and now presents its final report entitled: "Children in Poverty: Toward a Better Future".

Respectfully submitted,

LORNA MARSDEN
Chairman

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

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

WORKERS' MOURNING DAY BILL

TWENTY-FOURTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, January 31, 1991

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

TWENTY-FOURTH REPORT

Your Committee, to which was referred the Bill C223, An Act respecting a Day of Mourning for Persons Killed or Injured in the Workplace, has, in obedience to its Order of Reference of Wednesday, January 16, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MARSDEN
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, as you are aware, it is customary to give one day's notice for third reading. Often we have ignored that rule if we have intended to have Royal Assent on the same day. If it is the intention of the Senate to try to get its business concluded this afternoon, I have tentatively arranged for Royal Assent at 6:00 p.m. If that is the wish of the Senate, then we will not need to return tomorrow morning.

Therefore, 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 *pro tempore:* Is leave granted, honourable senators?

Hon. Allan J. MacEachen (Leader of the Opposition): No.

The Hon. the Speaker *pro tempore:* Leave is not granted.

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

• (1110)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

TWENTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, January 31, 1991

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

TWENTY-FIFTH REPORT

Your Committee, which was authorized to examine and report on Veterans Affairs Votes 1, 5, 10, 15 and 20 of the 1989-90 Estimates, has, in obedience to its Order of Reference of June 28, 1989, proceeded to that inquiry and now presents its report entitled "It's Almost Too Late".

Respectfully submitted,

LORNA MARSDEN
Chairman

Hon. Jack Marshall: Honourable senators, with leave of the Senate, I should like to make a few remarks on the report of the Subcommittee on Veterans Affairs. I think that is what Senator Marsden intended when she tabled the report.

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

Hon. Senators: Agreed.

Senator Marshall: Honourable senators, because of the participation of Canadian troops in the Persian Gulf, and the fact that one of our recommendations deals with that, I thought it would be appropriate to say a few words on the report and some of the anomalies we feel still exist in legislation concerning veterans.

I want to thank Senator Marsden for giving me the opportunity to offer a few opening remarks on the report of the Subcommittee on Veterans Affairs. May I express to her and, indeed, to all members of the Senate Committee on Social Affairs, Science and Technology, my appreciation on behalf of the members of the subcommittee for their support and for allowing me the freedom to conduct the business of the subcommittee at my own pace in concert with Deputy Chairmen, Senator Lorne Bonnell, and Senator Paul David, both of whom lent advice, support and guidance.

I would be remiss, honourable senators, if I did not give deserving appreciation to other senators in the chamber who, while not members of the committee, attended many of the meetings to gather evidence on our mandate. I refer to Senators Molgat, Muir, Rossiter, MacDonald (Halifax), Macdonald (Cape Breton), Barootes and former Senators Guay and Sherwood.

May I acknowledge the gratitude of the committee for assistance given during the study in preparation of the report by the clerk of the subcommittee, Mr. Denis Bouffard, and his secretary Mrs. Marie Claire Jak, the administrative assistant, Miss Laura Fox, and Mr. Grant Purves, who is a research officer with the Library of Parliament.

I acknowledge, too, the efforts of the veterans' organizations and members of the public who gave testimony and offered

advice as to their concerns on the application of benefits to the veterans they represent.

We had the pleasure of hearing evidence by the Minister of Veterans Affairs, the three largest and prominent veterans' organizations—the Dominion Command of the Royal Canadian Legion, The Army, Navy and Air Force Association and the National Council of Veterans Associations of Canada. We heard from the National Prisoners of War Association, European Theatre, the Merchant Navy Association, the Merchant Navy Prisoners of War Association, the Federation of British Canadian Veterans, the Sir Arthur Pearson Association of the War Blinded, and a small group of veterans who suffered beyond belief and who were confined to the Lager Buchenwald, the concentration camp.

Honourable senators, we chose the title of the report "It's Almost Too Late" because it is literally true when we consider that the average age of our First World War veterans is over 90 and the average age of our Second World War veterans is around 70. Even our Korean veterans are approaching 60 years of age. We have only a few more years in which to show those who serve that we care by ensuring that they and their surviving spouses spend their last few years in dignity and comfort.

Since the committee's last report in 1982 entitled "They Served, We Care" the passage of nine years has brought improvements to veterans' programs and to government policy. Most notably, the introduction of the Aging Veterans Program, later called the Veterans Program, assisted veterans to stay in their own homes rather than go into an institution, where they could be far away from their families. The government provided funds for assistance in housekeeping, groundskeeping, transportation, intermediate nursing care and many other benefits which allowed them to live in comfort in their homes.

At the same time, the hearings of the Subcommittee on Veterans Affairs highlighted the unequal treatment of our veterans who served in the Merchant Marines and the Merchant Navy. It also mentioned the continuing plight of some of our veterans living abroad. Some 50 years after the war, they are denied benefits which all other veterans receive because they chose to live in another country, even though that was their right under the Charter. There is a need for realignment of prisoner-of-war compensation in groups of veterans with deserving claims, who were overlooked when the veterans' independence program was extended to Canada's service veterans. The report mentioned other anomalies in the legislation and ways in which our treatment of veterans could be improved.

I should like to deal with some of the highlights of the report. The wartime service and post-war treatment of the veterans of the Canadian Merchant Navy was a major focal point of the committee's concerns. This brought about some heavy debate when Bill C-87 was introduced in the House of Commons and here in the chamber some months ago. The subcommittee heard from a number of groups and individuals who represent Merchant Navy veterans and Merchant Navy prisoners of war. As far as we were aware, our investigation mark the first occasion on which a parliamentary committee had been made aware both of the service and sacrifices of merchant seamen during World War II and of the shabbiness of their treatment in the years following the war. We also became aware of how little we and other Canadians know of the wartime history of the Merchant Navy.

I commend honourable senators to read the opening section in the report which capsulizes the story of the merchant seamen and the startling tales of the dangers experienced by merchant seamen equal to those of any of the military. Yet successive Canadian governments stubbornly refuse to grant these gallant men veteran status.

Without going into too much detail, I should like to quote from former senior officers of the navy. The Minister of Transport, for example, in April 1943 said:

> Merchant seamen virtually formed the fourth arm of the fighting services, and despite their reticence to blazen abroad their heroic exploits, we feel that in fairness to them and to their next of kin the Canadian public should be told of their work.

A rear admiral, the Commander-in-Chief of the Canadian North-West Atlantic, uttered these telling words:

> Make no mistake, the real victors of the Battle of the Atlantic were not the navies or the air forces, but the Allied merchant seamen.

Following the war, the survivors of this fourth arm of the fighting services were not granted veteran status. They were called non-combatants, which is a despicable characterization of their service. How can anyone consider they were non-combatants, untrained and unarmed, in the navy ships, out in the worst dangers? When the bombs and the bullets hit them and killed them, the bullets did not say, "We cannot touch these people because they are civilians."

• (1120)

I repeat that I commend the opening section on merchant seamen for reading by senators. I am sure you will be interested. I must now take the opportunity to congratulate Senator Neiman for her speech on Bill C-87 in which she gave some history of the merchant seamen.

In order to save some time today, honourable senators, I am going to present the 12 recommendations. This should take only a few minutes. I refer, first of all, to the merchant seamen again, and these are the recommendations we are making to the government:

> 1. That, at the earliest possible opportunity, the Government of Canada introduce legislation to extend full veterans' benefits to all Canadian merchant seamen who served in dangerous waters in Canada's armed conflicts.
>
> 2. That the War Veterans Allowance Act be amended to define as "veteran" all merchant seamen who made at least one trip through dangerous waters.
>
> 3. That the Government of Canada prepare and place in the Peace Tower a Book of Remembrance honouring

merchant seamen who died of enemy action in Canadian armed conflicts and, further, that suitable monuments to their sacrifices be erected.

Recommendation No. 4 has to do with the Canadian veterans who decided, as was their right, to live in a foreign country after the war. The recommendation in that regard includes, first:

That the residency requirement of the War Veterans Allowance Act and Part XI of the Civilian War Pensions and Allowances Act be amended to permit otherwise qualified veterans to apply for benefits from outside of Canada;

and secondly,

That the Canadian government take immediate steps to negotiate an agreement with the United Kingdom to exempt War Veterans Allowance from British taxes.

There are hundreds of Canadian veterans still remaining over there, many living in poverty. Canada refuses to help them, and hides behind this residency restriction, which forces them to come back to Canada for 12 months when they are in their 70s and 80s. It is not fair.

Dealing with the prisoners of war, the next recommendation is:

6. That the rates of compensation provided for under the Prisoners of War Compensation Act be reviewed with the objective of taking into account the severity of the POW regime forced on veterans by the award of additional compensation for each month deemed extremely severe and that two additional categories be added at appropriate rates of compensation for those veterans who served 30 months and more as prisoner of war.

When honourable sentors read the report, they will understand what that means.

The next recommendation is:

That, for the purposes of establishing entitlement to Veterans Independence Program benefits, receipt of prisoner of war compensation be treated as proof of undiagnosed medical disability.

Honourable senators, if anyone is paying attention, I want to remind him that at this time, when the government is concerned, and rightly so, about young Canadians overseas, our prisoners of war today are not entitled, unless they have a disability, to the Veterans Independence Program, even if they have fulfilled all the requirements. That is the reason why I feel some of these anomalies are so important today and the reason why we called the report "It's Almost Too Late".

Recommendations eight and nine are as follows:

8. That the Veterans Independence Program immediately be extended to civilians who served in close support of the wartime armed forces, that is, as enumerated in Part XI of the *Civilian War Pension and Allowances Act*, and that these benefits be comparable to those offered military veterans; and

9. That the cuts to the heavy housekeeping component of the Veterans Independence Program be fully restored.

I have only a couple more, senators. The next recommendation states:

10. That the *Veterans Allowance Act* be amended:

1. To establish a common age at which both men and women qualify for benefits and that this common age be 55 years old;

This recommendation tries to overcome an anomaly in the act. When the act was revised to include female veterans, due to the fact jobs were hard to find they lowered the age of qualification for the war veterans allowance to 55. Today there still are veterans who have to wait until they are 60, and I feel it would be only right, under the Charter, to equate the ages for both male and female veterans.

Recommendation No. 11 states:

11. That the Pension Commission give careful consideration to the psychological problems which may arise when the stresses of retiring and aging are combined with those of blindness, and that these problems influence the assessment of applications for exceptional incapacity.

The president of the Sir Arthur Pearson War Blinded Association appeared as a witness before the committee, and he made a strong case. Again I remind honourable senators that 50 years after World War II it is only now that the Canadian Pension Commission is considering extending exceptional incapacity to the war blinded because of their situation as they grow older.

This recommendation is prophetic to what is happening today. Recommendation No. 12 states:

12. That peacetime service personnel pensioned under the Special Duty Area Pension Order be eligible for Veterans Independence Program benefits.

The recommendation has to do with those who were serving in peacekeeping forces and who served after the war in Europe and around the world on behalf of Canada as a special duty. There is an order to cover their benefits under the Pension Act. On the news today it was said that the wives of veterans at the Trenton Air Force Base were visited by the Minister of National Defence and were assured that they would be entitled to pensions, allowances, benefits and care. As a matter of fact, in connection with the reference to the committee, we are going to deal with that problem.

On the last page of our report we advise that:

The Sub-committee on Veterans Affairs will be examining this Special Duty Order in its new mandate, the "Veterans Health Care Regulations"... to ascertain the benefits, services and care to which armed forces personnel, in all categories should be entitled.

One of the witnesses brought to the fore the fact that if veterans need care in a home, they are not entitled to it under the Veterans Independence Program.

Honourable senators, that is a short version of the contents of the committee's report. I would like to give one example of a

prisoner of war who served in the theatre of war under the most dangerous conditions and who, while incarcerated, received harsh treatment. He is not entitled to the Veterans Independence Program because it was not included in the order. To emphasize that fact, I had a letter from a Mrs. Coughlin. She wrote to me on behalf of her husband in January requesting assistance for the Veterans Independence Program as a recipient of POW compensation. Of course, he was ineligible because what he received through the War Veterans Allowance exceeded the maximum allowable for qualification. This veteran received the War Veterans Allowance, and the maximum allowable is now $1,262 per month if the veteran is married. Because he was entitled to Workmen's Compensation, he was brought over the maximum allowable, and removed his eligibility for the Veterans Independence Program.

• (1130)

This veteran died in bitterness, and his wife states in the letter that he died always wondering why he was not entitled to VIP. He asked one of the district office staff members whom he visited the following question: "When am I going to be classified as something other than a prisoner of war who did his country a disservice by being taken a prisoner?"

Honourable senators, this aspect of the matter emphasizes the justification for calling the report "It's Almost Too Late". Veterans today do not have many more years to live. Fifty-odd years after the Second World War we should not be too proud of the fact that there are cases such as those I mentioned which require recommendations to give the veterans the deserving benefits that are due them and their spouses after they die.

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

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

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT AGREEMENT BILL

TENTH REPORT OF FOREIGN AFFAIRS COMMITTEE PRESENTED

Hon. John B. Stewart, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, January 31, 1991

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

TENTH REPORT

Your Committee to which was referred the Bill C-88, An Act to provide for the membership of canada in the European Bank for reconstruction and Development, has, in obedience to its Order of Reference of Tuesday, January 29, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN B. STEWART
Chairman

[Senator Marshall.]

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, further to the remarks made earlier, I move, with leave, that third reading be given to the bill now.

Senator Doody: This is Bill C-88, having to do with the European Bank for Reconstruction and Development.

Senator Frith: But leave was not granted for the other one.

Senator Doody: The first bill for which I asked leave was a private members bill. I am not going to suggest that we hold the Senate back for it. It may well be an important bill, but nevertheless I do not think it is that important. What I am saying is that if leave is not granted now—which, of course, is every senator's right—then I will move that third reading be given to the bill at the next sitting of the Senate.

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

Senator Frith: No. Next sitting.

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

• (1140)

INTERNATIONAL SALE OF GOODS CONTRACTS CONVENTION BILL

THIRTY-FOURTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Nathan Nurgitz, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, January 31, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-FOURTH REPORT

Your Committee, to which was referred the Bill C-81, An Act to implement the United Nations Convention on Contracts for the International Sale of Goods, has in obedience to the Order of Reference of Wednesday, December 19, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NATHAN NURGITZ
Chairman

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

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

THE CONSTITUTION

SPECIAL JOINT COMMITTEE ON AMENDING FORMULAE—NOMINATION OF SENATORS

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding Rule 45(1)(*h*), I move:

That Rule 66(1) be suspended in relation to the nomination of senators to serve on the Special Joint Committee on the Process for amending the Constitution of Canada;

That the following senators be appointed to act on behalf of the Senate on the said Special Joint Committee, namely, the Honourable Senators Beaudoin, Carney, Gigantès, Hatfield and Kirby;

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think we should grant leave. I distinguish this from legislation because it is normal in our practice for the whips to settle on the names of those who serve on committees, and that the meeting of the Committee of Selection, which is the committee referred to in Rule 66(1), is usually *pro forma* as a result of that discussion between the whips. Therefore, I think we should grant leave to save them going out and having a purely *pro forma* meeting with the Committee of Selection.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

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, 1st February, 1991, at nine o'clock in the forenoon.

Motion agreed to.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the Leader is not present this morning and I have not heard from him. I presume he will be present later today. In any event, I will be pleased to take as notice any questions senators may have.

Hon. H. A. Olson: Honourable senators, I wanted to ask a series of questions on several subjects. I also noticed that the leader was not here today. There were several senators who came around before the session got underway with some perturbation that I was even here. I have been greatly influenced by their concern that I take a short time now.

AGRICULTURE

REQUEST FOR EXPLANATION OF GOVERNMENT PROGRAMS

Hon. H.A. Olson: Honourable senators, there is a matter I would like to give the deputy leader notice of. I received an answer about the agricultural programs known as GRIP and NISA—sounds like a couple of diseases. The answers were good as far as they went, but they were completely inadequate as far as giving a reasonably good explanation of what the farmers or the producers are faced with in meeting the financial requirements that they are part of. I ask that he request the Department of Agriculture, not only for my benefit but for the benefit of the producers, to put out a more complete explanation of these programs and do it in language that we can understand.

THE CONSTITUTION

FEDERAL-PROVINCIAL MEETINGS—REQUEST FOR OPEN DEBATE

Hon. H.A. Olson: Honourable senators, the second matter I give notice of is this: I wonder if Honourable Senator Murray would come into this chamber and give an explanation of the new task that he has been given by the Prime Minister, who has stated that he has hundreds of senior civil service personnel working on some kind of a new constitutional structure for Canada.

It seems to me that the leader should come into this place and explain what their task is and tell us the instructions that have been given to them to perform that task. He ought to know by now that having all of this done *in camera* until it comes out in a seamless web, like Meech Lake, does not work. I hope that he comes into this chamber and gives an explanation of what they are up to.

I think this is now the seventh federal and provincial committee that is working on the Constitution. It seems to me that we should have an open debate here and I would ask the Deputy Leader to take as notice our request that he initiate such a debate by giving an explanation of what this task force is about.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will make inquiries.

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. George van Roggen: Do I understand that the leader will not be here for Question Period this afternoon?

Hon. C. William Doody (Deputy Leader of the Government): I have not seen him this morning, so I really cannot answer the question. I notice that his reference book has arrived, but I dare not touch it. It might very well be sacred.

Senator van Roggen: I would much rather put the question to the Leader of the Government in the Senate than have you carry it as a messenger for him.

Senator Doody: I can understand that.

Senator van Roggen: If such an opportunity is to be presented to me later in the day that is fine, otherwise I will have to do the best I can in putting the question to you.

Senator Doody: You had better put the question to me now.

Senator van Roggen: I had better put it to you now, because this is Question Period and unfortunately I cannot be here tomorrow.

• (1150)

PERSIAN GULF WAR

ROLE OF CANADIAN FIGHTER AIRCRAFT—NEED FOR CHANGE IN WEAPONRY

Hon. George van Roggen: My question of the government concerns the role of our Canadian fighter aircraft in the Middle East. An article in the *Globe and Mail* of January 30, 1991, entitled: "Weaponry on CF-18s not changing, military says" points out that Canada has no plan to equip its CF-18 fighter planes with air-to-ground missiles to attack Iraqi defences, a military spokesman said. He then goes on to describe how their role could not be changed without political decisions being made by the cabinet.

The commander of all allied forces in the Gulf tells us now that no Iraqi aircraft are taking the air, except to fly to Iran. The defensive role that our fighters are playing in escorting coalition bombers over targets is for the purpose of fighting off fighter aircraft. If there are no fighter aircraft, then our pilots are being asked to expose themselves to antiaircraft fire from the ground for no good reason. They cannot fire back. They have no air-to-ground missiles on their aircraft, which could be fitted to those aircraft; and they are exposing themselves to danger for no good reason—that is, unless an Iraqi fighter can show up for them to fire on and there are none. However, there may be at some time in the future.

On last night's news two of our fighters returning from escorting some bombers were asked to assist some American fighters or British fighters who were engaging an Iraqi ship or patrol vessel of some sort. The other coalition fighters were almost out of fuel and had to disengage, so the Canadian fighters attacked the ship. But they did not have the proper weapons. So they did the best they could with their air-to-air machine guns and sparrow missile, which is an air-to-air missile—not armaments equipped for air-to-ground or air-to-sea effective combat.

To add insult to injury, this morning the Canadian commanding officer down there—according to today's *Globe and Mail*—had to explain how this was not technically going beyond the authorization of the cabinet in performing only a defensive role in the Gulf.

My question to the government is: Why are you putting Canadian pilots at risk from antiaircraft and ground fire when they are not equipped to perform any offensive function except against enemy aircraft—and there are none. That is my specific question.

Hon. C. William Doody (Deputy Leader of the Government): I will try to obtain an answer for the honourable senator. I do not mean to accept the premise that there are no enemy aircraft available. There may or may not be; I do not know.

I will try to get whatever information I can for the honourable senator.

Senator van Roggen: After all, what is so sacrosanct about only defending ourselves. We are not there only to defend ourselves. The mission that our pilots have, along with the coalition people, is to drive the Iraqis out of Kuwait, is it not? That is an offensive action, not a defensive action.

FISHERIES

MAPPING OF FISH STOCKS—GOVERNMENT POLICY

Hon. Roméo LeBlanc: Honourable senators, I should like to ask the Deputy Leader of the Government a question. I hope he will answer it, but it is really a suggestion in the form of a question.

I read today that one of the subjects the super-bureaucrats are looking at is how to divide jurisdiction over fisheries. I should like to ask the deputy leader if he might not suggest to his colleague, Senator Murray, that they ensure that the maps upon which the bureaucrats will base some of their recommendations are not land maps, as they were at one time some years ago, with the lines dividing the provinces unto the water. If you are dealing with mineral rights, that could make some sense. I suggest that they contact the Department of Fisheries and Oceans to ensure that, when they are looking at jurisdiction over fisheries, fish movement maps be the instrument that is used.

I will illustrate that with an example. The salmon heading for the Gaspé River can be caught near Port aux Basques or Cape Breton. It also touches P.E.I. and New Brunswick, through the Northumberland Strait. Eventually—that is, if there is anything left of the slices that have been taken—the tail and the head might arrive in the Gaspé River, but I doubt that too.

Has anyone given some thought to this type of problem and not allow the constitutional lawyers to look only at their theories in abstraction when, in fact, they should look at the moving patterns of fish stocks before they even put the subject on the table.

Hon. C. William Doody (Deputy Leader of the Government): I will certainly pass that along to the appropriate department.

PENITENTIARY ACT

BILL TO AMEND—STATUS REPORT

Hon. Earl A. Hastings: Honourable senators, before the Orders of the Day are called, may I briefly give an update report on the progress of Bill S-19, an act originating in this chamber, which amends the penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament.

Bill S-19 was given first reading in the House of Commons on January 21, 1991, and was considered by the Standing Committee on Privileges and Elections on January 22, 1991, together with those private members bills originating in the House of Commons, which were placed on the order of precedence at the end of December, 1990.

The Standing Committee on Privileges and Elections is responsible for deciding which private members bills and motions must come to a vote. Votable bills are protected in that they cannot be talked out without a decision. They are moved to the bottom of the order of precedence after each hour of debate until the fifth hour, when the Speaker will interrupt the debate to put the question.

The Standing Committee on Privileges and Elections, in its twenty-second report, honourable senators, designated Bill S-19, standing in the name of Mr. Nunziata, as a votable item. This is the first time that the standing committee responsible for private members business has selected a senate bill as a votable item.

ABORTION

THIRD READING—DEBATE CONCLUDED—DIVISION DEFERRED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips, for the third reading of the Bill C-43, An Act respecting Abortion.—(*Honourable Senator Nurgitz*).

Hon. Nathan Nurgitz: Honourable senators, I yield to my colleague, Senator Johnson.

● (1200)

Hon. Janis Johnson: Honourable senators, I wish to join the debate on Bill C-43 and begin with some quotes from submissions made by witnesses to the Standing Senate Committee on Legal and Constitutional Affairs, and from others, concerning this bill.

The first brief from which I would like to quote is from the Legal Education Action Fund for Women and is dated January 19. In it appears the following: "The core problem with the bill is that it labels as criminals women who seek abortions on the basis of their own priorities and aspirations if these priorities do not coincide with those of a doctor and the state."

The Society of Obstetricians and Gynaecologists of Canada stated in November, 1990: "The decision to perform an abortion should be considered a medical one and, as such, the issue of therapeutic abortion should not be included in Canadian criminal law."

The Tories for Choices stated in 1990:

> It has now been two years since the former Criminal Code legislation was struck down by the Supreme Court of Canada. Available data show no significant increase in the number of women seeking abortions. Women have continued to adhere to the same high standards of practice that characterize the delivery of all medical procedures.

I now wish to quote the eloquent words of the Honourable Barbara McDougall, who, in May 1988, said:

> There is no question that the issue is a moral issue. The question is, who is to make that moral judgment; the court in its red robes and ermine, the church in its silk robes and rings, or politicians in the green chamber, people like us, men and women of ideals and principle? ... Why are any of us in a position to make this judgment best? Why is the woman who is carrying the child not the person who can make that judgment best? Do we honestly believe that she who has the life within her will make a worse decision than us?

Lastly, I wish to quote the comments of the Honourable Kim Campbell, the Minister of Justice, when she addressed the standing committee on January 18, 1991: "Personally, I am comfortable without legislation." She went on to state that Canadians were uncomfortable and that that is why we have this bill. She said: "In a sense it puts the medical code into the criminal code." I say, fellow senators, why is it there?

I could regale you today with hundreds of other quotes from associations, societies and women across Canada about the importance of defeating this regressive legislation. It is not the right bill for our times. It does not reflect the realities of the 1990s and the fact that women have rights and equality under the law and the Charter. It takes us to pre-1969 and the days when women had absolutely no control over their reproductive lives—we were so powerless that to have a tubal ligation required the husband's signature. We had no choices then, and the freedoms we have achieved in the last 20 years have been hard-fought battles all the way. Power is not easily surrendered, and that is the issue here. Women have the right to decide what is best for them, just as men do, and this bill denies our rights, for it recriminalizes a procedure we have a right to access, if that is our decision.

I have listened patiently to the debate. I know that senators speak from their own convictions. But no matter where one stands, let us be fair—no one here is not "pro" life. That is the worst and most offensive misnomer I have ever heard. It implies that people who are against the bill, or who believe

that women should choose on this matter, are somehow against life itself. It is absolutely crazy.

I have given birth. I have nurtured a child. I have had a baby die. I hold life sacrosanct. It is precious, and so are our children. No woman is against a fetus. It is not a question of that; it is a matter of a woman's health when her physical and mental well-being may be seriously compromised by following through with an unwanted pregnancy.

This bill will hurt women, for it will limit access by causing delays in the system. Doctors are going to stop doing the procedure. Already today 14 per cent fewer doctors perform the procedure than was the case before May. They do not need the aggravation of potential lawsuits and the responsibility of sole decision-making. Who does?

I come from a family of physicians, men and women. I have seen their soul-searching on this issue and others. I know their sensitivities and respect their worries about such legislation. They are not bluffing or reacting just for something to do. They care, like we all do, about doing what is in the best interests of everyone. But the bottom line of this bill is—is it necessary, or, as grandma used to say, "When something is working, don't fix it!" The situation in Canada was working, especially since the 1988 Supreme Court decision.

Many years of working on women's health issues have shown me, above all else, that no one likes abortion or takes the decision lightly; some 99 per cent of women do not use abortion as a means of birth control; every woman who has one is emotionally affected; recriminalizing abortion will only hurt the very people we are trying to help most—the poor woman, the teenager, the single mom. Believe me, those who can afford it have other options than our system, and they use them.

Above all else, a woman who decides on an abortion will get one somehow, some way. After the agonizing comes action for a woman in this situation, and, if desperation sets in due to accessibility problems, delays, bureaucracy, or the like, she will resort to other means. That is unacceptable to me in this country today. We need to support women in their choices and not to continually challenge and defeat them because they are not in control of our society.

Women do not make the rules they have to live by. Yes, we are impacting more, but we still live by men's decisions in every aspect of our lives. Where does our freedom lie?

On this issue, trust me, I represent a large spectrum of popular opinion. I am of the post-war generation, the baby-boom crowd, as they call us. As a woman, I am offended by this bill. As a new senator, I feel a tremendous responsibility to fight it for the thousands of women who cannot speak to the issue and be heard themselves.

I thought that I would pass on this debate because the bill is so controversial, and I know how my government feels. I am also very loyal and respect my Prime Minister greatly. But the time comes in life when one must stand up for one's beliefs, for one has to live with oneself. I have never shied away from the principles I hold dear, and now is not the time to compromise on that score. The dignity of women is at stake. Our fundamental right to choose is severely compromised by a law that will recriminalize a health procedure. Once again we are the scapegoats for people trying to find a way out of an issue that was best left alone. I know in my heart that we can do better.

[Senator Johnson.]

In closing, let me say that the best way out of this situation is through education, counselling, and openness with our young people on sex education and family planning. Some progress has been made in this area, but not nearly enough attention is paid to family life programs in our schools and in our communities. The federal and provincial governments have to work in this area together. In fact, with the ever-changing family situations in our society, the Canadian family in the 1990s is an area of major concern. But that is another discussion for another time.

For today, this is a vote according to one's conscience. I was told that initially. I can respect anyone who votes that way. But if honourable senators vote on this bill on any other basis, then they are doing a great disservice to themselves and to the men and women—especially the women—of Canada.

Some Hon. Senators: Hear! Hear!

The Hon. the Speaker *pro tempore:* Honourable senators, if no other senator wishes to speak in debate on this motion—

POINT OF ORDER

Hon. Stanley Haidasz: Honourable senators, I rise on a point of order. On Tuesday last, when I was presenting my seven amendments to Bill C-43 I wanted to speak on my fourth amendment concerning a conscience clause.

Hon. C. William Doody (Deputy Leader of the Government): Has Senator Haidasz not already spoken in this debate?

Senator Haidasz: I have risen on a point of order.

Senator Doody: If the honourable senator has already spoken, then I am afraid the rules are very clear. If he wishes to speak again, he will have to ask leave of the Senate.

Senator Haidasz: Honourable senators, I rose on a point of order to state that on Tuesday last, when I was trying to make a speech to explain the reason for my fourth amendment for the inclusion of a conscience clause for health personnel in Bill C-43, I was interrupted by another point of order made by Senator Nurgitz. He had the right to do that. However, it prevented me from giving an explanation of my amendment.

• (1210)

With leave of the Senate, I ask that I be allowed to make a few remarks about the conscience clause that I proposed.

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

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore:* Leave is not granted. If no other honourable senator wishes to speak on this motion, the debate is considered concluded.

By agreement of the Senate, the vote is deferred until 3 o'clock this afternoon. Is it agreed, honourable senators?

Some Hon. Senators: Agreed.

Motion agreed to.

BROADCASTING ACT

BILL TO AMEND—CONSIDERATION OF SEVENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE CONTINUED—MOTION IN AMENDMENT—WITHDRAWN

On the Order:

> Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Poitras, for the adoption of the Seventh Report of the Standing Senate Committee on Transport and Communications (Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocummunication, with three amendments) presented in the Senate on 24th January, 1991.—(*Honourable Senator Atkins*).

Hon. Norman K. Atkins: Honourable senators, I move:

> That the Seventh Report of the Standing Senate Committee on Transport and Communications be not now adopted but that it be amended by
>
> a) deleting the words "with the following amendments and observations" and by substituting therefor the words "without amendment but with the following observations"; and
>
> b) by deleting the word "AMENDMENTS" and the amendments numbered 1, 2 and 3.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator MacDonald (Halifax), seconded by the Honourable Senator Poitras, that the Seventh Report of the Standing Senate Committee on Transport and Communications be now adopted.

In amendment, it is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cogger:

> That the Seventh Report of the Standing Senate Committee on Transport and Communications be not now adopted but that it be amended by
>
> a) deleting the words "with the following amendments and observations" and by substituting therefor the words "without amendment but with the following observations"; and
>
> b) by deleting the word "AMENDMENTS" and the amendments numbered 1, 2 and 3.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order. That motion is in order. The Senate does not amend a committee's report. It refers the report back to the committee if necessary or, if it so feels, with instructions to amend, with a request to amend, or with a request to give further consideration.

Honourable senators, I am sure it is not in order for the Senate to move amendment of a committee report. Therefore, I ask Your Honour to rule accordingly or reserve. If you rule it out of order, a motion to refer the report back to the committee, either with instructions or for reconsideration, would be in order. This is a committee report; therefore, only the committee can amend it. We can either adopt it, refuse it, or instruct further consideration.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if the Senate feels that this motion is out of order, I do not want the proceedings to be delayed. Therefore, I would suggest that those of us who do not approve of these amendments simply vote against the report.

The Hon. the Speaker *pro tempore:* Honourable senators, I am not prepared to rule now. I am prepared to reserve judgment and report at the earliest time.

Senator Frith: Honourable senators, it is a matter of importance beyond the question of the Broadcast Act. If we are going to change our procedures, the Rules Committee might want to look at that and might want to give the Senate this authority. I believe we should have a ruling. Perhaps Your Honour could rule on it later this day. I am not pressing for an immediate ruling, but I am pressing for a ruling as to whether or not such a motion is in order, because I am convinced that it is not and it ought to be so declared. If we wish to change our procedures, let us have a recommendation from the Rules Committee.

Senator Doody: I have no quarrel with that. Rather than prolong the procedure, perhaps Senator Atkins might have leave to withdraw the motion. Perhaps we can proceed in that way.

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

Some Hon. Senators: Agreed.

Senator Frith: If the motion is being withdrawn because it is out of order, then leave is granted. Leave has to be granted to withdraw. I wish to know whether the mover of the motion is withdrawing it because it is out of order. If so, then leave is granted.

Hon. Michel Cogger: He does not have to explain why.

Senator Frith: That is his problem, sir. I have a right to say yes or no to leave. I am saying no unless he will accept that that is the reason for withdrawal. This is not just a matter of caprice. Let me make it clear that it is consistent with what I have said up to this point; namely, that I believe such a motion is out of order. I am consistent in my position. Otherwise, I should like a ruling.

If the mover of the motion is prepared to say, "I withdraw because of the objections as to its being in order," I shall grant leave.

Hon. Norman K. Atkins: Honourable senators, I am prepared to withdraw the motion. I would be interested in knowing whether we can then vote on the committee report.

Senator Frith: I cannot prevent us from doing that. If leave is asked to withdraw the motion to amend the report because of the objection as to its orderliness, and it is therefore withdrawn, then the motion is before us. I cannot stop us from voting on that.

Senator Atkins: Honourable senators, with leave of the Senate, I wish to withdraw my motion.

Senator Frith: Because of the objection as to its being in order?

Senator Atkins: Yes.

Senator Frith: Then leave should be granted.

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

Some Hon. Senators: Agreed.

Motion in amendment withdrawn.

MOTION FOR ADOPTION OF SEVENTH REPORT NEGATIVED

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator MacDonald (Halifax), seconded by the Honourable Senator Poitras, that this report be adopted.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): The motion is now before us and I should like to speak briefly on it.

Technically, of course, Senator Atkins needs leave to speak to it now, because, by moving his motion in amendment, he has spoken to it. However, I shall not insist on that if he wants to say something, especially if he wants to explain why he is against national unity.

Hon. Norman K. Atkins: Honourable senators, once again, I should like to speak directly to this bill. Bill C-40 is a result of perhaps the most comprehensive and public review of broadcasting policy ever undertaken in Canada. The bill has been more than five years in the making and has twice been passed in the other place. Along the way, the bill has been the subject of wide-ranging public debate and comment and even some adjustments. It has twice passed second reading in the Senate.

The review of broadcasting policy produced two unanimous conclusions. The 1968 Broadcasting Act is outdated and the choice of Canadian programming is inadequate. The Broadcasting Act urgently needs updating to encompass new technologies not covered by the existing Broadcasting Act, to ensure the CRTC's authority to manage the broadcasting system effectively, and to reflect social realities such as human rights concerns and the need for better representation of women and minorities in our broadcasting system. In addition, there is a need to put in place new legislative provisions to help ensure that more and better Canadian programming choices are available to all Canadians, if our cultural sovereignty is to be protected and strengthened.

● (1220)

This legislation addresses these issues. It is the result of a genuine consensus and I believe it is time that it become law.

The first amendment relates to the CBC and national unity. Senator Stewart spoke about this amendment yesterday. Bill C-40 alters the CBC's mandate under the existing Broadcasting Act by replacing an obligation to contribute to the development of national unity with an obligation to contribute to the shared national consciousness and identity. This new wording recognizes the important role that the CBC can and should play in helping Canadians understand their country and each other. At the same time, it fully respects the CBC's journalistic independence and integrity.

In considering this issue, an all-party committee of the other house concluded unanimously that there must be no suggestion in the act that the CBC has any obligation to serve as a propagandist, even for a cause as legitimate as national unity. I believe that this was, and remains, the right conclusion. I believe also that it is important and constructive to note that this view has been supported by the majority of witnesses who have appeared before the committees of both houses of Parliament which have studied this bill, including witnesses from the CBC and the Friends of Canadian Broadcasting.

In my view, we should stay with this new wording rather than amend the bill to restate words which have been seen as problematic by the Caplan-Sauvageau Task Force, the Standing Committee on Communications and Culture of the other house, the two legislative committees of the other house, the senior management of the CBC, the past-chairman of the CRTC, and the foremost historian of Canadian broadcasting policy, Professor Frank Peers.

It is interesting to note that during his appearance before the Senate committee Professor Peers captured well the concerns of several other witnesses. Responding to questions on this issue, he suggested that an objective of contributing to the development of national unity places unreal expectations on the mandate of a public broadcaster because the phrase "national unity" may refer to particular constitutional arrangements which can alter over time. He supported the new wording in the bill because, in his view, broadcasters should be expected to do what they do best, which is to reflect and represent society as it is.

Honourable senators, the new wording refocuses the CBC mandate somewhat without taking away the responsibilities of the national public broadcaster to provide a responsible service to Canadians. Clearly, the CBC should be expected to help build this country as best a public broadcaster can, by reporting as accurately, honestly and objectively as it can, and by helping Canadians in all regions to share in our diverse culture and heritage. That is the mandate that this legislation gives to the CBC.

I was interested to note that the president of the CBC on Monday, speaking to the Canadian Club, made the following point, if I may quote a news article:

> It is an essential institution, he said, and "one of the few institutions we have left that can function as a powerful, effective instrument for nation-building."

On the second amendment, which relates to the powers of review and direction, Senator Davey made some comments with regard to that amendment. Under the current Broadcasting Act, the Governor in Council may set aside and refer back a CRTC decision for any reason. No public notice of appeals is required and only the result of these is made public. Clauses 28 and 29 of Bill C-40 change this process in three important ways which together limit the power's application and make the appeal process more transparent and open to the public.

Clause 28 narrows the power's application to matters clearly relating to objectives of broadcasting policy and regulation in clauses 3 and 5 of the bill. Clause 29 then requires that petitions to review a CRTC decision be copied to the CRTC, which must open a public register and send copies to all participants in the public hearings concerned. Finally, clause 28 also requires that the Governor in Council give reasons for setting aside a decision after a referral back. Under the current act, the Governor in Council may set aside a decision after a referral back without giving any reason.

It has been suggested that the power of review is unnecessary because, under clause 31 of the bill, a CRTC decision can be appealed to the Federal Court. However, the court may hear an appeal on questions of law and jurisdiction only and not on policy matters. Jurisprudence demonstrates that courts are reluctant to intervene with decisions of tribunals, particularly expert tribunals like the CRTC, because these tribunals are best placed to consider the evidence knowledgeably and assess it in the context of their expertise in relation to the regulated industries.

Moreover, unlike most administrative tribunals, the CRTC is empowered to interpret and implement a law which contains a statement of public policy enshrined in section 3 of the current Broadcasting Act and in clause 3 of Bill C-40. The courts have never called into question a CRTC interpretation of this policy. The Governor in Council's review power is therefore the only means of appealing CRTC decisions on the basis of a commission's interpretation of legislated broadcasting policy. Without this power, the commission's application of broadcasting policy would be beyond appeal. In effect, an appointed body would become the final arbitrator of a public policy so important that Parliament has enshrined it in law.

Experience with the existing review power indicates that since its introduction under the 1968 Broadcasting Act it has been used sparingly and judiciously in the public interest, regardless of which party was in power. In more than 20 years, the review power has been used to deal with 12 issues affecting 17 CRTC decisions. Among those issues were matters relating to Canadian content, to federal-provincial agreements and to the hearing of local concerns, none of which would have been heard in court. To place these numbers in context, each year the CRTC issues over 1,000 decisions which are open to appeal and affect one or more new licences, licence renewals or amendments.

The power of direction proposed in clause 7 of Bill C-40 serves quite another purpose and its application is also limited. The Governor in Council may only issue direction of general application on broad policy matters with respect to any of the objectives of broadcasting policy set out in subsection 3(1) or any of the regulatory objectives set out in subsection 5(2). Also, clause 7 states that directions may not apply to particular licensing decisions, nor to matters pending before the CRTC.

• (1230)

Finally, before issuing a direction, the Governor in Council must consult with the CRTC, invite public comments by publishing the proposed direction in the *Canada Gazette*, and table a proposed direction in each house of Parliament where it stands referred to the appropriate committee for a period of 40 days. Only after the expiration of these 40 days and a final consultation with the CRTC may a direction be issued. These limitations ensure that, like the power of review, the direction power will be used both sparingly and judiciously.

The power to issue policy directions and the power to review decisions, taken separately or together, do not substitute the Governor in Council for the CRTC, nor do they undermine the CRTC's authority. The CRTC is, and will remain under the bill, one of the most powerful and independent regulatory authorities under Canadian law. As the minister stated in his comments to the Senate committee, no power or combination of powers in Bill C-40 would allow the government to influence who would receive a broadcasting license.

The third amendment relates to the standing committees or subcommittees of the board of the CBC. Senator Graham commented on those amendments yesterday. The Caplan-Sauvageau Report and the House of Commons Standing Committee on Communications and Culture both recommended that a new Broadcasting Act recognize the differing characteristics of French and English language broadcasting. Bill C-40 recognizes this reality and ensures that the broadcasting system as a whole, the CRTC and the CBC will also recognize it. Clause 3(1)(*c*) states that:

> English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;

Clause 5(2) requires the CRTC to regulate and supervise the broadcasting system in a flexible manner that is readily adaptable to the different characteristics in English and French language broadcasting and to the different conditions under which they operate.

As for the CBC, clause 45 of the bill establishes standing committees of the board of directors to deal with matters relating to French and English language broadcasting. These committees ensure that this fundamental aspect of Canadian broadcasting will be given full and due consideration at the

highest levels of the CBC without, at the same time, dividing the corporation in two. The committees are intended to make positive contributions to the management and operation of the CBC. Their creation recognizes the reality that the English and French language services operate largely independent of each other, serving different audiences with different needs, which the board must take into account. At the same time, the bill permits cross-membership between these committees, which could foster a better understanding at the board level of the different characteristics of the CBC French and English services across Canada. They should lead to a greater exchange of information between the two services that now exist.

Under Bill C-40 there remains only one board of directors of the CBC, and Clause 45 gives the board full authority to ensure that the standing committees become positive rather than divisive elements. The chairperson and the president are to be members of both standing committees. All other members are appointed by the board, not by the government, and the committees would perform such duties as determined by the board as a whole. In short, the CBC has full leeway to experiment with the structure and the function of these committees until it is satisfied that they contribute to the fulfilment of the CBC's mandate in a positive and constructive manner.

For these reasons, honourable senators, I believe Bill C-40 should be adopted as it was presented to the Senate committee. I therefore urge honourable senators to give serious consideration to passing Bill C-40 as it stands.

Senator Frith: Bill C-40 is not before us. The report is before us.

Hon. John B. Stewart: I should like to ask Senator Atkins a question. As I understood the honourable senator, he said that he did not object to the Canadian Broadcasting Corporation engaging in nation building, or words to that effect. He then said that the expression "national unity" created difficulties for the preservation of journalistic integrity.

My question relates to the meaning of certain expressions used in the bill. The bill in the form Senator Atkins prefers would required the Canadian Broadcasting Corporation to contribute to shared national consciousness and identity. On the other hand, Senator Atkins would not have the corporation contribute to national unity. Could the honourable senator explain why "shared national identity" is less offensive than "national unity"? Is it not true that the expression "national unity" has come to be regarded as unacceptable in certain quarters and that the government is yielding to pressure from those quarters? If the second prong of my question is not accurate, will the honourable senator tell the house why contributing to "shared national identity" is better than contributing to "national unity". I should have thought that "identity", which indicates absolute sameness, would be more offensive to the government than "national unity."

Senator Atkins: Honourable senators, I believe in national unity, as, I am sure, does everyone in this house.

[Senator Atkins.]

Senator Stewart: We will be voting together then.

Senator Atkins: The fact of the matter is that your definition of "national unity" may not be mine. When a broadcaster is responsible to cover the issues in this country as a follower of public affairs, I would ask this question: Is it not fair that the CBC cover my definition of "national unity", yours or anyone else's, whether they are members of this house or of the public, in an objective and fair way? They are not there as propagandists; they are there to contribute, in my view, to the shared national consciousness and identity of this country.

• (1240)

Senator Frith: Surely there is more disagreement about the meaning of "identity" than there is about the meaning of "unity".

Senator Stewart: Surely Senator Atkins will agree that if there are differences of understanding about the meaning of the expression "national unity", the same differences would exist—and at an even higher degree—about the meaning of "national identity." And if we agree that "national unity" must be deleted because people differ, then it follows that the entire clause should be struck from the bill.

Senator Atkins: I suppose the other question, honourable senators, would be what definition the CBC has in relation to its view of national unity.

Senator Stewart: You make my point.

Hon. B. Alasdair Graham: I have a question for Senator Atkins related to clause 45, to which I spoke yesterday. I advocated the deletion of that particular clause because in my view it would further contribute to the division of the country and, indeed, to balkanization.

Towards the end of his remarks Senator Atkins said, if I heard him correctly, that the legislation permits cross-membership between the proposed English language broadcasting committee and the French language broadcasting committee. I cannot find any clause in the bill which prohibits such cross-membership, but since he made specific reference to it, I wonder whether he could expand on that and tell us where the bill expressly allows for it.

Senator Atkins: Honourable senators, as part of its responsibilities under the act, the board is empowered to appoint the committees. First, the chairman and the president are automatic *ex officio* members of both subcommittees. There is nothing stopping the board members from serving on both committees. There is nothing stopping the membership on the French language committee from representing other parts of the country. That is what I am saying when I talk about the cross-membership of the subcommittees of the board.

Senator Graham: I suppose, for purposes of clarification, then, what Senator Atkins is suggesting is that, besides the chairman and the president, directors from various parts of the country could serve on both subcommittees.

Senator Atkins: Yes.

Senator Graham: Could he tell me where that is stated in the legislation?

Senator Atkins: It is not stated in the legislation but there is nothing in this bill to prevent it from taking place if that were the decision of the board.

Hon. Keith Davey: Honourable senators, I should like to respond to Senator Atkins's comments on the power of direction and the power of review.

Hon. C. William Doody (Deputy Leader of the Government): Could the honourable senator put it in the form of a question?

Senator Davey: I ask Senator Atkins to comment on my observations, if I can put it that way. In his presentation he made the power of review and the power of direction almost meaningless. He spent a great deal of time saying how little the Governor in Council is involved in those powers. If those powers are really so unimportant to the government, then would he not agree with senators on this side of the chamber that the one power should be removed? In saying that, I am mindful of the fact that the Chairman of the CRTC is concerned about that double-barrelled intervention. Senator Atkins has spent quite some time diminishing the role of the government. Why, then, does he not agree with us and have the power reduced?

Senator Atkins: Honourable senators, I think the new bill opens the system up for those interested in any area of licensing or any other direction of review or power. The public has a better opportunity under this new bill to examine the direction which the government is taking. That is why I think it is important that we put back into the bill the clause that the amendment proposes be taken out. I think there would be great concern if we do not open the process up so that the public is more aware of what is going on.

I say that respectfully, Senator Davey, because I know that you sponsored Bill C-68. I think that bill was a first class bill for its time, but now in 1991, many things have changed. There has been a great deal of experience developed over the intervening years. Through that experience, the proposals in Bill C-40 are very solid.

The Hon. the Speaker *pro tempore:* It was moved by the Honourable Senator MacDonald (Halifax), seconded by the Honourable Senator Poitras, that this report be adopted. 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.

• (1250)

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1320)

The Hon. the Speaker *pro tempore:* Let the doors of the chamber be locked.

Report rejected on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Lefebvre
Bosa	Lewis
Buckwold	MacEachen
Cools	Marchand
Corbin	Marsden
Davey	Neiman
Fairbairn	Olson
Frith	Perrault
Graham	Petten
Haidasz	Stewart
Hays	Stollery
Hébert	Thériault
Kenny	Turner
LeBlanc (*Beauséjour*)	van Roggen—28

NAYS

THE HONOURABLE SENATORS

Atkins	Doody
Balfour	Doyle
Barootes	Forrestall
Beaudoin	Grimard
Beaulieu	Johnson
Bélisle	Kelleher
Berntson	Kelly
Bolduc	Kinsella
Buchanan	Lavoie-Roux
Carney	Lynch-Staunton
Castonguay	Macdonald (*Cape Breton*)
Chaput-Rolland	MacDonald (*Halifax*)
Cochrane	Meighen
Cogger	Murray
Comeau	Nurgitz
David	
DeWare	

NAYS

THE HONOURABLE SENATORS

Oliver	Spivak
Phillips	Sylvain
Poitras	Teed
Robertson	Tremblay
Roblin	Twinn
Rossiter	Waters—45
Simard	

ABSTENTIONS

THE HONOURABLE SENATORS

Ross—1

The Hon. the Speaker *pro tempore:* Let the doors be opened.

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

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order. We have rejected the committee's report.

Hon. C. William Doody (Deputy Leader of the Government): We have not rejected the bill.

Senator Frith: You cannot pick and choose. You have refused the report. What has the Senate just voted on?

Senator Doody: We voted on a report.

Senator Frith: Yes, and what does that report say? It says:

> Your Committee, to which was referred the Bill C-40 . . . has, in obedience to the Order of Reference of Wednesday, December 19, 1990, examined the said Bill and now reports the same with the following amendments and observations:

Hon. Efstathios W. Barootes: We are defeating the amendments.

Senator Frith: You are defeating the report. Please reread the motion. Incidentally, Senator Macdonald is a bit mischievous here! What will happen the next time he stands up and moves a motion? Are we going to assume that he is throwing it in for some frivolous purpose and will then turn around and vote against his own motion?

Hon. John M. Macdonald: I had an obligation to present the report of the majority of the committee, which I did antiseptically, in a detached fashion.

● (1340)

Senator Frith: May I say you did have an alternative, sir. You could have said no, which is apparently how you felt. Apparently, you were against this report. You cannot pick the part that you wish to defeat. The part that you have defeated is the report of the committee: that the bill be adopted with amendments. You cannot say, "I am voting for the part that says 'reporting the bill' but I am voting against the part that says 'with amendments'." It is one report, and that is what has been rejected. It would be quite out of order now to move to third reading. You cannot reverse that except if you have a two-thirds majority, and I doubt that.

[The Hon. the Speaker.]

Senator Olson: No, they do not.

Senator Frith: Of course, you can change the vote. That is possible. It would be in order to reverse the decision we just made with a two-thirds vote, but there is no authority for proceeding now with third reading on this report. The analogy of the GST, where a report was defeated, does not apply, because in the case of the GST vote the report of the committee said that the bill "shall not be proceeded with." The Senate defeated that recommendation, which, of course, means that the bill shall be proceeded with. In this case, what the Senate has done is to say to the committee, "You have, as we asked you to, reported the bill. You reported it with amendments. Therefore, you are telling us what we should do with the bill; in effect, give it third reading with these amendments." And the Senate has said no to that. That is the end of it.

Senator Doody: No, honourable senators. That is clearly not the end of it. The committee report was rejected. The bill now proceeds to third reading. It has been the standard procedure. It is what we have done on previous occasions and it is what we will continue to do. The committee's report was not accepted by the Senate, so we go to third reading and vote on the bill. If the Senate does not want to approve it at third reading, it will be defeated at third reading.

Senator MacEachen: But the bill has not been reported.

Senator Doody: But, certainly, the committee report has no bearing on the ultimate fate of the bill itself.

Senator Frith: Honourable senators, on this so-called standard procedure, I challenge any senator—and I will be convinced if I can be shown or if the Speaker makes a ruling, which I ask for now—to show me a case in which a committee has reported a bill with amendments, in which the Senate has rejected that report and in which we then proceeded to third reading. All this vote was about was to reject the report. The motion was for the adoption of the report and the Senate has said, "No, we will not adopt that report." That is the stage that goes before third reading, but it must be adopted or, as in the case of the GST, rejected outright. If there is a case in the Senate in which a committee has reported a bill with amendments, and in which a motion was made to adopt the report, obviously including the amendments, and in which it has been rejected and we have then proceeded to third reading, I should like to see it.

The Hon. the Speaker *pro tempore:* If there is no further discussion on the point, I will reserve my judgment on the

matter. I wish to look at the precedents and I will report as quickly as I can. Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Later*]

DISTINGUISHED VISITORS IN GALLERY

The Hon. the Speaker *pro tempore:* I wish to bring to the attention of honourable senators the presence in the Speaker's gallery of Mr. Speaker Donahoe of the Nova Scotia legislature, accompanied by David McNeil, Clerk of the New Brunswick legislature.

Some honourable senators will recall that Senator Donahoe, Speaker Donahoe's father, was a member of this Chamber for a number of years.

Hon. Senators: Hear, hear!

PETRO-CANADA PUBLIC PARTICIPATION BILL

ELEVENTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE REJECTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill C-84, An Act respecting the privatization of the national petroleum company of Canada) presented in the Senate on January 30, 1991.

Hon. Dan Hays moved the adoption of the report.

He said: Honourable senators, I would like to speak on this motion, and as a beginning comment, to thank the witnesses who appeared before the committee during the course of our consideration of Bill C-84, respecting the privatization of the national petroleum company of Canada. The witnesses that we heard were representative of the varying points of view on whether or not the privatization of Petro-Canada should be proceeded with, and they were also willing to answer the questions of the committee that related to one of my main concerns—shared, I think, by some other members of the committee—and that was a description and comment on the policy context within which Petro-Canada is being privatized.

I should also like to thank the committee members for their patience and their observing of decorum in the committee's proceedings. I think we had a good debate, both with witnesses present and when we were discussing the content of our report.

Finally, in this context, I thank the committee's support people in the persons of Nicole McMillan, our clerk, and Dan Shaw, from the Research Branch of the Library of Parliament, as well as the late Dean Clay, for their assistance to the committee in connection with this report.

I would like to speak on two aspects of the report. The first is the recommendation that this legislation should not be passed and new legislation privatizing Petro-Canada should not be introduced for at least six months. The explanation, as you will see in the committee's report, is that we have not yet heard from the Government of Canada, for example, on the report "Energy and Canadians into the 21st Century", which was tabled in the House of Commons on August 10, 1988. Nor have we had a response from the government to the report of the House Energy Committee that commented on that report. Nor have we had a comment on the Senate's own Energy Committee's report of June 12, 1990, on Petro-Canada. I might add that the government has never commented on the report of the House Energy Committee from the previous Parliament when it was chaired by Barbara Sparrow, MP from Calgary, in which, among other things, it recommended the establishment of a strategic petroleum reserve for Canada to address concerns about security of supply for Atlantic and eastern Canada.

The second part of my speech will deal with comments that the committee has made with respect to the privatization of Petro-Canada, if it is to proceed. I will reserve my comments on those until such time as I get to that point in my intervention.

The main item of concern to me on the energy policy context is with respect to Canada's security of supply and with respect to Canada's levels of self sufficiency in oil. I could comment on natural gas but that is covered fairly well in a report of the Senate Energy Committee, tabled some time ago, which recommended that Canada adopt a core market policy or a policy to ensure gas supply to essential service customers, as they are characterized in some cases.

Principally, I am concerned in my comments here today about security of oil supply and levels of self sufficiency in oil. The government, during the free trade debate, and now when pressed on what the energy policy context of this day is, always refers to mechanisms that are external to Canada to answer the question.

• (1350)

If I understand correctly, we are relying on external mechanisms with respect to what happens in energy matters in Canada, particularly with respect to oil, which, to a large degree, will tend to drive the price of other energy forms.

What are those external mechanisms? One is world price. I will not spend a lot of time on that subject because I think it is obvious that world price has largely been determined by OPEC. The current Persian Gulf crisis shows us how OPEC can be destabilized. Again, rather than spending a lot of time on that subject, I refer honourable senators to the committee's Petro-Canada report tabled in this chamber June 12 and adopted shortly after that, which describes in detail the situation in the world in terms of world reserves and where we obtain the oil we need. There are also comments about the situation in the United States and its alarm about its dependence on imported oil and the current process of developing a national energy strategy under the direction of their Secretary of Energy, James Watkins.

Let me go to the next external mechanism to which we are referred, which is the International Energy Agreement. On this count I do not put the same faith in the International Energy Agency as the government as a means of protecting our interests. The previous externality we have relied on—that

is, world price, to drive markets in a way to ensure that we do not have to worry about security of supply or levels of self-sufficiency—goes without saying. It is unstable; does the IEA, which is a creature of the OECD, cover this problem? I think not, even though it makes a lot of sense and is an important element in the world energy picture.

To give you the flavour of why I am concerned, rather than speaking on my own behalf, I would like to quote from the December 24, 1990 issue of *Petroleum Intelligence Weekly* and an article entitled "Energy Implications of the Mideast Crisis". It is by Mr. Silvan Robinson, who is chairman of the Energy Environmental Programme at the Royal Institute of International Affairs in London. Prior to that, he was president of Shell International Trading. I am not going to quote at length from this article, but on a selective basis. This paper is also a distillation of a paper that was presented to the Royal Institute on November 25 of last year. I would urge any honourable senators who are interested to read this paper. To make my point, the article asks this question:

> Is the International Energy Agency any longer the appropriate forum for managing crises? Is its remit in any case too narrow?

When talking about crisis management, I quote:

> An oil supply disruption affects the world in two ways—through the physical disruption of supply and a dislocation of prices. However, the remit of the IEA—certainly as it is presently interpreted—is that its primary concern is to help manage the supply-demand balance in a strictly volumetric sense, despite the major impact that price volatility has on world economic activity.
>
> The attitude of the IEA board is accompanied by what appears to be a misunderstanding by many governments and inter-governmental officials about how the price mechanisms of the international oil market nowadays actually work.
>
> The business is now extremely fragmented and market-oriented. Futures and forward markets have developed. The oil price is not based on short-term or even long-term marginal costs but on a balance of expectations about supplies and desired stock levels.
>
> It is difficult to avoid the conclusion that there is something amiss about the conceptual and practical framework of the IEA. Oil price movements in times of emergency are a matter of world importance. And the world's so-called strategic stocks are owned in such a way that except in times of extreme emergency, paralysis of action is inevitable. This may not have mattered much so far, but does nothing to allay future concerns.
>
> The issue of stock ownership—

And here he is referring to strategic petroleum reserves or excess capacity.

> —is the key. At present, for all practical purposes, strategic stocks exist in only three countries: the USA, Japan and Germany.
>
> During this crisis, the oil industry has so far demonstrated its usual remarkable flexibility. Given the reexpansion of Saudi Arabian supply, disruptions up to the size of one or two other Middle East producers can be "managed". And what would happen if Saudi Arabia itself were disrupted? This is not an abstract possibility. Surely a more powerful insurance against this catastrophe, enabling a measured, not panic, response should be at the heart of the stock strategy.
>
> One approach would be to revive the concept of oil leasing to the consumer world by producers with surplus capacity.
>
> The concept would be that the oil be stored throughout the consumer world, not just in the U.S. and Japan. It would be leased at production cost plus a fee and only fully paid for if used.
>
> The implication is that not only should the role of the IEA be changed, but possibly also its format. As presently constituted, the IEA has considerable merits. It has a good staff. Its market reports are basic reading for energy analysts. It is not an overblown body like so many U.N. agencies.
>
> But it does have a narrow focus, not only in terms of its ability to act on price levels, but also because it has no direct responsibilities for the non-OECD world, which will before long represent half the world's consumption. Its role in a real crisis is even more questionable. The so-called oil-sharing mechanisms are not likely to be remotely workable.

I rely on this person as being an expert and more knowledgeable than I. I have quoted his words selectively from the article, and I urge those interested to read the whole piece. I only quoted portions of it in the interests of trying to focus on what I believe is at issue; but let me add that I have had the opportunity in our Energy committee to meet with the Canadian bureaucrats who are responsible for our IEA involvement.

My conclusion is that the IEA will not work. Immediately after the 1979 Iranian revolution and oil embargo, the IEA should have come into operation. Its membership decided that it would not be a wise idea to bring it into operation. When pressed, the answer I determined from the bureaucrats who appeared before our committee was that because the IEA has no control over price, only volumes—a point made by Mr. Robinson, whom I have just quoted—then it really will not work very well in a time of crisis. In any event, they decided not to test it. So I question our reliance on world price or the IEA as a means of ensuring our security of supply.

● (1400)

Another thing that the government tells us we should take comfort in is the Free Trade Agreement with the United States, which secures our access and which we think, for some reason, is something that puts us in a better position. Here I should like to quote from our report, *Energy and Canadians into the 21st Century: (Energy Options)*. It contains a discus-

sion that deals with Article 904, the proportional access provision of the FTA, and Canada's position vis-à-vis the U.S.

The Free Trade Agreement does not give Canada greater security of supply, in that we import virtually no oil from the U.S. I suppose that we import some electric power and perhaps minimal amounts of gas, but virtually no oil, although we do have access to 50,000 barrels a day of North Slope crude, which we do not use on a market basis but could presumably secure, provided we took transport through the United States. I might say in passing that that is a remarkable example of how careful is the United States about letting its oil out of its control, and the degree to which it will go to ensure that it will address its serious problem of security of supply.

I quote from the energy options report. This is in the context of a discussion about proportional access and Article 904. I take this from page 49 of the report:

> The issue, therefore, is not whether such assurances should be sought and given, but rather whether the concept of proportional access negotiated in the FTA is an acceptable means of giving these assurances from the Canadian standpoint. The Advisory Committee is satisfied that the proportional access clause can be implemented and managed in a way that does not prejudice Canada's energy security interest.

The reference there to "assurances" must be taken in the context of this report's being prepared before the FTA was entered into. I quote further from page 50:

> The practical implications of this constraint—

that is, the Article 904 proportional access constraint,

> —are as follows. Supply emergencies are addressed by the International Energy Agency Agreement, which supercedes the FTA in cases of conflict. Under most reasonable scenarios, the IEA Emergency Oil Sharing System, or related mechanisms addressing pre-crisis situations, would require Canada to maintain, or perhaps even increase, its oil supply to the United States or other IEA member countries. Hence, the proportional access provision would likely not be relevant in this context.

The point here, honourable senators, is that this report from which I am quoting does not address the issue of regional security of supply. That would be addressed only by monitoring carefully our level of self-sufficiency and how our own crude feedstock needs are met. I make this comment now from memory, although I have the details somewhere in my notes. The current level of oil self-sufficiency in crude oil in Canada, I believe, is 64.1 per cent; that is, we supply 64.1 per cent of our own crude oil feedstock requirement. The balance is imported. Ten years ago we were supplying in excess of 70 per cent, and at one point in the 10 year period we were importing as much as 84 or 85 per cent.

The relevant point here is that our level of self-sufficiency is declining while our oil dependence in Atlantic and eastern Canada is increasing. On a market basis that trend will continue. I put it to honourable senators that, unless we do something about it, it will continue to the point where we have what is essentially a pooled asset with the United States. Of course, we have signed the FTA and the section under discussion means that it will be difficult for us to interfere with that, although there are some circumstances in which we could do so.

I will quote further from the Energy Options Report, having given that background:

> Specifically, the federal government retains full authority and has a heightened responsibility for the following:
>
> to monitor all aspects of Canadian, U.S. and international energy balances, reserves to production ratios, trade flows, etc.;
>
> to form a view on whether export volumes to U.S. markets can be sustained over the long term, considering the adequacy of Canadian reserves and production to meet future Canadian demand requirements; and
>
> if the view is that these volumes cannot be sustained, to deny increases (i.e. refuse the export application) and to cap the Canadian supplies accessible to the U.S. market at the then-existing level (i.e. invoke proportionality).

I emphasize the words "has a heightened responsibility for the following" and point out that the Energy Option Committee recommends in very strong terms that that heightened responsibility involves managing our energy future.

The report goes on to say that if it is managed badly there will be an electoral consequence for the bad managers. I suppose my concern is that we have ignored the admonition of Energy Options. We are not managing our energy future in a prudent way and we are using as a reason external factors. When we do that we are ignoring the example of countries with which we compete who look after their own needs on a priority basis and who manage their affairs so as to take full advantage of export opportunities and to ensure security for their own markets.

I believe—and this goes beyond the simple concern respecting oil—that unless we learn from those other countries, and follow their example, we will make ourselves more vulnerable and will put ourselves in a position where we are going to be exploited by those very able competitors in other parts of the world, and here I think principally of the United States, Pacific Rim countries—in particularly Japan—and Europe, who approach their problems in a different way. We seem to take for granted things that they are forced not to take for granted, and thereby, I believe, we are doing a great disservice to our future. We should be managing our energy future. From questions that were answered by the Minister of Energy yesterday we know that the IEA is not taking into account the fact that we are dependent on imported oil at the same time as being a net exporter—a net exporter undertaking obligations to supply additional oil to other countries. This apparently is under negotiation, but at this point the reality is that there is no good answer to the question, "What happens to us in the event of short supply and an obligation to share when we are a

major importer?" Over time, if the trend I described earlier continues, we will be as reliant as is the U.S. on imports.

I am not suggesting, when I talk about this, that we should close our doors, supply all of our own oil and not export. We should have healthy levels of exports. We should import, because it makes no sense to close our doors and simply be self-sufficient with our own supply. But the level of self-sufficiency is key. I feel that it should be about 70 per cent. For those who are interested, I delivered a paper to a heavy oil conference which elaborated on what I thought it should be and how I thought we should meet that need.

At any rate, I will close by saying that this reliance on external factors—our IEA agreement involving the usual problems in having to deal with 21 other countries; simply saying that the market alone will look after us; our looking at the FTA and thinking that, having entered into it, our problems are solved; and our not managing our problem as the energy options report admonishes us to do—is folly. This is the most glaring element of Canadian energy policy that is missing. I do not believe that we should proceed with the privatization of Petro-Canada until we have a statement of energy policy that is detailed enough to enable us to make a judgment on what the government intends to do to manage this problem.

● (1410)

Petro-Canada may or may not play a role in this. One of Petro-Canada's functions was state-to-state transactions. This could be a way of covering some of our security of supply or self-sufficiency concerns. It might be utilized for swap arrangements. There are many policy options that Canada might pursue to cover this problem, and Canada acknowledges that it has the problem. The rhetoric of the minister when he makes presentations on this subject is very good. I mean, I agree with him. He says we are concerned about that. However, when pressed yesterday, he answered the question by stating that we are pursuing demand-side options.

We are pursuing alternative fuels, conversion to gas and ethanol. When asked what he would do if we were importing 50 per cent or 60 per cent of our requirement, or some low figure, he would not answer. I think that question should be answered. I appreciate that once it is answered, the next question is, how is it to be done? There is some pain there. However, avoidance of pain has gone on too long. I think we should set the policy and then deal with the questions, because our long-term interests demand that.

One of the other options is a strategic petroleum reserve, which was one of the recommendations made by the house committee when chaired by Mrs. Sparrow. It was mentioned in the article I quoted. The author suggested some other arrangements which might work better, such as leasing of production, provided that could be done on a secure basis.

There are other aspects of an energy policy which should be fleshed out. However, I used the security of supply and level of self-sufficiency as the most striking examples of something that should attract our attention. It has attracted the attention of the government, but I do not believe the government has articulated in a detailed enough way for us to understand what it is doing to ensure that we have what we need for a long-term, secure supply and a comfortable level of self-sufficiency. I will not repeat the Hibernia debate, but it is key to that. We have spent a lot of money to bring the production on, but we have not completed the intervention, which has been justified only on a regional development basis, by ensuring that production from that area displaces imports in a region that is totally dependent on oil imports.

The second aspect of the report addresses some of the things that should be done, if the government wishes to privatize Petro-Canada, to make it a more successful privatization. The recommendations are that the company comply with the second recommendation of the committee's June report. In the interests of time, we did not repeat that in the report now before the Senate, so I will briefly read it into the record. The recommendation is that Petro-Canada be required to present as much information in the public domain as is required of comparable publicly-traded, private-sector companies. In the text of the report the committee referred to the Ontario Securities Commission's annual information form, or the U.S. Securities and Exchange Commission 10K and 10Q files, as standard of disclosure.

Over the years Petro-Canada has presented different kinds of information in its annual reports. As time has gone on, it has presented more detail and has been more consistent. When the committee looked at Petro-Canada in its study, it found that there was not enough information to do the kind of comparison that the committee wanted to do with Petro-Canada's peer companies, namely, Imperial Oil and Shell. The committee felt, in the abstract, that that was an important recommendation. However, if the company is to be privatized, it is even more important to have a reasonable period of time within which there is a history of that information being made available in order that energy analysts and investors will be able to make good judgments about Petro-Canada's value, and so that the public, whether it is a Senate committee or someone else who wants to go into detail—and there are many who will—will have enough information to judge and comment on Petro-Canada's activities.

The committee decided that this would be helpful, and I submit that it would aid those interested in making a proper assessment on the effect that the public policy objectives Petro-Canada has been required to serve have had on its financial performance and how the company is managed. In fact, some believe, and it was put to us in some of the testimony received, that Petro-Canada still has an overhanging public policy purpose to this day, namely, its commitment to Hibernia and to high-cost east coast production. We have heard from Petro-Canada that its current capital requirement is, in large part, needed to meet its commitments on Hibernia, which I believe are around $100 million in each of the next two years. The minister confirmed yesterday that it is contractually bound to go ahead with these expenditures.

Since Bill C-44 was passed and moved ahead, one of the Hibernia participants—Gulf Canada, with a 25 per cent inter-

est in Hibernia—is selling one half of that interest. One of the things that Petro-Canada may have do when it is privatized is follow the Gulf example and restructure. In fact, the chairman and chief executive officer have stated that they will have to do that kind of thing under certain circumstances. That is fine. If they are on their own, let us see how they do on their own and how they cope with the problem of their capital expenditure commitment. The company has immense assets, but it may have to dispose of some. It may have to restructure. That is common in that industry and many companies, including one large one, Dome-Petroleum, have failed. That is not likely for Petro-Canada, although I guess anything is possible, but let us see how it operates for some time with private sector mandate and full public disclosure before it is privatized.

The answers given by the minister to questions raising these issues are that before the public offering is made there will have to be a prospectus which complies with various Canadian and probably the U.S. Securities and Exchange Commission requirements. I accept that, and that is very good. However, Canada is not the usual vendor of shares. Others may disagree, but it seems to me that Canada has a much higher obligation to its purchasers than does the average seller of a company. I think that period of history with disclosure would be very helpful, and it would also give the market an opportunity to judge the effect over time of the public policy purposes on the company. It would also allow Canada and the company to wind up the public policy job that it was asked to do, before it is offered to the Canadian public.

● (1420)

The second point relates to management. Management is responsible to the board. There is a suggestion—and it was confirmed by the Minister of Energy when he appeared before us yesterday—that the board of Petro-Canada is to change. I do not raise this as a reflection on the current board—nor does anyone—but in 1988 the whole board did change. Perhaps that was to ensure that the new government's policy positions were well represented on the board. This committee's June 1990 report on Petro-Canada states that the company has had some 43 or 44 directors in 14 years. That is unusual.

If the government intends to put in place a different kind of board, it should do so now, not at the time of the initial public offering. That board should be in place for some reasonable period of time to see what its judgment on management is and how that changes the company, if it does, before it is sold to the public.

The last item is obvious—and I am sure would happen anyway—namely, that the sale to the public should not be contemplated until such time as energy markets now disrupted by the Persian Gulf crisis have stabilized. That is simply common sense.

The company will be new to the Canadian market and it is large. In informal discussions that I have had with investment dealers, counsellors and some of those who appeared before the committee, I am told that it will be difficult for them to assess the value of Petro-Canada. It will probably be done largely by a net tangible asset evaluation of some kind.

It will be difficult to value the company's underdeveloped land position, but that will have to be done. As an integrated company one of the things that would help would be good information for a period of time on a segregated basis—that is, downstream, segregated from upstream activity. We do not have that at this time. The way Petro-Canada has been reporting, we could not get that information, but we could get better information on Imperial and Shell because of the Securities Commission's filing requirements.

Honourable senators, I have gone on as long as I wish in explaining what it is that the report recommends and why. I hope that honourable senators on both sides will see this not just as a strict, ideological issue on either of our parts—that is, the government's part to privatize just for the sake of privatizing, or the opposition's part not to privatize because of a strong belief in public ownership.

Personally, I would be happy if the government just took a position on this; for example, if they said, "We are believers in the market and it ends there. Wherever that takes us, we go. We will not do anything." If they were to accept political responsibility for it, that would be fine. I, for one, would be in favour in letting them do what they want. But what is happening now is that they are saying, "We are looking after you, Canada. We believe in security of supply, R&D and all these things"; but they will not give us the meat of those statements. It is a legitimate thing for those of us in opposition to press the government hard to say "What is your real policy? What do you want to achieve so that Canadians can judge the government on that basis?" As it stands now they are receiving the benefit of being the good guys because they believe in all these things, yet they are not dealing with the pain of actually setting the objective and then stating how they will achieve their objective.

Reasonable objectives will cost money, but the government is prepared to spend money. Hibernia, the government's initial commitment to OSLO, the Lloydminster Upgrader, and the Vancouver Pipeline are all examples of the government's willingness to intervene and spend money.

In conclusion, I hope that we look at this on a non-partisan basis. On this side we are not saying, "Do not ever privatize Petro-Canada." That is not our position.

But I do not believe that the company is ready to be privatized at this time. Prior to privatization the government would be well advised to follow the recommendations of the committee with respect to the steps that should be taken to ensure we all understand the company better than we do now.

Honourable senators, I leave it with you. Hopefully, the report will pass. I appreciate the nature of this legislation. It goes back a long way. The government of the day is Progressive Conservative. It did not want Petro-Canada. It was an issue in the period of Mr. Clark's government in 1979 and it remains an issue. Personally, I hope that we are looking at this not on a political, partisan or ideological basis but, rather, on a

pragmatic basis in terms of what best serves the Canadian interest. The Canadian economy cries out at this particular point in time for a sense of direction. That sense of direction can, in large part, be provided by the government of the day. One of the things that would help do that would be to flesh out the government's energy policy and to heed the recommendations of the energy committee's report.

Hon. William M. Kelly: Honourable senators, I want to respond with a few words. I will not cover the matters covered by the chairman in the order in which he covered them, but I hope to cover them.

Before I get into details, however, I wish to associate myself with the chairman's comments of appreciation for the work of the staff and the witnesses. The witnesses were of a high quality. They were recommended by the chairman. They were well chosen and very balanced. The committee did a thorough, competent and thoughtful job. It was well-balanced.

I am glad that Senator Frith is back in the chamber, because I wanted him to hear this comment particularly. In my view, the work of the committee was carried on in the best traditions of senate committees—that is, in a totally non-partisan basis, the way that he knows I feel all activities in this chamber should be carried on.

Hon Royce Frith (Deputy Leader of the Opposition): I hope that you bring a motion some day to state that we break down the entire party system in here and see what everyone says, including those here.

Senator Kelly: The vote in the committee was five to four. The fact that the five happened to be, incidentally, Liberals, and the four, incidentally, happened to be Conservatives should not be construed as being a partisan decision, because it was not. That was a total coincidence, and I want Senator Frith to know that.

Senator Frith: I will try very hard to do that so as not to construe it.

Senator Kelly: I am grateful that Senator Frith returned in time to hear my testimony on that fact.

I was part of the minority opinion contained at the bottom of the Senate report, and I wish to discuss some of the views that were not contained to any great extent in the report itself.

● (1430)

I apologize to the chairman for asking his indulgence in permitting me to do that. I should like to comment, first, on several points of detail that were discussed in the committee. Not too many were contained in the report, because we anticipated that we would be able to debate these things before the full chamber.

At the time we had the discussions many of the committee members were concerned that the privatization of Petro-Canada was, as some said, an irreversible step in dismantling a past and possibly future instrument for the implementation of government policy. Honourable senators, it should be pointed out that Petro-Canada has not been used as an instrument of public policy since 1985. It would be a tremendous misallocation of resources to hold on to a corporation that has been dormant as a public policy instrument on the off-chance that it may be reactivated at some point in some uncertain future. Furthermore, the privatization of Petro-Canada has no impact on the other regulatory, fiscal and public enterprise tools the government retains in its arsenal to effect public policy objectives. There also appears to be some apprehension among some committee members that the sale of shares in Petro-Canada will somehow cost the government or taxpayers money. As I understand it, the first tranche of shares will be treasury shares issued by Petro-Canada. They are not government-owned shares being resold. At least that is my understanding. Once Petro-Canada's treasury shares are sold, the government's shareholding position will be diluted to 85 per cent from 100 per cent.

To my admittedly more of an engineer's mind than an accountant's mind, this means the government will own 85 per cent of Petro-Canada, but that the net value of Petro-Canada has been increased by the infusion of equity from the sale of treasury shares. In effect, the government will own a smaller part of a larger pie.

Until we know what price the treasury shares will command on the market, we will not know the extent of the government's actual gain or loss. My suspicion is that in real terms either would be relatively small.

In subsequent tranches, government-held shares will be offered for resale.

Some committee members feared that if these shares were sold at below the value at which they are recorded in the government's accounts—in other words, their value prorated to the book value of Petro-Canada—somehow additional tax dollars would be required to make up the difference. I do not pretend to be an authority on accounting policy, and I am certainly no authority on government accounting policy, I understand from those who are that the committee's concern is misplaced.

As I understand it, because the privatization amounts to the sale of an asset that has already been paid for, any return generated by the sale less than the value carried on the government's books will require the government to record the loss by accounting entry, but it will have absolutely no impact on the government's cash requirements.

I cannot agree with the committee report that the government should unilaterally appoint a new board of directors as a precursor to privatization. I understand the point of view expressed by the chairman and others, but I cannot agree with it. I think this is something that should be left to the new shareholders, including the government as long as it is a shareholder, under the commonly accepted practices of any company under company law.

I must say I agree wholeheartedly with the committee report that the standard of disclosure for Petro-Canada should equal that of comparable publicly-traded companies. In fact, I have always believed that this should apply to all federal Crown corporations. I have never understood why a Crown corpora-

tion's disclosure to Parliament and to public is less than any publicly-traded company. I have never understood why a Crown corporation raising debt, for example, in United States markets sees no irony in providing a fuller disclosure to the American SEC and it feels obligated to provide to Canadian parliamentarians, the Canadian public or Canadian securities regulators.

In this regard, it is ironic that we should recognize that even the partial privatization of Petro-Canada will require it to meet higher standards of disclosure for two securities commissions in jurisdictions where shares are offered into its shareholding.

It is the central recommendation of the committee's report, however, to which I take exception. The committee report recommends that the privatization of Petro-Canada should be shelved until the government enunciates a comprehensive energy policy with particular attention to the issue of energy security. Several committee members were very frank and forthcoming in their view that this bill should be used as some form of hostage to get the government to respond to conclusions and recommendations than the committee's Petro-Canada report tabled in June, 1990, and the earlier report on energy options. I am one of those who believe firmly that the government should as a matter of course respond to conclusions and recommendations of committees of this Chamber, as it does with the standing committees in the other place. On the other hand, I believe in this instance the Minister of Energy did an excellent job of doing just that when he appeared before us yesterday. I believe the chairman of the committee had heard a statement of energy policy yesterday. I believe he has heard it before. What he is really saying is that he does not agree with that energy policy. Carried to its ultimate destination, I do not think he will be pleased until the energy policy stated by this government agrees with his energy policy. But, in my opinion, he heard an energy policy yesterday. I was there.

I do not believe it is proper to use Bill C-84 as leverage to force a government response to a committee report. That is my general position.

Let me explain why. Since Petro-Canada has not been an instrument of public policy since 1989, its privatization is essentially irrelevant in the context of the development of an energy policy, or in the context of energy self-sufficiency. I would also say this to the committee. Did the then Liberal government, if this is a partisan position—and I am not suggesting it is—embark on a comprehensive study or northern transportation when it announced the privatization of the Northern Transportation Company Limited in 1983? Did this or any other place demand a review of telecommunication policy prior to the privatization of Tele Globe? Did we demand a comprehensive transportation review before we embarked upon the privatization of Air Canada? Were we asked to? Did we look at the future structure and competitiveness of the munitions industry before we authorized the privatization of Canadian Arsenals? Of course we did not. There is even less reason to require or expect it in the case of Petro-Canada's privatization. Petro-Canada, as I have said before, has not been a public policy instrument for over half a decade.

I am puzzled by the committee's preoccupation with energy self-sufficiency. It comes down to how you look at the world, particularly the world in terms of energy. I take it from discussions and debate in committee that the majority of the committee members feel that we must be certain of self-sufficiency in oil and gas before we share our oil and gas output with other countries. To me, the snacks of a brand of isolation is in that is both passé and not appropriate when it comes to energy. We cannot isolate ourselves from the world, from world energy markets or the world-wide forces of energy supply and demand. We cannot and should not deprive other countries of our energy resources for strategic reasons. We abhor such practices when committed by the OPEP cartel. And, when taken to their extremes, such practices can lead to the sort of hostilities we witness today in the Persian Gulf.

We cannot and should not hoard our energy resources. We should make the most out of them. It is up to Canadian capital, Canadian initiative and Canadian entrepreneurship to maximize the value added Canada and Canadians realize from our energy resources. But to leave our energy resources in the ground, or to leave them undeveloped as a edge against the dim and uncertain future makes no economic sense. I believe that is morally and logically indefensible.

I know many of my friends opposite disagree with this view. I ask them how they would feel if the cue were on the other foot, if we had no oil and gas production, but say, for example, Mexico did. I have the feeling we would be arguing, at least on moral grounds, that energy is an essential and global resource. That is where I certainly stand on the whole question of self-sufficiency. Self-sufficiency in itself is not appropriate given the way in which nature has spread these resources throughout the world.

Honourable senators, I have said my piece, I urge that Bill C-84 be passed without delay so that the government may proceed with the privatization of Petro-Canada when market conditions for the privatization are most favourable.

● (1440)

Senator Hays: Honourable senators, I should like to ask Senator Kelly a question, which will give me an opportunity to clarify a point. He said that I did not agree with the energy policy of the government, as articulated by the minister. The frustrating thing is that I do agree with it, but I do not know what it is other than in an abstract sense.

Let me ask the honourable senator the same question I asked the minister. It appears from his remarks that this would not matter to him; but at what level of self-sufficiency, if any, would he have concern about Canadian energy security—50 per cent, 40 per cent—bearing in mind that the U.S. are very alarmed at 50 per cent?

Senator Kelly: Honourable senators, I have difficulty trying to project myself into what the government response would be to that question. I can give you my own, but Senator Hays and I look at the world differently. I could well be wrong.

We should be participating in a discussion on the world energy. How are we going to see to it that all of the areas of the world will have sufficient gas and oil, which is the fundamental energy that drives the industry and keeps the market system moving? I have difficulty coming to a figure in terms of where we are, because it is not that easy.

For example, if we consider that today we are very wasteful of energy, we would say that our needs over the next several years will be so much. At the same time, I would recognize that some scarcity every now and again might move us faster into the development of alternate energy sources. It might make us turn down our thermostats. I do not want to see us preserving the level of use that we have now, because it will not only be bad for us but it will be bad for the rest of the energy-consuming world.

When we have the resources that we have—nature gave us a lot—we feel it is our right to waste it, because it is ours. It is not that simple. That is why I cannot answer the honourable senator's question directly.

Hon. H.A. Olson: Honourable senators, I should like to say that I am going to be very brief, perhaps less than five minutes. I have to tell Senator Kelly that it is exceedingly tempting to rebut his speech. There are many things to which he asserted in his speech that recent history in the last 15 years has proven absolutely wrong.

Senator Frith: Partisanly wrong or non-partisanly wrong?

Senator Olson: Absolutely wrong. If we privatize Petro-Canada and sell off the one Canadian company left that is large enough to carry out some of the projects that we know have to be carried out in Canada if we are going to have a respectable amount of gas and oil production in Canada from Canadian resources—

Senator Barootes: Such as Hibernia.

Senator Olson: Yes, Hibernia, the Beaufort Sea and the tar sands are the three major resources that we have left in Canada to develop. The western Canadian sedimentary basin is still producing respectfully, but it is starting to decline. There have not been any major finds of additional oil. There have been some gas finds recently, but there has not been what the industry refers to as an elephant—that is a big oil field—in the last 15 or 20 years. That is a fairly good indication that we have probably found all there is.

There will be many small oil fields found, which will help to keep up the production. However, the production of oil out of that basin is declining at approximately 100,000 barrels per day per year. That has to be made up somehow.

Honourable senators, we know that we have the resources in Canada to do it. We have Hibernia, the area off Nova Scotia, and particularly the Beaufort Sea. Even more important, there are the reserves in the tar sands of Alberta. We know there are 900 billion barrels of oil there; but it takes large investments of capital for the processing plants, along with a long lead time, to bring that oil into the consumer stream. No one in the oil business would argue with that.

[Senator Kelly.]

There are only three oil companies left in Canada that are big enough to take on these jobs—Imperial Oil, Exxon or Shell. It requires an investment of $5 billion to $6 billion at a time, and that $5 billion or $6 billion has to be invested with a lead time of at least six years from the time the decision is made to go ahead with it until oil is coming out through that processing plant. They are not doing that. How are we going to get this done unless we depend on some international or multinational—whatever you want to call them these days—oil companies to do it? There certainly are not any Canadian companies besides Petro-Canada that are large enough to take on those kinds of investments, along with the risk.

That is why I believe we should keep Petro-Canada in its present form. Senator Kelly gave the excuse that it has not been used as an instrument of government policy for the last seven years—not since 1984 anyway. That does not say there is anything wrong with Petro-Canada and its capability to do that. That is a mismanagement policy on the part of the government. Right now we should be building tar sands processing plants. We should be bringing one on about every 18 months, with a capacity of something over 100,000 barrels per day. We have not brought one in since 1984. We have not even started one since 1984. That is not a good reason; that is just fobbing off mismanagement by the government to develop Canadian resources.

I know that that oil is more costly than buying offshore oil at the present time. Senator Kelly has a point of view and says that we are better off to buy offshore oil. He must have forgotten what happened in the crunch of the late 1970s and the first year of the 1980s. We were pleading to get some of these countries to sell oil under the quotas they had to sell. I remember that. The price went up and there was real concern in this country that we were not going to have enough. So we did embark on a policy of developing more Canadian resources.

We need a Canadian oil company. We need one that can properly be used as an instrument of government policy to bring on the resources in Canada.

• (1450)

I should just interject here to say that the minute we sell any shares, even the 15 per cent that is called for as the first tranche in this bill, then that will be the end of using it as an instrument of government policy. The shareholders would very properly expect the federal government not to use it for that purpose because their purpose is to make some earnings on their investment.

In conclusion, I just want to say that it is a serious mistake, one that I am sure we are going to regret sometime in the future, whether it is five years or ten years down the road.

The other thing is that you cannot put together another one because there is not enough left of the Canadian oil and gas structure, even if you were to get a lot of little Canadian companies together to try to organize a large company. We have Exxon or Imperial Oil out there, along with what they acquired of Texaco. They were the two biggest and now it is

one. There is Shell Oil out there, and it is a fairly big company. Certainly, they could do it, but they may or may not. I do not think either of those would be willing to take such long-term risks with their capital.

So, we will regret it. However, I hope that the sales between now and when the government is changed will be small enough that we can get most of Petro-Canada back and use it for the purpose for which it was designed, in the interest of Canadians, to have a secure and stable energy system. Thank you.

Hon. Sidney L. Buckwold: Honourable senators, if I may be allowed to make a brief intervention, I do not think we have had sufficient discussion in the Senate on what I consider to be a very important element of the committee's report, and that is item 3 which says, "privatization should not be contemplated until such time as energy markets, now disrupted by the Persian Gulf Crisis, have stabilized."

It seems to me that that is a very real concern. When this legislation was proposed, and the whole idea of privatizing Petro-Canada was being developed, there was no immediacy of a Gulf crisis or a potential disruption of world oil supplies, which could have a devastating effect on the whole world and on Canada in particular. It seems to me that it would be very prudent for the government to accept a recommendation, such as proposed in this committee report, to delay, for at least six months, the implementation of this legislation that would end up privatizing Petro-Canada.

Senator Olson has said that 15 per cent does not seem like much, but he is absolutely correct in saying that, once 15 per cent is in the hands of the general public, shareholders of the company will quite properly insist that their interests must be represented, and, as such, Petro-Canada would not be in a position to be an instrument of government policy or to be a stabilizing influence on the energy situation in this country as it potentially could be under its present set-up. For that reason, if for no other, it seems to me that this chamber should support the committee's report. Anything can happen in the next six months. Who knows what the result to energy supplies will be of the hostilities that are occurring in what is probably the most volatile area of the world?

So, in my short intervention, I am asking all senators, perhaps especially those who oppose the committee's report—only because delay seems to me most sensible and most protective for the interests of this country—to accept a delay of six months in the implementation of this legislation.

Hon. Douglas D. Everett: Honourable senators, I listened with interest especially to the point made by Senator Olson that what we need in Canada is more of what the oilmen call "elephant hunting", that this situation can only be secured if, indeed, we have a government-owned oil company such as Petro-Canada, and that, for that reason, there should be no sale of the shares of that company.

It seems to me that, if that were true, the mistake that was made was not made at the time that it was determined, I believe in 1984 or 1985, that Petro-Canada should not be an instrument of government policy. The mistake was made at the time that Petro-Canada was permitted to be an integrated oil company. It was not involved just in the exploration side of the business. It went out with the avowed intent, through the acquisition of other companies, through the acquisition of refineries and through the acquisition and building of marketing outlets, to take at least 15 per cent of the market. At that point it became subject, in my judgment, to the financial disciplines that would apply to any company that is in a competitive retail market. If our intention, when Petro-Canada was first formed, was to secure energy supply and to allow a company with government backing to have enough capital in order to go "elephant hunting", and to go up on to the North Slope or to Hibernia and put billions of dollars into projects, then we should never have permitted Petro-Canada to be in the refining and marketing business. The day we did that, we lost that option. We had to have financial reality determine the policy of Petro-Canada.

Perhaps there is something to be said, as Senator Hays says, for security of supply. I am not sure. It is perhaps just as well to talk about comparative advantage. However, if there is a good argument for concern about security of supply, then I would suggest to honourable senators that Petro-Canada should not be the instrument of that policy. It should come from government policy itself. In other words, it can invite other people and other organizations to come in and take part in joining in the security of Canadian supply.

I do agree with the report's recommendation that better financial information be supplied by Petro-Canada; but, surely to goodness, that will be part of the process of marketing the shares that are going to be sold to the public. I do not think there is any need to delay the sale of the shares of Petro-Canada while that better financial reporting is done. The shares will not sell unless there is improved financial information.

I see no reason for the suggestion, for example, that the new board be in place before the shares are sold. If the company is privatized, then it will be up to the shareholders themselves to determine who is on the board. Far better to leave it until we are at the point where the shares are being sold. As to the loss on the government books by the sale of the shares, I do know something about government accounting and that loss will not show up because we account on a cash basis. The investment in Petro-Canada is gone, written off, not carried as an asset on the books of the government. There will be no cash loss. In fact, in selling shares, there will be cash income.

• (1500)

We come to the final argument that the reason for delaying passage of the bill is to wait until the energy markets stabilize due to the Persian Gulf disruption. I do not think that is a reason for not passing this bill. That may be a reason for not putting the tranche forward for sale to the public. It may be a reason, but not for not passing the bill. The bill can be passed now; and, if the energy situation in the Persian Gulf makes it uneconomical to put shares out to the public, then that can be delayed until a proper time is available, which I am sure would be determined by the underwriters.

Looking at the committee report, I find that no case has been made for a delay in this legislation in any one of the areas raised by the committee, although I think it is an excellent report. Honourable senators, it is my belief that the bill should be passed now.

Some Hon. Senators: Hear, hear!

Senator Hays: I wonder if Senator Everett would permit a brief question. The Government of Canada has recently completed a privatization, namely, Air Canada. It deals with a different sector, but recently I read an article in the *Globe and Mail* report on the business magazine section which I think is devastating. The Chief Executive Office of the company said they were not ready to go private. What a miserable time for the current shareholders to find that out!

It seems to me—and I would like Senator Everett's reaction—that those are the kinds of things to be avoided, especially by the Government of Canada. If Canada were a business in the market, it would be "buyer beware." But there is a magic or cachet to Air Canada. There is the same kind of potential euphoria for Petro-Canada, particularly with respect to its employees. I do not know whether or not Senator Everett read that article, but I wonder if he is persuaded that there should be no question about Petro-Canada being ready to go private and that it be well understood before it occurs, using Air Canada as an example of moving too hastily.

Senator Everett: Honourable senators, I think that is a risk anyone takes who goes to the public market. One can go at the wrong time and one will suffer the consequences as a result. I would hope, in the case of Petro-Canada, that the 15 per cent tranche is sold at the right time. I did read the article on Air Canada, and I am not certain that the case was well made that the problems they had were due to going public at the time they did. Surely to goodness the important issue is that we are passing a bill that makes it possible for stock to be sold and the company to be privatized at the right time. We are not saying the government should do it now; we are giving the government authority to do it at the right time.

Some Hon. Senators: Hear, hear!

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

Some Hon. Senators: No!

Some Hon. Senators: Agreed.

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.

[Senator Everett.]

And two honourable senators having risen.

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1510)

The Hon. the Speaker *pro tempore:* Let the doors of the chamber be locked.

• (1520)

Report rejected on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Lefebvre
Austin	Lewis
Bosa	Lucier
Buckwold	MacEachen
Cools	Marchand
Corbin	Marsden
Davey	Neiman
Fairbairn	Olson
Frith	Perrault
Gigantès	Petten
Grafstein	Riel
Graham	Stanbury
Haidasz	Stewart
Hastings	Stollery
Hays	Thériault
Hébert	Turner
Kenny	van Roggen—36
Kirby	
LeBlanc (*Beauséjour*)	

NAYS

THE HONOURABLE SENATORS

Atkins	Forrestall
Balfour	Grimard
Barootes	Johnson
Beaudoin	Kelleher
Beaulieu	Kelly
Bélisle	Keon
Berntson	Kinsella
Bolduc	Lavoie-Roux
Buchanan	Lynch-Staunton
Carney	MacDonald (*Halifax*)
Castonguay	Macdonald (*Cape Breton*)
Chaput-Rolland	Meighen
Cochrane	Murray
Cogger	Nurgitz
Comeau	Oliver
David	Ottenheimer
DeWare	Phillips
Di Nino	Poitras
Doody	Robertson
Doyle	
Everett	

NAYS

THE HONOURABLE SENATORS

Roblin	Sylvain
Ross	Teed
Rossiter	Tremblay
Simard	Twinn
Spivak	Waters—50

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore:* Let the doors be opened.

The Hon. the Speaker *pro tempore:* I declare the report rejected.

Honourable senators, when shall this bill be read the third time?

Hon. William M. Kelly: Honourable senators, is it possible that I could suggest, with leave, now?

Hon. Royce Frith (Deputy Leader of the Opposition): There are some bills left over until tomorrow. What is the point?

Senator Kelly: It is not because I am trying to get out tonight, I just think it would be nice to do it.

Senator Frith: Honourable senators, Senator Kelly's honesty and candour is very disarming, but not sufficiently disarming. I think we should go by the rules.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Kelly, seconded by the Honourable Senator Atkins that this bill be referred to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Senator Frith: I would like to note, honourable senators, that there is a distinction between this and the Broadcasting Act, because in this case there was not the difficulty in interpreting the committee's report.

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

ABORTION BILL

THIRD READING—DEBATE CONTINUED—MOTIONS IN AMENDMENT NEGATIVED—MOTION FOR THIRD READING NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips, for the third reading of the Bill C-43, An Act respecting Abortion.—(*Honourable Senator Phillips*).

The Hon. the Speaker *pro tempore:* Honourable senators, before we proceed with the debate on third reading there are several amendments to consider. It is moved by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips, that Bill C-43, respecting abortion, be read the third time.

There were motions in amendment thereto and by agreement of the Senate, the vote was deferred to this time this day. I will now proceed with the first amendment.

• (1530)

Honourable senators, it was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Neiman:

> That Bill C-43 be not now read the third time but that clause 1 of the bill at page 2 thereof be amended by adding, immediately after line 8, the following:
>
> (4) No proceedings for an offence under this section may be instituted without the consent of the Attorney General of Canada.

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 in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

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

And two honourable senators have risen.

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1540)

The Hon. the Acting Speaker: Let the doors of the chamber be locked.

Honourable senators, it was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Neiman, that Bill C-43 be not now read the third time but that clause 1 of the bill, at page 2 thereof, be amended by adding, immediately after line 8, the following:

> "(4) No proceedings for an offence under this section may be instituted without the consent of the Attorney General of Canada."

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before the vote is taken I would like to note that this is supposed to be a free vote. The doors have been locked. We should not require the whips to come down the aisle for every vote. Let us vote on whatever there is to vote upon. It is not a party-line vote. Let us get the voting done.

Hon. Orville H. Phillips: The rule book states specifically that the vote will be taken after the whips come—

Senator Frith: You are the last one who should be raising that point.

An Hon. Senator: When did you find that rule?

Senator Frith: Nice try, but not even close to a cigar.

Senator Barootes: You are not going to lock us out, are you?

Senator Frith: I am trying to lock you in, senator, not out.

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	LeBlanc (*Beauséjour*)
Austin	Lewis
Buckwold	Lucier
Cools	Marchand
Davey	Marsden
Everett	Neiman
Fairbairn	Olson
Gigantès	Perrault
Grafstein	Petten
Hastings	Spivak
Hays	Stanbury
Hébert	Stollery
Kenny	Turner
Kinsella	Waters—29
Kirby	

[The Hon. the Speaker.]

NAYS

THE HONOURABLE SENATORS

Atkins	Lavoie-Roux
Barootes	Lefebvre
Balfour	Lynch-Staunton
Beaudoin	MacDonald (*Halifax*)
Beaulieu	Macdonald (*Cape Breton*)
Berntson	Meighen
Bolduc	Molgat
Buchanan	Murray
Carney	Nurgitz
Castonguay	Oliver
Chaput-Rolland	Ottenheimer
Cochrane	Phillips
Cogger	Poitras
Comeau	Riel
David	Robertson
DeWare	Roblin
Di Nino	Ross
Doody	Rossiter
Doyle	Simard
Forrestall	Sylvain
Frith	Teed
Graham	Tremblay
Grimard	Twinn—49
Kelleher	
Kelly	
Keon	

ABSTENTIONS

THE HONOURABLE SENATORS

Bosa	Haidasz
MacEachen	Thériault
Corbin	Johnson
Stewart	van Roggen—8

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

The Hon. the Acting Speaker: It was moved, honourable senators, by the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Corbin:

> That Clause 1 of Bill C-43 at page 1 thereof be amended by striking line 10 thereof and substituting therefor:
>
> "imprisonment for a term not exceeding ten".

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

Senator Frith: Honourable senators, I thought, when I proposed that it would not be necessary to call in the members, that the question would be put. Your Honour need simply say, "All those in favour of the amendment will please rise." We assume that all honourable senators have been called in.

Senator Phillips: Honourable senators, that was the opinion of Senator Frith. It was not the opinion of those on this side of the house.

Senator Frith: It was certainly not just my opinion. There was very strong agreement from both sides.

Senator Murray: There may be someone out there trying to get in.

Senator van Roggen: Honourable senators, I rise on a point of order. I thought it was the order of the house that we were to vote at 3 p.m. on the amendments to the bill. The bells have rung. Is that not why we are here?

Senator Frith: The rule does not say anything about calling in the members. It simply states: "upon the request of two senators", which is what we have had. It does not say anything about calling in the members.

We are here. Two honourable senators have risen. The rule states that you, Your Honour, should call for a standing vote.

The Hon. the Acting Speaker: I will call for a standing vote.

Some Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Haidasz
Macdonald
(*Cape Breton*)—2

NAYS

THE HONOURABLE SENATORS

Adams	Cochrane
Atkins	Cogger
Austin	Comeau
Balfour	Cools
Barootes	Davey
Beaudoin	David
Beaulieu	DeWare
Berntson	Di Nino
Bolduc	Doyle
Buchanan	Everett
Buckwold	Fairbairn
Carney	Forrestall
Castonguay	Frith
Chaput-Rolland	Gigantès
Grafstein	Murray
Graham	Neiman
Grimard	Nurgitz
Hastings	Oliver
Hays	Olson
Hébert	Ottenheimer
Johnson	Petten
Kelleher	Phillips
Kenny	Poitras
Keon	Riel
Kinsella	Robertson
Kirby	Roblin
Lavoie-Roux	Ross
LeBlanc (*Beauséjour*)	Rossiter
Lefebvre	Simard
Lewis	Spivak
Lucier	Stanbury
Lynch-Staunton	Stollery
MacDonald (*Halifax*)	Sylvain
Marchand	Teed
Marsden	Tremblay
Meighen	Turner
Molgat	Twinn
	van Roggen
	Waters—76

NAYS

THE HONOURABLE SENATORS

ABSTENTIONS

THE HONOURABLE SENATORS

Bosa	Perreault
Corbin	Stewart
Kelly	Thériault—7
MacEachen	

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

● (1550)

The Hon. the Acting Speaker: It was moved by the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Corbin:

> That Clause 1 of Bill C-43 at page 1 thereof be amended by immediately following the word "opinion" as it appears at line 13 thereof inserting:
>
> "based upon verifiable medical evidence".

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Bosa	Macdonald
Graham	(*Cape Breton*)
Haidasz	Molgat
Lefebvre	Perreault—7

NAYS

THE HONOURABLE SENATORS

Adams	Kinsella
Atkins	Kirby
Austin	Lavoie-Roux
Balfour	LeBlanc
Barootes	(*Beauséjour*)
Beaudoin	Lucier
Beaulieu	Lynch-Staunton
Berntson	MacDonald
Bolduc	(*Halifax*)
Buchanan	Marchand
Buckwold	Marsden
Carney	Meighen
Castonguay	Murray
Chaput-Rolland	Neiman
Cochrane	Nurgitz
Cogger	Oliver
Comeau	Olson
Cools	Ottenheimer
Davey	Phillips
David	Poitras
DeWare	Riel
Doody	Robertson
Doyle	Roblin
Everett	Ross
Fairbairn	Rossiter
Forrestall	Simard
Frith	Spivak
Gigantès	Stanbury
Grafstein	Stollery
Grimard	Sylvain
Hastings	Teed
Hays	Tremblay
Hébert	Turner
Johnson	Twinn
Kelleher	van Roggen
Kenny	Waters—71
Keon	

[The Hon. the Speaker.]

ABSTENTIONS

THE HONOURABLE SENATORS

Corbin	Petten
Di Nino	Stewart
Kelly	Thériault—7
Lewis	

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Corbin:

> That Clause 1 of Bill C-43 at page 2 thereof be amended by striking lines 4 through 8 thereof, where is set out section 287, subsection (3).

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Graham	Macdonald
Haidasz	(*Cape Breton*
	Molgat—4

NAYS

THE HONOURABLE SENATORS

Adams	Davey
Atkins	David
Austin	DeWare
Balfour	Di Nino
Barootes	Doody
Beaudoin	Doyle
Beaulieu	Everett
Berntson	Fairbairn
Bolduc	Forrestall
Buchanan	Frith
Buckwold	Gigantès
Carney	Grafstein
Castonguay	Grimard
Chaput-Rolland	Hastings
Cochrane	Hays
Cogger	Hébert
Comeau	Johnson
Cools	Kelleher

NAYS

THE HONOURABLE SENATORS

Kinsella	Kenny
Kirby	Keon
Lavoie-Roux	Phillips
LeBlanc	Poitras
(*Beauséjour*)	Riel
Lewis	Robertson
Lucier	Roblin
Lynch-Staunton	Ross
MacDonald	Rossiter
(*Halifax*)	Simard
Marchand	Spivak
Marsden	Stanbury
Meighen	Stollery
Murray	Sylvain
Neiman	Teed
Nurgitz	Tremblay
Oliver	Twinn
Olson	van Roggen
Ottenheimer	Waters—73
Petten	

ABSTENTIONS

THE HONOURABLE SENATORS

Bosa	Perreault
Corbin	Stewart
Kelly	Thériault
Lefebvre	Turner—9
MacEachen	

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

● (1600)

The Hon. the Acting Speaker: It was moved by the Honorable Senator Haidasz, P.C., seconded by the Honourable Senator Corbin:

That Clause 1 of Bill C-43 at page 1 thereof be amended by striking lines 21 and 22 thereof and substituting therefor:

" "medical practitioner", in respect of a medical procedure performed in a province, means"

, and striking lines 11 through 16 thereof and substituting therefor:

"years, unless the procedure is performed with every precaution to preserve the life of the child throughout the procedure by or under the direction of a medical practitioner who is of the opinion that, if the procedure were not performed, the life or health of the female person would be likely to be endangered"

and striking lines 4 and 5 thereof, substituting therefor:

"287(1) Every person who performs on a female person pregnant with a child a medical procedure that delivers the child prior to term with the effect of the death of that child before it has proceeded from the womb is guilty"

, renumbering succeeding lines accordingly,

and that Clause 1 of Bill C-43 at page 2 thereof be amended by striking line 5 thereof and substituting therefor:

"and section 288, performing a medical procedure does".

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Bosa	Macdonald
Graham	(*Cape Breton*
Haidasz	Molgat—5

NAYS

THE HONOURABLE SENATORS

Adams	Fairbairn
Atkins	Forrestall
Austin	Frith
Balfour	Gigantès
Barootes	Grafstein
Beaudoin	Grimard
Beaulieu	Hastings
Berntson	Hays
Bolduc	Hébert
Buchanan	Johnson
Buckwold	Kelleher
Carney	Kenny
Castonguay	Keon
Chaput-Rolland	Kinsella
Cochrane	Kirby
Cogger	Lavoie-Roux
Comeau	LeBlanc
Cools	(*Beauséjour*)
Davey	Lewis
David	Lucier
DeWare	Lynch-Staunton
Di Nino	MacDonald
Doody	(*Halifax*)
Doyle	Marchand
Everett	Marsden

NAYS

THE HONOURABLE SENATORS

Meighen	Ross
Murray	Rossiter
Neiman	Simard
Nurgitz	Spivak
Oliver	Stanbury
Olson	Stollery
Ottenheimer	Sylvain
Petten	Teed
Phillips	Tremblay
Poitras	Twinn
Riel	van Roggen
Robertson	Waters—73
Roblin	

ABSTENTIONS

THE HONOURABLE SENATORS

Corbin	Perreault
Kelly	Stewart
Lefebvre	Thériault
MacEachen	Turner—8

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Corbin:

> That Clause 1 of Bill C-43 at page 2 thereof be amended by striking lines 1 through 16 thereof and at page 1 thereof be amended by striking lines 4 through 24 thereof and substituting therefor:
>
> "1. Section 287 of the Criminal Code is repealed and Section 223 of the Criminal Code is amended at subsection (2) thereof by deleting from the last line thereof the final words 'after becoming a human being'."

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

[The Hon. the Speaker.]

YEAS

THE HONOURABLE SENATORS

Haidasz	Macdonald (*Cape Breton*)—2

NAYS

THE HONOURABLE SENATORS

Atkins	Kinsella
Austin	Kirby
Balfour	Lavoie-Roux
Barootes	LeBlanc (*Beauséjour*)
Beaudoin	Lewis
Beaulieu	Lucier
Berntson	Lynch-Staunton
Bolduc	McDonald (*Halifax*)
Buchanan	Marchand
Buckwold	Marsden
Carney	Meighen
Castonguay	Murray
Chaput-Rolland	Neiman
Cochrane	Nurgitz
Cogger	Oliver
Comeau	Olson
Cools	Ottenheimer
Davey	Petten
David	Phillips
DeWare	Poitras
Di Nino	Riel
Doody	Robertson
Doyle	Roblin
Everett	Ross
Fairbairn	Rossiter
Forrestall	Simard
Frith	Spivak
Gigantès	Stanbury
Grafstein	Stollery
Grimard	Sylvain
Hastings	Teed
Hays	Tremblay
Hébert	Twinn
Johnson	van Roggen
Kelleher	Waters—72
Kenny	
Keon	

ABSTENTIONS

THE HONOURABLE SENATORS

Adams	MacEachen
Bosa	Molgat
Corbin	Perreault
Graham	Stewart
Kelly	Thériault
Lefebvre	Turner—12

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

● (1610)

The Hon. the Acting Speaker: It is moved by the Honourable Senator Haidasz P.C., seconded by the Honourable Senator Corbin:

That Clause 1 of Bill C-43 at pages 1 and 2 thereof be amended by striking out section 287 as set out in that clause and substituting therefor the following:

Abortion or induction of miscarriage

287.(1) Every person who by any instrument or by any drug or poison or by any means causes with intent the death of a nascent human being is guilty of an offense commonly called "abortion" and is liable on indictment to imprisonment for a term not exceeding ten years.

Medical introduction to deliver

(2) A procedure to deliver a child prior to term from its mother's womb is not an offence under section 287 when the procedure is performed with every precaution available to medicine to preserve the life of the nascent human being throughout the procedure by or under the direction of a medical practitioner who in good faith has formed the veritable medical opinion that the life of the mother is endangered by a condition of health that is complicated by the condition of pregnancy.

Definitions

(3) For the purposes of this section and for the purposes of this Act,

"medical practitioner" means, in respect of a medical intervention performed in a province, a person who is lawfully permitted to practice obstetrical or gynecological medicine in that province;

"medical opinion" means a medical assessment of the mother's situation which is formed using generally accepted standards of the medical profession and based on verifiable medical evidence;

"deliver a child" means to undertake a procedure to bring forth the nascent human being by surgical or chemical means, abdominally or vaginally, or by severence of the fallopian tube in the event of ectopic pregnancy in accordance with standard medical practice;

"mother" means the female person whose body produced the ovum that generated the nascent human being, or when that female person is not recognized in law, the person who is pregnant with the nascent human being;

"nascent human being" means the living product of a union of a human spermatozoon and a human ovum.

"life" means the state that belongs to one or more products of conception by human beings in such manner as produces, when not interrupted, the living state of every human being defined at Section 223 of this Act."

"living" means existing in the state of life."

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Graham	Macdonald
Haidasz	(*Cape Breton*
	Molgat—4

NAYS

THE HONOURABLE SENATORS

Adams	Forrestall
Atkins	Frith
Austin	Gigantès
Balfour	Grafstein
Barootes	Grimard
Beaudoin	Hastings
Beaulieu	Hébert
Berntson	Johnson
Bolduc	Kelleher
Buchanan	Kenny
Buckwold	Keon
Carney	Kinsella
Castonguay	Kirby
Chaput-Rolland	Lavoie-Roux
Cochrane	LeBlanc
Cogger	(*Beauséjour*)
Comeau	Lewis
Cools	Lucier
Davey	Lynch-Staunton
David	MacDonald
DeWare	(*Halifax*)
Di Nino	Marchand
Doody	Marsden
Doyle	Meighen
Everett	Murray
Fairbairn	Neiman

NAYS

THE HONOURABLE SENATORS

Nurgitz	Rossiter
Oliver	Simard
Olson	Spivak
Ottenheimer	Stanbury
Phillips	Stollery
Poitras	Sylvain
Riel	Teed
Robertson	Tremblay
Roblin	Twinn
Ross	Waters—70

ABSTENTIONS

THE HONOURABLE SENATORS

Bosa	MacEachen
Corbin	Perreault
Hays	Stewart
Kelly	Thériault
Lefebvre	Turner—10

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

The Hon. the Acting Speaker: It is moved by the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Corbin:

That Clause 1 of Bill C-43 at page 2 thereof be amended by adding after line 16 thereof, prior to the final quotation marks of Clause 1:

Coercion

289.(1) Every person who requires a physician or medical practitioner or nurse or employee of a medical practitioner or other employee of a health care facility, as a condition of their employ or under threat or the fear of any loss, to perform or assist at or otherwise arrange for an induction of abortion is guilty of an offence and is liable on indictment to imprisonment for a term not exceeding two years.

Discrimination

(2) Every person who discriminates in any manner against a physician or medical practitioner or nurse or other employee of a medical practitioner or employee of a health care facility or against an applicant for employment in any such health care capacity or against an applicant to medical school or other health care education or against a candidate for certification for the practice of medicine or other health-care who is or is believed to be unwilling to perform or assist at or otherwise arrange for an induction of abortion is guilty of an offence and is liable on indictment to imprisonment for a term not exceeding two years.

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

[The Hon. the Speaker.]

Senator Haidasz: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion in amendment 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.

Motion is amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Haidasz	Perreault
Macdonald (*Cape Breton*)	Thériault—4

NAYS

THE HONOURABLE SENATORS

Adams	Hays
Atkins	Hébert
Austin	Johnson
Balfour	Kelleher
Barootes	Kenny
Beaudoin	Keon
Beaulieu	Kinsella
Berntson	Kirby
Bolduc	Lavoie-Roux
Buchanan	LeBlanc (*Beauséjour*)
Buckwold	Lewis
Carney	Lucier
Castonguay	Lynch-Staunton
Chaput-Rolland	MacDonald (*Halifax*)
Cochrane	Marchand
Cogger	Marsden
Comeau	Meighen
Cools	Molgat
Corbin	Murray
Davey	Nurgitz
David	Oliver
DeWare	Olson
Di Nino	Ottenheimer
Doody	Petten
Doyle	Phillips
Everett	Poitras
Fairbairn	Riel
Forrestall	Robertson
Frith	Roblin
Gigantès	Ross
Grafstein	Rossiter
Graham	Simard
Grimard	
Hastings	

NAYS

THE HONOURABLE SENATORS

Stanbury	Tremblay
Stollery	Twinn
Sylvain	van Roggen
Teed	Waters—74

ABSTENTIONS

THE HONOURABLE SENATORS

Bosa	Neiman
Kelly	Spivak
Lefebvre	Stewart
MacEachen	Turner—8

The Hon. the Acting Speaker: I declare the motion in amendment negatived.

• (1620)

The Hon. the Acting Speaker: It is moved by the Honourable Senator Murray, P.C, seconded by the Honourable Senator Phillips, that Bill C-43, respecting abortion, be read the third time. 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 "yeas" have it.

And two honourable senators having risen.

YEAS

THE HONOURABLE SENATORS

Balfour	Doody
Barootes	Doyle
Beaudoin	Forrestall
Beaulieu	Grimard
Berntson	Kelleher
Bolduc	Kelly
Buchanan	Kinsella
Castonguay	Lavoie-Roux
Chaput-Rolland	Lynch-Staunton
Cochrane	MacEachen
Cogger	Meighen
Comeau	Murray
David	Nurgitz
DeWare	Oliver
Di Nino	Ottenheimer

YEAS

THE HONOURABLE SENATORS

Phillips	Simard
Poitras	Sylvain
Robertson	Teed
Roblin	Thériault
Ross	Tremblay
Rossiter	Twinn
	Waters—43

NAYS

THE HONOURABLE SENATORS

Adams	LeBlanc (*Beauséjour*)
Atkins	Lefebvre
Austin	Lewis
Bosa	Lucier
Buckwold	Macdonald (*Cape Breton*)
Carney	MacDonald (*Halifax*)
Cools	Marchand
Corbin	Marsden
Davey	Molgat
Everett	Neiman
Fairbairn	Olson
Frith	Perrault
Gigantès	Petten
Grafstein	Riel
Graham	Spivak
Haidasz	Stanbury
Hastings	Stewart
Hays	Stollery
Hébert	Turner
Johnson	van Roggen—43
Kenny	
Keon	
Kirby	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Acting Speaker: Honourable senators, pursuant to rule 49(5), the bill has been defeated.

Some Hon. Senators: Hear, hear!

THE HONOURABLE GUY CHARBONNEAU

MOTION OF CENSURE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Fairbairn:

That the privileges of Honourable Senators having been constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.—(*Honourable Senator MacDonald (Halifax)*).

Hon. Anne Cools: Honourable senators, Senator MacDonald had moved the adjournment. He indicated to me that he would yield to me, but he is not here at this time.

Hon. C. William Doody (Deputy Leader of the Government): There is no problem with that, Senator Cools. The order can still stand in his name. Please go ahead.

• (1630)

Senator Cools: Honourable senators, I hope that I can match a little of the interest and the fervour that has just been experienced by most of us. I think some of us need a few minutes to settle down. In any event, it is my understanding that the Senate has just defeated Bill C-43, so perhaps I can be the first to call attention to that fact.

The immediate order of business before us is the motion of censure of Senator Charbonneau. As we all know, Senator Charbonneau has, in the minds of many on our side, acted quite inappropriately. The wording of the motion calls upon Senator Charbonneau, essentially, to resign. In actual fact, the motion articulates the wish that the Prime Minister be advised that Senator Charbonneau should not be in the position of Speaker of the Senate.

I should like to say, honourable senators, that for the past many weeks we have all observed Senator Charbonneau smarting under his own mischief. We have all been aware for quite a few years that Senator Charbonneau was not in his strongest field of endeavour as Speaker of the Senate, but many of us overlooked it, or forgave it, because many of us—or at least I did—felt that Senator Charbonneau was a very fine gentleman.

Honourable senators, I should like to share with you a story which indicates the opinion that I had formed of Senator Charbonneau—until the GST debate. Some years ago, soon after I came to the Senate, a woman came to visit me with her daughter. I proceeded to show this friend of mine and her daughter the Senate. In the process of doing so, this woman said to her daughter, "Your grandfather walked through these halls. Your grandfather worked in these halls." Of course, I automatically inquired of these persons as to who the grandfather, or perhaps it was the great-grandfather, was. I was told that the notable person was C.D. Howe. Having acquired this information, I was, of course, seized with some excitement and some fervour and proceeded to acquire a great more zeal in showing the descendants of this most remarkable Canadian around the Senate.

Honourable senators, I charged into the Speaker's chambers, very excited that this child was visiting, and I wanted to introduce her to some of the senators. I want to let honourable senators know that Senator Charbonneau responded with tremendous grace and magnanimity. He was very pleasant and very nice. That, for me, was my formative impression of Senator Charbonneau: a very nice man, not too up on the rules and procedures, but fundamentally a nice man. At least, honourable senators, so I thought.

[The Hon. the Speaker.]

Honourable senators, it is with some considerable disappointment that I feel I must join with those who consider that a motion of censure should be passed on him.

I should like to refer very briefly to the famous, or rather infamous, letter of December 10, 1990, whereby I believe 54 honourable senators from the other side sent to Speaker Charbonneau. Clearly, it is not a letter, because if one examines it one sees very clearly that there is not a single signature on the letter. As a matter of fact, if one probes a little deeper one discovers that, in point of fact, there is a list of signatures somehow or other stapled to this letter, but the letter, in and of itself, is not signed. There is nothing whatever to relate the list of signatures to the letter. I find that very interesting because I was under the impression that we, as parliamentarians, having before us a particular forum, used particular instruments, and the instruments that we used were parliamentary instruments, such as motions and inquiries and resolutions. They are part and parcel of our parliamentary tradition. The letter is, to my mind, quite a new phenomenon.

What I am about to say may be a little novel to some honourable senators, but my opinion is that, in point of fact, that communication was not a letter to Speaker Charbonneau at all. It was, rather, a very thinly-veiled petition. It was a petition to the Speaker. However, the Speaker, within our system, has no authority whatsoever to receive a petition from members of the Senate. Senator Charbonneau, in receiving this letter, and in acting according to its instructions, has done a most interesting thing. He has usurped the Throne. It is the Governor General of Canada who is authorized to receive petitions or expressions of wishes from honourable senators. It is very interesting because, while I know that this government currently is seized of repudiating many of the principles of responsible government, it is my understanding that the Speaker of the Senate has no authority whatsoever to receive petitions from honourable senators.

Honourable senators, I would just like to—

Senator Simard: Conclude?

Senator Cools: No, no, Senator Simard. You are like a mosquito. I should like to tell you, Senator Simard, there are in the West Indies and in tropical climates things called mosquito nets. These mosquito nets are fine, gossamer-like, almost invisible, but they have the effect of keeping mosquitos at bay. Frequently, Senator Simard, you remind me of a mosquito around a mosquito net.

Senator Simard: Come back to Canada!

Senator Cools: Don't worry about that! I am here and I am not leaving.

Honourable senators, I should like to be very clear because this current government has demonstrated on many occasions that it has no compunction about intruding into authority and the powers of the Governor General and the two Speakers. This government has no regard for any opinion other than the opinion of one man, that man being the Prime Minister.

On the question of the motion, of course, I would like to place on the record a couple of thoughts. First, those of us on

this side who are speaking to this order have maintained that our privileges as members of Parliament have been seriously violated. We are maintaining that our privileges have been trampled upon.

● (1640)

In the various actions taken by Senator Charbonneau, I would say that he trampled on our privileges in an important way. This question of privileges, honourable senators, is something that has troubled legislatures in colonial countries. For example, in Canada the term "House of Commons" is used to describe the lower house. It is the only lower house in all of the Commonwealth countries and empires that actually uses the name "House of Commons." There were reasons why the Imperial authorities agreed that the House of Commons could be so named and titled.

The question of our privileges in this chamber are not determined by the Speaker of this chamber; they are not determined by the wish or whim of any government. They are determined by the Constitution Act of 1867. I will put section 18 of the Constitution Act on the record. Under the heading "Legislative Power" it states:

> The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.

To some in this chamber that might seem esoteric, but to others it seems inexorable and inevitable. The fact of the matter is that the question of the privileges of the members of the Parliament of Canada was one of tremendous conflict and problem. It was thought to have been resolved by section 18 of the Constitution Act. In other words, Speaker Charbonneau, as has this government for some time, keeps trying to amend and alter the Constitution and the powers of the Senate at their own wish and whim. This matter was settled.

I would like to put another piece of information on the record. Sometimes these things may seem intellectually trying. They are not. They are there for all of us. I would like to put on the record a quotation that I took from a legal opinion which was given to Lord Bathurst in the year 1815 from His Lordship's most obedient servants, Garrow and Shepherd. This legal opinion is entitled "The Opinion on the Privileges of the House of Assembly and on the Casting Vote of the Speaker of the Legislative Council." Honourable senators should remember that the issue I am discussing is the question of the privileges of senators and the attempts to resolve those unsettled questions by including them in the Constitution Act. I quote from this legal opinion to Lord Bathurst as follows:

> In answer to the second question, "Whether the Assembly is entitled to all the Privileges to which the House of Commons of the imperial Parliament are entitled under their own peculiar Law, the Lex Parliamentaria".
>
> We beg to report, that we think they are not so entitled. The Privileges of the High Court of Parliament composed of the King, The Lords spiritual and temporal, and Commons of the Realm, are founded on the ancient law and Custom of Parliament and we conceive arise from the supremacy, or as it is sometimes called, the omnipotence of this High Court when the Parliament or great Council of the Nation thus composed sat together in one Assembly; Tho' the period when the two houses separated in their sittings, is not ascertained, yet whenever that event took place, each house retained certain privileges and powers; The Lords the judicial power; the Commons the power of accusation and impeachment.

It goes on and on. This legal opinion, on which Lord Bathurst relied heavily, clearly delineates the position that legislatures in the colonies did not have the privileges of the legislatures of England.

I think it is important to continue that train of thought because during that time in history—this is pre-Confederation—the legislatures were preoccupied with these questions, just as they were preoccupied with the questions of the "financial powers" of the upper chamber.

Hon. Eymard G. Corbin: Senator Cools, please forgive me for interrupting. Honourable senators, I should like His Honour the Speaker to apply Rule 16(*c*), please.

The Hon. the Speaker *pro tempore:* I have been asked by an honourable senator to apply Rule 16(*c*), which reads:

> . . . if senators have occasion to speak together, they shall go below the Bar, otherwise the Speaker shall stop the business under discussion.

Senator Doody: Hear, hear!

The Hon. the Speaker *pro tempore:* I remind honourable senators of Rule 16(*c*).

Senator Cools: I thank honourable Senator Corbin for his intervention. I was so preoccupied that I had not noticed that other activities were taking place.

Returning to my point, Lord Bathurst and others at the time relied on these opinions. At the time of the discussion of Confederation detente, so to speak, these matters were thought to have been resolved by the express articulation of the Constitution Act, 1867, the then BNA Act.

● (1650)

In respect of Speaker Charbonneau's activities and behaviour, one matter that has perturbed me very deeply is that the Speaker, like this government, has been reluctant to obtain the advice of the Senate. Every bill that comes before us states that passage is with the advice and consent of the Senate. I have done a little work trying to ascertain the precise meaning of "advice", the definition of responsible government, and the

taking of advice. Certainly, advice is not a command; advice is not a whim. The Prime Minister just does not "feel like" doing something and proceeds to give instructions to the Governor General. Advice has particular meanings. I am not going into those definitions, but I would like to put on the record the fact that Speaker Charbonneau, in his activities over the last several months leading up to the introduction of Senator Stanbury's motion, was consistently reluctant to take the advice of the Senate.

We may observe, for example, that many of Speaker Charbonneau's rulings over the past few years—and I have taken the time to go back and read a few—along with the Speaker's rulings in the other place, show consistent attempts to degrade the rights of the Senate under consistent citations of sections 53 and 54 of the Constitution Act. Well, honourable senators, the Senate has spoken on that issue. Had the Speaker of this chamber taken the advice of the Senate and of honourable senators, he would have researched to ascertain exactly what the opinions of senators were on some of these matters. Speaker Charbonneau has consistently refused to take the advice of the Senate—such advice as, for example, the famous Ross Report. In that report, Senator Ross clearly delineated the powers of the Senate regarding those sections of the Constitution. Senator Ross was a Conservative. He was the Leader of the Government here in the Senate around 1918.

It is unfortunate that Speaker Charbonneau is not in the Chair today because it would have been nice, I thought, to see him and to share with him some of these ideas. He is not here—so be it. In any event, on that matter he did not take the advice of the Senate.

Another area in which Speaker Charbonneau has been reluctant to listen to the Senate is that of the use of section 26, invoked for the appointment of what we on this side in recent months have learned to call the "swamp" senators. Had Speaker Charbonneau attempted to ascertain what senators' opinions were on that action or on similar actions, he would have discovered that in 1877 the Leader of the Government in the Senate and the Senate moved and passed a motion of censure—they called it a want of confidence—against Alexander Mackenzie's government. That is interesting because at that time it was a Tory-dominated Senate.

I should like to put on the record the fact that in 1873, when Alexander Mackenzie attempted to have Lord Dufferin recommend that section 26 be invoked for the purposes of essentially swamping the Senate, his request was ignored. The literature basically says that Lord Dufferin put the request in his pocket and waited for an election. But the important point that I am making is that when the request went forward to Lord Kimberley, the then Secretary of State for the Colonies, he was crystal clear on why he would not give advice to Her Majesty on the question of the appointment of more senators. I shall read from his dispatch exactly what Lord Kimberley stated:

> You will readily understand that Her Majesty could not be advised to take the responsibility of interfering with the Constitution of the Senate, except upon an occasion when it had been made apparent that a difference had arisen between the two Houses of so serious and permanent a character, that the Government could not be carried on without Her intervention, and when it could be shown that the limited creation of Senators allowed by the Act would apply an adequate remedy.

This is important, honourable senators. Lord Kimberley was saying that no one, but no one, was to interfere with the Constitution of the Senate. At the time, Senator Campbell and Senator Wilmot were so seized of Lord Kimberley's resolve that they moved a motion in this chamber in support of him and in tremendous condemnation of the government of the day. That government had made a request, but no action followed. No action was taken. The Senate at that time censured the government—never mind the Speaker—for what turns out to have been a thought, because no action was taken.

I think Speaker Charbonneau could have equipped himself to some degree with the history of the Senate, with what I would call advice, the collective historical racially unconscious mind of the Senate as it has worked for 123 years until now. That is what "the advice of the Senate" means—the advice of the Senate as responsible government. It means carrying through, from generation to generation, those fine thoughts and principles that have made everything vital and all systems come alive.

Honourable senators, I should like to repeat that the motion was made by the Honourable Mr. Campbell, the then Leader of the Government in the Senate, seconded by the Honourable Mr. Wilmot, who was somewhat unique because he was the only member of the Senate chamber who actually took part in the conference on that issue of the deadlock clause.

Senator Corbin: He was from New Brunswick.

Senator Cools: Yes, he was. These are very important men. I shall read from that resolution, which is to be found at page 130 of the *Debates of the Senate* in the year 1877:

> The Honourable Mr. *Campbell* moved, seconded by the Honourable Mr. *Wilmot*,
>
> To *Resolve*, 1st. That by the 26th clause of the *British North American* Act, 1867, Her Majesty the Queen is empowered at any time in her discretion, and upon the recommendation of the Governor General, to direct that three or six Members be added to this House, provided that the persons so summoned to a seat therein represent equally the three divisions of *Canada*.

Honourable senators, this resolution has five segments to it and I will read what, to my mind, is the important clause. It is as follows:

> The House desires to express its high appreciation of the conduct of Her Majesty's Government in refusing to advise an Act for which no Constitutional reason could be offered; and to record their opinion that any addition to the Senate under the provisions of the 26th clause of the *British North America* Act which is not absolutely necessary for the purpose of bringing this House into accord with the House of Commons, in the event of an actual

> collision of a serious and permanent character, would be an infringement of the constitutional independence of the Senate, and lead to a depreciation of its utility as a constituent part of the Legislature.

● (1700)

Honourable senators, the behaviour of Speaker Charbonneau, when he squirrelled these eight senators off to be sworn in some hidden place, in 1877 would have resulted in a vote on and the passage of a very strong condemnation of the government. That would have happened if there had even been the thought of altering the Constitution and the composition of the Senate. In 1873, when Alexander Mackenzie asked for six senators, he was met with refusal by Lord Kimberley and the Queen. The Senate censured Alexander Mackenzie.

Honourable senators, Senator Pitfield has been quoted time and time again, and I do not want to repeat his remarks, about collusion and cooperation; but I would like to say that I found it especially disturbing that the Speaker worked industriously to decline the advice of the Senate. I am now, in particular, speaking of the advice given by the Chairman of the Standing Senate Committee on Banking, Trade and Commerce, Senator Buckwold.

Honourable senators, committees of Parliament were first seen as a very novel innovation. The original concept of committees came from Sir Erskine May. The actual creation of standing committees came as part of the sweeping reforms of William Gladstone.

For the last hundred years or so, committees of both houses of Parliament have been viewed as somewhat sacrosanct and as the mechanism whereby each and every item, order and bill undergoes serious and intense study. I found it most striking that 25 new senators were appointed to this chamber and most did not even pretend to know what was contained in Bill C-62. They did not even try to convince us that they had studied the bill or the issues contained in it; nor did they attempt to give the Senate advice. The Standing Senate Committee on Banking, Trade and Commerce had referred to it Bill C-62 and, in obedience to that Order, it studied the bill and did all of the things that such a committee is empowered to do. Senator Charbonneau, as Speaker of this house had no regard whatsoever for the work of that committee, for the advice of that committee, and for the fact that that committee had received and executed its instructions from the Senate.

Honourable senators, I should like to put on the record a quotation from a gentleman who was formerly viewed as one of the preeminent experts on the procedure of committees. I am speaking of Sir Reginald Palgrave. On the subject of a committee of a house of Parliament and its purpose, he said:

> The assistance of those who appoint the Committee is its legitimate function. And this assistance is generally rendered by the conduct of an inquiry through the reception of evidence, the drafting of a document, or the consideration of papers referred to the Committee.

Honourable senators, Senator Charbonneau had no interest whatsoever in hearing the advice of that committee or in receiving the assistance of that committee.

Honourable senators, much has been said about Senator Charbonneau and his transgressions. In point of fact, so much has been said that few transgressions have been overlooked. However, I want to put on the record what I felt was one quite flagrant transgression, so that one more will join those that have already been considered.

Senator Charbonneau assisted the government and denied the Senate on the occasion when he broke rule 57 of the *Rules of the Senate*. That rule states:

> When a bill has been read a third time it shall be deemed to have been passed by the Senate and there shall be no further debate or amendment.

Honourable senators, I served on the special committee, chaired by my colleague Senator Hebert, for the purpose of studying Bill C-21 to amend the Unemployment Insurance Act. I was appalled by the manner in which the Speaker of the House of Commons was used to re-open debate in that house on that bill. I was appalled by the political support the Speaker of the House of Commons gave to the government in what was, if not an irregular procedure, at least an unusual one. Honourable senators, I was even more appalled when the debate on Bill C-62 was reopened in this chamber. That could not have happened without Senator Charbonneau's compliance, because he has served the Prime Minister quite well and loyally. I want the record to add to the list of Senator Charbonneau's transgressions his transgression of rule 57 by allowing the debate here on Bill C-21 to be reopened.

● (1710)

There are a few other things that Senator Charbonneau has done that have bothered me. I was genuinely scandalized by statements made by the Honourable Ministers Jelinek and André. Those statements were so evidently contemptuous of all of us, and so evidently in contemptuous of the Senate, that I was amazed that Senator Charbonneau never raised an objection. In point of fact, ruling after ruling in the Senate chamber reflected his thoughts and his sentiments. I must state that I did not enjoy being slandered by Minister Jelinek. However, I will not repeat the statements since I think the point has been made.

The mood in the Senate is not what it used to be, and probably may never be again. That has been jolting to me and to my sensibilities. I want to be crystal clear to honourable senators that Senator Charbonneau, as Speaker of this chamber, has not only ignored the advice of the Senate but has also transgressed the "rule of law."

The "rule of law" is not a rule; or a law. One cannot say that one has broken this rule or this law. It is a way of thinking, a way of interpreting the world. The "rule of law" is a moral and ethical system of social and political organization and behaviour. It is a way of life in short contrast to primitive, primordial impulses. I would like to put on the record a definition of the rule of law, and it reads as follows:

> Rule of law. A concept of the utmost importance but having no defined, nor readily definable, content. It implies the subordination of all authorities, legislative, executive, judicial, and other to certain principles which would generally be accepted as characteristic of law, such as the ideas of the fundamental principles of justice, moral principles, fairness and due process. It implies respect for the supreme value and dignity of the individual.

It implies limitations on legislative power and safeguards against abuses of executive power.

I was very struck last Friday when we had a repetition of a speaker interventing. This time the transgressor was Senator Bélisle. I was mystified that, at that time, Senator Murray got to his feet and disputed with Senator Frith on the issue of the Speaker of the Senate's ability and power to intervene in matters of order. Senator Murray said that opinion was divided; Senator Frith asserted that opinion was not divided, that opinion was quite clear that the Speaker of the Senate had no authorized role as the Speaker in these matters.

I did a little work, honourable senators, and I discovered that until quite recently Senator Charbonneau also shared the view that a Speaker had no special powers to intervene. I would like to read a quotation from *Erskine May* which was used by Senator Charbonneau in one of his rulings. This quotation from *Erskine May* summarizes everything and speaks in the most poignant way to the problem we have had in this chamber. The following statement is from *Erskine May* and it was quoted by Senator Charbonneau:

> *Erskine May* notes that "in the enforcement of rules for maintaining order, the Speaker of the Lords has no more authority than any other Lord, except 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 on expressing the sense of the House and in drawing attention to cases where the rules of procedure have been transgressed or abused".

Senator Charbonneau cited the above in one of his rulings.

The issue for many of us on this side of the chamber is precisely what *Erskine May* stated: no more authority except insofar as the Speaker's own personal weight and dignity of his office. I think that has been a little bit of the fault, the question of the weight and dignity of Senator Charbonneau.

Honourable senators, the hour is drawing a little late, so I would move the adjournment of this debate.

Senator Doody: I thought we had an understanding that Senator MacDonald would get the adjournment back when Senator Cools—

Senator Frith: When she is finished.

Senator Doody: I see. When Senator Cools is finished tomorrow, or whatever.

[Senator Cools.]

Hon. Royce Frith (Deputy Leader of the Opposition): I think Senator MacDonald agreed to yield to anyone who wanted to speak. We have not forgotten that he did yield and it did stand in his name.

Senator Doody: That is right.

The Hon. the Speaker *pro tempore:* Honourable senators, I believe this stands in the name of Honourable Senator MacDonald.

Senator Frith: No, Senator Cools.

Senator Doody: Senator Cools has adjourned the debate in her name because she is not finished.

On motion of Senator Cools, debate adjourned.

BROADCASTING ACT

BILL TO AMEND—MOTION FOR THIRD READING—SPEAKER'S RULING

• (1720)

The Hon. the Speaker *pro tempore:* Before we proceed to other business, honourable senators, I am prepared to give a ruling on the matter that was raised earlier today. As I make this ruling, I am conscious of a statement that was made about a speaker at one time. He said that there is no telling what happens when you put a hat and a gown on a fellow. He thinks he becomes an instant expert.

With that statement in mind, I must tell you that this is an extremely difficult ruling to make, because essentially there are no precedents that can be found where a bill was thrown out because a committee report recommending amendments was negatived. There is no such case.

What we do have is cases where the adoption of a committee report was negatived on a recorded division. I can refer you there to one on August 3, 1977, concerning Bill C-34. It was negatived on a recorded decision of the Senate and we then went to third reading of the bill. Admittedly, there had been no amendments proposed per se.

Today we have the case of that report on Bill C-84, where the committee specifically states:

> . . . the Committee recommends that Bill C-84 should not be passed by the Senate, and new legislation to privatize Petro-Canada should not be introduced for a period of at least six months.

That came to a vote this afternoon. It was negatived, and we proceeded to third reading. The issue is whether, if a committee recommends amendments, that changes the situation. There is nothing in the rules or the precedents. The only way that I can rule is to proceed by logic.

The Senate is not obligated to send a bill to a committee. There is nothing in the rules that says that we must do that. It is true that that is our general practice, but there are many precedents where we have not done so. I can quote one in 1988 dealing with a motion by Senator Nurgitz on Bill C-104. It was introduced, the bill was read the second time and it was immediately put on the order paper for third reading the

following day. So there are several precedents where we do not send bills to committee.

When we send bills to committee we do so essentially to get advice from the committee. But in my view the Senate cannot be bound by the advice that it receives from a committee. In other words, the Senate must remain master of its own decisions. If you followed otherwise—and let us take the case of the bill presently in question—because the Senate did not like the report we could say, "We will send it back to the committee." That is allowable. The committee could report exactly the same thing as that it has presently reported. The Senate would then be faced with the same question coming back. We could then end up with a situation in which the bill could simply navigate back and forth from Senate to committee.

I repeat, the Senate must remain master of its own affairs. It cannot be subject to committees' decisions. In my view, the Senate can negate a committee decision. When it does so, the bill can then proceed to third reading. Therefore, in this case I rule that we should now proceed to third reading of the bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I will not ask for an appeal of the ruling. I wanted to note that the principle that your honour referred to applies in the case of referring a bill back with instructions. You did not refer to that. That might have an influence in a different direction on your ruling. However, the ruling has been made.

I do not think we will ask for a vote on an appeal, but I want it noted that I disagree with the ruling. Of course we are masters of our own fate, but the practice has always been to send it back if we do not agree.

Senator Simard: Not always.

Senator Frith: No, we send it back not only to have the committee look at it again but also with instructions, which shows that we do control it. However, let us leave it at that.

Hon. Keith Davey: Honourable senators, I should like to ask one question about the third reading of this bill. There was some discussion this morning that third reading would take place directly at 10:00 a.m. tomorrow. Am I correct on that? Was there some discussion this morning?

Hon. C. William Doody (Deputy Leader of the Government): I do not think so, at least not on the record.

Senator Davey: No one knows about it? All right, then.

Senator Frith: Yes, there was some discussion after the division bell had started suggesting that a vote could be held at ten o'clock tomorrow, but I do not think that would apply now because we do not know where it will come up on the order paper. It is open for debate tomorrow.

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventy-second report of the Standing Committee on Internal Economy, Budgets and Administration (supplementary budget of Social Affairs, Science and Technology), presented in the Senate on January 24, 1991.

Hon. Roméo LeBlanc: Honourable senators, I move that the report be adopted.

Motion agreed to and report adopted.

SEVENTY-THIRD REPORT OF COMMITTEE ADOPTED ON DIVISION

The Senate proceeded to consideration of the seventy-third report of the Standing Committee on Internal Economy, Budgets and Administration (Senate Estimates 1991-92), presented in the Senate on January 24, 1991.

Hon. Roméo LeBlanc: Honourable senators, I move that the report be adopted.

An Hon. Senator: On division.

Motion agreed to and reported adopted, on division.

• (1730)

THE CONSTITUTION

NEGOTIATIONS WITH QUEBEC—REQUEST FOR RESIGNATION OF PRIME MINISTER AND MINISTER OF STATE FOR FEDERAL-PROVINCIAL RELATIONS—DEBATE ADJOURNED

Hon. Philippe D. Gigantès, pursuant to notice of January 30, 1991, moved:

> That the Prime Minister and the Minister of Federal-Provincial Relations resign because they do not have the confidence of Canadians to speak for the federation in negotiations with Quebec.

He said: Honourable senators, speaking on the motion standing in my name, I should like to say that the country is threatened with disintegration because Quebec will probably leave Canada.

Hon. Jean-Maurice Simard: That is your own opinion, of course.

Senator Gigantès: There are policies which offer a small hope that Canada might survive. These cannot be piloted by Prime Minister Mulroney and his Minister for Federal-Provincial Relations, Senator Lowell Murray. They must be replaced by people who would be trusted by Canadians to speak for the federation in negotiations with Quebec. These negotiations can be on one of two subjects: either renegotiating the marriage contract or negotiating a separation agreement.

Whichever is the case, the lawyer for the federal side, the spokesman for the federal side, has to be trusted, both by those who want the federation to continue and by Quebec who will want an interlocutor that the other side trusts, whatever Quebec decides to do. I shall explain why we have come to this

perilous crossroads in our history, what policies might help and why Brian Mulroney and Lowell Murray are not trusted and must go.

Laws must help a nation improve its condition and achieve its desires. Lawmakers, therefore, must have a clear and comprehensive perception of the nation's condition and its desires. Without such a clear, comprehensive perception, the lawmaker may pass individual pieces of legislation which do not fit the needs of the nation as a whole. Moreover, the lawmaker may not view the nation in isolation. It exists in a larger world, which is both external to us and invasive. The lawmaker, therefore, must have a comprehensive understanding of how this external world affects us. Incidentally, what is required of the lawmaker is also required of journalists, and I wish they would pay attention to those requirements. Both the legislator and the journalist betray their calling if they do not meet these requirements.

I propose to describe the nation's desires and to examine how and whether these can be achieved given the effect of the external world upon us and given our internal condition as a nation. Such analysis, of course, is not enough. Lawmakers must then propose policies that will make things better, and I shall do so. This means that lawmakers must foresee what lies ahead, prescribe policies for what lies ahead and be convincing when reporting on all this to the people, their masters.

Senator Simard: Where were you in 1981? Writing speeches for Trudeau? Why didn't you plan ahead then?

Senator Gigantès: So, let us pass to the desires of the nation. Simply put, wherever we live in this land, whatever our language, religion or ethnic origin, we all want our health services improved and maintained as the good value for money they now are. There is no one who disagrees with that, anywhere in the nation. We also want our education system improved. This, I submit, includes superior day care, which may be the most important stage in education. We also want our economy to be mended so that fewer and fewer of us are poor and more and more of us are rich. These three desires—good health, good learning and good living-are inextricable. We cannot achieve any of the three without the other two.

In addition, we must achieve them while being involved inescapably with a world where old processes have been so speeded up by technology that they appear to be utterly new. I shall single out one of these processes: the movement of money.

Thanks to computers, which link banks and stock exchanges around the world electronically, unimaginable sums of money can be, and are, moved from one end of the globe to the other with a few strokes on a keyboard. Currency transactions in New York alone represent 120 times more dollars, daily, than world merchandise trade. Because of their colossal volume, the fluctuations of currencies have a dynamic of their own, often unrelated to what goods and services are produced by the countries that issue those currencies.

For example, if you had 100 million in Canadian dollars a year ago and had moved them all into certain European currencies, you would now have 112 million in Canadian dollars, without your having had to bother with setting up a business, hiring people, dealing with suppliers or customers. There are any number of obliging countries that will help you avoid the tiresome business of paying taxes anywhere. I am talking now of safe investment in rock-solid currencies and not of risky toying with Brazilian funds. Twelve per cent tax-free and safe ain't bad!

You would have reaped this harvest because the Canadian dollar lost 12 per cent of its value vis à vis the currencies of some European nations in the last 12 months. Yet Canada's production of goods and services did not fall by 12 per cent relative to the production of goods and services in those other countries in the past 12 months. People with lots of money take quite naturally to this state of affairs. It does give them a greater degree of freedom and it also affects, or rather reinforces, their innate tendency to see themselves as part of a global economy. Why think in terms of improving the efficiency of your production line in Canada when you can build a super-modern factory in a low-wage country and make much more money? Modern technology has produced machines that can do automatically the very complicated jobs for which you once needed skilled manpower, and poorer, underdeveloped countries give you an abundant supply of low-wage workers for the less-skilled jobs such as sewing the upholstery for automobiles. A very rich person can grow richer faster by looking for such combinations of sophisticated machinery and low-wage labour around the globe rather than only at home.

All of this, of course, presupposes free trade, and globalization of everything to do with money-making on a grand scale. Those who are into money-making on a grand scale are for a free-market economy, by and large, except for transition periods when they expect government protection for those of their assets which they have not yet been able to move into some Mexican free trade zone. I am not criticizing them. I am describing them. If I had their money, I might behave as they do.

In global terms, a good case can be made for the movement of economic activity from rich countries, such as ours, to poorer countries. The poorer countries need this movement. Eventually, they will become richer and be better economic partners for us. In theory, in the long run, we shall all benefit. However, as John Maynard Keynes pointed out, in the long run, we shall also all be dead.

The trick, therefore, is to manage the transition, and to help the poorer countries raise their standard of living without lowering ours in the process—and without wrecking the world environment either. Capital and jobs are moving to poorer countries. How do we preserve our standard of living? It can be done, of course, because not every form of production can be moved abroad economically. We cannot send all our children to school in poorer countries and all our sick to foreign hospitals. We cannot all eat in restaurants abroad. We cannot fly our laundry to Mexico and back as cheaply as we can wash it at home. Seventy per cent of all goods and services produced in Canada are not part of foreign trade. However, in the 30

per cent that is part of foreign trade, we are losing jobs in manufacturing and other high-tech sectors. We shall lose data processing to the Bahamas. That is where American Express gets its data processing done at $1.50 an hour and our banks will have to compete.

● (1740)

To manage this transition, we shall have to accept and feel comfortable with a role for the state in the economy. Being a Liberal I feel comfortable with both the profit motive and with a vigorous role for the state in the economy. Conservatives feel uncomfortable with a role for the state. Socialists feel uncomfortable with the profit motive. I submit that we need the state to play a vigorous role so that Canada does not become Argentina, which was once a very promising economy and is now a mess. One of the problems I shall address is how the state can make sure there is enough capital left for our needs here when free-marketeer capitalists are happier investing in Mexican tax-free production zones and hate any interference by the state with a businessman's freedom to make money.

Incidentally, the Gulf war is a splendid illustration of how inadequate free market thinking can be at times. The first oil crisis occurred in 1973. There were others. This is one more. It is obvious to anyone, except a free market fanatic, that the Western World should have moved decisively out of Middle East oil from 1974 onwards. You do not let your well-being become endangered by some Saddam Hussein. The Muslim world feels, rightly, that we of the West have exploited it. They resent us bitterly. They may be right in resenting us. But governments are not elected to don sackcloth and ashes and beat their breasts apologizing to hostile foreigners. Intelligent governments see to it that even justifiably hostile foreigners cannot harm us.

Private enterprise in the U.S. made sure that not enough was done to reduce dependence on Middle East oil. In 1974 North American automobile manufacturers could have been encouraged through taxes and government subsidies to use engines that burn natural gas. It is less polluting, and we have huge supplies here in Canada and in the U.S. With extra government investment, engines burning hydrogen could have been developed. We have the hydroelectric potential to generate all the hydrogen we need. It is more expensive, but it does not pollute. The byproduct of using hydrogen as a fuel is distilled water. So we should subtract the cost of the eventual cleanup we would have to face with gasoline burning engines from the price of hydrogen fuel, which would become more economical. Private enterprise did not want to do this. The state should have stepped in and provided the drive and the incentives. Influential free-marketeers did not want the state to assume this role. So now we have to kill people instead.

I have digressed into a later part of this discourse. As I was saying before I interrupted myself, we all desire good health, good learning and good living. All three are menaced because the rest of the world, which is external to us but invasive, is going through a transition of fast capital movements to low-wage, low-tax, low-regulation areas and to plain, ordinary gambling on currency fluctuations rather than investing in production and jobs. Canadian money is following this trend. It is an inevitable transition that we must manage wisely if we want to fulfil our desires as a nation.

However, we shall be severely handicapped in managing this transition by the highly probable breakup of our country. In the next two and a half years Quebec will probably separate from the rest of Canada. Ontario might do the same. I shall explain why the next two and a half years are especially critical, but first let us remind ourselves of some Canadian history.

We were separate British colonies, trading north-south with the United States. Because Britain had helped the South against the North in the U.S. civil war, after its victory the Union government of the U.S.A. erected tariff barriers that closed the American market to our products, including Quebec products. For a while north-south trade was moribund, so we created an east-west alternative, Canada, with the unenthusiastic participation of Quebec.

The Quebec francophone establishment—the bishops, corporate lawyers and people with money—generally supported the creation of Canada, just as they had accepted the conquest. But there was another element that never accepted the conquest, just as Hungarians never accepted the Austrian conquest and Ukrainians never accepted the Russian conquest. This element could not see in what they were inferior to the anglophones and why anglophones and their Quebec allies held the real power in the province. The Quebec francophones considered themselves the expression in North America of a great culture, a great language, French. They wanted it to survive and flourish. They kept Quebec nationalism alive.

Today's Quebecois nationalists are the intellectual and emotional descendants of those early nationalists who never accepted the conquest. Today they are no longer village priests and schoolmasters. They dominate the media, the arts, the teaching profession, the labour unions and, probably, are now a majority of elected Quebec politicians at all levels of government.

The best among them say to me, and I quote:

> We have not been ill-treated by anglophone Canadians. Relatively speaking, we were subjected to a benevolent conquest. And yes, indeed, when we decided to get rid of our traditional elites and had our quiet revolution in 1960, entering belatedly into the 20th century, English Canada did not try to stop us. Important English Canadian elites supported us enthusiastically, even. The rest is historical detail. Like grownup children, if you like, we now are capable of leading our own lives, running our own affairs and collaborating closely with English Canada as one civilized state with another. We could have an amicable divorce that will damage neither side economically. Why not?

Unfortunately, it will be a messy divorce. The nationalists I have quoted above who do not care to blame anglophone Canadians for all the country's ills are a minority among the nationalists. The anglophones who would view the breakup of

the country dispassionately and reason that an amicable divorce is the best available solution are also a minority. The wise journalists and broadcasters in either language are a minority. I can just visualize the vitriol coming over the airwaves and mixing with the ink. There is an underlying conviction on both sides, among Quebec nationalists and Canadian nationalists, that they have each been more than reasonable and that it is the other's fault.

I am an historian by academic training. Historians take our collective memory and allegedly record it objectively and with scholarly propriety. Maybe a few do. Most are propagandists, whatever their country or continent, especially if they are teaching history at the high school level. When it comes to events of the past 10 or 20 years, all of us old enough to remember become historians and propagandists.

● (1750)

I would like to talk of this propaganda, at least some of it. Anglophone Canadians are trained at school to believe that they have been remarkably generous, considering they won the battle of the plains of Abraham. They let the francophones keep their language, their church-run schools, their legal system. Francophone Quebecers have multiplied. Heck, there are more of them than ever. Yes, indeed, the Western populations were insensitive about the needs of their French populatins, but they've improved, haven't they? Didn't the Supreme Court strike down the anti-French laws in Manitoba, Saskatchewan and Alberta? Aren't there thousands of anglo kids in French immersion? Haven't we had federal Prime Ministers from Quebec more often than from any other province?

As a Quebecois I would have to say:

> Yes, but French was the majority language out west before the territories became provinces. Now it is hardly spoken there. The remaining western francophones are being assimilated at a quickening pace. When Manitoba contravened the Constitution in the last century and banned the use of French, Sir John A. Macdonald did not use the disallowance power to strike down that law. Many decades later, the Supreme Court struck down that law but by then it was too late. Why didn't Macdonald act? Because his anglo electorate was anti-French. Old history? Not really. Think of all those who complain about there being French writing on one side of their cereal boxes. Think of the Airline Pilots' Association fighting against allowing a francophone pilot to talk in French to a francophone air controller. Today, most francophone federal public servants are forced to work in English even though, by law, they are allowed to work in French. They have to switch to English to make their bosses understand. And it is worrying to be evaluated by someone who does not understand your language and the mental habits it represents. We, Quebecois, need more powers to protect our language and our culture.

Now we come to the history of the last ten years and here I shall speak as an ethnic who is desolate because two groups he loves do not seem to know how to get along together.

[Senator Gigantès.]

The Quebecois are not the only ones who want more power. The western provinces want more power too. Ottawa, they say, is not sufficiently sensitive to their problems. The division of powers in the 1867 Constitution is antiquated. The Constitution should be changed and more power given to the provinces, say the provinces.

Enter Pierre Elliott Trudeau. He says, in effect,

> Yes, the 1867 division of powers is not ideal. We should change it but not necessarily by a one-way transfer of powers from Ottawa to the provinces. Some transfers the other way might make sense.

When asked by a Newfoundland premier why management of the fishery should not be given to each province, Trudeau replied, "Because fish swim."

There was, too, the small matter of the Constitution being under British control. Having a logical bent, Trudeau said that to change the Constitution we must first bring it back home. Then we must adopt an amending formula that is other than unanimous consent of all the provinces because that is a formula for constant deadlock. Then we must give the people some basic rights which cannot be touched by any government, federal or provincial. Then we shall negotiate everything else and, if we cannot agree, let people decide by referendum.

He had two provinces on his side, Ontario and New Brunswick. The others grouped together in what was called the "gang of eight". In April 1981 they came up with a document which contained their constitutional proposals. Central to this document was a statement by all eight premiers than on no account should a referendum be used: governments should decide, not citizens.

Honourable senators, I have this document here and I ask the Senate's permission to have it printed as an appendix.

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

[*Translation*]

Senator Tremblay, this is an official document dated April 16, 1981.

Hon. Arthur Tremblay: Senator Gigantès, I believe there is a more appropriate way to table this document.

Senator Gigantès: These documents are from the Library of Parliament, and they are the only ones I have. I am sorry, but what can I do?

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Leave was simply asked to table the document, was it?

Senator Gigantès: No, I asked leave to have it printed as an appendix.

Senator Doody: How many pages long is it? I have in mind the printing of it.

Senator Gigantès: Well, if you don't want to put it in as an appendix, honourable senators, you can get it from the library yourselves.

Then we had what Quebec nationalists came to call the "night of the long knives." On that day in 1981 René Lévesque agreed with Trudeau publicly that if there were differences over designing the Constitution, these differences should be resolved by referendum. The other premiers freaked. A referendum was the last thing they wanted. How would you feel, if you were a premier, took a stand and found yourself repudiated by your own province in a referendum?

Feeling that they had been betrayed by Lévesque, they proceeded that night to make a deal with the feds without Lévesque's participation, and the 1982 Constitution was born. Lévesque, of course, claimed he had been betrayed by the other premiers. In Quebec's National Assembly, Lévesque's separatist Parti Quebecois was joined by Claude Ryan's federalist provincial Liberal Party in rejecting the 1982 Constitution.

And here is where things get complicated. The 1982 Constitution follows almost to the letter the constitutional proposals set forth by the so-called gang of eight premiers in April 1981, a text which Lévesque helped write and which he signed. The 1982 Constitution even contains Article 43, which allows the federal government and a province to make constitutional changes which affect that province alone. In other words, Quebec could negotiate what extra powers it felt it needed without having to get the approval of other provinces.

So a Canadian nationalist can say that the 1982 Constitution gave Quebec the Constitution Lévesque had written and that the rejection of this Constitution by Lévesque showed that his separatist party could never have agreed to accept any deal with the federal government short of independence. On the other hand, a Quebec nationalist would answer that the contents of the 1982 Constitution do not matter, that what really matters is the process, the fact that the English Canadian provinces and the federal government could reach agreement on a Constitution for the whole country without the participation of Quebec. This was Quebec's nightmare come true. Ever since the population of English Canada started growing much faster than the population of Quebec, nationalist Quebecois have faced the spectre of the day when they might not count in the federal Parliament; and the only way to avoid that would be to leave Canada.

So the process was frozen before the last essential stage. The Constitution had been repatriated; a Charter of Rights had been adopted; a less rigid amending formula had been adopted, but the renegotiation of the division of powers as between the federal and provincial governments, which was the whole purpose of the exercise, could not be undertaken because Quebec would not participate; and after passing the Constitution without Quebec's consent, the federal government did not feel it could rub salt into the wounds by renegotiating the division of powers without the participation of Quebec's two main political parties.

Honourable senators, I should like to adjourn this debate in my own name. I shall resume tomorrow at this point.

On motion of Senator Gigantès, debate adjourned.

The Senate adjourned until tomorrow at 9 a.m.

THE SENATE

Friday, February 1, 1991

The Senate met a 9 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

QUESTION PERIOD

DELAYED ANSWER TO ORAL QUESTION PERSIAN GULF

ROLE OF CANADIAN FIGHTER AIRCRAFT—NEED FOR CHANGE IN WEAPONRY

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 January 31 last by the Honourable Senator van Roggen regarding Persian Gulf War—Role of Canadian Fighter Aircraft—Need for Change in Weaponry.

(*The answer follows:*)

> The Canadian Air Task Group continues to be totally allocated to the defence of Allied Forces against Iraqi air attacks, a role for which they are suitably trained and equipped.
>
> Our aircraft and their personnel are not being put at unnecessary risk by not being equipped with air-to-ground weapons.

PETRO-CANADA PUBLIC PARTICIPATION BILL

THIRD READING

Hon. William M. Kelly: Honourable senators, I move the third reading of Bill C-84, respecting the privatization of the national petroleum company of Canada.

Hon. Royce Frith (Deputy Leader of the Opposition): On division.

Motion agreed to and bill read third time and passed, on division.

BROADCASTING ACT

BILL TO AMEND—THIRD READING

Hon. Norman K. Atkins: Honourable senators, I move the third reading of Bill C-40, respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio communication.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cochrane, that this bill be now read the third time. Is it your pleasure, honourable senators, to adopt the motion?

MOTION IN AMENDMENT

Hon. John B. Stewart: Honourable senators, I wish to propose an amendment to the motion. I move:

> That Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio communication, be not now read the third time, but that the bill be amended in clause 3 at page 5 by striking out line 39 and substituting the following:
>
> (vi) contribute to national unity, shared national con-

That one line should be struck out. The clause as amended would read:

> contribute to national unity, shared national consciousness and identity,

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cochrane, that this bill be now read the third time.

In amendment, it is moved by the Honourable Senator Stewart, seconded by the Honourable Senator Turner:

> That Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio communication, be not now read the third time, but that the bill be amended in clause 3 at page 5 by striking out line 39 and substituting the following:
>
> (vi) contribute to national unity, shared national con-

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Senator Stewart: Honourable senators, the fact that we are dealing with this amendment now makes one want to comment on the need for a reconsideration of the procedures of the Senate. This bill was sent to a committee. As we know, the function of a committee is to prepare a bill. Until a bill has been reported by a committee, what we call a bill is only a proposed bill. It is the function of a committee to adopt the clauses—in other words, to create a bill. The rejection of the report of a committee is the rejection of all the committee's work with regard to all clauses that were amended in the proposed bill, and with regard to all the other clauses. The fact that we are now on third reading shows how necessary it is that there be an urgent reform of the rules of this House.

On the substance of the amendment, as I said when we were discussing the motion relative to the report of the committee, the function of the amendment is to make it a purpose of the Canadian Broadcasting Corporation to contribute to national unity. The government has no difficulty whatsoever having the Canadian Broadcasting Corporation contribute to national identity.

"Identity" is a much stronger word than "unity." After I had spoken at that time I checked the dictionary. There I found that "identity" means "absolute sameness." So the government has no problem in having the Canadian Broadcasting Corporation contribute to national absolute sameness.

The word "identity" also means "oneness." In algebra it means "equality of two expressions."

It is clear, honourable senators, that the expression "national unity" has taken on a sense of opprobrium in the ears of the government. It is the special meaning that the term has acquired which is now being attacked by the government in this bill. It would be shameful for the Senate of Canada to reject the notion that it is one of the functions of the Canadian Broadcasting Corporation to contribute to national unity.

It is said that it is offensive against journalistic integrity for the Canadian Broadcasting Corporation to contribute to national unity.

Hon. Royce Frith (Deputy Leader of the Opposition): Offensive to what?

Senator Stewart: Journalistic integrity.

Hon. Anne C. Cools: Tell us what that means.

Senator Stewart: I guess what it means is that the journalist sets his own standards; he is true to himself; she is true to herself.

An Hon. Senator: Then we are in trouble.

Senator Stewart: You are right on, senator.

The expression "national unity" offends against journalistic integrity, but against "national identity." "National absolute sameness" does not offend.

Honourable senators, can we seriously vote in favour of a bill which deliberately has struck down national unity as one of the objects of the national broadcasting service?

• (0910)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I should like to say a few words on this matter.

This issue—whether to incorporate in the Broadcasting Act a mandate, an obligation for the CBC and Radio Canada to "promote national unity"—has been with us now for more than 20 years.

Honourable senators will know that, when the Broadcasting Act of 1968 was passed, such a mandate was incorporated into the preamble of the act.

Honourable senators are also aware of the arguments that are generally made in favour of and against incorporating such a mandate, such an obligation, into the act. Those who favour it say that, at worst, it is harmless and, at best, it contributes to national unity to impose this obligation on the publicly-owned broadcasting service. Those against it are concerned with the way in which such a mandate, such an obligation, may be interpreted—whether it does leave it open for governments to insist that a certain line be taken by the publicly-owned broadcasting service, in particular in its news and public affairs programs. All of those fears, as I will demonstrate in a moment, were expressed back in 1967 and 1968 when the Honourable Judy LaMarsh brought in what became the Broadcasting Act of 1968. Nevertheless, the mandate, the obligation, was incorporated into the preamble of the Broadcasting Act.

Senator Stewart: Twice the Leader of the Government has told us that these words are found in the preamble. I notice that he now seems to be changing his position.

Actually, it is to be found in the effective part of the act. If the honourable senator would like me to read it, I will do so. It is to be found in subsection 3(*g*) paragraph (iv) where it says:

> . . . contribute to the development of national unity and provide for a continuing expression of Canadian identity;

It is not in the preamble but in the functional part of this act.

Senator Murray: Honourable senators, I accept that and I thank the honourable senator for that correction.

I will show, by reference to several quotations from ministers of the Crown only a few years after passage of the 1968 act, that some of the fears expressed about incorporating this obligation into the act were well justified. I will leave it to honourable senators to decide whether it is wise now to accept the amendment proposed by Senator Stewart to impose again such an obligation on the publicly-owned broadcasting service.

Ms. LaMarsh was quite clear—whether in the preamble or, as Senator Stewart now points out, in section 3 of the act—as to the intended effect. As she said, when she introduced the legislation in Parliament in 1967:

> The mandate set out is more than a preamble, it is an integral part of the measure, expressing the intentions of parliament, and it will have all the forces of law. Thus the whole of the rest of the bill must be considered in the context of this declaration of policy.

As I indicated, immediately there were concerns expressed by members of Parliament on this matter. Mr. R. W. Prittie, a New Democratic Party spokesman on the bill, said, in the course of the debate:

> I have noticed that on the part of members of this house, French speaking members in particular, there has been a great deal of criticism of the French network of the CBC. We hear the charge that it is riddled with separatism and that these people are promoting disunity in the country. This may or may not be true. I simply do not know. But I would not want to see a witch hunt started because there is something in the bill saying that national unity must be promoted which would enable the government to go to anyone who was not doing exactly what was wanted and

> say: You are not promoting national unity; you are a separatist and therefore you are out.

Well, this argument went back and forth.

Senator Frith: If you are a separatist, I guess by the term you are out all right! You cannot have it both ways.

Senator Murray: Out of the CBC. Of course, the problem is who defines "separatist", and according to what criteria. This was the danger that the member of Parliament in question raised on that occasion.

Interestingly enough, Mr. Gerard Pelletier, who was then the Parliamentary Secretary to Miss LaMarsh, said this about the national unity mandate in the government bill in the House of Commons on January 26, 1968:

> Personally I would be most favourable to the deletion of this paragraph. It seems superfluous. It seems to me that by including it, we are giving to certain people cause to think that there is a suggestion of propaganda, which is incorrect.

Then there weighed into the discussion Mr. Robert Stanbury, later to be a cabinet minister in the Trudeau government. I ask honourable senators to pay careful attention to his interpretation of what this mandate for national unity meant in respect of the obligation of the CBC:

> In my estimation, non-government media should not be directed in the kind of editorial policy they should pursue. On the other hand, parliament many years ago established a vehicle for the expression of public policy in broadcasting. That vehicle is our public corporation, the Canadian Broadcasting Corporation. One of the very reasons for its existence is the development and nurturing of national unity. While we in this parliament do not want to direct the editorial opinions of the owners of other news media—

and I underline the phrase "other news media"—

> —we have the right, on behalf of the owners of the Canadian Broadcasting Corporation, to decide a basic factor of that corporation's policy. That is why in the mandate of the national broadcasting service we give it some direction.

• (0920)

Senator Frith: I wonder if anyone in Canada cites and quotes Liberals more frequently than the Leader of the Government in the Senate. I know of no Liberal who does.

Hon. Philippe Deane Gigantès: He cannot get anything sensible out of Conservative speeches to quote.

Senator Stewart: They are his scriptures.

Senator Gigantès: And he cannot speak for himself.

Senator Frith: Never fear anonymity if you are a Liberal because as long as Senator Murray is around, somehow, some day, somewhere, he will quote you.

Senator Murray: I regret if honourable senators are embarrassed by these quotations from their predecessors, as well they might be.

[Senator Murray.]

Senator Frith: Far from it, sir! "Amused" is the word, senator!

Senator Gigantès: To have a government like yours is embarrassment enough. Nothing else can embarrass us.

Senator Murray: Honourable senators, an obligation to promote national unity was placed in the Broadcasting Act of 1968 by the government of the day. Some ministers and spokesmen for the government defended the obligation on the basis that it was necessary and desirable, and that it could not lead to censorship, interference, or editorial direction. But it is clear what others had in mind, and I put on the record the revealing statement of Mr. Stanbury, later to become a minister of the Crown.

Hon. Roméo LeBlanc: Get another researcher!

Senator Murray: Honourable senators, it is clear from statements made by ministers of the Crown during the Trudeau years that it was Mr. Stanbury's interpretation they relied on.

Senator Stanbury: I hope so!

Senator Murray: They did believe that the government had the right to give editorial direction to the CBC because the CBC had a mandate for national unity in the act. It was only a couple of years later that Mr. Trudeau made his famous attack on Radio-Canada and its news, editorial and public affairs program.

Senator Stanbury: And he was right!

Senator Murray: This was at a Liberal fundraiser in Montreal on October 19, 1969. Here he is talking about a news broadcast he heard on Radio-Canada. I quote Mr. Trudeau:

> Only a few days ago, David Rockefeller, the head of one of the largest financial institutions in the world, was interviewed on the CBC. They got hold of him and managed to ask him: would investors keep coming if Quebec became independent? You know, it is a disease of the mind at the CBC—and I shall deal briefly with the CBC later if I have any time left . . .

Later in the same speech he provided an allusion to the national unity mandate in the act:

> I spoke earlier about that other institution, the CBC. There again, the taxpayers' money is not always used to build a strong and united Canada, and yet that is why people pay taxes to the federal government.
>
> I must say a word about the tremendous job the new directors of the CBC have done in the last two years. I know they have to work hard every day to get from that institution objective views, a little less separatist in their outlook. I know that it is our responsibility also . . . They are working to set things right within that institution. But they have a difficult task to do and it is not sure that they will succeed. I, for one, believe they will. But if they do not, we will assume our responsibilities as a government. We will close the shop. Don't think that we won't do it. If need be, we can produce programs, and if not, we will

> show people Chinese or Japanese vases. Instead of the nonsense they dish out, that would be of some cultural benefit. And if we do not succeed—you know, we have cut expenses in Ottawa in the last year. Expenses were reduced in every field and, as a result, the ministers I have mentioned earlier had to lock a few doors, to put an end to a few programs . . .

So there was the obvious threat to the CBC if they did not hew to the line, if they did not promote national unity, as defined by the Prime Minister and the government of the day. I think it is a perfect illustration of the danger of imposing that kind of obligation on the journalists and the people who run the news and public affairs programs at the CBC. Senator LeBlanc shakes his head, but the fact of the matter is that his old chief, his colleagues, and perhaps himself, regarded the enemies of the party as being enemies of the state when they were in power, and this kind of quotation simply proves it.

Senator Gigantès: But you are enemies of the state—you, personally!

Senator Murray: I am glad to have that on the record.

Senator Gigantès: The separatists of the country are in your caucus!

• (0930)

Senator Murray: Honourable senators, a few years later our colleague, Senator Marchand, spoke in this house on the same subject. He was talking about how the CBC and Radio-Canada put questions to embarrass the federal government. He said that it was a systematic and dangerous trend in the CBC and Radio-Canada. Mr. Chrétien himself, then the Minister of Industry, Trade and Commerce, was talking about the news judgment of Radio-Canada in an article in *La Presse*.

[*Translation*]

> Mr. Chrétien complained that the news reports never mentioned his statements on Canadian unity, while any nitwit who had anything to say about independence was sure to get the attention of the media, always according to Mr. Chrétien.

[*English*]

To return to the relationship between the criticism and the public pressure exerted by ministers of the Crown on the CBC and Radio-Canada on the basis of their interpretation of the national unity mandate, let me quote from a brief exchange on a program on the English network called *90 Minutes Live,* between the Honourable André Ouellet, then a cabinet minister in Mr. Trudeau's government, and Peter Gzowski. Mr. Ouellet said:

> It is written right in the law that Radio-Canada and CBC have a clear mandate from parliament to foster national unity, therefore if when it comes that there is a question of the referendum, I don't want to see Radio-Canada on the fence presenting as a neutral body the two sides. I think mostly, that they should not present the other side.

I wonder if Senator LeBlanc, as an old journalist, agrees with that statement.

Hon. Roméo LeBlanc: I do not know if I agree with that statement, but I would ask the minister if he does not think that in some way it is more honest to say some of the things that he has quoted—and I do not agree with some of them, including the last one attributed to Mr. Ouellet. I disagree with that approach.

Senator Murray: I have not finished.

Senator LeBlanc: But it is more honest to do what these people were doing—even if you find it outrageous while you are quoting from it—than what it was when I arrived in Ottawa to work for the CBC. We were getting directives at that time. We had a famous one in "preview commentary." If you want to read the memoirs of former minister Nowlan, you will find a couple of interesting chapters concerning how the Diefenbaker government—which you have forgotten also existed during some of the time that we are talking about—

Senator Murray: No, not at all.

Senator LeBlanc: The Diefenbaker government did not publicly say something; it gave directives and exerted pressure very clearly to abolish that program without ever admitting publicly to it.

Senator Frith: Exactly. Characteristically sneaky!

Senator Murray: Honourable senators, I have heard of that incident. There have been other incidents. There were incidents during the famous pipeline debate in 1956 when it was alleged that pressure had been exerted by the then Liberal government on the CBC to keep the Leader of the Opposition off national television.

Senator Frith: That was when Speaker Beaudoin destroyed himself by doing what Senator Charbonneau tried to do in here.

Senator Murray: Was it? I see.

Senator Frith: The same.

Senator Stanbury: Not tried to, he did it!

Senator Frith: Yes, he did.

Senator Murray: Only a few years after this so-called mandate or obligation was put into the act we have had generalized accusations against the CBC in the most sensitive area of the network's operation—that is, news and public affairs—and an attempt on the part of Liberal ministers to justify that pressure on the basis of the mandate and the obligation that it had been put into the act.

Let me continue with a quotation from the Honourable André Ouellet when he appeared on *90 Minutes Live,* as it was called back in 1977. Mr. Ouellet said:

> It is written right in the law that Radio Canada and CBC have a clear mandate from parliament to foster national unity, therefore if when it comes that there is a question of the referendum, I don't want to see Radio Canada on the fence presenting as a neutral body the two

sides. I think mostly, that they should not present the other side. I think it would be unfair to chuck them out and refuse them (sic) to present the other side, but as an instrument of Canadian unity with a mandate to foster Canadian unity, I believe that... Radio Canada... should be promoting Canadian unity and being (sic) on the side of those who want this country united...

Later there is a series of questions and answers. It states:

Q. Mr. Ouellet, what if I were to use the word propaganda?

A. Well, when it comes to the survival of our country I don't think we have to be afraid of words.

Q. Propaganda?

A. Indeed, sure.

It is fairly obvious from the declarations of various Liberal cabinet ministers of the day that their interpretation of the CBC's "national unity" mandate and the government's role in overseeing that mandate goes far beyond what was contemplated by Miss LaMarsh in 1967, and is rather closer to the definition given by Mr. Robert Stanbury at the time.

What happened is that the Liberal government of the day applied the legal weight of the mandate and their own considerable moral suasion—that is, if I can call it that—to try to influence the professional news coverage and editorial judgment of the journalists and producers employed by the CBC. An examination of the record—Mr. Trudeau's attack on the CBC for asking a particular question of David Rockefeller in a news interview; the indictment of Radio-Canada by our late colleague, Senator Marchand; Mr. Chrétien's complaint that his speeches on national unity were not adequately reported; Mr. Ouellet's assertion that Radio-Canada should not act as a neutral body presenting both sides in the referendum debate—yields no other interpretation but that they were applying their political pressure and the full weight of the legal mandate to try to influence the professional judgment and conduct of the journalists and producers at the CBC.

In my judgment, therein lies the danger with this kind of mandate and obligation being put into the law regarding a publicly-owned broadcasting corporation such as the CBC. It is for that reason that I think, and continue to believe, that on balance the broadcasting law is better without such a mandate and such an obligation on the CBC. Such an obligation and such a mandate is always open, in my view, to abuse or to the appearance of abuse. For that reason, I have absolutely no hesitation at all in voting against the amendment and urging others to do likewise.

Senator Frith: Against national unity also.

Senator LeBlanc: Honourable senators, I wonder if the minister would answer a question. I listened with interest to some of the comments that he made. I was of the school of journalism in the Norman De Poe period. Frankly, I never felt very offended in my freedom as a journalist by any politician. We had some great controversies in my time. If you remember the famous meeting of Mr. Diefenbaker and Mr. De Poe in the corridor, there is no doubt that—

[Senator Murray.]

Senator Murray: I believe that happened when Mr. Diefenbaker was Leader of the Opposition, if that matters.

Senator LeBlanc: That may be. If it is, I stand corrected. But it is a classic scene. I am sure that it will be repeated 50 years from now—that is, if we still have a national broadcasting system or if we still have a nation.

• (0940)

I would like to know from the Leader of the Government if the phrase "national unity" has become a non-phrase, and if it has been excised from the dictionary—at least from the dictionary of freedom which the Minister pretends to promote. How does identity, and the responsibility to promote identity, differ in the spectrum of freedom of journalists or non-pressure on journalists? What differences does he see?

Senator Murray: Honourable senators, as I understand it, the matter was pretty thoroughly canvassed at the committee. I can tell honourable senators this, that those who are on the front line—the producers, the journalists and the broadcasters—feel quite strongly that the obligation to promote "national unity" is susceptible to abuse, whereas the mandate to promote "national identity" is far less susceptible to political abuse. Perhaps the point they make is that the mandate to promote national unity seems to focus largely, if not exclusively, on the news and public affairs component of the network, whereas "national identity" could be seen to be promoted through quite a variety of other instruments, perhaps principally not news and public affairs but culture, drama, and so forth.

By the way, we are not excising the phrase "national unity" from the dictionary. It is an honourable term. We use it all the time and we believe in it. We are committed to it.

Senator Gigantès: But you do not know what it means.

Senator Murray: We do say that trying to impose a general obligation upon the publicly-owned broadcasting service, particularly on its news and public affairs component, is open to abuse. As I have shown by the record, journalists and public affairs producers in that corporation are vulnerable to exactly that kind of interference and pressure from politicians.

Senator Stewart: Honourable senators, Senator LeBlanc anticipated one of my questions. The minister has made a plea for journalistic purity—

Senator Murray: No, I am not so naive.

Senator Gigantès: Yes, you are. You are naive enough not to know that you are naive.

Senator Stewart: I mean in the performance of their journalistic functions.

Let us take the minister at his word. Does that not mean that the whole subclause should be removed from the act so that the CBC would not be required to contribute to shared national consciousness and identity? It seems to me that his argument leads inevitably to that conclusion.

Similarly, the bill the minister is supporting would require that the Canadian broadcasting system serve to safeguard,

enrich and strengthen the cultural, political, social and economic fabric of Canada.

Senator Murray: That is the system.

Senator Stewart: Yes, but the system includes the Canadian Broadcasting Corporation. Surely, if you are looking for words which a government can interpret so as to put pressure on the Canadian broadcasting system, or on private broadcasters, that sweeping statement is full of weapons that a government might use. Why does the minister not come clean and say, "I believe in purity, no directions to journalists. Let them be guided by their own insights. Parliament will allow them to use the media, the public broadcasting airwaves, and so on, to put out their own views, but we must not give them any guidance whatsoever." Consequently, we should strike out this reference to "national identity", and also this reference to the strengthening of the cultural, political, social and economic fabric of Canada. Why does the minister not go all the way?

Senator Murray: The honourable senator has just confirmed that what he has in mind is "direction to journalists." What he has in mind with this amendment, this mandate, this obligation to promote national unity is "direction to journalists", just as I suspected.

There is not much that I can add to what I have already said in my reply to Senator LeBlanc's question, except that there is a difference between the national broadcasting system, which includes the public and private broadcasters, and the national broadcasting service, the CBC.

I make the point that the national broadcasting service, the publicly-owned CBC, is far more vulnerable to political pressure and interference from ministers of the Crown and parliamentarians generally, who hold the power of the purse, at least, than are private broadcasters.

Senator Stewart: Honourable senators, I think the minister must have misunderstood something that I said. When I referred to safeguarding, enriching and strengthening the cultural, political, social and economic fabric of Canada, I was not saying that this is a direction which I would wish to give to the system. These are words from the bill that the minister himself is promoting. This is the direction he proposes to give to the Canadian broadcasting system. Those are not my words but the words of the minister.

Senator Murray: I know that.

Senator LeBlanc: The minister seems to attach a lot of importance to someone answering a question in an interview—for instance, a minister, not necessarily the minister responsible. He calls that pressure. Personally, I call that inevitable. It will always happen. The fact is that cabinet as a body has to decide whether or not it will continue allocating funds to the public broadcasting system, which historically it has.

Is he now saying that the sort of quotation he gave is more threatening to the life of the public broadcasting system, which everyone intends to support but does not always support, than for a government to reduce systematically the capacity of the publicly-owned corporation to do its job, as his government has done in the past few years?

Senator Murray: Honourable senators, I do not accept the accusation about the relationship of this government to the CBC. The unfortunate fact about the CBC is that it went considerably over its budget and was then faced with the necessity of cutting back. It cut back in ways that may or may not be pleasing to some, particularly some at the local level who wanted to maintain complete local television service. What has been done has not in any way compromised the integrity of the system.

I should also say this about that series of attacks which seemed to me at the time to be orchestrated against the CBC and against Radio Canada by my honourable friend's cabinet colleagues. They claimed to be speaking for large numbers of people. Inquiries were made at the time. I have the figures here on those complaints, but I will not take up the time of the Senate to put them on the record. It appears that the number of complaints that the corporation, or, indeed, the CRTC, was receiving on this point was infinitesimal. To give credit to the President of the CBC, at the time, Mr. Al Johnson, he gave the back of his hand to his political masters and the accusations they were making against Radio Canada. In the event, Mr. Harry Boyle, the then chairman of the CRTC, was asked to conduct an inquiry on the matter. He had to take out advertisements in all of the newspapers to invite people to come forward with their complaints or views as to whether the CBC and Radio Canada were or were not fulfilling their mandates to "promote national unity." There were very few takers.

• (0950)

As often happens, this was—the term "paranoia" comes to mind, but let us say incipient paranoia on the part of politicians about what they perceived to be biased reporting by the CBC and Radio Canada in particular. It is not unusual; it happens all the time. However, what is dangerous is when such politicians can trot out an obligation that they have already written into the Broadcasting Act to give their complaints, and the political pressures they bring to bear, some appearance of legitimacy.

Hon. Daniel Hays: Honourable senators, in speaking to this amendment, I would like to begin by following up on the exchange that has occurred here this morning. Considering my brief time spent in the committee's proceedings, I am very impressed with the Leader of the Government's command of past history. I can remember when there were questions about the appointment of Senator Waters, how impressed I was by Senator Murray's close reading of the Alberta papers and, in particular, the weeklies, and his ability to be able to give quotes from them on things that various Alberta senators had said, comments that might reflect badly on those senators in terms of how well-thought-out their pronouncements were on that particular issue. In any event, in this case he has done a careful study of a very tense time in Canadian history, the time around the referendum, and he has picked up on a number of extreme comments made by some Liberal politi-

cians. The honourable senator is not obliged to be balanced and fair in his comments, but I think he has been very selective.

I did not attend as many hearings as I would like to have attended. However, Senator MacDonald, the chairman, attended all of them, and I hope he will comment on what I am about to say if I am wrong. The point I would like to make is that there was absolutely no evidence by anyone who appeared before the Transport and Communications Committee of any actual interference. There was a comment by someone—and I do not believe it was at a public session—who had been involved with one of the journalists' unions, to the effect that there was close scrutiny of the news lineup as well as the stories, but it did not go as far as actual interference. This exchange highlights the healthy disregard that politicians have for journalists and that journalists have politicians.

The key is that I do not believe that there was any actual breach of the journalistic integrity of CBC or Radio Canada journalists in this case. I think Senator Stewart's point is the same as mine, which is that any bit of language can be picked up at a time of high feeling and used to support the view that the corporation is not fulfilling its obligations under the statute, or whatever. So, notwithstanding what the minister has said, there is absolutely no evidence of interference. There is much evidence of disenchantment, disgruntlement and strong feeling, but not of interference.

I would also like to pick up on Senator LeBlanc's point about this government's trend toward reducing the resources being made available to our public broadcaster and the effect of that trend. I do not know that it is specifically targeted at the disenchantment with the journalistic standards of the CBC and Radio Canada—I would not say that—but the practical effect of the trend is that that organization is being disseminated.

The minister has said that the CBC was over budget and had to respond. The fact of the matter is that the CBC has been trying to fulfil a mandate in carrying both a national and a regional service, and it has not been able to do that because it has not been obtaining the necessary budget enhancement. That additional budget enhancement has not been forthcoming, and the corporation has had to take dramatic steps and cut programs.

The most disturbing aspect of all this is the rhetoric of the government, that the CBC is not generating sufficient commercial revenue to justify the type of programming that it wishes to produce. The fact of the matter is that it never will be able to justify its existence on a commercial basis. So to justify cuts on the basis that the CBC is not able to generate commercial revenue sufficient to pay for its programming means that it must begin to rely to a greater and greater degree on commercial revenues. If it begins to rely more on commercial revenues to produce its programs, the next step is that it is no longer a public broadcaster. The next step is to dispose of the corporation as part of the privatization process or for some other reason. I raise this point because we seem to be at about step two of a four- or five-step process that will take our public broadcaster away from us.

[Senator Hays.]

On the matter of cost, news and current affairs programs do produce substantial commercial revenues because such programs do not have to compete with U.S. programming in the same way that Canadian drama and entertainment programs have to compete.

One of the hearings of the committee that I did attend was when representatives of the CTV appeared. I will base my example not on news or current affairs programs but on a drama program, and I shall try to abbreviate it as much as possible. CTV is very proud of a program called *E.N.G.*, which has a wide audience. The cost of *E.N.G.* for one hour of production is about $950,000. That cost is probably comparable to the cost of any good-quality program. When the witness from CTV, Mr. Gary Maavara, was asked how much money that program would generate, he said about $150,000 for each of two showings. So it would generate around $300,000. He said that Telefilm Canada contributes about $300,000 to the production, and the other moneys would, I assume, be generated in some other way by the producers of the program, either through provincial-funding sources or through private capital. So we can see that a popular Canadian program that costs roughly $1 million to produce will generate roughly $300,000 in Canadian revenue.

● (1000)

Using *Dallas* as an example, I asked him what it would cost to buy and air a good-quality U.S. program. He said that the CBC would pay about $65,000 to show one hour of *Dallas*. Honourable senators, I would assume that two hours would either be double that figure or less. The program *ENG*, which is a good one, but less popular than *Dallas*, costs them $150 for an hour, but Dallas, at $65,000 an hour would draw a larger audience. This gives honourable senators some idea of the impossibility of generating good quality entertainment programs for Canadian viewing in competition with the U.S.

I went on to ask him if money could be made by selling *ENG* to the U.S. and the rest of the world, and if I could assume that it would generate $65,000 for a showing in the U.S. He informed me that it would be more like $20,000.

Honourable senators, this series of numbers really tells the story. If we wish to have Canadian programming which has Canadian reference points and which employs Canadian producers, actors, writers and directors, then we will have to recognize that it cannot be done on a commercial basis. That is, in so many ways, the story of Canada. Unless we are prepared to provide financial resources either through Telefilm vehicles, or similar provincial vehicles or by direct payments to CBC, we will not have Canadian programs and our artists will lose an opportunity.

To return to the point made by Senator LeBlanc, which is the systematic reduction in resources being made available to CBC, Radio Canada, that organization is under attack. In fact, at this point it would not return to its original form, which had a rich regional programming base as well as a rich

national programming base. It has probably gone forever in the form in which we once knew it. However, the rationale for what was done still exists. It can still be attacked by cutting, cutting and more cutting—by referring to its inability to raise the necessary commercial revenues to justify its programs. At some point in the near future I think that will cut into news and current affairs programs.

Honourable senators, that brings me to the last item in this picture that I want to draw to the attention of honourable senators. It relates to the general attitude about the CBC's inefficiency, namely, its crew-size problem—the number of people who go out on an interview, or whatever. It is a problem that must be dealt with at some point by the corporation by people who support the corporation and by the government.

The fact of the matter is that, if we want to have good quality programming, such as *The National* and *The Journal*, it is going to cost a lot of money. It does not involve only the people we see on the set. If they are not supported by good producers, researchers and writers, the program will disappear, because it will not be good enough to justify.

The problem with the CBC as a public corporation is that it has difficulty operating on a non-union basis. It has difficulty doing what a private entrepreneur-producer would do, which is to cut corners to avoid costs. At some point that has to be aired.

I agree with Senator LeBlanc, that the most serious attack on the CBC, Radio Canada, has been on the budget cuts. I believe it was the desire of the previous government to do that, but it did not do so because people fought against it. People, notwithstanding what was said by Mr. Trudeau and others, said "No", and so they did not cut it. The difference now is that this government is cutting, and the net result will be that we will not have a CBC if we go to steps three, four and five when we are now at steps one and two. That is the most insidious, dangerous and menacing thing that the CBC now faces.

Honourable senators, there is no particular magic to the words "national unity." It is, however, a laudable objective. Surely, those of us who want to have a country, including all of the provinces, would want to have that as an objective, and we would want all of our federal institutions to contribute to national unity. To simply say so is not a threat to journalistic integrity, and there is no proof that it has been any more of a threat than the words that are proposed to replace "national unity" or that would be added to "national unity" if the amendment proposed by Senator Stewart, which I support, is passed. I would ask all honourable senators to support this motion.

Some Hon. Senators: Hear, hear!

Hon. Finlay MacDonald: Honourable senators, the remarks made by Senator Hays are most useful and interesting, but only in the last few moments of his speech did he address himself to the amendment proposed by Senator Stewart.

Anyone is naive who believes that a news organization, a news room, a newspaper or a television station cannot be influenced by the views of the president, the managing editor, or whoever is in charge of that organization in the absence of any directive.

Senator LeBlanc mentioned Senator Murray's point with reference to the interview with Mr. Ouelette when he came rushing back to indicate that the Conservative Government under Mr. Diefenbaker, the famous preview commentator, had said "heads will roll." Of course that was the case. Any government would seek to control CBC.

Senator MacEachen: I do not know how you are doing.

Senator MacDonald: If we agree that the CBC is one of the non-government media, we could start the argument on the same basis, that it is "non-government media." Every witness who describes the CBC as being "government owned" is immediately called up and informed that it is the "publicly-owned" CBC. The basis of its integrity was laid long ago by a man by the name of Dan McArthur.

Honourable senators, I think that "national unity" is a term almost peculiar to Canada. I think of the self-absorption of that term. I do not think "national unity" means a damn thing. Many countries of the world would not know what we were talking about. National unity in Canada has become an obsession. It has become a slogan that we have to have everywhere. In this very chamber, Senator Davey made reference to an article which I attribute—perhaps incorrectly—to Rick Salutin, where he talked about the unholy alliance between the CBC and the *Globe and Mail*. Implicit in the statements Senator Davey was making was that the CBC was in some way supportive of Meech Lake.

Hon. Keith Davey: I still think it was.

Senator MacDonald: Apparently, honourable senators, the Meech Lake Accord was not everyone's cup of tea, but it was mine. I thought it was wonderful. Honourable senators, if I had found myself suddenly directing the CBC, you can be sure that the CBC would have been supporting what I thought at that particular time were the most minimal demands, conditions, under which we could have had a whole country. I now wonder whether the CBC should stand up and say that it has read the Allaire Report. They could say, "We at the CBC have just learned this thing and it is the funniest thing we have ever heard in our lives. It is laughable." There could be commentator after commentator, newscaster after newscaster, referring to this report, saying, "Quebec has just announced the funniest report and everybody is holding their stomachs in Edmonton laughing. It is hilarious." Whither national unity? Whither the obligation? Certainly, every government in this country, of every party, thinks the CBC is out to get them, and every party will do anything they can to control it. They will do it in the name of national unity; they will do it in any name.

• (1010)

To answer your question finally, during the hearings—and I think you were there—the evidence that this had happened was presented by Mr. Racine who, at the time of the crisis, was a journalist in Montreal. He said that supervisors were standing over the shoulder of every journalist to clear their

copy. That, to my mind, is compelling evidence. That evidence was presented by Mr. Racine at one of the hearings. Don't tell me that reporters at the *Toronto Star* are not influenced by the views of Mr. Honderich. They do not need directives. I once asked John Bassett, the publisher of the *Toronto Telegram*, "What do you do with a reporter who does not seem to be following your editorial line or your view?" And Mr. Bassett said, "I would try to find a job for him where he would be more comfortable."

"National unity" has become a hangup. If you do not like "national unity" and you think "identity" is better or a stronger word, why not leave "identity" in there? If that means "oneness", leave it in there as it stands now.

Senator Frith: It is. You have it all wrong.

Senator MacDonald: He finds "identity" to be a stronger word than "unity".

Senator Davey: "Identity" is in our amendment.

Senator MacDonald: I know. It is in the bill now.

Senator Davey: As amended.

Senator MacDonald: If "identity" will do the job, why put back "national unity"?

Senator Frith: He is saying that "identity" will not do the job. That is why.

Senator MacDonald: I thought he did.

Senator Frith: I think you misunderstood him.

Senator Stewart: Is not the truth of the matter that you are quite prepared to have Parliament instruct the CBC to promote national identity, but you run from the expression "national unity" because, as you just now said, that expression has taken on a certain meaning in the context of the current political debate on the future of this country and that you do not want to promote national unity in this particular political context?

Senator MacDonald: Would you give me your definition of "identity" again?

Senator Stewart: "Identity" means absolute sameness, oneness. Then the dictionary goes on to the algebraic meaning of the term.

Senator MacDonald, what I am saying is that, if your argument is based on the danger that a government, or the top people in the corporation, will latch upon a certain expression to give directions to journalists, then that applies at least as strongly in the case of "national identity" as it does in the case of "national unity". However, you are prepared to live with "national identity" but not "national unity". So I conclude that the danger you fear is not direction. What you are saying is that the expression "national unity" has come to have a specific meaning in the context of the present public debate about the future of this country, and that you do not want to be on the side of those who believe in what this particular verbal symbol stands for.

[Senator MacDonald.]

Senator Murray: That was what happened in 1977, effectively, as I have demonstrated.

Senator Stewart: No. I think, Senator Murray, that the incident to which Senator MacDonald referred was the FLQ crisis of 1970. I see that Senator MacDonald is nodding his head. We were not told as evidence, but we were told *in camera*—and, as Senator MacDonald has referred to it, I feel free to speak—that, at the time of the FLQ crisis, journalists at Radio Canada found that supervisors were watching their copy, and that was found to be offensive, and that one of the purposes of removing the expression "national unity" from the act is to prevent that sort of thing from happening again. That is a fair statement of what we were told, is it not, Senator MacDonald?

Senator MacDonald: I think that we may have reached the point where we do not want a publicly-owned broadcasting system reporting to Parliament through a minister. We need the National Film Board. We need to bring back Grierson reporting to a minister, the *Carry on Canada* series, no reference to Parliament, just the minister! Marcel Masse can direct the way in which it will go. We do not need the CBC, just a propaganda agency. We will have to get another word for it. The National Film Board will sound too sissified. We will have to find something more management- oriented, something that will take direction and that will drive us into national unity whether we like it or not!

Senator MacEachen: Like the BBC?

Senator MacDonald: And we can have a room upstairs where they will make them cooperate. That is what we have to do. Put some teeth into it.

Senator Stewart: Senator MacDonald, you already have told us that you have no objection to the requirement being imposed upon the Canadian Broadcasting Corporation that it promote "national identity". That expression does not scare you at all. You are eager to vote for it. On the other hand, the expression "national unity" causes you to cringe. I find it difficult to understand your mental process unless it is to be understood in the context of the present political debate. It would seem that, in the context of the present political debate about the future of the country, by deciding against this expression "national unity", you are opting for one side in the discussion.

Senator MacDonald: I think it is about time I surrendered. I cannot argue against unresisting—I do not want to use the word because the Speaker might call me out of order. It was just that over the course of all the hearings, national unity was not brought up. It was not a matter which concerned us. If I had to guess which amendments the committee might present, I would have put national unity down as number 36. I would have put review power as number 1, but national unity would have been number 36 because it was not mentioned and because everybody who had been an architect of any Broadcasting Act, or on any task force, or who had been president of the CBC, were all opposed to the obligation of the CBC to

promote national unity. Now, today, I have learned a lesson on semantics from a professor that I cannot handle. I give up!

• (1020)

Senator Frith: I can see the headline: "National Unity Slips to 36 on Finlay MacDonald's Alltime Hit Parade"!

Senator Hays: I should like to ask a question of Senator MacDonald about Mr. Racine. While there was oversight and they were looking over the shoulder, according to him, there was no evidence of any interference with copy. I do not remember its coming up in any other context than at that one meeting. I agree with that. Senator MacDonald says no one asked about that. That surprises me.

In any event, I wanted to tell Senator MacDonald that there was no evidence of any interference. Whether or not he agrees with this, surely the issue is journalistic standards, which, in their simplest terms, are fairness and balance in reporting. Opinion is important to a journalistic organization, whether it is electronic or print; but the key is that there be balance and fairness in terms of presenting the other sides of the issue. By definition there is more than one side if an opinion is being expressed. It is difficult for a journalistic organization, whether it is the CBC or a newspaper, to deal with that. That has to be very difficult. Senator MacDonald mentioned Mr. Honderich of the *Toronto Star*. You do have an obligation to your readership or viewers.

I wonder if Senator MacDonald would not agree that this is what we are talking about and that the words "national unity", "shared national consciousness" or "identity" are just hooks people grab when they are mad. Here we are talking about an example where the government was mad because it did not think opinion was balanced. But whether or not that was the case, there does not seem to have been any breach or breaking through the management and board of the CBC into the newsroom and into the actual writing of the stories. If it did not happen, surely the words "national unity" were not the issue; the issue was whether or not the organization was presenting opinion on a particular issue in a fair and balanced way. Politicians reacted strongly, and they will do it again.

Senator MacDonald, I respect your judgment as someone who is steeped in this tradition. I know a little bit about this subject but not much. Am I wrong? The issue we are trying to talk about is that of journalistic standards and how any organization ensures that they are met.

Hon. Richard J. Doyle: Honourable senators, I wonder if perhaps historians among us might not underline this day, February 1, 1991, and recall in the future that that was the day when we actually began the debate about the privatization of the CBC. What we have heard from Senator Hays and Senator MacDonald, and the direction in which we have been urged by Senator Stewart, points us in no other way than toward the realization that our chief concern should be with the perception of what the CBC is or might be and not what the CBC is and is trying to be.

Senator MacDonald got very close to the perception of the CBC when he was talking about the unique situation we have in the way we deal with our national broadcasting system. In almost every other country in the world, if it was said in a radio broadcast today that the revolutionary guard was approaching the Parliament Buildings, there would be a comma, and then it would say "according to a government-owned broadcasting station." That is shorthand for "this is propaganda we are giving you."

I wonder if there is anywhere left in the world where they say something about Canada and then say afterward "according to a government-controlled broadcast today." That is what we invite when we start to deal with nice phrases that do not have a precise meaning. We know that they are given precise meaning. We heard Senator Gigantès' fit of venom this morning when he talked about the Leader of the Government in this chamber as being one of the agents of disunity. I forget his exact words.

Senator Murray: Enemy of the state.

Senator Doyle: Enemy of the state. We will report that. Senator Murray has been accused of being an enemy of the state. That is because he was the champion of the Meech Lake Accord. He was our white knight. But those on the other side disagreed with the Meech Lake proposition. You brought your chief spokesman, Mr. Pierre Trudeau, here, who argued that the accord should be thrown out, that it was the job of the provinces and the Senate to throw it out. It was going to get us nowhere. I believe, like Finlay MacDonald, that it was our last real hope of trying to achieve some accommodation with Quebec that would be realistic and intelligent.

Now, were you preaching disunity on your side? Were we preaching it on our side? Is that the kind of definition we want enshrined in the act? If it is, Senator Stewart, then I would suggest to you that you also find a place for the support of democratic institutions. We are all in favour of them. How about Christian charity? We are all in favour of that. How about Judeo-Christian culture? We certainly believe in that. What about holy orders? We all aspire to them.

Senator Davey: How about Progressive Conservative? There is an oxymoron.

Senator Doyle: What about Liberal, with or without upper case?

Senator Barootes: Sell the CBC to the *Toronto Star*!

Senator Doyle: There is a good suggestion. We would not want to sell the CBC to John Bassett.

Senator Davey: Or to the *Globe and Mail*.

Senator Doyle: Or to the *Globe and Mail*. You just proved, with the help of Rick Salutin, that the *Globe and Mail* is an enemy of the state.

Senator Frith: That would be superfluous or redundant!

Senator Doyle: Sell it to the *Toronto Star*. There is the answer to the problems of the world. Senator Davey knows more about the *Toronto Star* than any other man, other than Beland Honderich.

Senator Davey: I know almost as much about the *Toronto Star* as you, senator, know about the *Globe and Mail*, but not quite as much.

Senator Stewart: Would Senator Doyle permit a question?

Senator Doyle: I am sure Senator Davey will agree that one can never tell about any instrument of the press any more than we can tell about how things may change in this chamber from day to day. I will tell you this about the *Globe and Mail*: At the *Globe and Mail* I never saw anything that resembled a corporate unity, to say nothing of national unity. What the editorial page ordains, the rest of the staff feels they must fight. That was the red flag. That we were interfering with reporters' idealistic position on journalistic integrity. That is something else we might enshrine in the CBC act. There was always division. There was a strong fight, as strong a fight as one will ever find in this chamber, of one kind against another. I am sure that Senator Chaput-Rolland will have found the same thing in her long experience in this wonderful world of journalism.

• (1030)

Senator Davey: Senator Doyle, your references to the *Globe and Mail* just recently were all in the past tense. Would you make those same statements about the *Globe and Mail* today?

Senator Doyle: I would not make those statements about the *Globe and Mail* today because I am not in a position to know. I might get a research grant and go after it and see if I can write a paper and produce it. That might be a worthwhile undertaking. We can do them for our side, but better still, why don't you do the *Globe* and I'll do the *Star*?

Senator Stewart: While Senator Doyle still has the floor, I should like to ask him a question. I think we ought to get away from this parochial discussion, which is of interest only to those who come from Toronto.

Senator Davey: You should come to Toronto some time.

Senator Stewart: I hear such things about Toronto that I am not attracted.

Senator Doyle proposes that certain other words should be put in the bill. The truth of the matter is that we now have an act which includes the expression "national unity". It is a conservative principle that the presumption is in favour of the status quo. In other words, the presumption is in favour of the act as it now is. If it is to be altered and the words "national unity" struck out, there has to be a compelling reason. It is rhetoric to say that we could put in this or that other expression. The truth of the matter is we are not putting in, we are taking out. We are taking out "national unity". I argue that, since that expression is in the act, there ought to be a compelling and present reason before it is taken out. Senator Doyle has not told us what the compelling present reason is to remove the expression "national unity" from the act. Will he do so?

Senator Doyle: I am again in awe of academe. I never could understand that principle of leaving words as they are simply because they are there. I presume to understand that they were put there in the beginning because they sounded good, not because they were serving a particular purpose. However, I have never been able to understand why, when some people recite the Lord's Prayer, they include the words "for thine is the kingdom, the power and the glory", and others do not use those words. They must have had a good reason for taking them out or putting them in, although I just don't understand it.

Senator LeBlanc: To my surprise, as one who was brought up without the quoted words, I find increasingly they are used in the church that I still attend, but that is not the issue.

It is too bad in a way that we are having this discussion, because it is turning out to be an interesting exchange as we get away from some partisan aspects of it. If we were not having this debate on what appears to be the last morning of our sitting, I think it would be an important debate, and I am sorry that it did not take place before we froze the bill into its last form. With reference to Senator Doyle's suggestion about standards of professional or journalistic integrity, if I were to try and give a role to the news and public affairs division of the CBC, I think it is probably the only one that, by instinct, I would suggest. The judgment should be on the recognized standards of the journalistic profession. I think on that we probably would have agreed very quickly. By the way, I also feel that it would have been a happier phrase than a notion like national unity.

My question to Senator MacDonald is the following: I happened to have been involved as press secretary in the FLQ crisis. I was interested to hear the exchange involving the "looking over the shoulder" that Senator MacDonald referred to, and I think there was a man named Racine who was mentioned in that exchange. Did that relate to the period of the FLQ crisis, or did it relate to some other period as did the quotes Senator Murray used about Mr. Trudeau and others? In other words, was the testimony heard from this individual describing the "looking over the shoulder" at the copy during the FLQ crisis?

Senator MacDonald: That's a very good question. I do not know. When I returned to the testimony of Mr. Racine I referred to a period, and someone asked me if that was during the FLQ crisis and I nodded. I admit now that I do not know whether it was the FLQ crisis or leading up to the referendum. I do not know, Senator.

Senator Davey: For the record, it was the FLQ crisis. Also for the record, if you will recall, Mr. Racine made some reference to Mr. Pelletier, and I made a comment which I will now make to Senator Murray. Senator Murray spoke earlier and commented upon statements made by Mr. Pelletier. As I pointed out to Mr. Pelletier and as I now point out to Senator Murray, and he can only take my word because it is certainly nowhere on the record, Mr. Pelletier changed his mind those several years later on the concept of national unity.

Senator LeBlanc: If the reference is to the FLQ crisis, I might say as the one who at that point was directly involved with the media, I remember no circumstance—and some

months ago now I looked at my notes of the time—when, as press secretary, I asked any news information group to be cautious in a given area where they did not fully cooperate. We are talking about people being kidnapped now and the security aspect of that. I know of one incident where I had to ask an editor to be very careful of identifying a possible site, and that was done at the request of the security people at the time. However, I know of no circumstance in which anything was imposed on anyone. In fact, there was cooperation either to be very careful about police investigation in order not to indicate what might be a location.

MOTION IN AMENDMENT NEGATIVED

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cochrane, that this bill be now read the third time.

In amendment, it is moved by the Honourable Senator Stewart, seconded by the Honourable Senator Turner:

> That Bill C-40, an Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio communication, be not now read a third time, but that the bill be amended in clause 3 at page 5 by striking out line 39 and substituting the following:
>
> (vi) contribute to national unity, shared national con-

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.

• (1040)

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1050)

The Hon. the Speaker *pro tempore:* Let the doors of the chamber be locked.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Hébert
Corbin	Kenny
Davey	LeBlanc
De Bané	(*Beauséjour*)
Frith	Lefebvre
Gigantès	MacEachen
Graham	Petten
Haidasz	Stewart
Hays	Turner—17

NAYS

THE HONOURABLE SENATORS

Atkins	Kelly
Balfour	Lavoie-Roux
Barootes	Lynch-Staunton
Beaudoin	MacDonald
Beaulieu	(*Halifax*)
Bélisle	Macdonald
Berntson	(*Cape Breton*)
Bolduc	Meighen
Buchanan	Murray
Chaput-Rolland	Nurgitz
Cochrane	Oliver
Cogger	Ottenheimer
Comeau	Phillips
David	Poitras
DeWare	Robertson
Doody	Roblin
Doyle	Rossiter
Eyton	Simard
Forrestall	Spivak
Grimard	Sylvain
Johnson	Tremblay—41
Kelleher	

ABSTENTIONS

THE HONOURABLE SENATORS

Ross—1

The Hon. the Speaker: I declare the motion in amendment negatived.

MOTION IN AMENDMENT

Hon. B. Alasdair Graham: Honourable senators, I would like to speak briefly to Bill C-40 with particular reference to clause 45. I would like to read some pertinent parts of the clause.

Clause 45(1) states:

> The Board shall establish a standing committee of directors on English language broadcasting and a standing committee of directors on French language broadcasting, each consisting of the Chairperson, the President and such other directors as the Board may appoint.

Subclauses (2) and (3) speak to who shall preside and who shall preside in the absence of the chairperson or the president.

Subclause (4) states:

> The standing committee on English language broadcasting shall perform such duties in relation to English language broadcasting, and the standing committee on French language broadcasting shall perform such duties in relation to French language broadcasting, as are delegated to the committee by the by-laws of the Corporation.

• (1100)

In speaking to the first amendment moved by Senator Stewart earlier today, Senator MacDonald (Halifax) expressed some surprise that such an amendment had been moved. He suggested that none of the witnesses who appeared before the Standing Senate Committee on Transport and Communications with respect to this bill had offered any complaints. Because a key witness who appeared before the committee—namely, the president of the CBC—complained and expressed very serious reservations on behalf of the directors of the corporation with respect to clause 45, perhaps Senator MacDonald would change his mind with respect to this particular amendment, which I shall be moving in a moment.

I should like to quote from remarks made by the president of the Canadian Broadcasting Corporation when he appeared before the committee on January 15. He was talking about the concerns of the CBC and stated:

> The first of those items and the one upon which I can safely say that the CBC's Directors have the greatest concern is the provision in section 45 which calls for the establishment of standing committees of the Directors on English-language broadcasting and French-language broadcasting . . ."In section 3(1)(*i*) of the Bill, the Corporation is called upon to serve the interests of all Canadians, by reflecting Canada and its regions and contributing to shared national consciousness and identity."

Mr. Veilleux went on to say:

> In our view, the creation of separate committees on French and English programming would run counter to the spirit of those objectives and would introduce at the Board level a division which would be counter-productive, particularly at this point in time . . ."We believe it should be left to the Board of the CBC to determine the most appropriate means of meeting the goals set for the CBC and that this provision of section 45 of the Bill represents an infringement of that necessary freedom. Further, we feel that the exercise of responsibility for French and English language programming by these committees would run counter to the proper responsibilities of the Board as a whole." Accordingly we would recommend—

"we," the CBC board of directors,

—the deletion of section 45 from the Bill.

As I said the other day, honourable senators, the CBC has always had an unwritten tradition of collegiality between directors who are representative of the two founding languages, but there is a big difference between an unwritten tradition of collegiality and the entrenchment of permanent, separate decision-making at the very heart of the Canadian Broadcasting Corporation. I am afraid that by passing this bill and including this particular clause we are merely contributing to further balkanization, to permanent division, as I said the other day, to a permanent rupture, to unnecessary misunderstandings and tensions at this time—at this fragile, crucial time in the history of our country.

Accordingly, honourable senators, I move:

> That the Bill C-40 be not now read the third time but that it be amended as follows:
>
> Page 29, clause 45: Strike out lines 4 to 28 and renumber the subsequent clauses, and any cross-references thereto, accordingly.

MOTION IN AMENDMENT NEGATIVED

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cochrane, that the bill be now read the third time.

In amendment, it is moved by the Honourable Senator Graham, seconded by the Honourable Senator Lefebvre:

> That the bill C-40 be not now read the third time but that it be amended as follows:
>
> Page 29, clause 45: Strike out lines 4 to 28 and renumber the subsequent clauses, and any cross-reference thereto, accordingly.

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 in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "nays" have it. I declare the motion in amendment negatived, on division.

Motion in amendment negatived, on division.

MOTION IN AMENDMENT

Hon. Keith Davey: Honourable senators, I should like to go on the record with an amendment. I move:

That Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio communication, be not now read a third time, but that the Bill be amended as follows:

1. Page 5, clause 3: Strike out line 39 and substitute the following:

(vi) contribute to national unity, shared national con-

2. Pages 22 and 23, clause 28:

(a) on page 22, strike out lines 27 to 48;

(b) on page 23, strike out lines 1 to 28; and

(c) renumber clauses 29 to 44, and any cross-references thereto, accordingly.

3. Page 29, clause 45: Strike out lines 4 to 28 and renumber the subsequent clauses, and any cross-references thereto, accordingly.

Honourable senators, this motion in amendment has to do with the references to the power to review clause.

I am still distressed about the fact that this government will have a power of direction and a power of review. I think the Governor in Council has too much power. I think that power should be cut back and I have spoken about this often. The way it should be cut back is to remove the power of review, and I would so move.

MOTION IN AMENDMENT NEGATIVED

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cochrane, that the bill be now read the third time.

In amendment, it is moved by the Honourable Senator Davey, seconded by the Honourable Senator Hébert:

That Bill C-40, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radio communication, be not now read a third time, but that the Bill be amended as follows:

1. Page 5, clause 3: Strike out line 39 and substitute the following:

(vi) contribute to national unity, shared national con-

2. Pages 22 and 23, clause 28:

(a) on page 22, strike out lines 27 to 48;

(b) on page 23, strike out lines 1 to 28; and

(c) renumber clauses 29 to 44, and any cross-references thereto, accordingly.

3. Page 29, clause 45: Strike out lines 4 to 28 and renumber the subsequent clauses, and any cross-references thereto, accordingly.

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. I declare the motion in amendment negatived, on division.

Motion in amendment negatived, on division.

THIRD READING

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Atkins, seconded by the Honourable Senator Cochrane, that the bill be read a third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to make a short intervention about the dimension of this bill that touches on CBC cuts. I do so because of a speech, a copy of which I received in the mail last week from a David K. McGown, the Director of Governmental Relations at the Canadian Imperial Bank of Commerce. The speech was written by Mr. R. D. Fullerton, the Chairman and Chief Executive Officer of the CIBC.

I speak about the effect that this bill, along with many other government programs, has upon the CBC and the role of the CBC in Canadian cultural life. The speech is entitled: "'To Be Or Not To Be': The Hamlet Syndrome in Canada." It begins as follows:

Two events took place last month which typify the challenges Canada faces at this crucial point in its social and economic history.

Here at home, the Canadian Broadcasting Corporation reduced staff and cut back some of its regional programming.

And in Brussels, the latest round of negotiations among countries participating in the General Agreement on Tariffs and Trade reached what many observers fear is a permanent impasse over the issue of agricultural subsidies.

● (1110)

The cuts to the Canadian Broadcasting Corporation have provoked considerable outrage within the media and among many Canadians. As with earlier decisions—

That is, decisions of this government.

—to reduce Via Rail service, privatize Air Canada and do the same thing with Petro-Canada, this action seems to have hit a collective nerve. A precious emblem of national unity was being undermined. At least that's the way many people saw it.

> Meanwhile, the GATT deadlock—which could have a profound effect on the welfare of a trading nation like Canada—evoked hardly a murmur of protest or concern from the general public.
>
> I find the difference in the way Canadians have responded to these two events quite instructive—and disturbing.
>
> It suggests that we are preoccupied, almost obsessively, with only select aspects of nationhood—like the Canadian Broadcasting Corporation, like Via, like Meech Lake.
>
> The disturbing part is that the more we focus on these matters, the more we neglect the equally substantive issues upon which the destiny of this country really rests—

I repeat:

> . . . upon which the destiny of this country really rests—issues such as the changes under way in world trade, the competitive challenges we face in the global marketplace, and the paralysing burden of our national debt.
>
> But the situation goes beyond mere neglect.
>
> It's almost as if we prefer constitutional turmoil, national soul-searching and internal bickering. Indeed, it often appears to me that we use these time-honored Canadian pastimes as excuses $%not$% to make the decisions and $%not$% to take the actions necessary to survive as a dynamic, confident player on the world stage.

Obviously, "world stage" means the world business stage. It means the world of profit and losses, the world of dividends for shareholders and bonuses for management. He goes on:

> You might even say that Canada suffers from the "Hamlet syndrome"—a bias toward self-absorption and self-doubt when decisive action is what's called for.

What has happened to these national symbols under the administration of this government is that we have taken up the national-international moral standard and value system of profit, and it has been successful. Ordinary people who do not own any shares, who do not know anything about business, who do not know anything about the Chicago futures market or the "Big Board" on the New York Exchange are starting to believe that the only real value in life is the value of making a profit. Of course, that profit is not shared equally with the people about whom I have just spoken. That is the identity crisis that this speaker seems to feel we are facing, that we feel that we are too identical, when we agree on the value of the Canadian Broadcasting Corporation and what it means to each Canadian's cultural life, on what Via Rail means as a national symbol to a Canadian or on what the Constitution means to Canadians. These are second- and third-rate values compared to those that, for example, create jobs.

I maintain that this is the basic central value system upon which this government operates. I have come to that conclusion on the basis of its actions. It justifies everything it does, especially what it does to cultural institutions in this country, on the basis of the reduction of the deficit. I know it is pressured into such actions by international business. For example, if the government tries to appease some woman who has three children to raise, is caught in the cycle of poverty, is trying to make a living for herself but cannot because she does not have day care because we have to reduce the deficit, what do they say to her when she asks, "Oh, does that mean that if I put up with no day care for a few years, you will reduce the deficit and then I will get day care?" Has anyone who has said that the most important national goal is to reduce the deficit ever told that woman when we have done it we will get back to some of these things that really touch upon people's lives? What does this woman know about the deficit? How can we explain to her that she will have a better life? That is what the government is there for, to give the governed a better life. Will she have a better life when the deficit is reduced?

Of course, the answer is, "There will be more jobs. Big business will invest and maybe take less profits and spread the money arouAA&N= Agoverned a better life. Will she have a better life when the deficit is reduced?

Of course, the answer is, "There will be more jobs. Big business will invest and maybe take less profits and spread the money around." The woman then says, "Oh, that's fine. Then I'm going to get day care." The reply will then be, "Oh, no, you're not going to get day care. Did you ever hear anyone say that you are going to get day care once the deficit is reduced?" The bottom line in all of this will be a national system of Philistine values. The metaphor that is used on page 3 of this speech is that Canada is becoming a Hamlet, too introspective, too worried about these values about which Hamlet was concerned. The speaker goes on to say:

> Hamlet thinks a lot. But he doesn't *do* anything.

On page 4 of the speech, he says:

> That's the "Hamlet syndrome." And there's evidence that Canada is turning into the Hamlet of the late 20th century. While other nations are busy exploiting developments in the global economy, this country sometimes seems bent on avoiding them.

Senator Murray: Whose speech is it?

Senator Frith: It is R.D. Fullerton's, Chairman and Chief Executive Officer of the Canadian Imperial Bank of Commerce. He goes on:

> Take the whole matter of trade, for example. Few people, especially a Vancouver audience, . . .

That is where he was speaking.

> . . . would argue with the fact that trade is absolutely essential to Canada's position as an industrialized nation.

Of course it is, but why must we accept the corollary that therefore there has to be a cutback in cultural values? Money has to be spent on cultural values just as it has to be spent on economic values and trade values. On page 13, Mr. Fullerton says:

> We won't, for instance, be able to have world-class social programs unless we first become a world-class

> competitor, capable of producing the wealth that can sustain those programs.

What do we want the wealth for? What do we want world-class social programs for? To make life better and culturally richer for our citizens, we hope. Is that all that "better" means? Does it not mean the enjoyment of Canadian cultural institutions and cultural activities? But that seems to be way down the conveyer belt and the cuts are always taking place in areas that are considered frills. If we accept that standard, then we end up with Philistine rather than artistic values.

● (1120)

At page 21, in conclusion, Mr. Fullerton says:

> And that national unity is not something that can be legislated or imposed from above. It grows from within—out of belief in ourselves, confidence in ourselves, and pride in ourselves.

Honourable senators, I agree, but belief in ourselves about what? Is it our ability to show huge profits and rich dividends? Is that what we want to believe in? Is it confidence in our ability to compete and, therefore, again produce world-class "*Fortune* 100" companies? Pride in ourselves about what? About world-class companies or about world-class cultural organizations like CBC?

Mr. Fullerton went on to say:

> Those qualities do not come from talk, debate or discussion. Nor do they emerge out of self-absorption and self-pity. They are forged in the crucible of action, decision and, most of all, success.

Speaking for myself and my own life as a Canadian, I am more proud of the success of the CBC and have received more in life from the success of the CBC than I believe I ever have received from the success of a company on the "world stage." I do not brag about that, but I certainly brag about the CBC. It is one of the institutions that make being a Canadian something to believe in, to have confidence in, and to have pride in ourselves. I flag this because I believe it is an illustration of the road we have been led down by this government and the value system that this government and its closest ally, big business, is creating in this country. I think it is important that we recognize it as yet another example of what is going on.

Some Hon. Senators: Hear, hear!

Hon. Keith Davey: Honourable senators, the fact is that this bill is badly flawed. That is really quite remarkable given the fact that the bill has been kicking around for more than five years and, of course, its predecessor is now 13 years out of date.

In my judgment, honourable senators, our amendments were just the tip of an iceberg. What we can expect is more advertising, more and more lowest common-denominator American programming and, as always, many more effusive, fulsome commitments to Canadian programming. Still, honourable senators, the bill's time has probably come and that is primarily because of ongoing technological change. The need for new legislation has become and will become paramount as we move towards the twenty-first century.

The CBC cuts came at a most untimely moment for Senator MacDonald and Senator Atkins. In the process, may I say that I congratulate them both for the way they have handled this report. In my judgment, the very existence of the CBC is threatened as never before, and threatened as never before by this government which, for heaven's sake, is even afraid of "national unity."

Honourable senators, I want to quote remarks made by the President of the CBC, Mr. Veilleux, when he was speaking to the Canadian Club in Toronto. He said:

> . . . CBC is in very real and serious danger of dying the death of a thousands cuts.

Mr. Veilleux made that comment within the last ten days.

I should also like to quote comments made by Mr. Pierre Juneau, one of Mr. Veilleux's predecessors, when he spoke to a group in Toronto. He said:

> I'm of the view that continual decimation of CBC's budget over the last six years had already had a sorry impact on CBC's ability to carry out its mandate.

Both Mr. Veilleux and Mr. Juneau added an additional comment. In his presentation, Mr. Veilleux went on to say:

> I alone cannot decide the future of the CBC. It is for the public to decide the future of its public broadcaster.

That is the message of a good bureaucrat who, incidentally, is someone I respect.

Mr. Pierre Juneau, on the other hand, is unchained. The newspaper article says the following:

> In a scathing attack on federal funding policies, Juneau said the Conservative government is hypocritical in promising the public more from the network while slashing its ability to even keep up present standards.
>
> "I can envision a time when the television aspect of the CBC might disappear completely.
>
> "There are those in government who have always had it in for the CBC," he said.

To that, honourable senators, I would say "Amen".

Honourable senators, I do not quarrel with some of the things said earlier by Senator Murray. Too many Liberals have been critical of the corporation. But the most insistent critics of the corporation over the years have been, and no doubt will continue to be, our friends opposite. I, for one, have very grave doubts and concerns about the future of the corporation.

Meanwhile, honourable senators, the CRTC has acquired new leadership, leadership which is now just a few weeks old. The new chairman of the CRTC, David Colville, announced, in a story in the *Globe and Mail* that public hearings in March will examine the effect of CBC cutbacks. In an article in *The Citizen* it states:

> In a prepared statement, CRTC chairman David Colville said the hearing will consider the changes in light of CBC's mandate, CRTC expectations, the availability of other sources of information and entertainment in the

affected communities, CBC's existing resources, and "the impact of potential further cuts."

Those hearings are to begin in the middle of March in Hull.

Honourable senators, I had not met Mr. Colville until Senator MacDonald produced him as a witness at our committee. I was extremely impressed. I thought he was a man of vigour, intelligence and commitment and I rest just a little more easily about this bill because of the presence of people like Mr. Colville.

Some Hon. Senators: Hear, hear!

• (1130)

The Hon. the Speaker *pro tempore:* It is moved by Senator Atkins, seconded by Senator Cochrane, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

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.

Senator Davey: On division!

The Hon. the Speaker *pro tempore:* I declare the motion agreed to, on division.

Motion agreed to and bill read third time and passed, on division.

WORKERS MOURNING DAY BILL

THIRD READING

Hon. Mira Spivak moved the third reading of Bill C-223, an act respecting a Day of Mourning for Persons Killed or Injured in the Workplace.

Motion agreed to and bill read third time and passed.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT AGREEMENT ACT

THIRD READING

Hon. C. William Doody (Deputy Leader of the Government) moved the third reading of Bill C-88, to provide for the membership of Canada in the European Bank for Reconstruction and Development.

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

Some Hon. Senators: Agreed.

[Senator Davey.]

Hon. John B. Stewart: Honourable senators, this is an important bill. Its purpose is to provide for the membership of Canada in the European Bank for Reconstruction and Development. If any senator doubts the importance of the bank, she or he should turn to pages 7 and 8 of the bill, where the purpose and functions of the bank are described. We are told there:

> To fulfil on a long-term basis its purpose of fostering the transition of Central and Eastern European countries towards open market-oriented economies and the promotion of private and entrepreneurial initiative, the Bank shall assist the recipient member countries to implement structural and sectoral economic reforms, including demonopolization, decentralization and privatization, to help their economies to become fully integrated into the international economy by measures:
>
> (i) To promote, through private and other interested investors, the establishment, improvement and expansion of productive, competitive and private sector activity, in particular small and medium-sized enterprises;

then the article goes on with a list of other measures that the bank is to promote and assist. In other words, the bank has to do with the reconstruction—economically, politically and socially—of parts of Central and Eastern Europe. It is a very important undertaking; consequently, the bank is very important.

The bank is to have its headquarters in London and there are to be 23 directors. The work of a director is a full-time job. Eleven of these directors are to come from certain specified European countries, such as France and England. There are to be four directors from other European counties, such as Norway. There are to be four directors from the Central and Eastern European countries that are to be recipients of the functions of the bank. Finally, there are to be four non-European directors. Canada, by reason of the size of its participation in the bank, would be one of the four countries eligible to have one of the four non-European directors.

Obviously, it is to be a very important bank. Consequently, the directors bear great responsibility. We do not know yet who the Canadian director will be. One could talk about the grand salary which undoubtedly the director will receive. He or she will be paid by "City" standards, perhaps 80,000 pounds per year, and there undoubtedly will be a suitable automobile and expenses. One could let one's imagination run free in this area, but I think it is more constructive to emphasize the requirement that Canada be represented by a highly competent person as a director of this bank. One would hope that this appointment will not be used for patronage purposes. That does not mean that a Progressive Conservative should not be appointed. If the appropriate person for the appointment is a Progressive Conservative, then so be it. I have no objection to that.

Hon. Duff Roblin: That's damned nice of you!

Hon. Philippe D. Gigantès: It is difficult to find a competent Progressive Conservative, he means, but if you find one, it is okay.

Senator Stewart: No, that is not what I said. I did not hear the undoubtedly very important interjection from Senator Barootes.

Hon. Efstathios William Barootes: I didn't say anything!

Senator Stewart: Oh, I see.

Senator Roblin: I demand that the comment be attributed to me! Senator Barootes is quite guiltless on this occasion.

Senator Barootes: The hearing is the second thing to go!

Hon. Royce Frith (Deputy Leader of the Opposition): At least on this occasion!

Senator Stewart: You are on the same axis from where I stand, and that is why I did not hear Senator Roblin's highly significant interjection.

Senator Roblin: I will give it to you again when I get a chance.

Senator Stewart: Well, if you don't want it on the record, then fine.

I wanted to say a word about the cost of Canada's participation in the bank. If we look at the bill, we notice that clause 6(1) provides the following:

> The Minister may provide for payment out of the Consolidated Revenue Fund to the Bank, in the manner and at the times provided for in the Agreement, of an amount not exceeding one hundred and twenty million American Dollars, in respect of Canada's initial subscription of shares.

And then we have a subclause 2 which provides as follows:

> The Minister may provide for further payments to the Bank, in the manner and at the times provided for in the Agreement, in respect of supplementary subscriptions of shares, from funds authorized for that purpose in an appropriation by Parliament.

The committee was told by witnesses from the Department of Finance that this bill was accompanied by a Royal Recommendation not because of clause 6(2) but because of clause 6(1). In other words, clause 6(1) is the only clause in the bill which appropriates money.

• (1140)

The brief presented to the committee from the Department of Finance contained the statement:

> Canada's subscription to the EBRD will not increase the budgetary deficit though it will be added to the Government's borrowing requirements.

I think it is important to realize that it is not true that there will be no cost to the taxpayers as a result of Canada's participation.

Even if Canada were in a surplus position, there would still be a cost for this subscription, to the extent that the money so used could earn income if invested elsewhere. However, Canada is not in a surplus position, but continues to support a large debt, to which will be added the money borrowed to meet our obligations as a participant in the new European Bank for Reconstruction and Development. When the representatives from the Department of Finance were asked if they could give us a rough figure as to the costs, they conceded that as of that moment they had not made the calculation.

But if we calculate, using simple interest, at the average weighted interest rate for current government borrowing of 10.258 per cent, the debt will have increased by approximately $185 million over the five years through which Canada will be making its paid-in contribution of $150 million, including approximately $35 million in interest costs, and will continue to increase by more than $19 million per year thereafter. This cost does not include any additional amounts Canada might contribute by means of replenishment or which might be called in from the Canadian unpaid subscription of $280 million.

That is the long way of saying, honourable senators, that our participation in the European Bank for Reconstruction and Development is not simply a gesture. We are taking on a financial burden, which, in our present financial circumstances, will increase the deficit and, thus, the debt. That is not an argument for staying away from the bank, but it is a point that ought to be mentioned when we are cutting back on government activity in other areas. This is an important undertaking. The bank has the potential to do a great deal of good work. Our director could perform an important role; and, if all that is done, the costs we as Canadian taxpayers will have to bear will be well justified.

Some Hon. Senators: Hear, hear!

Hon. Duff Roblin: Honourable senators, there are at least three points on which my honourable friend and I find ourselves in agreement, but I must first begin by expressing my appreciation to him of the businesslike way in which he conducted the affairs of our committee to enable the bill to be brought before him at that time. I want to thank him for that.

Hon. Senators: Hear, hear!

Senator Roblin: I agree with him that this is an important bill, and I also agree that it is not objectionable that a Progressive Conservative should actually be appointed a director of this company. I am pleased to know that has his approbation.

I would also like to say that he is right about the money. Witnesses appeared before us with the suggestion that this represented no drain on the public treasury. I suppose that from a detached and arcane chartered accountant's point of view, you can make that argument; but the fact is that over the first five years, in which we have to contribute $30 million a year and $150 million at the end of a five-year period, that will undoubtedly have to be financed by borrowing, so we can expect that an interest rate of 10 per cent could well be ascribed to the cost of this endeavour.

I agree with my friend that this is the right thing to do. It is the right thing to do because this bank has a unique function. It is not designed to bolster governments, no matter how

well-meaning or deserving they are. It is designed to help the private enterprise sector undertake activities in Eastern Europe that they might otherwise be unwilling or unable to undertake. I think that is an important difference. It is designed to help the private enterprise sector make a contribution in the reinvigoration of the economies of eastern Europe. Sixty per cent of the fund is dedicated to that end. The other 40 per cent will be made available to governments in instances where they are improving the infrastructure necessary for an economy to operate, such as a telecommunications system or matters of that kind. However, it is not intended to support their budgets, deficits or, as I read the information we were given, national objectives that are unsuited to the circumstances. So this bill has this particular characteristic of a bank which is different from the other international organizations of which we are a member.

I would like to draw the attention of the house to an interesting point in the bill—it was also mentioned by Senator Stewart—which has to do with the purpose of the bill. It says that the bill is to promote the transition toward open market-oriented economies, to promote private and entrepreneurial initiatives in Central and Eastern European countries and is committed to and applying the principles of multi-party democracy pluralism and market economies. I do not know of another institution of this kind that has pinpointed that so directly.

The question then arises: Who are the people who will be conducting themselves in accordance with the purposes of this bill? Does it apply to the Union of Socialist Soviet Republics at the present time? Does it apply to Romania or Bulgaria? These are good questions, and one would have to say that it is going to take a good deal of consideration on the part of this new bank to decide how to handle it.

In fact, it is recognized that there may be a problem, because in one of the provisions of the charter under which they operate, there is a clause, which is on page 12 of the bill, dealing with the fact that some of the people to whom they are giving this money may not be operating in accordance with the purposes of this bill, they may not be multi-party, democratic, et cetera. In that case, the board of directors have a responsibility to consider the situation, and, if three-quarters of them consider that the recipient is not living up to the purposes of this bill, then they can do something about it.

I am at a loss to say how this will actually work out in practice, because one can see that while it is all very well to include these conditions in a statute, when it comes to the operation of the bank itself, one can easily envisage that there may be difficulties which will have to be surmounted. It will probably end up that the pure milk of the word, as recorded in this piece of legislation, may be subject to considerable interpretation in order to make it as useful as those operating the bank hope it may be.

However that may turn out, I think this bill deserves the support not only of this house but of the Canadian nation. We are making a constructive contribution to the reconstruction of Eastern Europe. Our share of this operation is 3.2 per cent, which is par for the course with respect to our percentage of holdings in international financial organizations of this kind. So I recommend this bill to the house and hope it will receive quick support.

[Senator Roblin.]

Hon. Senators: Hear, hear!

Motion agreed to and bill read third time and passed.

• (1150)

INTERNATIONAL SALE OF GOODS CONTRACTS CONVENTION BILL

THIRD READING

Hon. Donald H. Oliver moved the third reading of Bill C-81, to implement the United Nations convention on contracts for the international sale of goods.

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
THE SECRETARY TO THE GOVERNOR GENERAL
AND HERALD CHANCELLOR

February 1, 1991

Mr. Speaker:

I have the honour to inform you that the Right Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 1st day of February, 1991, at 12:20 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*Later*]

DISTINGUISHED VISITORS IN GALLERY

ASSOCIATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS—MEMBERS FROM LENINGRAD

The Hon. Mira Spivak: Honourable senators, I want to draw to your attention the presence in our gallery of representatives of a delegation from Leningrad from the Association for International Cultural Exchange Programs, a non-profit organization promoting international good will. The

delegation is led by Mr. Bob Klingensmith, Vice President of International Operations. With him today are Mr. Ivan Melsitov, Mrs. Galina Sidorova, Mr. Yuri Lvov, Mr. Valeriy Nikiforov, Mrs. Ludmilla Badaliants, Mr. Anatoly Stroganov, Mrs. Natalia Bobileva, Mrs. Olga Spechinskaya, Mrs. Anna Boldicheva, Mr. Genia Dobrovolskaya, Mrs. Tatyana Gavrilova, Mrs. Natalia Pahomova, Mrs. Germania Viharev, Mr. Vladimir Yurkovets, Mr. Anatoliy Rozhkov, Mr. Romuald Grezhluk, Mr. Gennadya Orlov, Mr. Grigoriy Gutkin, Mr. Alexander Morozov, Mr. Alexey Davtian and Mr. Vladimir Iakovev.

Hon. Senators: Hear, hear!

THE CONSTITUTION

NEGOTIATIONS WITH QUEBEC—REQUEST FOR RESIGNATION OF PRIME MINISTER AND MINISTER OF STATE FOR FEDERAL-PROVINCIAL RELATIONS—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Gigantès, seconded by the Honourable Senator Stewart:

That the Prime Minister and the Minister of Federal-Provincial Relations resign because they do not have the confidence of Canadians to speak for the federation in negotiations with Quebec.—(*Honourable Senator Gigantès*).

Hon. Senator Philippe Deane Gigantès: Honourable senators, when I adjourned the debate in my own name yesterday, I was saying that what happened in the 1982 Constitution can be summarized, leaving out the details, as having Canadian nationalists believing that Quebec had been given more or less what René Levesque had asked for in the constitutional proposals that he and seven other premiers presented on April 16, 1981. On the other hand, Quebec nationalists said that the content did not matter so much as the process by which a new Constitution had been adopted by Canada over the objections of Quebec. And this, I said, was the nightmare of Quebec: that the English-speaking population would increase to such an extent that some day Quebec would face a change in the Constitution which it did not want.

So the process was frozen before the last essential stage, I said in concluding yesterday; the Constitution had been patriated; the Charter of Rights had been adopted; a less rigid amending formula had been adopted, but the renegotiation of the division of powers as between the federal and provincial governments, which was the whole purpose of the exercise, could not be undertaken because Quebec would not participate. And after passing the Constitution without Quebec's consent, the federal government did not feel it should rub salt into the wound by renegotiating the division of powers without the participation of Quebec's two main political parties.

This did not paralyse the country. It did not even anger Quebecers very much. After all, they knew that, more or less, the Constitution contained what Levesque and the Gang of Eight had asked for. Successive polls showed that substantial majorities in Quebec approved the 1982 Constitution. One Quebecer in particular, Brian Mulroney, praised that Constitution publicly and praised Trudeau for passing it.

Quebec nationalists hated it and continued calling the passing of the Constitution a betrayal. However, they were not gaining ground. They were falling in the polls. The Parti Quebecois was internally torn. It dumped Levesque. Federalists could hope that some day a new Quebec government would agree to use the 1982 Constitution and renegotiate the division of powers.

Then came the 1984 election. Brian Mulroney knew he had to win Quebec to come in with a majority, but the Tories were non-existent in Quebec. They had no electoral machine. So Mulroney allied himself with the Parti Quebecois. A large number of Parti Quebecois members became Tory candidates. Mulroney adopted their vocabulary. The 1982 Constitution, which he had praised, became, in his speeches, the betrayal of Quebec. His candidates went even further, and for this, among other reasons, they won.

So we had in Ottawa, for six years before the failure of the Meech Lake Accord, a government composed of a coalition of anglo Tories and Quebecois nationalists. There were Quebecois nationalists in the federal cabinet making speeches in Quebec that sounded like the speeches of Jacques Parizeau. Mulroney himself, when speaking in Quebec, used the vocabulary of the Parti Quebecois members in his cabinet.

Let me say that the Quebec nationalists in the Federal Parliament have every right to be there. They were elected. The people who elected them knew that they were electing nationalists. I have more of a problem when they become cabinet ministers and say that they see their primary role as that of defending their province. Is not the primary role of a federal cabinet minister to defend the federation as a whole?

My biggest problem is with Mr. Mulroney, because he has spoken with a forked tongue, on Meech Lake in particular. He presented it in English Canada as meeting minimal demands from Quebec and an agreement that changed little. He presented it in Quebec as a major step that would increase Quebec's powers.

● (1200)

My biggest problem is with Mr. Mulroney, because he has spoken with a forked tongue, on Meech Lake in particular. He presented it in English Canada as meeting minimal demands from Quebec and an agreement that changed little. He presented it in Quebec as a major step that would increase Quebec's powers; and that was how Gilles Rémillard, who was the Quebec minister responsible for negotiations with the rest of Canada, also presented it in Quebec's national assembly. This occurred on Friday, June 19, 1987. It is found on pages 8780-8787 of the French version. I will give you some small citations from it in French. He was saying:

[*Translation*]

What does distinct society mean?

. . . a standard of interpretation based on those two broad principles, duality and social distinctness, the

> recognition that it is the role of the Government of Quebec, the National Assembly—this Assembly—to protect and promote Quebec's specific identity.
>
> The fact that this appears at the very beginning of the Constitution of 1867 shows how important these principles are and makes it quite clear that this interpretation is to apply to the entire Constitution of Canada. It is not just a standard for interpreting three, four or five points. It is a standard for interpretation of the entire Canadian Constitution, and this will be very important for the future.
>
> . . . thanks to this instrument, the division of legislative powers will become truly significant, because there are grey areas . . .

In the recognition of Quebec as a distinct society we have a fundamental instrument for interpreting this division of legislative powers.

Mr. Rémillard gives a few examples: communications, financial institutions, international affairs and, finally, all federal powers. He says that spending power applies not only to new shared-cost programs but to the old ones as well. I quote:

> Spending power does not mean the federal government has the right to legislate in areas under provincial jurisdiction.

If you take this and look at the list in the *Allaire Report*, you will see similarities that are very striking indeed.

Finally, Mr. Rémillard says:

> Subsequently, we will be able to start phase two . . . revise certain powers, restructure federalism in terms of this new approach taken in phase one . . .

Since Canada has bilingual reporters and translators, people were able to read what Mr. Rémillard said. What we have here is on the one hand, Mr. Rémillard's interpretation of Meech Lake, in other words, an *Allaire Report*, and on the other hand, the Minister of State for Federal-Provincial Relations and Mr. Mulroney, telling English Canada: This means strictly nothing—the Meech Lake Accord is just routine.

This caused Mr. Trudeau to say:

[*English*]

It was said that Meech Lake would cause trouble because it turned out to be the major step that Quebecers were told it was and English Canada would feel betrayed; if it turned out to be the minor symbolic change that English Canada was told it was, then Quebecers would feel betrayed. To go a step further, Quebecers had the right to choose and should choose whether they wanted to be a province of the Canadian federation or whether they wanted to be independent: there is no other choice. That, of course, is true. No good Quebec nationalist would deny this truth.

The whole Meech Lake exercise killed Brian Mulroney's credibility. We have bilingual reporters, as I said previously. We have instantaneous communications. The contradiction between what he and his cabinet said in English Canada and in Quebec made English Canada first, and now Quebec, feel that they were the victims of a shell-game artist. I submit that Brian Mulroney was abandoned by his long-time friend, Lucien Bouchard, because Bouchard realized that he could no longer trust Brian Mulroney to handle the Quebec question.

Further, to make Meech Lake pass, Mulroney and his amanuensis Lowell Murray, resorted to grossly unbecoming public manipulation of provincial premiers and to truly sickening ego-preening in interviews. Pride cometh before a fall. Mulroney fell. Meech Lake fell with him. Having said so often that its failure would mean that the rest of Canada rejected Quebec, having sown the wind, he repeated the whirlwind. Ordinary people in Quebec were outraged. The outrage was abetted by the independantiste elite, which had been bitterly and publicly opposed to the Meech Lake Accord, was delighted by its failure and now bemoaned its defeat. All that is found in the newspapers, and honourable senators can find it.

In addition, the economic policies of the Mulroney government have led Quebec business people, the Chamber of Commerce among others, to declare that Ottawa was ruining them with high interest rates.

Hon. Efstathios William Barootes: The best years of their lives. What are you talking about?

Senator Gigantès: If you read French you would see. Federalism was no longer profitable. One should not blame these businessmen for the use of the word "profitable" when their premier has talked of profitable federalism.

Quebec businessmen have heretofore opted for staying within Canada, because they have felt that one way or another it afforded them a better chance of flourishing than independence. With the Mulroney economic policy pushing them into bankruptcy, they wonder if they might not flourish better if independent. The Quebec labour unions certainly feel that Mulroney's economic policy takes them further and further away from their goal of full employment. They see it as a policy of despair which denies that anything can be done both to cut the deficit and preserve and improve existing services, while moving closer to full employment. Such feelings are shared in the rest of Canada. The stark, cold and hard philosophy of the bottom line—that is, the law of the jungle—has led to the weakening of things that we believe made us a better society than the United States. The dying of VIA Rail, the weakening of the CBC, the sale of Air Canada, and now Petro-Canada, are all wounds inflicted on the Canadian sense of being different from the United States.

• (1210)

The reduction of federal subsidies to provincial education, health care and other parts of the social safety net have shocked the country and have contributed to the loss of confidence in Mr. Mulroney. He rides at 12 per cent in the polls. The Gulf War may help him temporarily, but only temporarily. He is no Mrs. Thatcher sending her armada to the Antipodes, landing 900 British commandos who defeated 13,000 Argentineans and took back the Falklands. Mrs. Thatcher, whatever else one might one think of her, always

told her people precisely what she intended to do, and meant it. Mr. Mulroney could not do that if he tried. Moreover, as Mrs. Thatcher said of herself, "The lady is not for turning." Mr. Mulroney turns like a weathervane.

So, in the two and half years before the next election, if things continue as they are, we shall have a Prime Minister who is not trusted in Quebec and who is considered outside Quebec as being held prisoner by separatists in his own caucus. Quebec has come up with radical proposals for restructuring the federation. These are the most federalist proposals that we can hope for because Premier Bourassa, who asks in effect for all the spending power and who wants to discuss reform on a one-to-one basis with the federal government, is, believe it or not, closest to a federalist in Quebec.

The other provinces will not trust Mr. Mulroney to be their plenipotentiary spokesman in negotiations with Quebec. They cannot. He will, therefore, have his hands tied because the other provinces believe that he is a prisoner of the separatists in his caucus. They feel that the separatists who are there can move out and put him in a minority situation at any time. The people outside the caucus in other parts of Canada perceive it in this manner.

This is a major problem for Quebec because Quebec federalists, if honourable senators will accept Mr. Bourassa as being a federalist, will not have a federal voice, a federal interlocutor that the rest of the federation accepts. Being frustrated in their incapacity to discuss with somebody who is not an accepted interlocutor with the rest of Canada, in other words, Mr. Mulroney, Bourassa federalists will lose ground to the separatists who will say, with some reason, that the only way out of the impasse is for Quebec to leave first and negotiate later.

Many say Quebec cannot afford such a solution. I disagree. Indeed, Quebec would possibly lose $6 billion annually in net federal transfers, federal subsidies of one kind or another minus federal taxes, or $100 per head. That is not a negligible sum. Moreover, there will be a flight of capital from both sides of the Ottawa River. This will cause bitterness and make the divorce even messier than I fear it will be. Business people on both sides will demand profitable patriotism, and they will be aided and abetted by newspapers of the Toronto *Sun* variety. I can hear them now: "How dare you pave our sidewalks with traitorous bricks from Quebec, or traitorous bricks from Ontario as the case may be, when I, a patriotic Ontarian, have non-traitorous bricks to sell?"

Directly or indirectly, partly or in whole, 600,000 jobs are affected in Quebec by trade with Canada. That trade is worth $35 billion, and a similar number is affected in Canada. Surely, say the ostriches, their heads firmly planted in the sand, no one will disregard this bottom line.

Anglos and Francos both make the same mistake one about the other. They each think the other has a cash register for a heart. They are terribly wrong. A point is reached where sentiment takes over from accounting. One counts the costs and accepts them. I think Quebec would do that—count the cost, accept it as a temporary problem, leave and then negotiate with what remains of Canada.

That is another problem for Quebec. Because, when Quebec leaves, eight provinces will say to Ontario: "Your population gives you too much power. You must allow us to dilute this power through a Triple E Senate." I said that in Vancouver last Saturday. Ontario might think: "What is in this for me? Why should I be the milk cow for the poor relations in the Maritimes, Manitoba and Saskatchewan, when they no longer have to buy their refrigerators, washing machines and cars from me, but can buy them from the United States, thanks to the Free Trade Agreement?" Sometime after Quebec goes Ontario will leave. What is now Canada would be unrecognizable as Canadian. It would look like the United States, which is a hell of a lot better than some other countries, but less good than the Canada we know.

Those will be bitter times, and they will be blamed on Quebec in English Canada. Trade between Quebec and Canada will suffer. Those engaged in this trade on both sides will suffer. Neither side will be able to shift its trade quickly to the U.S.A., because the Americans have a trade deficit and they are not going to be an easy market in which to expand, free trade deal or not.

Barring a miracle, we have two and half years to keep it all from happening or at least to make it less painful than it will likely be. What we are facing is the negotiation either of a new marriage agreement or a separation agreement. There is no third option. That is what Quebec is proposing. We cannot escape it. All honourable senators on the other side of this chamber know it. Those who do not know it do not belong here.

Why two and half years? Because that is when the next general election might take place. The electoral map is a disaster area for the Tories. Barring a miracle, they know they will be wiped out. So they do not want to go to the polls any sooner than they have to, which means that during the two and half years when Quebec nationalists will be making their demands we shall have a bunch of petrified ministers in Ottawa led by a man no one trusts. Certainly, Canadians who are not Francophone Quebecers cannot trust Mulroney to represent them in negotiations with Quebec.

If we wait until after the next general election, things might be even worse. We will have got rid of Mulroney, but we will have a fragmented Parliament without the makings of a workable coalition. The western NDP might be a force in that Parliament, but it has not a clue on how to deal with Quebec. Harcourt is talking in British Columbia about being tough with Quebec. Neither has the Reform Party much of a clue about what to do with Quebec. They talk of tough luck. Quebec is not going to accept tough luck. Thus, it is the next two and half years that will make the difference, and it is anglophone Tories who can make the difference. They cannot stay in a coalition with the Quebec separatists in Mulroney's caucus. The non-Quebec Tories must seek other coalition partners.

I was discussing this with a Social Credit member of the B.C. legislature and was told that it was not easy to get rid of a leader. "Look at the trouble we have getting rid of Vander Zalm," this person said. I replied that the issue facing the B.C. Social Credit Party was not one of national survival. The issue facing the federal non-Quebec Tories is national survival.

• (1220)

It is, of course, in the personal interest of those Tories to dump Mulroney. The polls show that the only western seat that is safe for a Tory right now is that of Harvie André, which makes one wonder. Personal interest combined with the duty to save the nation is a powerful force. Suppose that it prevails, that a Tory Brutus slays Mulroney politically and that a coalition government is formed; what should that government do? Remember, I promised to give you not only an analysis of problems but an attempt at solutions.

I submit that the solutions I am about to propose have a chance of preserving the union or, if this cannot be done, of leading to a civilized divorce. Moreover, the economic components of these solutions would be good for all of us, including Quebec, whether it separates or not; and, of course, these solutions, these policies I propose, should help fulfil the three desires which, I said at the beginning, we all share, whatever our language, religion, ethnic origin or province: good health, good learning and good living.

Let us start with the preoccupation that the Tories have sold as the most important—the deficit and the national debt. I have been arguing for some years that the only way to reduce the deficit and, thus, the national debt is to have a full employment policy. In my book *The Road Ahead,* I pointed out that those countries which make full employment the cornerstone of their economic policy have over the long term had surpluses or very small deficits. In its latest report the Economic Council of Canada accepted this view, quoted me without a tip of the academic hat in my direction and declared that one has to increase employment to reduce the deficit.

Senator Simard: Get Trudeau back—please work on that!

Senator Gigantès: You are excused, Senator Simard.

The arithmetic is quite simple. In 1989 dollars, the unemployed or employable people on welfare had earned, on average, some $15,000 before losing their jobs. While still employed they produced, on average, $15,000 worth of goods and services. When they became unemployed, they cost society about $15,000 in lost tax revenue plus unemployment insurance or welfare payments. But they produced no goods or services. What we tax, our gross domestic product shrank, in other words; consequently tax revenues shrank, and consequently the deficit increased.

We should use part of the $15,000 the employable unemployed cost us to subsidize their employment. We would save money and wipe out the deficit. Let me provide one example only. Workers over 45 who lose their jobs do not find other jobs easily. There is no reason why they cannot be trained to give home care to the elderly, for instance, so that they can stay at home. That would cost many times less to society than institutionalizing senior citizens and it would create jobs. It would not be inflationary. This is only one example. In my book I have provided others. The scheme was checked for accuracy by the Economic Council of Canada, by Informetrica, a respected think tank, and by the economic researchers of the Library of Parliament.

We should get rid of our high interest rates. They kill small businesses, farms and home ownership. There are other ways to control inflation that are preferable to high interest rates. One is suggested by Robert Heilbroner and Lester Thurow in their book entitled *Economics Explained,* the latest edition. They would use the income tax to tax away year over year income increases above, say, 5 per cent when inflation threatens. Intrusion by the state in the economy—your free marketeers will scream. But isn't the manipulation of interest rates through government control of the money supply an intrusion by the state?

The Hon. the Speaker *pro tempore*: If I may interrupt you for a moment, Senator Gigantès, would it be your pleasure to adjourn the debate in your own name?

Senator Gigantès: I have only five minutes left.

Senator Simard: That is too much!

Senator Gigantès: I will not adjourn the debate in my own name; I will continue speaking, Mr. Speaker.

In an ideal free market world, totally unregulated by the "wicked" state, money should not be a state monopoly. Businesses and banks would issue their own money. Florentine bankers did just that in the Middle Ages.

But high interest rates, of course, are good for people who have money to lend. Remember we said that we now live in a world in which people with money can move it instantaneously from one country to the other.

Senator Simard: What did you do about that in 1983 and 1984?

Senator Gigantès: Wouldn't intervention by the state to subsidize employment creation—employment creation by business—and the use of the income tax to limit income increases as a means of fighting inflation be resented by people with money? Would they not hesitate to invest in Canada? Where would we find capital? I would imitate Quebec and go a step further. They have set up a Crown corporation called the Caisse de Depot, a sort of investment bank into which all public pension contributions are deposited for investing. Each province should have one of those investment banks, but not only for public pension contributions; all pension contributions, all RRSPs should go to the provincial investment bank and be used as development capital.

I have only a few minutes so I cannot give you much more detail.

Some Hon. Senators: Hear, hear!

Senator Gigantès: The issue is: do we sink into the mindless selfishness of pure market economics or do we practice cooperative capitalism as do the full employment countries? If we

want to keep our standard of living and have it improve, if only modestly, we have to adopt cooperative capitalism.

With deficits gone, thanks to full employment policies, we shall hear fewer cries for shredding our social safety net, including our health service. It is not perfect. But it is the best, according to the *New England Journal of Medicine*. Victoria, right in beautiful British Columbia, is making our health service work cost effectively through excellent administration. As a society, we spend substantially less than the U.S. on health care as a percentage of our gross domestic product. But we cover everyone. They do not—37 million Americans cannot afford and do not get health care. The president of a U.S. chain of hospitals pays himself $17 million a year—and there's the rub. Moneyed people do not like our system because it blocks such money making on the backs of the sick. Happily, since it costs less than other health systems, we can afford it.

With full employment policies, disappearing deficits and a decrease in national debt, we should not continue being so stingy about education, starting with superior day care. It is our greatest opportunity for betterment. It is not only a matter of money. I would have the federal government collaborate with a willing province, one of the poorer ones, to change the funding of universities, as an example for other provinces to follow. University funds would go to students as scholarship money, but only to those students who pass a tough entrance exam that demonstrates they know their two mother tongues—English and mathematics or French and mathematics. There would be a healthy dose of science and the humanities in the required mix. The message would soon percolate to the school boards, the high school teachers, the students and the parents that the days of marginally-educated people reaching university are over. The universities would meet their expenses through much higher tuition fees, which would be paid by the students with their scholarship money.

Would these policies keep Canada together? I cannot promise that. The policies would be good for Canada as a whole or for its component parts if it should fall apart. Such policies would signal that there is a collective will to fulfil our universal desires for good health, good learning and good living, caring for one another. With such policies, Iceland, which has fewer natural resources than Newfoundland, has twice the gross domestic product per capita that Newfoundland has. Nearly every member of Iceland's work force has a top high school diploma or better. That is the case for only 30 per cent of Newfoundland's work force.

Senator Doody: Come on, Senator!

Senator Gigantès: And unemployment in Iceland is less than 1 per cent, which is why they can afford all these good policies.

Again, would Quebec stay? I don't know. If it stayed, it would want some things the other provinces do not necessarily need. For instance, Quebecers feel that if they live outside their province they will lose their French identity and become assimilated into anglophone Canada.

• (1230)

Senator Barootes: You make a mockery of free speech, my friend!

Senator Gigantès: What is wrong with that? Nothing if you want it, but they do not want it. Ask those who resent French lettering on their cereal boxes if they would like to live where they would have to become French.

This means that Quebec has an extra dimension to its economic development needs, a French dimension. This means that it will feel uneasy about federal intrusion in any part of its education chain, including manpower training. These are things that are interchangeable from one English-speaking province to another, but not interchangeable between one English-speaking province and Quebec.

Can our provincial politicians understand that it is not a matter of Quebec getting more but of Quebec needing something different because it is different? What is needed can be done through the current Constitution. Under Article 43, it allows for negotiating arrangements specific to one province to suit that province's needs, and not just that Quebec has specific needs. It is not a matter of changing the Constitution. It is a matter of changing national and regional attitudes in a hurry.

We need a credible federal government to make this point convincingly. I made this speech last Saturday in Vancouver.

Senator Doody: I would have been there, had I known!

Senator Gigantès: I said to the audience, "Any one of you probably does not need more than her fingers and his toes to count the people in Canada who think Mr. Mulroney can be convincingly honest." I received a standing ovation on that one, and it was not a Liberal audience. We need a Tory Brutus. It is up to you, the voters, to take this message to the Tory caucus in the other house. The roar of the people is the voice of God, they say where I came from originally. I hope the people of the country roar for our Canada.

On motion of Senator Petten, debate adjourned.

The Senate adjourned during pleasure.

• (1240)

ROYAL ASSENT

The Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Honourable the Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet

constituting the Right Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk of the Senate.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to establish the Canadian Polar Commission and to amend certain Acts in consequence thereof (*Bill C-72, Chapter 6, 1991*)

An Act to establish the Canadian Heritage Languages Institute (*Bill C-37, Chapter 7, 1991*)

An Act to establish the Canadian Race Relations Foundation (*Bill C-63, Chapter 8, 1991*)

An Act to amend certain statutes to enable restraint of government expenditures (*Bill C-69, Chapter 9, 1991*)

An Act respecting the privatization of the national petroleum company of Canada (*Bill C-84, Chapter 10, 1991*)

An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication (*Bill C-40, Chapter 11, 1991*)

An Act to provide for the membership of Canada in the European Bank for Reconstruction and Development (*Bill C-88, Chapter 12, 1991*)

An Act to implement the United Nations Convention on Contracts for the International Sale of Goods (*Bill C-81, Chapter 13, 1991*)

An Act to amend the Canada Pension Plan (spousal agreement) (*Bill C-260, Chapter 14, 1991*)

An Act respecting a Day of Mourning for Persons Killed or Injured in the Workplace (*Bill C-223, Chapter 15, 1991*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

• (1250)

The sitting of the Senate was resumed.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Leave having been given to revert to Presentation of Petitions:

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable Senators, I am here with what Senator Doody has just described as the daily dose. I have six petitions from Quebec and three from Ontario. They are of the same form as previously. They are from St-Prosper, Disraeli, Quévillon, Victoriaville and Rochebaucourt. The first name on that one is a Simard.

Hon. Allan J. MacEachen (Leader of the Opposition): An intelligent Simard!

Senator Frith: They are fully signed with roughly 20 names per sheet.

The petitions from Ontario are from Tilbury, and there are two from Oshawa with one signature per petition. They are all against the GST.

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

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, 26th February, 1991, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): I move that all remaining Orders, Inquiries and Motions stand.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, February 26, 1991, at 2 p.m.

THE SENATE

Tuesday, February 26, 1991

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

Prayers.

THE LATE HONOURABLE EUGENE A. FORSEY, P.C.

TRIBUTES

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, last week a former colleague of ours passed away in Victoria. Being by nature generous of spirit and kindness, Canadians are often extravagant in their praise of fellow Canadians, including conferring the title "Great Canadian" on their colleagues. Then someone who egregiously merits that title comes along and one is found reaching for one's *Roget*. A Canadian whose life truly earned the title "Great Canadian" died last week in the person of Senator Eugene Forsey. He was too modest ever to think of himself as such and was so opposed generally to hyperbole or sloppy language that he would probably have been sparing in applying the title to others as well as to himself; but a great Canadian he really was.

Certainly I would not try to list definitively the elements that comprise merit for the title "Great Canadian," but I do know—and I think honurable senators will agree—that whatever they are Eugene Forsey had them. At a time like this it is very difficult to say enough, and yet it is hard to say too much. I do not want to list all of his accomplishments because I believe they are so well known to all of us. However, I do not want to avoid or overlook mentioning how many of his great qualities were the qualities of a great human being, quite beyond those he had as a scholar, a constitutional expert and a person of facility and wit in the English and French languages. It is at times like this that we reach for our thesauruses or other sources that synthesize or capture what it was that Eugene Forsey demonstrated by his life.

In the current issue of *MacLean's* there is an article that is headed, it seems to me very aptly, "Humor and eloquence, Eugene Forsey leaves a rich legacy." The caption under his photograph reads, "Forsey: biting wit and constitutional expertise."

He was surprisingly modest considering his accomplishments as a trade union leader, a philosopher, a parliamentarian, an expert in the English language, including its achievements in the Book of Common Prayers, and as a letter writer who would have been considered a champion even among the famous letter writers to *The Times* of London.

When discussing legal or constitutional matters with a lawyer, he would never fail to point out that he was not a lawyer. For example, he would say to someone like myself, "Of course, I am not a lawyer. What do you think of this?" I, and people such as my colleague, Senator Beaudoin, finally convinced him not to bother with the courtesy of saying that he was not a lawyer and that he valued our opinions much above his, because, of course, as that comment related to me, the situation was the other way around. It was perhaps even so in the case of Senator Beaudoin.

As further evidence of his modesty, that same article in *Maclean's* states:

> When he left the Senate, he declared that he was glad to retire "while the signs that I am going downhill are not as visible to other people as they are to me." In his lifelong pursuit of excellence, Forsey judged no one more strictly than himself.

Those of us in the Senate who remember him would certainly agree that if he was going downhill, those signs were certainly not visible to us.

Honourable senators, the stature he achieved, I think, is unequalled. Among all the other qualities we have lost with the passing of Eugene Forsey, Canada has lost a genuine oracle.

Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, on behalf of the government and all of our colleagues on this side, I join with the Deputy Leader of the Opposition in paying tribute to The Honourable Eugene Forsey.

Senator Frith referred to Senator Forsey's impatience with sloppy language and then went on to refer to him as "Senator" Forsey. I have to tell Senator Frith that the last time I referred to Eugene Forsey as "Senator" Forsey in his presence, he immediately corrected me. He said, "I am no longer a senator. You do not call retired senators in this country 'senator'. That is an Americanism." I immediately reverted to his academic title, "Doctor" Forsey and I shall do so in the remarks I will make today.

Doctor Forsey was appointed to the Senate in 1970 by Prime Minister Trudeau. He was named to the Privy Council in 1985 by Prime Minister Mulroney. The obituaries over the past few days have noted that he had been an Arthur Meighen and John Diefenbaker Conservative, a Pierre Trudeau Liberal, a founding member of the CCF, and a non-member but a sometime financial contributor to and voter for the NDP.

• (1410)

The record shows that, in his last biography furnished to the *Canadian Parliamentary Guide* of 1990, he listed his political party affiliation as "Independent." Independent he was, in or out of a party caucus, but Dr. Forsey was more than the gadfly he has been made out to be and much more than a self-

described fringe player in Canada's academic, economic and political life.

Freedom and Order was the title of a collection of his essays published in 1974. He understood the limits of both freedom and order, and in what he wrote and what he said on politics and government, on economics and religion, he sought to show us the right balance. At his most incisive, his most biting, his most rhetorical, his most polemical, and at his funniest, Dr. Forsey was still a great gentleman, a gentleman in Cardinal Newman's definition. He did not seek to inflict personal pain on others. He could be ferocious in his criticism of ideas or policies with which he disagreed. Few, if any, of his friends were left unscathed. However, they remained his great friends and steadfast admirers because his sincerity and his integrity were so manifest.

Many honours and distinctions came to him: The Rhodes Scholarship, his Ph.D., the Order of Canada, the Chancellorship of Trent University, an honorary life membership in the Canadian Historical Association, the Fellowship of the Royal Society of Canada, and honorary doctorates from U.N.B., McGill, Saskatchewan, Waterloo, Trinity, Dalhousie, York, Carleton, Queen's, McMaster, Memorial, Acadia, Trent and Mount Allison.

Eugene Forsey was a stimulating, interesting public figure in this country for more than half a century. "I have been around a long time," he said, "I have known a great many interesting people. I have had three careers, all minor, academic, union and political. I have belonged to three political parties and two churches and been deeply influenced by a third. I have been blessed with an astonishing number of wonderful friends, far beyond my deserts, and I've had a lot of fun."

He was passionate in his Canadianism and he was also an internationalist. He was Canada's foremost critic and controversialist, never dull and always listened to with respect. The word that Senator Frith has chosen, "oracle", seems to me to be a most apt description of Dr. Forsey. Some countries have many such writers and commentators enlivening and elevating national debate and controversy. In Canada, in our time, Eugene Forsey was *sui generis* and now he is gone. His voice will surely be missed.

Some Hon. Senators: Hear, hear!

Hon. Raymond J. Perrault: Honourable senators, the late Senator Forsey was not only a great national treasure, he was a great national resource. At one time or another I think he was in some way associated with every one of Canada's major political parties and gave generously of his advice and assistance to all of them if he felt that he could contribute to making this a stronger nation and assist in the process of national unity.

He was born in Newfoundland, as we all know, but his love for, and his interest in, all of Canada and its regions extended from the Atlantic to the Pacific. He had a great intellect and an acerbic wit. He prodigious memory was utterly stunning.

The last time I saw him was about six weeks ago. We had a visitor to the buildings, the great-granddaughter of Mackenzie Bowell who served briefly as a Conservative Prime Minister of this country. She said, "I have always regretted that I have never met anyone who knew my great-grandfather." She said, "Of course, it was so many years ago." A short time later we happened to meet Senator Forsey coming into the building. I cannot help but call him "senator." But here was Dr. or Senator Forsey coming in the door. I said, "This is the granddaughter of Mackenzie Bowell." He said, "Oh, it is a pleasure to meet you. The last time I saw Mackenzie Bowell he was hopping on a streetcar in downtown Ottawa." He said, "I want to tell you about a conversation that I had with him." His granddaughter was utterly stunned. Dr. Forsey had a photographic memory. He recalled in detail a speech that Mackenzie Bowell had made many years ago. He said, "Mackenzie Bowell was no great intellectual. I don't want to mislead you, but while your grandfather had no prodigious mind, he was a good man, a courageous man, who loved Canada. He was fair despite some strong beliefs he held with respect to his religious beliefs. Eugene Forsey then proceeded to recount other events in the life of Mackenzie Bowell. As a result, I supsect that Bowell's great-granddaughter had seldom experienced a more satisfying day.

It should be placed on the record—and I am pleased to acknowledge this—that Eugene Forsey was a great help to me when I was Leader of the Government in this place. He was always available to offer his advice and counsel, and I am sure he was the same with my friends on the other side of the chamber. As we engage in a national dialogue on Canada's future, we can ill afford to lose him. It is a severe loss. I am sure he would have wished to have contributed to the dialogue on the reorganization of Canada and its institutions. I join most heartily in the eloquent tributes that have been paid to the late Senator Forsey by the Leader of the Government in the Senate and by the house leader on our side.

[*Translation*]

Hon. Gérald Beaudoin: Honourable senators, I would like to add a few words in tribute to former Senator Forsey, whose achievements are not only well-known in parliamentary and labour circles but also in the academic world.

I know few experts on Canadian history as well versed in parliamentary history as Dr. Forsey. I have had the good fortune to meet other experts of this calibre, including Jean-Charles Bonnenfant and Maurice Olivier. Dr. Forsey wrote a great deal. We are indebted to him for having written so many articles, so many letters to the newspapers and such remarkable books as *Dissolution of Parliament* and *Freedom and Order*.

Dr. Forsey had a very independent mind and was known for his sometimes biting wit. Whether or not we agreed with his views, Dr. Forsey was always most interesting. On the subject of parliamentary history he was literally a walking encyclopaedia.

He spoke French extremely well. I remember our frequent exchanges, and he always insisted on speaking French. His French was excellent. He was quite modest, however. He always said: But I make mistakes! However, he made very few, and he expressed himself very well in French and, of course, in English.

I believe that in Dr. Forsey we have lost a great friend of the Canadian parliamentary tradition. I know few experts of his intellectual stature. He was also able to make a fine distinction between the strictly political and what was constitutional or parliamentary law.

He leaves Canadians an important legacy. As I said before, few people have written as much as he did on the subject of parliamentary and constitutional matters in general. We owe him a great deal. Our consolation must be the thought that his remarkable writings will remain for years to come.

● (1420)

[*English*]

BUDGET SPEECH

ACCOMMODATION FOR SENATORS IN COMMONS GALLERY

The Hon. the Speaker: Honourable senators, the Minister of Finance will deliver his budget speech in the other place this afternoon at 4.30 p.m. May I be permitted to remind honourable senators that it has been the practice in the past that only senators have been admitted to the Senate Gallery of the House of Commons on such occasions, thereby ensuring that senators were not denied access to the gallery because many of the seats were occupied by relatives and friends of senators. I would ask for your cooperation in continuing this practice today.

[*Translation*]

BRETTON WOODS AND RELATED AGREEMENTS 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-93, an Act to amend the Bretton Woods and Related Agreements 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, bill placed on the Orders of the Day for second reading on Thursday, February 28, 1991.

LIBRARY OF PARLIAMENT

ANNUAL REPORT OF PARLIAMENTARY LIBRARIAN TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual Report of the Parliamentary Librarian for the financial year 1989-90.

[*English*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators will be glad to know that petitions against the implementation of the GST and requests by Canadians across the land for its revokation and for an election have been maintaining a constant flow during their absence from the Senate.

First, I have a batch of 233 petitions from the province of Quebec.

[*Translation*]

In each case, we have the statement that the new federal and universal 7 per cent goods and services tax introduced by the Conservative government will create hardship, and so forth.

The petition humbly prays that senators and members, who are the genuine representatives of Canadians, do everything in their power to block the new goods and services tax. The petitioners demand that an election be held immediately.

As I said before, honourable senators, there are 233 petitions. Each petition bears a number of names and signatures. Most of them are dated January. There are about 20 signatures on each petition. This means that during the month of January, more than 4,000 Canadians expressed their dissatisfaction with the government and its GST.

[*English*]

In the same period I also received four petitions from Alberta, one from British Columbia, one from Manitoba, one from New Brunswick, 13 from Ontario, and one that includes petitioners partly from Ontario and partly from Quebec. If the government feels that it can sleep restfully on the assumption that this tax has been swallowed by the Canadian people, I assure you that it has not.

Hon. Jean-Maurice Simard: Just table the petitions, please.

Senator Frith: Wouldn't you like that.

Hon. Efstathios William Barootes: Your party would reject it!

An Hon. Senator: Yes.

Senator Simard: Would you get on with it!

Senator Hastings: We will get on with it.

Senator Frith: One at a time, please. Senator Simard is first.

Senator Simard: We do not need to listen to your speech.

Senator Frith: He has nothing more to say. He may be listening to the people for the first time in his life. Now, Senator Barootes, do you have something to say?

Senator Barootes: Is it your party's policy, if elected—heaven forbid—that you would do away with the GST?

Senator Frith: I certainly hope so, senator, on both counts: the election and doing away with the tax.

Senator Hastings: The election is certain.

Senator Frith: What was that?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Is that—

Senator Frith: We now have something from Senator Murray.

Senator Murray: Is that Mr. Chrétien's position, namely, that you would do away with the GST?

Senator Frith: You will have to ask Mr. Chrétien about that. That is certainly my position.

Senator Murray: Surely you speak for the leader.

Senator Frith: As far as I am aware it is also his position. Next?

Senator Barootes: You are the new leader replacing Mr. Chrétien.

Senator Frith: No. Tell me—

Senator Simard: Are you on a single plain, or what?

Senator Frith: First, Senator Barootes. I will be with you in one moment. Please wait your turn.

Senator Barootes: You will be in the second row next year.

Senator Frith: As they say at the meat market, "Please take a number. You are first." Who was next? I believe it was Senator Murray.

Senator Murray: No; I am finished.

Senator Frith: Senator Barootes, then? Or Senator Doyle, perhaps, wishes to speak?

Hon. Richard J. Doyle: You told us what you hope about Mr. Chrétien, but what sayeth Mrs. Copps? What does she say? She is the leader.

Senator Simard: Or Mr. Martin, for that matter.

Senator Frith: I have not had a chance to speak to Mrs. Copps about that, but I will. I will have an answer for you, sir. You will then be able to write another totally inaccurate article for "The Idler" on that subject.

Senator Doyle: Good.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, February 26, 1991

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

SEVENTY-FOURTH REPORT

Your Committee has examined and approved the budget presented to it by the Joint Chairman of the Special Joint Committee on the Process for amending the Constitution of Canada for the proposed expenditures of the said Joint Committee with respect to its examination of the process for Amending the Constitution of Canada, as authorized by the Senate on Thursday, January 30, 1991. The said budget is as follows:

Professional and Special Services	$ 85,080
Transportation and Communication	49,800
Other Expenditures	16,800
TOTAL	$151,680

Respectfully submitted,

ROMÉO LEBLANC
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.

● (1430)

THE BUDGET, 1991

STATEMENT OF MINISTER OF FINANCE—NOTICE OF INQUIRY

Hon. H. A. Olson: Honourable senators, I wish to give notice that on Thursday next, February 28, I will call the attention of the Senate to the budget statement to be made by the Minister of Finance on February 26, 1991.

QUESTION PERIOD

AGRICULTURE

GROSS REVENUE INSURANCE PLAN—NET INCOME STABILIZATION ACCOUNT—AMOUNT OF PRODUCERS' INSURANCE PREMIUMS—GOVERNMENT POSITION

Hon. H. A. Olson: Honourable senators, I wish to ask the Leader of the Government in the Senate a very serious question, one which I asked him some three or four weeks ago. It concerns the rest of the details respecting the Gross Revenue Insurance Plan and the Net Income Stabilization Account being offered by the federal and provincial governments to producers. I appreciate the replies I received from Senator Doody about one month ago. However, they were incomplete.

Apparently the Minister of Agriculture and his counterparts in the provinces have not come to the point where they have decided completely what the insurance premiums to be paid by the producers for these two programs will be. Can the minister reply today, or take as notice this question and obtain an answer as to when producers can expect to be offered a complete package? In this way they will be able to make the necessary management decisions to apply for either of these programs or only the crop insurance program which was in

place before. I understand that this program is again to be offered in 1991, particularly in some areas where neither of these two programs is appropriate for this year. Some management decisions have to be made within the next two or three weeks in order for producers to participate in any of these programs.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I will take the question as notice with a view to providing whatever information is available on those matters at the moment.

Meanwhile I can tell the honourable senator that we can expect Mr. Mazankowski to be bringing in some legislation on those matters in the next little while.

Senator Olson: It is important to have the legislation, and I understand that. Even before it is brought in, having the rest of the details would let us know precisely what the premium rates, and so on, are going to be. Farmers will then be able to decide as to whether or not they want to participate.

PERSIAN GULF WAR

CESSATION OF HOSTILITIES—PRECLUSION OF COALITION COUNTRIES FROM PEACEKEEPING FORCE

Hon. Jerahmiel S. Grafstein: Honourable senators, today a senior spokesman for the Soviet Union suggested that nations other than the 25 member nations of the allied coalition liberating Kuwait would qualify as members of a peacekeeping force, be it sponsored by the coalition or by the United Nations, when the cessation of military action in the Gulf region takes place.

Does Canada accept the Soviet notion that nations such as Canada, Denmark and France—all active members of the allied coalition—be precluded from peacekeeping when we all recognize that not only 28 nations but practically all the world, save Cuba and Yemen, supported the 12 UN resolutions against Iraq?

I assume that the suggestion from the Soviet Union is that these nations, Cuba and Yemen, would qualify, while Canada, France and other member nations of the coalition would be precluded.

Can the minister tell us what is the government's position with respect to this notion? Is Canada seeking actively to participate in peacekeeping when cessation of hostilities take place?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think it fair to say that this country has both a good deal of experience and expertise in this field. The government has made it clear that that experience and expertise will be at the disposal of the United Nations for future peacekeeping efforts in the region.

I cannot say more than that at the moment. There is no peacekeeping proposal before us or before the United Nations at this time.

[Senator Olson.]

ENERGY

DISBANDMENT OF COGLA—GOVERNMENT POSITION

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. Recently it has been reported that Maurice Taschereau, head of the Canada Oil and Gas Lands Administration, COGLA, has been transferred to the position of advisor to the Deputy Minister of Energy. There is much speculation that COGLA is about to be disbanded. If this is the case, can the minister advise us how the functions of COGLA will be carried on? If it is to be disbanded, is it being disbanded as a result of the recommendations of the federal Inuvialuit Environmental Review Board Report last July which was very critical of COGLA for not being prepared for a major oil spill in the Beaufort Sea?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, for the present, at any rate, my honourable friend's question with regard to the future of COGLA is hypothetical.

REQUEST FOR ANSWERS TO ORDER PAPER QUESTIONS

Hon. Colin Kenny: Reports are circulating within the bureaucracy that it is, in fact, being disbanded. Memoranda are being circulated to that effect, which I think is more than hypothetical. Would the minister inquire and report back to the house if this, in fact, is happening?

While he is at it, will he make inquiries about my questions on this subject which are on the order paper and which date back to October 3 and 4? I have asked a series of questions relating to oil spills and the government's capacity to deal with them, including spills in the Beaufort Sea, which matters come under the responsibilities of COGLA or within its purview.

• (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will take the latter part of the honourable senator's question first. One of his questions, dating from late October, will be dealt with by my friend, the Deputy Leader of the Government when he is giving delayed answers. I will make inquiries, as suggested by the honourable senator, as to the arrangements with regard to the future of COGLA and/or the mandate that COGLA presently exercises.

GOODS AND SERVICES TAX

REVENUES FROM TAX GREATER THAN ANTICIPATED—GOVERNMENT POSITION

Hon. Raymond J. Perrault: I want to ask the Leader of the Government in the Senate whether it is anticipated that there will be a shake-up in the statistical and economic analysis sections of the Ministry of Finance and the Ministry of National Revenue, in view of the fact that preliminary reports indicate that the yield from the GST is going to be much greater than anticipated.

As members of the committee, we were told everywhere we went that this was going to be revenue neutral, that no more money would be taken via GST in its first year than was the case with the manufacturers' sales tax. The Minister now says that he is bewildered, that he cannot understand how it happened that the yield from the GST is far larger than anticipated—exactly what the opposition suggested would happen. This represents a breach of faith with the Canadian people and a very serious dereliction on the part of the government.

Then we were told that the inflation rate would be only 1.5 per cent.

Hon. Earl H. Hastings: It would be 1.25 per cent.

Senator Perrault: My distinguished colleague with the photographic mind has reminded me of the figure of 1.25 per cent. That is double the anticipated figure.

Ministers who are unable to bring facts to the chamber, whether it's on the other side or in this place, and who deliberately mislead the Canadian people, should be moved to other less onerous responsibilities. We would like your answer to this.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with regard to the inflation rate, the Minister of Finance has already dealt with this matter—

Senator Perrault: Not very well.

Senator Hastings: Blame it on somebody else.

Senator Murray: —not to my honourable friend's satisfaction, but he has dealt with the matter.

Senator Perrault: Ineptly.

Senator Olson: Is that the way we run the country now? A great way of doing things!

Senator Murray: Honourable senators, I think it is an objective impossible of attainment to satisfy the honourable senator with any answer that the government gives.

That portion of the recent increase in the consumer price index, which is accounted for by the introduction of the GST, is very close to the 1.25 per cent.

Senator Perrault: Double.

Senator Murray: No, no, that portion of the increase that is accounted for by the GST is very close to 1.25—

Senator Olson: That is from December to January. Talk about January to January.

Senator Murray: Today is February 26. We do not have the January to February statistics yet.

Senator Olson: We have not got the statistics for February. We have January's and that's all.

Senator Murray: January was the basis of his colleague's question.

Senator Perrault: The inflation rate is now running on a 12 month basis over 6 per cent, the highest in years. That section attributable to the GST is 2.7 per cent.

Senator Murray: It is very close to 1.25 per cent. If my friend will examine the statement made by Mr. Wilson, he will see that a good part of the increase is due to taxes having been introduced in other jurisdictions. Be that as it may—

Senator Perrault: Try to blame the provincial Government.

Senator Murray: As for the revenue projections from the GTS, the GST has now been in force for less than two months and it will be premature in the extreme—

Senator Hastings: Tell your minister that.

Senator Perrault: What is the Minister making statements for?

Senator Murray: —to suggest that the GST is going to bring in an amount of revenue much greater or much less than had been predicted. The Minister of Finance and the Deputy Minister have told me, within the past little while, that we would not be in a position to calculate this until the fall, at least.

Senator Perrault: The policies of this government are devastating the country economically and there is no good news anywhere.

May I plead with the Leader of Government to at least assure us that in the budget that will be presented later this day consideration will be given to reducing that 7 per cent to a lower figure to at least provide some relief for the people of this country from the tax burden that has been imposed.

Senator Murray: Honourable senators, there is good economic news. Interest rates continue to come down, a tack which I am sure has not escaped the attention of Senator Olson—

Senator Olson: I am going to deal with that tomorrow.

Senator Murray: —who tells us he is going to deal with this matter tomorrow.

Further to that, it is clear from a good many of the think tanks and people in the business community that there are very real prospects for an early recovery from the present recession and a renewal of economic growth.

EXTERNAL RELATIONS

ECONOMIC AID TO POLAND—GOVERNMENT LOANS TO THAILAND—GOVERNMENT POSITION

Hon. Stanley Haidasz: Honourable senators, in October of last year I appealed to the Prime Minister of Canada, as well as to the Secretary of State for External Affairs, to increase Canada's economic aid to Poland in view of the plight of the economic situation there, and I brought to the attention of the Prime Minister the generous loan which the Government of Canada accorded the Government of Thailand by having the Export Development Corporation lend Lavalin $800 million to

build a $2.3 billion rapid transit system in the City of Bangkok.

We learned over the weekend that a military coup occurred in Bangkok and the leaders of the military junta stated that they overthrew the Government of Thailand because it was corrupt.

I would like to ask the Leader of the Government in the Senate whether the federal government has taken any steps to investigate the Export Development Corporation's loan to the Government of Thailand which was overthrown last weekend, or whether it will stop any further loans to Thailand in view of the fact that it has been overtaken by military leaders?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will ask my colleagues, Mr. Clark and Mr. Crosbie, to whom the Export Development Corporation reports, whether they can provide any information on whether the status of this loan and this project has been affected in any way by the coup in that country.

● (1450)

Senator Haidasz: As the Leader of the Government in the Senate will recall, I prefaced my question on an appeal to the Prime Minister for increased aid for Poland in its present tragic economic situation. In comparing that situation with the situation regarding Thailand, I would like to say that later this week Canada will take part in a meeting of members of the Paris Club to discuss Poland's request to that Club and the International Monetary Fund to forgive 80 per cent of its debt. In view of the fact that we have heard that Canada opposes this request by Poland, I would like to ask the Leader of the Government to let us know whether Canada's opposition to Poland's request, as represented in the stories that are going about, is true, and, if so, would the Leader of the Government ask the government to review its opposition to Poland's request?

Senator Murray: Honourable senators, I shall ask for a report on the matter from the Secretary of State for External Affairs, Mr. Clark.

SOLICITOR GENERAL

CANCELLATION OF CONFERENCE SPONSORED BY LIFERS GROUP AT JOYCEVILLE PENITENTIARY—GOVERNMENT POLICY

Hon. Earl A. Hastings: Honourable senators, I have a question for the Leader of the Government in the Senate pertaining to the government's decision to cancel the conference at Joyceville institution which was to have been sponsored by the Lifers Group in that institution. By way of background, I should inform the government leader that the conference was in keeping with the policy of the Correctional Service of Canada to encourage the participation of inmates with respect to rehabilitation programs. It was part and parcel of the Correctional Service of Canada's policy to encourage inmates to participate in programs affecting their future. The conference was to have brought together approximately 100 inmates serving life sentences for first or second degree murder to participate in a conference at Joyceville institution with correctional officials and outside people interested in correction. The minister was briefed on this program in December. At that time he approved of the program and indicated as much in a letter dated December 4 to the Lifers Group at Joyceville, in which he said:

> Thank you for your letter . . . outlining the activities of your group and providing an agenda proposed for the conference you are organizing to take place in May 1991.
>
> The industry and commitment that your efforts entail are appreciated, and your suggestions and those of your fellow inmates, as well as the opinions of informed individuals such as those you have listed as conference participants, are welcomed in the continuing process of reform in our correctional system.
>
> I look forward to receiving any conclusions or recommendations arising from the conference that you may wish to forward to this Ministry. I wish your group well in this current endeavour and its ongoing activities.

The conference received widespread support from the press and from many interested correctional organizations in Canada. Indeed, the chairman of the National Parole Board said, in a letter to the Lifers Group, that he would be interested in attending and participating in such a worthwhile endeavour. The commissioner of the Correctional Service of Canada, Mr. Ole Ingstrup, supported the conference and recommended it to the minister. He indicated to the lifers that he too would be interested in attending the conference. The Canadian Bar Association-Ontario said, in a letter dated January 4, 1991 to the Lifers Group at Joyceville:

> Thank you for your letter and material giving details of the "Lifers Conference" to be held at Joyceville Medium Security Institution on May 21st, 22nd, and 23rd, 1991.
>
> Canadian Bar Association-Ontario would very much like to be involved with this Conference both at the Conference itself and by supplying ahead of time any views or materials which you think might be appropriate.

According to a news article, the Solicitor General, in his announcement of the cancellation of this very worthwhile conference, stated:

> "In light of the number of serious concerns that have been expressed, I have reviewed this initiative, and decided that it will not take place,". . .

He said that he had "made his decision after receiving several complaints from concerned individuals and groups."

My question to the Leader of the Government is this: Would he indicate to me, now, what concerns the government had with respect to this conference that had developed since the Solicitor General approved it in December? If it is simply a matter of the $24,000 cost of the conference, I want to assure him that there are many public-spirited citizens ready to put up the money to proceed with the conference. So I am asking the Leader of the Government to express the government's concerns that have developed with respect to this conference

and, as well, advise us as to who are the concerned individuals who expressed the view that led the government's change of attitude?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask the Solicitor General, Mr. Cadieux, to provide me with a note on the matter, which I will share with the honourable senator and with the Senate.

Senator Hastings: Honourable senators, if the honourable senator intends to speak to the Solicitor General, would he indicate to him that an early reply would be appreciated because, as I have said, there are many public-spirited citizens ready to put up the necessary funds for this conference if he will reconsider in light of the support that the conference is receiving editorially across Canada and from all those who are interested?

My supplementary question is as follows: Is the government's correctional policy now to be determined by individuals lobbying the government, such as the Victims for Violence? Are these the people who will enjoy veto power over correctional policy in this country?

Senator Murray: Honourable senators, my friend cannot have it both ways. He is the first to complain when he feels that the government is not giving sufficient attention to the representations made by members of the Canadian public. Unfortunately when those members of the Canadian public do not agree with his point of view, he attacks the government for having paid attention to them.

In any event, I shall endeavour to get an early reply to the question. I have to tell the honourable senator that we have been providing prompt replies to questions asked in this place. After Senator Doody tables today's delayed answers, there will remain only three outstanding questions to be answered, plus those questions that have been asked today, and they have been sent forward for replies.

Senator Hastings: Honourable senators, I wish to clarify one point: I am not asking for it both ways. I stated that the policy of the government was supported by many public-spirited citizens. When that policy was criticized by a few people, it was immediately changed. The minister immediately ran for cover with his policy when it was criticized. As the editor of *The Edmonton Journal* says:

> While Mulroney talks of a government that makes tough decisions, Cadieux runs for cover as soon as the wind blows. The Joyceville convention has been cancelled, the Victims of Violence group is probably happy, and Cadieux has taken the predictable step of setting up a task force to consider prison issues. When it comes to political courage, the Solicitor General is not exactly a ground-breaker.

I am not asking for it both ways. I am asking the government to decide on this policy and to support it.

Senator Murray: The honourable senator is asking us to ignore the representations of the Victims of Violence and other individuals and organizations that have made representations to the government.

AGRICULTURE

GENERAL AGREEMENT ON TARIFFS AND TRADE—SCHEDULED RESUMPTION OF MEETINGS—PROGRESS REPORT—CANADIAN SHORT TERM FINANCIAL REQUIREMENTS—GOVERNMENT POSITION

Hon. H.A. (Bud) Olson: Honourable senators, I do not know whether Senator Doody has a delayed answer to a question I asked about a month ago. He probably does not, because perhaps all the information was not available. The question has to do with the resumption of the GATT negotiations in Brussels respecting trade, and particularly that part dealing with agriculture subsidies. There have been some fairly important developments since I asked my question. The chief commissioner of the EEC has made a trip around the world to South America, North America, and so on, to say that something has to be done. Could the Leader of the Government give us some indication of what the prospects are now for these discussions to resume so that we can find some relief from these disastrous world prices?

• (1500)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my information is that prospects are quite good for a resumption of the negotiations on agriculture and an end to the impasse that has stalled the negotiations. Mr. Dunkel is meeting with the Trade Negotiations Committee in Geneva today and after his consultations with a number of countries, his statement indicates that he believes he has found a basis for the resumption of negotiations. I would think we would know for certain later today.

NEW BRUNSWICK AND PRINCE EDWARD ISLAND POTATO FARMERS—GOVERNMENT SUPPORT

Hon. M. Lorne Bonnell: Honourable senators, could the Leader of the Government tell us if there is any intention on the part of the Department of Agriculture to offer support to potato farmers in New Brunswick and Prince Edward Island which may be required as a result of the restrictions on imports of our seed potatoes to the United States?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Of course, honourable senators, the federal government has been involved in discussions with the United States and has been sponsoring discussions at the technical level for some days now. My information is that these discussions have led to some relaxation on the part of the Americans of the restrictions that they imposed.

Senator Bonnell: Can the potato industry of New Brunswick and P.E.I. hold out any hope of financial support from the federal government to assist them in dealing with this catastrophe to the potato market, particularly in view of the flood-

ing of table stock potatoes because seed potatoes have to be sold as table stock?

Senator Murray: Honourable senators, two or three days ago the department announced that the potato virus is under control. We will be meeting again with the United States Department of Agriculture to present a comprehensive eradication program.

With regard to the supplementary question just asked by the honourable senator, Mr. Mazankowski tells me that compensation for affected growers will be considered once the eradication plan is finalized.

Senator Bonnell: Did the honourable gentleman state that the eradication program is now in place and has been finalized?

Senator Murray: Honourable senators, my information is that a comprehensive eradication program will be developed and will be presented to the United States at a technical level next week. I am told that, to date, results of investigations that have taken place indicate that eradication of the virus is feasible.

Senator Bonnell: Is it the intention of the federal government to offer financial support to the potato producers of New Brunswick and Prince Edward Island to assist them in the eradication of this virus?

Senator Murray: Honourable senators, the comprehensive eradication plan is now being developed and the details of that plan will be made known at a later date.

THE ENVIRONMENT

OIL POLLUTION IN THE GULF OF ST. LAWRENCE—SOURCES OF POLLUTION—DEATH OF SEA BIRDS ON P.E.I. BEACHES—GOVERNMENT POSITION

Hon. M. Lorne Bonnell: Honourable senators, last fall I asked the Leader of the Government in the Senate a question regarding the *Irving Whale* in the Gulf of St. Lawrence. I also made mention of the fact that sea gulls were dying on the beaches on the north shore of Prince Edward Island and asked whether their deaths were attributable to oil seeping from the *Irving Whale*.

At that time I was informed that the government was looking into this matter. However, it is my understanding that it has now been proven that the cause of the deaths of the gulls on the north coast of Prince Edward Island is due to leakage from the *Irving Whale*. Is it the intention of the government to raise the *Irving Whale* or do they have some other plan in mind to stop the leakage of oil?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I believe a reply to my honourable friend's question was tabled here as recently as December 17. That was a response to a question asked by Senator Bonnell on November 27 regarding the condition of the *Irving Whale*, the most recent study, and of the government's position.

[Senator Bonnell.]

Senator Bonnell: Honourable senators, that was December and this is now February, almost March. It is my understanding that the Department of the Environment has said that the oil did come from the *Irving Whale* in spite of the answer I received to my question. My question now to the government is: If the oil is coming from the *Irving Whale* what does the government intend to do about that.

Honourable senators, this is 1991, not 1990 and circumstances have changed in that the government has now issued further information on this matter.

Senator Murray: Honourable senators, I will inquire of my colleagues to see what further information I can bring in for the benefit of the honourable senator.

ANSWER TO ORDER PAPER QUESTION INTERNATIONAL TRADE

NEWS RELEASE NO. 261 BY MINISTER

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 67 on the order paper of November 22—by Senator Marshall.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have several delayed answers to questions which I would ask be printed as part of today's proceedings.

THE ENVIRONMENT

STORAGE AND DESTRUCTION OF TOXIC RUBBLE—REQUEST FOR INFORMATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on October 26, 1990 by the Honourable Colin Kenny regarding The Environment—Storage and Destruction of Toxic Rubble.

(*The answer follows:*)

> The Government of Quebec announced on January 18, 1991 that all PCBs under provincial control, including St-Basile-Le-Grand, will be destroyed by the end of 1993.

CANADA-UNITED STATES RELATIONS

MULTIJURISDICTIONAL DISCLOSURE SYSTEM—SALARIES OF EXECUTIVES—ROLE OF CANADIAN GOVERNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 7, 1990 by the Honourable Raymond Perrault regarding Canada-United States Relations—Multijurisdictional Disclosure System—Salaries of Executives—Role of Canadian Government.

(*The answer follows:*)

Currently, Canadian corporations issuing securities in the United States are required to comply with U.S. Securities and Exchange Commission (SEC) regulations, including disclosure of the remuneration of their five leading executives.

The question of the documentation required by Canadian companies applying to issue securities in the United States is being discussed by provincial regulatory authorities in Canada and the Securities and Exchange Commission.

Provincial securities commissions are jointly discussing with the SEC about the establishment of a "Multi-Jurisdictional Disclosures System" whereby Canadian and U.S. corporations wishing to issue securities in the neighbouring jurisdiction would be permitted to do so on the basis of documents filed with their own regulatory authorities.

The federal government has not been involved in this process.

THE ENVIRONMENT

RAFFERTY-ALAMEDA DAMS PROJECT—ASSESSMENT PROCESS FLAWED—FEDERAL RESPONSIBILITY—GOVERNMENT RESPONSE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 8, 1990 by the Honourable D.G. Steuart regarding Environment—Rafferty-Alameda Dams Project—Assessment Process Flawed—Federal Responsibility.

(*The answer follows:*)

The Minister of the Environment discussed the draft agreement with Cabinet and received their approval.

No order-in-council was required. The Minister of Environment, under the existing Environmental Assessment and Review Process Guidelines Order, has the authority to appoint a public review panel. As the decision by Justice MacPherson is being appealed, it would be inappropriate to comment further.

The minister recently appointed a review panel to replace the group that resigned on October 12. This new group consists of Dr. John Archer, Chairman, a noted Saskatchewan historian, Dr. William Stolte, an associate professor with the Faculty of Civil Engineering at the University of Saskatchewan, and Dr. Roderick Riewe, a zoologist with the University of Manitoba in Winnipeg.

PERSIAN GULF

DEPLOYMENT OF CANADIAN FORCES—STATEMENT OF THE RIGHT HONOURABLE JOE CLARK—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the next delayed answer I have is in response to a question raised in the Senate on November 13, 1990, by the Honourable Eymard G. Corbin regarding the Persian Gulf—Deployment of Canadian Forces—Statement of the Right Honourable Joe Clark—Government Position.

(*The answer follows:*)

On November 29, 1990, Canada voted in favour of Security Council Resolution 678, authorizing the use of all necessary means to uphold and implement Resolution 660 and all subsequent relevant resolutions (relating to Iraq's invasion and occupation of Kuwait) and to restore international peace and security in the area. Resolution 678 gave Iraq the six-week period leading up to January 15, 1991 to comply with earlier Council resolutions on Kuwait. On January 22, 1991 the House of Commons adopted a motion reaffirming its support of the United Nations in ending the aggression by Iraq against Kuwait.

PERSIAN GULF

BREACHES OF INTERNATIONAL LAW—IMPACT ON KUWAITIS—UNITED NATIONS' SANCTIONS—IMPLICATIONS FOR CANADA—EFFECT OF "WATER WEAPON"—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the next delayed answer I have is in response to a question raised in the Senate on November 13, 1990 by the Honourable Jerahmiel Grafstein regarding Persian Gulf—Breaches of International Law—Impact on Kuwaitis—United Nations' Sanctions—Implications for Canada—Effect of Water Weapon—Government Position.

(*The answer follows:*)

The government firmly believes that the use of water leverage, even in time of war, is immoral and would establish a precedent in relations between nations which would be abhorrent to Canadians and to all civilized peoples.

The government understands that the existing reservoirs of the dams of the Tigris and Euphrates Rivers are currently at full capacity. With the onset of the rainy season it would not be a practical alternative to stem or redirect the flow.

It is the stated policy of the government of Turkey that water will not be used as a weapon or a threat against any country. Even if cutting the flow of water were feasible, it would be damaging to the Syrians, who are a part of the multinational force, as well as the Kurds in the north of Iraq who have already suffered considerably under the Iraqi regime.

From the outset of the Gulf crisis, Canada has condemned not only the Iraqi invasion of Kuwait but also Iraq's treatment of Kuwaiti nationals and foreigners in both Kuwait and Iraq. Protests over the treatment of Kuwaitis by Iraq have been made by Canadian officials in Ottawa and Baghdad as well as by Canada in the United Nations during the time that it was a non-permanent member of the Security Council. On September 25, 1990, Canada, along with all members of the Security Council except Cuba, voted in favour of Resolution 670 which,

inter alia, reaffirmed that the Fourth Geneva Convention applies to Kuwait and that, as a party to that Convention, Iraq is liable for any breaches of the Convention it commits in Kuwait. Most recently Iraq's Ambassador to Canada has been made aware, by senior External Affairs officials, of Canada's serious concerns over Iraq's treatment of prisoners-of-war and its deliberate despoiling of the environment.

PERSIAN GULF

CANADIAN HOSTAGES—ROLE OF CBC RADIO INTERNATIONAL—FINANCIAL CONDITIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the next delayed answer I have is in response to a question raised in the Senate on November 15, 1990 by the Honourable Jerahmiel Grafstein regarding Persian Gulf—Canadian Hostages—Role of CBC Radio International—Financial Conditions.

(*The answer follows:*)

The Canadian Broadcasting Corporation announced in December that budgetary shortfalls mean that Radio Canada International (RCI) service will cease in April 1991. Other options for continuing the service are being considered but nothing has been decided yet.

ENERGY

JAMES BAY II—ENVIRONMENTAL ASSESSMENT PROCESS—ROLE OF FEDERAL GOVERNMENT

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 November 20, 1990 by the Honourable Charlie Watt regarding Energy—James Bay II—Environmental Assessment Process—Role of Federal Government.

(*The answer follows:*)

The federal government has taken steps to fulfil its obligations with respect to the James Bay hydroelectric project. An agreement has been reached with Québec concerning a joint public review of the hydroelectric complex and this agreement was signed on February 12, 1991. The Minister of the Environment will be in a position to announce the details of the review process soon, which will include the full participation of those affected by the project.

ENERGY

JAMES BAY DEVELOPMENT PROJECT—ENVIRONMENTAL IMPACT—FEDERAL ENVIRONMENTAL ASSESSMENT REVIEW OFFICE—LETTER TABLED

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 November 20, 1990 by the Honourable Joan Neiman regarding James Bay Development Project—Environmental Impact—Tabling of copy of letter from Mr. Robinson of the Federal Environmental Assessment Review Office.

(*The answer follows:*)

As requested, I wish to table the following letter from Mr. R.M. Robinson, Executive Chairman of the Federal Environmental Assessment Review Office dated November 19, 1990.

THE ECONOMY

EFFECT OF CANADA-UNITED STATES FREE TRADE AGREEMENT ON EMPLOYMENT IN CANADA—ATLANTIC CANADA OPPORTUNITIES AGENCY—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is in response to a question in the Senate on December 19, 1990, by the Honourable Lorne Bonnell regarding Effect of Canada-United States Free Trade Agreement on Employment in Canada—Atlantic Canada Opportunities Agency.

(*The answer follows:*)

Since its creation in June 1987, the Atlantic Canada Opportunities Agency (ACOA) has provided significant assistance to entrepreneurs from Atlantic Canada through the Action Program and the Cooperation Program operated in conjunction with the provinces. The breakdown of assistance, estimated total investment and jobs created and maintained up to September 1990 is shown on the attached list:

ACOA

ACTION PROGRAM

	AUTHORIZED	ESTIMATED		
Province	Contributions/ Grants	Total Investment	Jobs Created	Jobs Maintained
P.E.I.	$ 53M	$ 137M	1,042	2,400
Newfoundland	153M	428M	4,747	6,924
Nova Scotia	202M	653M	6,427	2,131
New Brunswick	237M	616M	7,941	10,107
Pan-Atlantic Projects	14M	19M	162	18
Total Atlantic Region	$659M	$1,853M	20,319	21,580

COOPERATIVE PROGRAM

Province	Number of Agreements	Total Values	Total Fed. Contribution
P.E.I.	6	$ 78M	$ 46M
Newfoundland	5	111M	79M
Nova Scotia	3	62M	35M
New Brunswick	10	258M	150M
Total Atlantic Region	24	$ 509M	$ 310M

BALTIC STATES

STATUS OF REFUGEES FROM LATVIA AND LITHUANIA

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on January 17, 1991, by the Honourable Lorna Marsden regarding the Status of Refugees from Latvia and Lithuania.

(*The answer follows:*)

Although avoidance of military service is not, in itself, a basis for according refugee status, Canadian officials have been sympathetically counselling Baltic refugee claimants, in the event some may have legitimate claims to refugee status. Although the government is prepared to accept some legitimate cases which comply with our criteria, our preference is that refugees from the Baltic Republics be resettled locally, taking into account the strong traditional ties existing among the Baltic States and their neighbours.

So far, very few requests for immigration by Baltic refugees or potential immigrants have been received at our embassies. Any refugee requests would be treated on a case-by-case basis. We do not expect many such requests, given the measures for local resettlement being taken by Scandinavian governments, which have strong traditional ties with the Baltic Republics, as well as neighbouring governments such as Poland.

PERSIAN GULF WAR

PRISONERS OF WAR IN IRAQ—BREACH OF GENEVA CONVENTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on January 23, 1991, by the Honourable Jerahmiel Grafstein regarding Prisoners of War in Iraq—Breach of Geneva Convention.

(*The answer follows:*)

All states in the Gulf conflict are parties to the 1949 Geneva Conventions and are bound by the instruments, notwithstanding that there has been no formal declaration of war. The Conventions set out protections for vulnerable persons affected by armed conflicts, such as the sick and wounded, prisoners of war and persons in occupied territory.

Geneva Protocol 1 of 1977 provides for additional protections during international armed conflicts. Protocol 1 has been adhered to by a number of states, including Italy, Saudi Arabia, Syria and Canada (Canada ratified both Protocols on November 20, 1990 but the ratification takes effect only on May 20, 1991). Iraq, the USA, UK and France have not adhered to Protocol 1 and, as a result, it does not apply to the Gulf conflict. However, some rules in Protocol 1 are codifications of principles of customary international law which are binding on all states.

According to the information available, Iraq has committed a number of breaches of the Geneva Conventions. These include many actions in occupied Kuwait such as wilful killing, torture and inhumane treatment of civilians, taking of hostages and extensive wanton destruction of property not justified by military necessity. Other Iraqi breaches include torture and inhuman treatment of POWs, including causing serious injury, their use as human shields and the lack of protection from public curiosity. Many of these breaches are grave breaches—war crimes.

Individuals responsible for grave breaches may be tried in any country since the crimes are mostly part of customary international law, binding on all states. Alternatively, an international tribunal could be established to try these crimes (i.e. Nuremberg) but this would require an international agreement. Compensation from Iraq for breaches can also be claimed by the states affected and could form part of any final settlement.

Canada believes that Iraq is responsible for a number of breaches of the rules of armed conflict and we have joined other states in condemning Iraq for blatantly disregarding its international legal obligations.

It is too early to discuss the post-hostilities procedures that may be put in place to address violations. There is no reliable evidence to support Iraqi claims that the USA and other Coalition forces have violated the rules of armed conflict. The Coalition has distinguished between legitimate military objectives and civilians and has taken special care to minimize incidental loss of life of civilians. Iraq cannot rely on alleged Coalition breaches to justify its ill treatment of prisoners of war.

Coalition partners not party to Geneva Protocol 1 of 1977 are nevertheless taking care to respect its basic rules on minimizing civilian casualties.

PERSIAN GULF WAR

POSSIBILITY OF GASOLINE RATIONING—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is in response to a question

raised in the Senate on January 24, 1991 by the Honourable Lorne Bonnell regarding Possibility of Gas Rationing—War in the Persian Gulf.

(*The answer follows:*)

The Federal Government has taken a phased approach in responding to the Persian Gulf crisis. The "Consultation" phase began after the invasion of Kuwait on August 2, 1990. During this phase, Canada actively participated in the more frequent meetings of the International Energy Agency (IEA). An Interdepartmental Task Force on Oil Demand Restraint was established to review federal oil consumption and associated voluntary demand restraint programs. A Policy and Communications Group was established with the Provinces and Territories to collaborate on the development of demand restraint initiatives and a public information strategy.

Phase II of emergency preparedness began with the outbreak of hostilities on January 16, 1991. The IEA invoked its Contingency Energy Emergency Response Plan (CEERP) and requested countries to activate response measures in a cooperative and coordinated fashion. the range of response measures include oil stockdrawdown, a temporary increase in crude oil production, fuel switching away from oil and demand restraint. A combination of voluntary demand restraint and commercial stockdraw are considered to be the best responses in Canada. The Federal Government accelerated its development of voluntary demand restraint plans in conjunction with provincial/territorial governments. Communications efforts were increased to maintain public awareness.

Should the crisis deepen, the IEA could trigger its International Energy Program. At this IEA "trigger" Canada would concurrently declare a national emergency under the Energy Supplies Emergency Act activating the Energy Supplies Allocation Board. The Energy Supplies Allocation Board (ESAB) was established by the Energy Supplies Emergency (ESE) Act after the 1974 oil embargo of the Organization of Petroleum Exporting Countries (OPEC). It was created to ensure that a national oil shortage could be managed by the Federal Government with industry support. The Board is governed by a Chairman and five members from different provinces and with a diversity of experience. The Deputy Minister of Energy, Mines and Resources Canada is currently Chairman. In non-emergency situations, ESAB is responsible for developing programs that could be activated in an oil emergency. ESAB consults with the provincial governments and the Industry in the development and maintenance of these programs.

Within one week of the declaration of a national emergency, ESAB's Crude Oil Allocation Program would be in place. This program deals with the allocation of crude oil to refiners. Its purpose is to protect consumers from disruptions in the supply of petroleum products caused by a crude oil shortage, and to minimize the disruption in the petroleum products market.

[Senator Doody.]

Within 60 days of the declaration of an emergency, the Crude Oil Allocation Program could be supplemented by the Products Allocation Program. This program provides for the allocation of refined petroleum products to wholesalers and retailers according to a priority of use categorization established by the Board. Each wholesale customer will be classified by their supplier into a category based on the end use of the product: Category A—concerned with the health, welfare and security of the citizens of Canada; Category B—concerned with the economic stability of Canada; Category C—concerned with the maintenance of a standard of living.

The Rationing Program of gasoline and diesel fuel could be fully implemented within 90 days of the declaration of an emergency if the Crude Oil Allocation Program and the Products Allocation Program are deemed inadequate to meet the requirements of an extended emergency. Under these circumstances, rationing could be necessary to ensure that the fuel supply is adequate to meet the controlled demand and to ensure that consumers get their fair share of the available fuel according to the established priorities.

Ration coupons would be distributed to eligible gasoline and diesel fuel consumers according to motor vehicle ownership. Fuel would be rationed to businesses according to their past consumption and their priority of use.

The Federal Government has no plans to invoke any of the mandatory allocation or rationing programs at this time. The current oil supply situation is considered comfortable with Canadian refiners reporting no particular supply or distribution problems. As such, the Government's attention is focused primarily on:

—increased monitoring of the domestic and international supply situation;

—working with the provinces/territories on demand restraint programs and the Canadian oil industry for the exchange of information;

—developing and promoting a national public information program on voluntary demand restraint and energy efficiency;

—reviewing and updating allocation and rationing plans, programs and procedures;

—preparing the necessary legal documents, in draft format, for activation of the Board and its emergency allocation programs and regulations in the event of a declaration of an emergency by the IEA.

PERSIAN GULF WAR

BENEFITS AND RIGHTS TO BE ACCORDED TO CANADIAN FORCES VETERANS—GOVERNMENT POSITION

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 January 24, 1991, by the Honourable Lorne Bonnell regarding benefits and

rights to be accorded to Canadian Forces veterans of the Persian Gulf War:

(*The answer follows:*)

The Government has declared the Gulf area a "Special Duty Area". This means that the Canadian personnel serving there are considered to be on duty twenty-four hours a day. Should they be injured or killed while serving within that area, they, or their dependents, would be eligible for extensive pension and treatment benefits no matter how the disability was incurred.

Should any of our serving personnel be hurt or lose their life in the Gulf the necessary legislation is already in place to provide them, or their dependents, with pensions and benefits.

Until the full extent and impact of the war on our Forces is known, it would be premature to say what might be required. Canada has always cared for those who served in war, and will ensure that those Canadians now serving in the Gulf are treated with all care and attention as well.

PERSIAN GULF WAR

POSSIBILITY OF CONSCRIPTION—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on January 24, 1991, by the Honourable Lorne Bonnell regarding Possibility of Conscription—War in the Persian Gulf.

(*The answer follows:*)

Men and women who serve Canada in the Canadian Forces do so on a voluntary basis.

In response to a question before a joint meeting of the Standing Committees on External Affairs and International Trade and National Defence and Veteran's Affairs, on January 31st, 1991, the Minister of National Defence clearly stated that there will not be conscription in Canada.

PERSIAN GULF WAR

INCOME TAX EXEMPTIONS FOR MILITARY PERSONNEL—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): I have a delayed answer in response to a question raised in the Senate on January 24, 1991 by the Honourable Lorne Bonnell regarding income tax exemption for military personnel.

(*The answer follows:*)

On January 31st, 1991, the Honourable Bill McKnight, Minister of National Defence, and the Honourable Mary Collins, Associate Minister of National Defence, announced that each person currently serving in the Gulf, regardless of rank, will receive $606.42 per month tax-free, retroactive to January 15, 1991.

TRANSPORT

PORT OF HALIFAX—IMPENDING COMPETITION—GOVERNMENT POSITION

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 January 24,1991, by the Honourable Finlay MacDonald regarding Port of Halifax—Impending Competition.

(*The answer follows:*)

The Government has not considered the purchase of double-stacked container cars for CN's account. On the other hand CN can develop partnerships with shippers and other interests who would benefit from such investments.

The Port of Halifax is currently experiencing high rates of traffic growth. Container traffic reached four million metric tonnes in 1990, an increase of 2 per cent over 1989 and 105 per cent since 1985. Total cargo has increased from 14 million metric tonnes in 1985 to 17 million metric tonnes in 1990.

Over the years, the Port of Halifax and CN have together faced many competitive challenges from Eastern Seaboard ports for import-export container traffic. The Port's continuing growth in the volume of containers handled shows that the Port along with CN, have been managing to provide a competitive service to shipping lines. Their ability to continue to do so in the face of port and rail developments in the U.S. should not be dismissed at this time.

In this regard, there are many reasons, other than inland rail service costs, for shipping lines to choose their ports of call. Year round ice-free access, deep water and efficient terminal systems to handle containers are but some of these considerations.

The Canada Ports Corporation is now examining this situation in order to assess the magnitude of the threat and to identify appropriate measures.

DELAYED ANSWERS TO ORAL QUESTIONS

REQUEST FOR FURTHER ANSWERS

Hon. Royce Frith (Deputy Leader of the Opposition): I notice, honourable senators, that the answers given are in response to questions asked in November. Are any answers still forthcoming for the months before November?

Senator Doody: There is also an answer to a question asked on October 26; and the answers tabled today take us through to January 29.

Senator Frith: Does that clean up the answers for questions asked in October and November?

Senator Doody: Yes, with the exception of three questions. Questions by Senator Kenny have been outstanding longer than any others and, despite all my efforts, I have not been able to come up with the answers. There is also outstanding an

answer to a question which was asked here today; so, to my knowledge, there are three outstanding questions.

• (1510)

Senator Frith: That represents all of the questions in total?

Senator Doody: Yes.

Senator Frith: Well done!

ABORIGINAL PEOPLES BILL

SECOND READING—POINT OF ORDER—SPEAKER'S RULING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to further the aspirations of the aboriginal peoples of Canada,

And on the Point of Order concerning the admissibility of the Bill.—(*Speaker's Ruling*).

The Hon. the Speaker: Honourable senators, I will render a ruling tomorrow, if that is acceptable.

Order stand.

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN CHILD)—SECOND READING—SPEAKER'S RULING—ORDER STANDS

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 second reading of the Bill S-7, An Act to amend the Criminal Code (protection of the unborn child).—(*Speaker's Ruling*).

The Hon. the Speaker: Honourable senators, I shall also render a ruling on this order tomorrow.

Order stands.

THE CONSTITUTION

NEGOTIATIONS WITH QUEBEC—REQUEST FOR RESIGNATION OF PRIME MINISTER AND MINISTER OF STATE FOR FEDERAL-PROVINCIAL RELATIONS—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Gigantès, seconded by the Honourable Senator Stewart:

That the Prime Minister and the Minister of Federal-Provincial Relations resign because they do not have the confidence of Canadians to speak for the federation in negotiations with Quebec.—(*Honourable Senator Petten*).

[Senator Doody.]

Hon. Royce Frith (Deputy Leader of the Opposition): They have not resigned, by any chance, in the meantime?

Hon. C. William Doody (Deputy Leader of the Government): No. If they have, I have seen nothing on it.

Senator Frith: The order stands, then.

Order stands.

[*Translation*]

THE ESTIMATES, 1990-1991

CONSIDERATION OF THE EIGHTEENTH REPORT OF THE NATIONAL FINANCE COMMITTEE

The Senate proceeded to consideration of the eighteenth report of the Standing Senate Committee on National Finance on the Estimates for the fiscal year ending March 31, 1991.

Hon. Fernand-E. Leblanc (Saurel): Honourable senators, almost a year ago, the Committee decided its scrutiny of the 1990-1991 Main Estimates would focus on the system put in place to ensure that the Federal Government programs are evaluated periodically. We worked on the principle that the evaluation could be very useful to us and to all senators to force any government to account for supplies already voted by Parliament and periodically renewed by legislative or fiscal process. You will agree, I hope, from reading this report that our scrutiny was useful and profitable.

As indicated in the report, the Comptrolller General of Canada and the Auditor General of Canada, Professor Hartle from the University of Toronto, who is a former Treasury Board official, Mrs. Chelimsky, from the US General Accounting Office, representatives from private consulting firms and from the Canadian Bond Rating Service as well as civil servants in charge of program evaluation and follow-up activities in various government departments and agencies testified before the Committee. In addition, we asked all departments and main government agencies to send us information on the program evaluation activities they conduct.

Professor Hartle presented an extensive brief in which he was extremely critical of the present program evaluation system and recommended enthrusting the Senate with such task. His arguments are quoted in extenso in our report, but essentially his reservations seem to have to do with the fact that a number of so-called evaluations are nothing more than reports from management consultants hired by the departments, while no formal program evaluation is required.

Based on the testimonies heard by the Committee, program evaluations are tools allowing senior officials to review more or less systematically the departments and agencies' programs. Their primary objective is to respond to the needs of the executive, not to keep Parliament informed, although the evaluation results must appear in Part III of the Estimates. The role of the Program Evaluation Directorate under the Office of the Comptroller General (OCG) is to develop and implement program evaluation policies and guidelines, work closely with the departments and agencies to assist and advise them and, from time to time, rate their performance. The OCG does not have the authority to lay down its own progam

evaluation standards. As a matter of fact, it cannot hold back funds from departments which do not conduct their program evaluations to its satisfaction. It can recommend that Treasury Board take such a step but, as far as we know, that has never been done. In short, with regard to program evaluation at least, the Comptroller General exercises very few of the powers, if any, normally exercised by a comptroller in the private sector and even within federal departments.

The Comptroller General and departmental witnesses agreed that evaluation did not play a major role in expenditure reduction initiatives when a budget is tabled or in the case of any other centralized examination of government wide expenditures. This was mainly due to the timeframe. Expenditure reductions were usually implemented on a tight schedule, while undertaking a credible evaluation may require 18 months or longer. Witnesses also maintained that as evaluation findings became available, senior management tended to use these to improve their programs instead of waiting for their expenditures to be cut.

The committee felt this attitude rather disturbing, since it implied that decisions to terminate or downsize programs were apparently made on political grounds instead of based on unfavourable evaluation findings. In fact, the Comptroller General himself complained recently in his evaluation plan for government programs that too few program evaluations considered whether a program should be maintained or its implementation modified to any considerable extent. A study of 150 evaluations made between 1984 and 1988 made the OCG realize that only 17 per cent initiated major changes in program structures, including their termination, while more than half had led to improvements in management. This seemed to confirm the critical comments made by Professor Hartle.

According to law, the Auditor General, when auditing departments and agencies, must mention any cases where measurement of effectiveness, mainly done through program evaluation, is not done satisfactorily. In fact, he was very critical in recent reports regarding the scope and quality of evaluations in certain departments. On the other hand, the committee has evidence that a number of major statutory programs like unemployment insurance have not been evaluated regularly, if ever. The Comptroller General's statement that most government programs had been evaluated seemed to be based on inaccurate information.

The committee spent considerable time trying to evaluate the degree of impartiality and objectivity in the evaluation function within federal departments and agencies.

Those responsible for evaluation were mostly departmental employees whose advancement in fact depended on senior management, in other words, the deputy minister. Even if they are honest, and we believe most of them are, there is a limit to the amount of criticism they can offer, especially when the programs being evaluated have the almost unconditional support of the minister or deputy minister.

In concluding, I would like to add that this report has apparently caused some feelings of frustration within the Public Service. I would like to give everyone the assurance that our study was not aimed at specific individuals or departments. What we were trying to elucidate through this exercise was the inner workings of the system for evaluating our federal government programs. Thank you, honorable senators.

On motion of Senator LeBlanc, for Senator Marsden, debate adjourned.

• (1520)

[*English*]

ABORTION BILL

MOTION TO REFER SUBSTANTIVE ISSUES OF BILL C-43 TO COMMITTEE OF THE WHOLE OR TO SPECIAL SELECT COMMITTEE WITHDRAWN

On Motion No. 3:

By the Honourable Senator Haidasz, P.C.:

> That the substantive issues of Bill C-43, including the salient claims of witnesses having appeared before the Legal and Constitutional Affairs Committee, and the evidence led therein, and to be printed in full in the Proceedings of the said Standing Committee dealing with Bill C-43, be referred to a Committee of the Whole or a special select committee if that is the decision of the Senate expressed in Committee forthwith, for the purpose of analysing these issues, claims and evidence, with a view to clarifying what is the principle of Bill C-43 and the scope available to this Senate for amendment of Bill C-43, and the ramifications of the proposed Bill C-43 and its possible amendments in the body of law and Canadian social *Charter* supported rights, being especially attentive to the potentially seditious effects of Bill C-43 were it enacted in law unamended.

Hon. Stanley Haidasz: Honourable senators, in view of the Senate's disposition of Bill C-43 on January 31 last, I wish to withdraw this motion.

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

Hon. Senators: Agreed.

Motion withdrawn.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, February 27, 1991

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

Prayers.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this morning only one petition reached me. It is from Ontario, and all of the signatories are from Don Mills and, generally, Toronto. The petition contains approximately 20 names, a full slate, and all are, as before, asking for a revocation of the GST and calling for an immediate election.

CONSTITUTIONAL ACT, 1791

NOTICE OF INQUIRY

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I give notice that on Tuesday next, 5th March, 1991, I will call the attention of the Senate to the 200th anniversary of a most significant event in Canadian constitutional history, namely, the passage of the Constitutional Act, 1791 and the advisability of making a request to the British Government that the record copy of the Constitutional Act, 1791 should be permanently in the keeping of Canada.

QUESTION PERIOD

ANSWERS TO ORDER PAPER QUESTIONS NATIONAL HERITAGE

MAIN STREET PROGRAM—EDMONTON CONFERENCE

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 69 on the order paper of December 18, 1990—by Senator Marshall.

TRANSPORT CANADA

FLIGHT SERVICES STATIONS

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 70 on the order paper of December 20, 1990—by Senator Molgat.

DELAYED ANSWER TO ORAL QUESTION THE CONSTITUTION

FEDERAL-PROVINCIAL MEETINGS—REQUEST FOR OPEN DEBATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question raised in the Senate on January 31, 1991 by the Honourable H.A. Olson regarding the Constitution—Federal-Provincial Meetings—Request for Open Debate.

(*The answer follows:*)

> It is no secret that the federal government is reviewing options and developing proposals for Canada's constitutional future. The Prime Minister has made it clear that change is necessary; and I am sure that Honourable senators would be alarmed if such work were not underway.
>
> The government is marshalling the best resources available for this task. In this context, various Deputy Ministers have been given various priority assignments, whose results will be integrated with other work that is underway.
>
> This policy advice to the government in no way undercuts or pre-empts any other review process; it provides the government with one of many perspectives on constitutional issues.

Senator Doody: I have an extra copy of this delayed answer for Senator Olson.

ABORIGINAL PEOPLES BILL

SECOND READING—POINT OF ORDER—SPEAKER'S RULING—DIVISION DEFERRED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Adams, for the second reading of the Bill S-18, An Act to further the aspirations of the aboriginal peoples of Canada.
>
> And on the Point of Order concerning the admissibility of the Bill—(*Speaker's Ruling*)

The Hon. the Speaker: Honourable senators, I have asked for this ruling to be distributed so that you can follow it.

Honourable senators, on December 17, 1990, Senator Doody raised a point of order with respect to the admissibility of Bill S-18, An Act to further the aspirations of the Aboriginal Peoples of Canada. Senator Doody stated that there seemed to be financial implications in the bill which may be beyond the authority of the Senate to inaugurate. On December 20, Senator Doody further explained his point of order regarding the receivability of the bill. He felt that two of its clauses, specifically 8(2) and 8(3), imposed new duties on an existing department that caused a new charge upon the Con-

solidated Revenue Fund and hence infringed on the financial initiative of the Crown.

On January 22, Senator Frith spoke to the point of order raised by Senator Doody. He carefully reviewed rule 62 of the Senate *Rules* and sections 53 and 54 of the Constitution Act which deal with bills appropriating public money. He argued that sub-clauses 8(2) and 8(3) are not appropriating clauses within the meaning of section 53 of the Constitution Act because they do not appropriate money and are not intended to invoke a new administrative function for the department requiring a new charge on the public revenues. Senator Frith asked that a legal opinion furnished to him by Parliamentary Counsel on Bill S-18 be appended to the *Debates of the Senate* of that day. With respect to clause 8(2), the legal opinion stated:

> The measures in themselves need involve no expenditure of public revenues and could probably be undertaken now as a matter of exercising ministerial power in areas of the Minister's jurisdiction under other statutes and appropriations.

With respect to clause 8(3), the legal opinion stated:

> There is not thought to be any action required under this clause that cannot now be done by the Minister within the general administrative powers the Minister has from other sources. The clause will turn the power into a duty. It does not require additional charges on the public revenue.

As a result of their disagreement over the nature of clauses 8(2) and 8(3), both Senator Doody and Senator Frith asked the Chair for a ruling on this matter. I have given careful consideration to the serious submissions made by both Senators and now rule as follows.

May I begin by stating that the issue of what defines a money bill and what does or does not require a royal recommendation has been a key concern of this house in recent years. An important study on the form and use of royal recommendations was undertaken last year by the Standing Senate Committee on National Finance and a report was presented to the Senate in February, 1990. In its conclusion, the committee noted that the use of royal recommendations raises important legal and constitutional issues, on which further light may be cast by additional study. It recommended that the issue of royal recommendations be referred to the Standing Senate Committee on Legal and Constitutional Affairs. It would appear that the issue is still a difficult one and that Senators will want to pursue it in more detail in the near future.

With respect to Bill S-18, the Chair believes that it must judge subclauses 8(2) and 8(3), not against sections 53 and 54 of the Constitution Act, since pursuant to citation 117(6) of *Beauchesne*'s Fifth edition, "The Speaker will not give a decision upon a constitutional question nor decide a question of law", but against rule 62. That rule states:

> The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Crown.

With respect to rule 62, which at that time was rule 70, *Bourinot*'s Fourth edition states at page 413:

> Though the recommendation of the governor-general cannot be formally given in the Senate to a motion involving money,—since such matters must originate in the Commons—yet that house has a standing order which forbids the passage of any bill which, from information received, has not received the constitutional recommendation.

• (1410)

The rules therefore provide that the Senate will not proceed upon a bill appropriating public money that does not have attached to it a royal recommendation. Bill S-18 has no such recommendation attached to it and yet a point of order has been raised that it has clauses within it that do infringe upon the financial initiative of the Crown. In order to determine whether or not Bill S-18, or more specifically clauses 8(2) and 8(3), would normally require a royal recommendation, the Chair must turn to the following authorities. Erskine May, 21st edition, cites the following conditions, among others, with respect to matters which require a royal recommendation: (1) "The expenses arising out of the imposition of new duties on an existing department or authority" (page 797); (ii) "charges upon the consolidated revenue fund" (pages 797-8); (iii) increase of charge by extension of purpose" (page 802). Likewise, the document tabled by the Justice Department at the November 2, 1989 meeting of the National Finance Committee entitled "Requirement of the Royal Recommendation for Money Bills" gives the following instances: (i) "departments and regulatory bodies—provisions establishing, or imposing new duties on, departments or regulatory bodies", (ii)"extending purposes—provisions extending or altering the purposes of a previously authorized expenditure."

The Chair is of the opinion that clauses 8(2) and 8(3) clearly impose new statutory duties on the Minister of Indian and Northern Affairs, and hence on the department. They therefore infringe upon the financial initiative of the Crown and are not in order. Bill S-18, as long as it contains these contravening clauses, should not be proceeded with and should be removed from the order paper.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I do not want to debate the ruling. I do want to say that this is obviously a carefully thought-through ruling by the Chair, but it turns on the question of whether Rule 62 applies. As I recall, I dealt with that in my earlier submissions. The ruling holds that 8(2) and 8(3) are appropriating clauses, whereas I contended that they were not. It seems to me that the basis of the ruling is that they are appropriating clauses. Because I do not want to be in the position of being unable to argue this point on another occasion by having let it pass. So I appeal the ruling to the Senate.

The Hon. the Speaker: Honourable senators, shall the ruling of the Chair be sustained?

Some Hon. Senators: Yes!

Some Hon. Senators: No!

The Hon. the Speaker: Will those honourable senators in favour of the ruling please say "yea".

Some Hon. Senators: Yea!

The Hon. the Speaker: Those against?

Some Hon. Senators: Nay!

The Hon. the Speaker: I believe the "yeas" have it.

Senator Frith: You said the "yeas" have it?

The Hon. the Speaker: Yes.

And two honourable senators having risen:

The Hon. the Speaker: Call in the members.

POINT OF ORDER

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, before we do that, on a point of order, there is a provisional ruling respecting this. Perhaps we are moving too quickly.

Hon. Royce Frith (Deputy Leader of the Opposition): Yes. Let us take a moment to look at the rule.

Senator Murray: In view of the provisional rule, I wonder whether we might take a few moments to have consultations between the whips as to when this division should take place. My recollection is that a division on an appeal from the Speaker's ruling can be put off for 12 hours. That would take us to half past two tomorrow morning. Perhaps the course of wisdom would be an early consultation among the whips to decide when we want to have this division.

Senator Frith: After a quick reading of the rule, I agree with the Leader of the Government in the Senate. The appropriate rule is P-3(c), where it provides:

> (*c*) When a division is requested pursuant to Rule 49(3) in relation to a motion that the Speaker's ruling be sustained, the said division shall be deferred for a period not to exceed 12 hours whereupon the bells to call in the Senators shall be sounded for not more than 30 minutes, whereupon the vote shall be taken.

So we anticipated such a question arising when we worked out the provisional rules.

Perhaps the two whips can discuss when they want the vote taken, and we can go on to the next order, with leave to revert to this item.

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

Some Hon. Senators: Agreed.

[Senator Frith.]

[*Translation*]

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN CHILD)—SECOND READING—SPEAKER'S RULING

The Hon. the Speaker: On Tuesday, January 22, 1991, Senator Doody raised a point of order regarding the permissibility of the Senate continuing with its consideration of Bill S-7, An Act to amend the Criminal Code (protection of the unborn child), after a substantial decision had been taken on Bill C-43, An Act respecting abortion. Senator Doody referred honourable senators to Citation 725 found in *Beauchesne's* 5th edition, page 223:

> "A motion for leave to bring in a bill, the objects of which are substantially the same as those of a bill upon which the House has come to a decision in the current session, is out of order."

Citation 416 of *Beauchesne* also states:

> "... a question being once made and carried in the affirmative or negative, cannot be questioned again but must stand as the judgement of the House.
>
> Unless such a rule were in existence, the time of the House might be used in the discussion of a motion of the same nature and contradictory decisions would be sometimes arrived at in the course of the same session."

The principle that no motion can be received which is essentially the same as a question which has been previously resolved is reflected in the Senate Rule 47(1) which states:

> "A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided."

Although Bill S-7 and Bill C-43 have different objectives and represent alternatives on the subject of abortion, the Chair feels, in that they both deal specifically with amendments to Section 287 of the *Criminal Code*, a strong case may be made that they are "the same in substance".

The Chair also notes that in the course of its deliberations on Bill C-43, amendments were proposed by the Honourable Senator Haidasz which resembled very closely the objectives and provisions of Bill S-7. These amendments were debated and rejected by the Senate on recorded divisions on January 31, 1991, the same day that the Senate made its final decision on Bill C-43. I refer honourable senators to the *Minutes of Proceedings of the Senate* at pages 2232-2238 with respect to these amendments and their disposal.

It would seem to the Chair that if ever Rule 47 were to be invoked, now would be the time. I recognize that what defines the term "the same in substance" is a question of judgement and that there may be honourable senators who disagree with my opinion and I respect that. The issue itself is an emotional one and feelings understandably run high. The Senate has pronounced itself this session on the question of abortion. Given that the substance of Bill S-7 has been considered and

disposed of during the debate on Bill C-43, it is not in order to proceed any further with Bill S-7. The order for second reading should be discharged and the bill removed from the Senate Order Paper.

● (1420)

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, while I do not have anything to say myself on this ruling, yesterday my colleague, Senator Haidasz, came to me and said that he would be unable to be here today. He was concerned that the ruling was going to be given today and he would not be here to ask for support for an appeal. I suggested that he speak to the Chair about delaying the ruling until tomorrow. Obviously that did not work out, for whatever reason. However, Senator Haidasz did leave a note here addressed to Senator MacEachen.

Therefore, although I am not appealing the ruling, I feel that, as Acting Leader, I ought to ask the Senate for leave to permit Senator Haidasz to raise some questions about this ruling tomorrow if he wishes to do so.

The Hon. the Speaker: Honourable senators, I might say that Senator Haidasz did come to see me and I mentioned that I would render a ruling today and that he would have a copy, but he made no further comment. However, it is up to honourable senators.

Senator Frith: It is a question of whether the Senate will grant leave tomorrow. That is all I can say. I feel I have fulfilled what I consider to be my obligation to my colleague.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, if Senator Haidasz wishes to appeal the ruling tomorrow that would be agreeable to us.

The Hon. the Speaker: Honourable senators, is it agreed?

Some Hon. Senators: Agreed.

ABORIGINAL PEOPLES BILL

SECOND READING—POINT OF ORDER—SPEAKER'S RULING—DIVISION DEFERRED

Leave having been given to revert to Order No. 2:

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if I may revert to the second order, as agreed to a moment ago, my colleague, Senator Petten, tells me that he and Senator Phillips have agreed to a vote on the ruling on Bill S-18 today at 3:30 p.m. with a 15-minute bell.

The Hon. the Speaker: Honourable senators, is it agreed?

Some Hon. Senators: Agreed.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-FOURTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Seventy-Fourth Report of the Standing Senate Committee on Internal Economy, Budgets and Administration (budget of Special Joint Committee on the Constitution), presented in the Senate on 26th February, 1991.

Hon. Roméo LeBlanc: Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

CONSIDERATION OF TWENTY-FIFTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Consideration of the Twenty-Fifth Report of the Standing Senate Committee on Social Affairs, Science and Technology (Veteran Affairs Votes No. 1, 5, 10, 15 and 20 of the Estimates 1989-90) tabled in the Senate on 31st January, 1991.—(*Honourable Senator Marsden*).

Hon. Jack Marshall: Honourable senators, Senator Marsden tabled the report of the subcommittee on Veterans Affairs and allowed me to speak on it. When I concluded my remarks, I adjourned the debate. However, in the *Debates of the Senate*, for some reason, the fact that I adjourned the debate was omitted. That is not too serious, but I do intend to continue my speech at a later time. So that should be changed.

Hon. Royce Frith (Deputy Leader of the Opposition): In support of what Senator Marshall has said, Senator Marsden did say that she expected Senator Marshall to speak to the item on which he had adjourned the debate.

I do not know how we handle that. Perhaps the Table can give us a recommendation on that. If I understand the situation concerning Order No. 9, Senator Marsden adjourned the debate on some aspects, but there are other aspects to which Senator Marshall wishes to speak. Is there any reason why it cannot stand in both their names? Or, given what we have now said, is there any question that Senator Marshall can speak to the order whenever he wishes, despite the fact that it stands in Senator Marsden's name and in view of the fact that she told me that she expected Senator Marshall to speak to it?

Senator Marshall: That is agreeable with me, but I am more concerned with the fact that I said something in the chamber and it was not recorded.

Senator Frith: Yes; I understand that.

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

Hon. Senators: Agreed.

Order stands.

VIOLENCE AGAINST WOMEN IN CANADIAN SOCIETY

DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Frith calling the attention of the Senate to the

issue of violence against women in Canadian society.—(*Honourable Senator Spivak*).

Hon. Mira Spivak: Honourable senators, I wish to thank Senator Royce Frith for his Notice of Inquiry of last February 13, in which he drew the attention of the Senate to the need to examine the issue of violence against women.

In a recent startling article in *Policy Options* Christina Benson said—to document her argument that avoiding the issue of violence against women is the standard Canadian response—that:

> —when a "senior" Senator Royce Frith tried to draw the attention of his colleagues to the problem of "Violence Against Women in Canadian Society", and start a debate on the matter, not one Senator responded.

I must confess that I felt more than a twinge of guilt since my intervention has been on the order paper since February 21, 1990.

Ms. Benson goes on to say that awareness in government on this issue has moved from laughter—wife beating was greeted with laughter in the House of Commons when it was first introduced there six years ago—to bordeom and disinterest. Canadian women are regularly threatened, assaulted, abused, harassed, mutilated and killed—often in their own homes—by people they trust. It is reported in the newspapers, all kinds of reports are produced by government and non-government agencies, yet not much happens.

Approximately 14 women students in Montreal were killed in a classroom by a man simply because they were women. There has been no national inquiry on the matter. In fact, when a group closely associated with the Montreal massacre wished to appear before the House of Commons Committee on Gun Control, initially they were told that the committee had no time to hear them.

● (1430)

One triumph has occurred in the midst of tragedy, the recent Supreme Court decision in the Angelique Lyn Lavallée case. That case, as honourable senators will recall, was the first time in Canada that a woman has successfully used the defence of battered-wife syndrome against a murder charge, a woman whose repeated beatings over a three-year period had sent her to hospital eight times for treatment. The battered wife syndrome is a medically recognized phenomenon where a woman is unable to leave a relationship despite physical, sexual and emotional abuse. That decision by Madam Justice Bertha Wilson, unanimously supported, relegated to the ashcan of history the historic notion that women are objects needing discipline, a notion that had its origin in the famous rule of thumb which was that you could beat your wife but only with a stick no wider than the width of a thumb.

Moreover, the notion more latterly developed that women enjoy being beaten has been relegated to the realm of maudlin melodrama or sick soap opera.

When the incidence, degree and consequences of violence against women are considered together, the extent, tolerance and deep pervasiveness of violence toward women is astounding. The magnitude of wife assault, spousal homicide and sexual assault in Canada is reflected in the statistics—and the statistics on reported violence are underrepresented. It is estimated, for example, that for every incident of wife abuse reported to the police, 10 go unreported. Still, almost one million women may be battered in Canada each year.

A report released in January, 1990 by the Ontario Native Women's Association estimates that eight out of ten native Indian and Métis women have suffered some kind of abuse—and in 84 per cent of the cases the husband is responsible. Three times as many husbands kill their wives as vice versa. One in four women can expect to be sexually assaulted during their lives—50 per cent before the age of 17. One in two females and one in two males have been victims of sexual offences. I would point out that 99.2 per cent of sexual offences against female victims and 96.9 per cent against male victims were committed by males. In 1988, for example—and I just pulled this one province at random; the other provinces are equally as bad—there were 780 confirmed cases of sexual abuse of girls under 18 years of age in the province of Quebec. The abusers included fathers, brothers, uncles, stepfathers. From international research, four empirical generalizations have emerged on violence against women in the family and in society. Within the family context, it is men who are violent against women.

Both in the family and in society the victims are the weakest. Weakness is seemed to emanate from one's sex—that is, female—age, physical ability, and economic dependency.

Violence results from a challenge to the power relationship, that is the status quo, and here I quote: ". . . the perpetrator fails to recognize and respect the victim's basic human rights fundamental freedom, dignity and right to peace and security and acts accordingly."

There has been a recognition over the last 10 to 15 years that violence against women is a serious issue in spite of the fact that it has always existed in some form. Many commentators on the issue of violence against women maintain that inequality underpins female victimization. A well-respected researcher on the subject has concluded from her extensive work that "women's fear and victimization are equality issues, for women's social and economic inequality reduces their ability to protect themselves from violence and to rebuild their lives after an experience of victimization."

Poor women are disproportionately represented in the statistics on violence. They are more vulnerable and lack the resources to escape abusive situations and to seek help from agencies outside the criminal justice system and the social service network. The findings from the 1982 and 1988 crime victimization surveys in Canada show that the rates of wife assault for women with a household income under $20,000 are two to four times higher than for women above this income level. The 1982 survey found that 50 per cent of the wife assault victims did not work outside the home and were most likely dependent on the income of their partner.

If a woman is living in a violent relationship, is responsible for children, and is economically dependent on her partner, her options are limited by her access to resources. Economic resources purchase safety. Money is needed to move, to hire a lawyer, to pay rent, to feed herself and her children, to access child care, to buy transportation, and so forth. We know from research that, at separation, men's incomes rise by 42 per cent and women's incomes fall by 73 per cent. Thus economic hardship and deprivation can be a consequence for women who leave their husbands.

According to some of the available research, the victimization of women is in part learned behaviour. While not all men who were abused as children or who experienced violence between their parents become wife assaulters, many men who assault their partners do have those experiences in their background. One study concluded that 50 per cent of men who beat their wives were either victims of child abuse or witnessed violence between their parents. And, for some women, being abused by their partners is an extension of their childhood experiences. Research on the biographies of wife assault victims has shown that one-third were either victims of child abuse or witnessed their own mother being assaulted.

In addition to the physical, psychological and economic effects of the victimization of women, fear is seen to be "one of the most pronounced effects of violent victimization." The urban victimization survey found that 56 per cent of women living in urban centres "feared for their personal safety walking alone in their neighbourhood at night. This figure jumps to 72 per cent in the case of victims of wife assault." Fear restricts autonomy and results in withdrawal from normal movement and activities. Fear is controlling. A past president of the Canadian Advisory Council on the Status of Women, in the context of commenting on the murder of the 14 young women in Montreal in December of last year, stated:

> The bedrock of equality is having the right to live without fear in our own apartments, the right to walk freely in our city streets, the right to meet a stranger's glance directly without being accused of "asking for it," the right to live in this society free of the constant state of sexual terrorism that every young women in this country must be aware of today.

The violent victimization of women is explained in a variety of ways. Some regard abusive behaviour as a means to control women, others see it as a reflection of our culture in which male aggressiveness and dominance is encouraged and condoned. For others, assaults on women are rooted in sexist attitudes and values in our society. Feminists view violence against women in the family and in society as a direct outcome of the unequal and subordinate status of women in the economic, social and political institutions of society. For some, all of these factors are explanatory.

● (1440)

The report to the Secretary General of the United Nations Economic and Social Council in 1988 linked violence against women in the family and in society to women's inequality. The report stated:

> It is generally believed that the main cause of violence against women stems from their status and role in the family and society, and the unequal power structure therein, which places women in an inferior and subordinate position to men.

Family violence is a complex issue that involves responses from all levels of government. The federal government is responsible for criminal legislation, the Royal Canadian Mounted Police, financial assistance to social services through cost-sharing arrangements with provinces under the Canada Assistance Plan, and for providing financial support to projects and programs in the provinces. Some federal initiatives in the family violence area include:

> In 1983 Parliament repealed the rape legislation in Canada and replaced it with the sexual assault legislation. The legislative initiative was intended, among other things, to shift the focus from the sexual to the violent and assaultive aspects of the offence.
>
> The 1983 sexual assault legislation explicitly recognizes sexual assault in marriage whether the spouses are living together or not. Prior to 1983, the rape law in Canada "granted a man an absolute right to sexual access to his wife . . . husbands could not be charged with raping their wives".
>
> In 1983, the R.C.M. Police introduced a charging policy that required members of the force to lay charges in all cases of spousal assault where there were reasonable and probable grounds that an assault had occurred.
>
> In 1986 the Family Violence Prevention Division was created in the Department of National Health and Welfare. Among its functions, the division coordinates all federal initiatives in the area of family violence.
>
> In 1988, the federal government launched its Family Violence Initiative. The government allocated $40 million to six federal departments—Health and Welfare, Canada Mortgage and Housing, Justice, Solicitor General, Indian and Northern Affairs, and Secretary of State—over a four-year period to enhance and augment their activities with respect to family violence. Canada Mortgage and Housing was allotted $22.2 million for the creation of 500 new emergency shelter beds across the country.

Most recently the Sub-committee on the Status of Women in the House of Commons has launched a study on violence against women, and it is ongoing. On February 20 the government announced a new family violence initiative containing provisions for educational initiatives, for review of legislation, for funding, for support of community programs on family violence, including those undertaken by aboriginal people on reserves, and provisions to strengthen intervention and treatment services.

A component of Health and Welfare Canada is the National Clearinghouse on Family Violence. The clearinghouse is a national resource centre that provides national information and referral services to Canadians.

A study done by Linda MacLeod in 1989 summarizes the recommendations advanced by women's groups over the years to reduce women's fear and victimization. Taken together, they represent a "holistic" response to the problem of violence against women. They include such things as ongoing, predictable funding for rape crisis and sexual assault centres; ongoing, predictable funding for transition houses; aggressive charging policies; legal measures that proscribe spousal sexual assault and wife assault; improvement in the economic and social status of women, including access to affordable and quality day care; and public education that emphasizes the link between degrading and violent pornography and women's vulnerability. MacLeod also lists five themes that must be recognized before we can begin to attack this problem: safety issues, negative attitudes towards women, barriers to equality, responses to violence against women, and women's participation in developing strategies to mitigate their fear and victimization.

Ultimately the issue is one of political will. Thousands of recommendations exist at every level of government on this issue. One thing we can do here is at least address the issue, and I would hope that at some point the Senate will ask the Standing Committee on Social Affairs, Science and Technology to place this matter of violence against women in Canadian society on its agenda for consideration.

Some Hon. Senators: Hear, hear.

• (1450)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move the adjournment of the debate in the name of Senator Marsden, but I would add that I am not sure whether she is prepared to speak to this right now. However, I am certain the honourable senator would be glad to yield to any other senator who wished to speak to this inquiry.

On motion of Senator Frith, for Senator Marsden, debate adjourned.

NATIONAL DEFENCE

ESTABLISHMENT OF STANDING COMMITTEE—DEBATE ADJOURNED

Hon. Jack Marshall rose pursuant to notice of January 22, 1991:

> That he will call the attention of the Senate to the advisability of striking a Standing Senate Committee on National Defence.

He said: Honourable senators, I rise to address my inquiry No. 12, dated January 22 asking the Senate to consider the advisability of striking a Standing Committee on National Defence, an inquiry which I am sure all senators will agree is significant at this time as we ponder the reality of the scourge of war.

To give some background on the involvement of the Senate in this important area of national policy, I want to review the short history of the Senate's involvement and participation in defence matters in the past decade.

[Senator Spivak.]

In the spring of 1980, noting that Canadian defence and foreign policy had not been formally updated or debated for almost a decade, nor had the capabilities of our armed forces to fulfil our foreign policy and defence commitments been explored, the Standing Senate Committee on Foreign Affairs took the initiative and moved for authorization to hear evidence on and to consider matters relating to national defence. This task was assigned to a Senate subcommittee, pursuant to the *Rules of the Senate of Canada.*

In 1982, after extensive hearings, the subcommittee completed its first report entitled, "Manpower in Canada's Armed Forces." A year later, in 1983, after further hearings, the subcommittee completed its second report, "Canada's Maritime Defence."

Following the federal election of 1984, the committee was reconstituted in November of that year as the Special Committee of the Senate on National Defence. During the following 15 months it completed two reports: The 1985 report on "Canada's Territorial Air Defence"; and the 1968 report entitled: "Military Air Transport."

The special committee then proceeded to examine matters relating to the Canadian army. Coincidentally, in the course of this process, the government published the 1987 White Paper on Defence entitled: "Challenge and Commitment: A Policy for Canada." Many aspects of this 1987 defence policy reflected the information the special committee and its predecessor subcommittee had revealed to the Canadian public regarding the state of our armed forces.

While the work of the special committee continued with its defence policy as background, its program of activity was interrupted by the dissolution of Parliament in 1988 and the unfortunate death of the committee's original chairman, the late Senator Paul C. Lafond, who led the committee with honour and distinction, and the death of his successor, the late Senator Henry Hicks who became chairman in 1988. I was privileged to serve as deputy chairman to both of these fine leaders who brought credit to the Senate as did all other members who served on the special and subcommittees. I might mention the names of the members of that committee since it has been so long since the committee has sat. The members of the committee were Senators Balfour, Bonnell, Buckwold, Doyle, Lewis, McElman, Molgat, Molson and Roblin.

Following the recall of Parliament after the general election in the fall of that year, a motion was approved in the Senate which authorized the special committee to complete its examination of Canada's land forces—army. In the interval and during its subsequent deliberations, the strategic global situation unfolded in a new direction, and was altered by the announced changes in the defence policy of the Soviet Union, the erosion of the coherence of the Warsaw Pact Organization, the rapid political changes in Eastern Europe and the sudden and dramatic reduction in the Canadian defence budget announced in April of 1989. These events prompted the special committee to re-examine areas of its report in light of the initial appreciation of these changes, and this delayed comple-

tion of the report: "Canada's Land Forces" until October, 1989. As the amended Order of Reference for the work of the special committee provided only for its existence until October 31, 1989, the committee was dissolved and it has not been reinstated since that date.

Although the committee accepted the decision that its mandate had expired, a unanimous concern was expressed by members of the committee at our last meeting—a meeting which took the form of a debriefing—that we should find a means of re-establishing the committee in another form, preferably as a standing committee, primarily to take advantage of the inventory of vital information we were able to gather over almost a decade—information which was useful in bringing before the government and the people of Canada a great deal of previously restricted information and a range of studied considerations and recommendations.

One of the problems with which the Senate of the day had to contend, honourable senators, was the difficulty in manning what was becoming a proliferation of standing committees—a problem that was hindered by reducing numbers in the Senate and a reluctance to appoint replacements by those responsible.

In this regard, at the meeting an alternative was discussed. It was that we might consider an amalgamation of the defence committee with the Subcommittee on Veterans Affairs, an idea which offered a community of interest in both areas, and which would be parallel with a similar move made by the House of Commons.

Since the numbers handicap has now been removed as a result of the influx of new senators, the establishment of a standing committee on national defence would be a justifiable consideration in light of the present global turmoil. Furthermore, we currently have over 20 senators who have a military background. With regard to our new senators, I am sure everyone recognizes the careers of senators Waters and Forrestall who played a part in NATO.

Honourable senators, I think it would be appropriate at this time to remind ourselves of the positive acceptance and respect gained through the work of the committee, and to give new senators a related overview of the material contained in the committee's recommendations. To do this in as short a form as possible, I need only refer to a special report published in *The Financial Post* of May 25, 1987, almost four years ago, headlined "Senate Laid Groundwork for Change: White Paper Will Correct Some Deficiencies Uncovered by Upper Chamber Committee." I would quote in part from that *Financial Post* article which states:

> The Senate, of all institutions, can take some of the credit for the imminent new white paper on defence policy—not just for its appearance, but also its content.
>
> In the past five years—

I would remind honourable senators that this was written in 1987—

> —the Senate's special committee on defence has churned out no less than four top-notch reports on the various aspects of the defence, including personnel (1982), the Navy (1983), territorial air defence (1985), and military air transport (1986). All four issued a clarion call for a new white paper that would finally attempt to match military commitments with the ability of the Armed Forces to meet them.

The article goes on to say the following:

> The Senate Committee served the important function of getting the debate into the public domain: mainly by adopting a low-key, non-partisan approach to witnesses.

• (1500)

Drawing on the candid evidence of senior and respected defence officials, as well as learned experts in the field, the committee revealed that if Canada had to go to war—and I am speaking about at that time—many glaring inefficiencies would have to be given urgent attention in the three arms of our Canadian forces: land, sea and air.

The writer went on to state:

> But the remarkable aspect of the Senate report is how closely its major recommendations appear to mirror the main components of the then-Defence Minister Perrin Beatty's new doctrine.

Honourable senators, in another comment the writer, referring to the speculation of what was contained in the white paper, stated:

> The white paper is also expected to announce an increase in the number of troops for Canadian Forces Europe (CFE) and a withdrawal from the commitment to help defend northern Norway. (Dropping the Norway commitment frees up about 5,000 troops for redeployment).
>
> Again, these expected changes parallel the Senate's thinking. In its first report—*Manpower in Canada's Armed Forces*—the Senate recommended that CFE be increased to 10,000, and that the Army's Mobile Command be increased by 4,000.
>
> In sum, the Senate committee recommended that Canadian Forces strength be increased to 92,000, (from the then-current 86,000), and equipped to carry out its assigned roles. Beatty's long-range plans may be similar.
>
> The Senate committee's various recommendations carry a high price tag. At that time, Canada's defence budget represented about 2% of gross national product. The committee calculated that implementing all of its recommendations would require defence spending be increased to 2.5% - 3.0% of GNP.

Honourable senators, I am sure that an acceptance of our suggested increase in defence spending at that time would have been a wise choice as we look back to 1987.

One of the items of concern, which was obvious as a follow-up to our reports, was that we should take a comprehensive look at Canada's national security and defence requirements in what was becoming a rapidly changing and very unstable world. That was almost two years ago, honourable senators, and unfortunately the initiative to reconstitute a

defence committee was overtaken by an ongoing series of events too numerous to repeat.

The implications for Canada, as a result of the changes that have been unfolding throughout the world and the requirements for armed forces to maintain both world and internal stability—and a good example of this is the recent incident at Oka—had not been fully examined by a Parliamentary body. Moreover, the destructive effects of the April 1989 and February 1990 defence budget cuts, the undercalculation of inflation costs and the potential impact of successive no-growth budgets in the current five year period have not been studied and identified, nor have public interest groups and individuals been provided with the opportunity to present their concerns regarding Canadian security and defence or to participate in a public debate on such issues.

As honourable senators are no doubt aware, the situations in Eastern Europe, the USSR and elsewhere have been evolving at a rapid rate, and while the threat of the Soviet and Warsaw Pact aggression in Europe has been greatly diminished, new and dangerous instabilities have become apparent in these countries, as political expectations overtake economic capabilities. The instability in the Baltic states is a clear indication of this.

Moreover, the removal of the stabilizing effects of the superpower and bloc "Cold War" positions has allowed for new threats to develop, most prominently in the Middle East and the Persian Gulf. Many other trouble spots, disturbances and local wars exist which could erupt into regional or world conflict and threaten even more the world stability upon which Canada's security depends. Certainly, honourable senators, we have been suddenly struck with the stark reality of a new kind of war in the Persian Gulf, the results of which are unfolding in unbelievable proportions.

Since the spring of 1989, Canadian foreign and defence policy has been less than consistent. While it is known that studies on national security policy by the Department of External Affairs and a defence policy review by National Defence Headquarters are proceeding separately, they are being developed *in camera* without public-interest-group input or even the input of a Parliamentary body such as the Senate committee which had spent the previous decade studying some of these critical policy matters. The development of policies without a deep and long-ranging strategic analysis and an appreciation of the new challenges to world stability can lead to serious errors in judgment which may, in turn, affect the long-term security of Canada and our ability as a responsible nation and an international player to participate effectively in regional-stability operations, threatening the peace and security of the international community.

There is a clear and present danger that what may emerge from a defence policy review in which the narrowly-focused financial factor is the dominant consideration, will be Canadian Armed Forces which are far less capable than the highly-competent forces we now have, and forces which will be incapable of supporting Canada's foreign policy in an increasingly unstable world. If the projected impacts are as indicated by recent defence budgets—and although we can find the money when the need arises—we shall have much reduced regular forces and much smaller militia and reserve forces, which should be our thrust in the future, than those planned in the 1987 white paper. Some of these reductions, if allowed to proceed, could well have a very unbalanced impact among the navy, army and air forces, with greatest impact being on the army, both in overall size and diminished operational capabilities. If current trends in Ottawa are not questioned, Canada could end up with an army that is inadequately equipped for the uncertain conditions of the modern battlefield and incapable of participating in peace-restoring operations.

[Senator Marshall .]

To emphasize this, I again turn to the *Financial Post* and an editorial from just last month, January 17, 1991:

> Budget constraints will impose their own discipline on a new direction for defence policy. But if the politicians are going to call upon the military to fulfil specific roles, as they have in the gulf, they must make adequate provision for the forces to carry out their assigned duty. A priority in making that provision should be the prompt replacement of the 1987 white paper as soon as possible after External Affairs has completed its foreign-policy review.
>
> Admittedly, the rapidly changing world, and the need for long lead times in the design and manufacture of military equipment, make it difficult for defence capability always to be equal to the demands of the day. But it's clear the 1987 policy needs to be reworked.

The question of national security and defence policy is an area of public responsibility which should not be left to drift. It is a vital matter requiring constant attention and review in light of the changing and volatile international environment which Canada is now confronting. Prospects of future instabilities in several regions of the world also exist and pose a threat as the Persian Gulf war, we hope, comes to a close.

Since the Senate of Canada has a responsibility to deal with all aspects of public policy, it can ill afford to leave the complex questions of national security and national defence to a spasmodic ad hoc approach. There is much work to be done in this field by the Senate as a responsible Parliamentary body. The experience developed during the period from 1980 to 1989 has demonstrated the need for a continuing committee to consider issues in these critical areas of public policy.

Honourable senators, finally, when the special committee visited the Canadian forces stationed in Europe, and after we witnessed with pride the activities of our officers, men and women in Base Lahr in Germany and in the peace-keeping forces in Cyprus, Senator Hicks was compelled to state, "Canada does not deserve such a competent, professional and dedicated armed force."

Honourable senators, although my inquiry has been rather critical of the "on-again, off-again" government approach to our armed forces, it should by no means be seen as a criticism of our young men and women serving their country, as they are doing at this very moment, and I know I echo the sentiments of all senators when I state that we are very proud

of all of our service personnel and that we wish them well in the difficult times they are currently enduring. However, our purpose here is to ensure that they are properly equipped and that the level of commitment provided to them is equal to the allegiance with which they serve their country.

• (1510)

Honourable senators, I hope other senators will take up this challenge and state their opinions on the creation of a Standing Senate Committee on National Defence.

Hon. Senators: Hear, hear!

On motion of Senator Molgat, debate adjourned.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, is it agreed that the Senate do now adjourn for 10 or 15 minutes to the call of the bell?

Hon. Senators: Agreed.

An Hon. Senator: Do you wish to have the vote at 3.30?

Hon. William J. Petten: At 3.30, please.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): With a 15-minute bell.

Senator Petten: With a 15-minute bell, if that is agreeable.

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

Hon. Senators: Agreed.

The Hon. the Speaker: So we will adjourn to the call of the bell at 3.30.

The Senate adjourned during pleasure.

At 3.43 p.m. the sitting of the Senate was resumed.

ABORIGINAL PEOPLES BILL

SECOND READING—POINT OF ORDER—SPEAKER'S RULING SUSTAINED

The Hon. the Speaker: Honourable senators, it is now 3.43 p.m. Unless there is complete agreement that the doors be locked, they will remain open until 3.45.

Hon. William J. Petten: Mr. Speaker, in this case both whips have come into the chamber.

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

Speaker's Ruling sustained on the following division:

YEAS

THE HONOURABLE SENATORS

Barootes	Macdonald (*Cape Breton*)
Beaudoin	MacDonald (*Halifax*)
Bélisle	Macquarrie
Bolduc	Marshall
Buchanan	Meighen
Carney	Murray
Chaput-Rolland	Nurgitz
Comeau	Oliver
Di Nino	Ottenheimer
Doody	Phillips
Doyle	Poitras
Eyton	Ross
Forrestall	Simard
Grimard	Spivak
Hatfield	Sylvain
Johnson	Teed
Keon	Tremblay—36
Kinsella	
Lynch-Staunton	

NAYS

THE HONOURABLE SENATORS

Adams	Leblanc (*Saurel*)
Bonnell	Lefebvre
Bosa	Lewis
Corbin	Marchand
Davey	Olson
De Bané	Perrault
Fairbairn	Petten
Frith	Riel
Grafstein	Rizzuto
Hastings	Robichaud
Hays	Stanbury
Hébert	Stewart
Kenny	Thériault
Kirby	Turner
Lawson	van Roggen
LeBlanc (*Beauséjour*)	Waters
	Watt—33

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, I declare the ruling sustained.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, February 28, 1991

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

Prayers.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the flow of petitions against the GST asking for its withdrawal and an immediate election continue. Today I have two petitions from Ontario, both fully signed. They are from the Sudbury and Killarney regions. One address which struck my eye is 202B Perrault East. There is another petition from the area of Noranda and Rouyn, Quebec, also fully signed. These petitions are flowing in from all across Canada, and I present these three for today, representing in total the petitions of some 75 Canadians.

Hon. Gildas L. Molgat: Honourable senators, I also have a number of petitions from the region of Kenora, Rainy River. These came to me from the member of Parliament for that area, Mr. Robert Nault. The petition contains 564 signatures from various towns in that area including Kenora, Thunder Bay, Keewatin and Devlin. I would like to table these.

Senator Barootes: Are those addressed to the House of Commons or the Senate?

Senator Molgat: They are addressed to the Senate, Senator Barootes. I can read the names if you would like. It is a petition to the honourable Senate of Canada, and says:

> The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your Honourable Senate will therefor provide a remedy.

HUMBLY SHOWETH

Senator Barootes, I would be happy to read the whole petition, including the prayer and the names, if you wish. I am certain you would be happy to have that. Do I have your request to do that?

Senator Barootes: What you have read is sufficient.

Senator Molgat: Thank you very much, senator.

[*Translation*]

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

BILL TO AMEND—TWENTIETH REPORT OF THE NATIONAL FINANCE COMMITTEE PRESENTED

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

Thursday, February 28, 1991

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

TWENTIETH REPORT

Your Committee, to which was referred Bill C-34, An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof, has, in obedience to the Order of Reference of Thursday, June 14, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

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

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

[*English*]

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRTY-FIFTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Nathan Nurgitz: Honourable senators, I have the honour to present the thirty-fifth report of the Standing Senate Committee on Legal and Constitutional Affairs respecting Bill C-79, to amend the Parliament of Canada 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 "A", p. 5385.*)

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

Senator Nurgitz: Honourable senators, with leave of the Senate and notwithstanding Rule 45(1)(*f*), I move that this report be taken into consideration now.

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

Hon. Senators: Agreed.

Senator Nurgitz: Honourable senators, I have a few brief comments. First, these amendments more accurately reflect the way the Senate operates as opposed to the way that the House of Commons would operate within its rules. To that end the committee has had the cooperation of the chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, as well as the deputy chairman, Senator Doody. These amendments have been carefully vetted.

There is a change from the word "board," as it was put into the original Bill C-79 to state the word "committee" because our committee does operate with the committee on Internal Economy.

Honourable senators may recall the problems that we constantly run into during intersessional periods when, either through dissolution or prorogation, there is no authority for the Senate to act. Approximately two or three years ago Senator Frith and I were sent out to commission the publication of a report on how that should be done. One of our former Clerks, Mr. Fortier, was good enough to prepare an opinion indicating that we needed statutory authority to act during those periods. I am pleased to say, honourable senators, that we now have that authority.

Some other changes deal with the authority of the committee to make contracts. I am pleased to report to those honourable senators who have served on the Internal Economy committee and who have had the embarrassment of being sued from time to time by some of our friends in the media, that this provides that kind of immunity from lawsuits of individual members. However, it does not preclude the committee from being sued.

These and a few other changes that have been made are a great improvement. They reflect how the Senate works. Bill C-79 will be a good addition to the operation of this place and will take away none of the authority that the Senate now has over its own activities. I commend the report to honourable senators.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as Senator Nurgitz has pointed out, what we have before us today is the end of a long and detailed road. I can assure honourable senators that, in my opinion, there is not a word or a comma in this bill that has not been agonized over for, I think, the last year. This has been studied very deeply and has been the subject of a completely bipartisan approach. Therefore, I want to recommend support for the report and to thank some who worked much harder on it than I did, particularly Senator Nurgitz, Senator LeBlanc and Senator Doody, and Senator Nurgitz may want to add to that list.

• (1410)

I believe we should adopt this report and leave any questions there may be until third reading. We might have made some mistakes. We do not think we did, but we might have; if so, questions can be raised at third reading. In the meantime I think we should support the adoption of this report.

Motion agreed to and report adopted.

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

Some Hon. Senators: At the next sitting.

On motion of Senator Nurgitz, bill placed on the orders of the day for third reading at the next sitting of the Senate.

STATUTE LAW AMENDMENT PROPOSALS

THIRTY-SIXTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Nathan Nurgitz: Honourable senators, I have the honour to present the Thirty-Sixth Report of the Standing Senate Committee on Legal and Constitutional Affairs concerning proposals to correct certain anomolies, inconsistencies, archaisms and certain errors in the Statutes of Canada.

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 record of this house.

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 5388.*)

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

Hon. Nathan Nurgitz: Honourable senators, with leave of the Senate and notwithstanding Rule 45(1)(*f*), I move that this report be taken into consideration now.

Hon. Earl A. Hastings: Honourable senators, I wonder if we might have an explanation of why this has to be done today. Why not comply with the rules and give us 24 hours notice?

Senator Nurgitz: Thank you, Senator Hastings. I will give you an explanation. By the way, I should have thanked friends opposite for allowing me to speak on the previous report I tabled. The reason for my haste is that I will be leaving the country today and this is my last opportunity to present the report and deal with it.

Senator Hastings: Agreed.

Senator Nurgitz: Honourable senators, very briefly, the report concerns a proposal dealing with anomolies. I should say it is a proposal because only after it has proceeded through the two houses and those items are removed that are found not to be acceptable to the committees in each house is a bill

prepared. Therefore, we will be having a bill shortly. This method has been used for many years so that genuine anomolies and miscellaneous matters can be dealt with—not that we would be passing substantive matters or controversial matters; an effort is made to make certain that no new offences are created, that nothing is done in this kind of miscellaneous statute that prejudicially affects individual rights or results in any public expenditure.

I want to pay particular tribute to the consultant used by the committee, Lise Bélanger, who did an excellent job in assisting our own researcher, Mollie Dunsmuir. The work of the committee, which was difficult and somewhat painful, was done by a subcommittee of our Legal and Constitutional Affairs committee, consisting of Senators Neiman, Stanbury and Beaudoin. They did an excellent job. I would particularly like to thank Senator Neiman, who is out of the country. She took the time to prepare a revision of the final report and faxed it to us. I expect that within the next few days I will attend upon her personally and thank her.

Honourable senators, I commend the report to you.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I believe we should support this report. It represents the results of a great deal of work, although much of it was done by researchers. Among the many useful functions the Senate performs, it does this kind of work on statutory anomalies particularly well. This is clearly a case in which we must rely on the work of the committee and its researchers. There being no reservations on the part of the committee chairman, I believe we should support the report.

Motion agreed to and report adopted.

THE ESTIMATES, 1991-92

REFERRED TO NATIONAL FINANCE COMMITTEE

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

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Estimates for the fiscal year ending the 31st March, 1992, with the exception of Privy Council Vote 20 (Official Languages).

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

Hon. Senators: Agreed.

Motion agreed to.

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 Nurgitz.]

> That, when the Senate adjourns today, it do stand adjourned until Tuesday next, 5th March, 1991, at two 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, before the question is put, I would ask the Deputy Leader of the Government to give us an idea of what the government's program in the Senate will be for next week and thereafter.

Senator Doody: I will certainly try to do that, honourable senators.

Presently before the Standing Senate Committee on Transport and Communications is Bill C-82, the Quebec Harbour bill. As you know, the matter of the appointment of the Privacy Commissioner is before the Standing Senate Committee on Legal and Constitutional Affairs. We would like to have those matters dealt with as soon as possible.

Bill C-34, dealing with the management centre, was reported today; as was bill C-79.

The Main Estimates have been tabled and we would expect to get the Supplementary Estimates (C) on Tuesday of next week. Those will be tabled at that time and then referred to committee.

We received the Bretton Woods bill, Bill C-93, on Tuesday past and that will be introduced for second reading today. We would like that bill to be read the second time and be referred to committee, and it is our hope that the bill will even go beyond the committee stage by next week. There are some other bills which are in the process of being dealt with in the other place, but I cannot be certain as to when we are going to get them. Hopefully, it will be next week; if not, I will be able to give you an update at that time. Currently, the program is as I have outlined it.

• (1420)

We also have coming to us before the end of March, of course, the borrowing authority, the interim supply bill and Supplementary Estimates (C). So these things will have to be dealt with before we go, but as of this moment, that is about all the information that I can share with my colleagues.

Senator Frith: Did you say the main supply and the interim supply?

Senator Doody: The two appropriations, the interim supply bill, Supplementary Estimates (C), and the borrowing authority.

Senator Frith: The interim, Supplementary Estimate (C), and the borrowing authority. Thank you.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

PERSIAN GULF WAR

DISPOSITION OF CANADIAN FORCES FOLLOWING CEASE-FIRE—POSSIBLE PARTICIPATION IN PEACEKEEPING OPERATIONS

Hon. H. A. Olson: Honourable senators, this is a fairly important, perhaps even historical, day, in that the cease-fire in the Persian Gulf war seems to be holding. It has now held for approximately 15 hours. I am wondering if the minister could give us an indication of what Canada's participation will be from here on. For example, we would like to know how long our armed forces will remain in the area, whether or not the ships will remain there, and whether or not there have been any plans made for the keeping of the peace or the maintaining of some stability, as well as Canada's participation in those efforts in that part of the world.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, our role in any peacekeeping effort would be determined by the Secretary General of the United Nations. We, of course, being among the most experienced members of the United Nations in peacekeeping exercises, would have a considerable contribution to make in the planning and organization of any such effort.

With regard to the specific questions asked by the honourable senator, it is, I think, rather too early to state exactly when our forces would be returning from the Gulf. So far as the post-war planning is concerned, the honourable senator will be aware that the Prime Minister and Mr. Clark, early in February, set out the elements of Canada's position with regard to that question. Our officials have been visiting with governments in the Middle East to discuss this, and Mr. Clark has had discussions with representatives of a number of allied and other countries. I expect that the Secretary of State for External Affairs would shortly be meeting with the U.N. Secretary General and with the Secretary of State of the United States, and may himself be going to the Middle East before too long to resume those discussions with interested governments.

Senator Olson: We have heard of the initiatives that have been taken by the Prime Minister and delivered by the Secretary of State for External Affairs both to the United Nations and to some of the governments of the countries in that region. I wonder if we could be provided with a fleshing out of the situation. We have heard only that proposals have been made. Most people who are asked about this believe that the most effective way would be to have the peace and security forces in the area made up of armed forces from nations in that region. Does Canada endorse the position that those efforts to maintain stability will be left to countries in the region—in other words, the Arab world?

Senator Murray: Honourable senators, so far as peacekeeping forces are concerned, the answer to that question is yes. We have maintained all along, and the Secretary of State for External Affairs repeated this yesterday, that the principal participants in such a peacekeeping force should come from the Arab world.

ENERGY

DISBANDMENT OF COGLA—GOVERNMENT POSITION

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. Last Tuesday I asked him to confirm whether or not the Canada Oil and Gas Lands Administration, COGLA, was going to be disbanded, and, if so, was it as a result of the recommendations of the federal Inuvialuit Environmental Review Board, which was critical of COGLA last July for not being prepared for a major oil spill in the Beaufort Sea?

The Leader of the Government replied that my question was hypothetical—

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): For the moment, I said.

Senator Kenny: —for the moment. Now that the question is no longer hypothetical, would the minister please advise us whether this was the reason for disbanding COGLA, and who will carry on its functions once it is disbanded?

Senator Murray: A number of those functions will be absorbed by the National Energy Board; but I would have to obtain and bring in a more complete report of the situation from my colleague Mr. Epp.

THE ENVIRONMENT

ELIMINATION OF TOXIC WASTE—REQUEST FOR INFORMATION

Hon. Colin Kenny: On a related subject, in August 1988 there was a fire at St-Basile-Le-Grand where a large quantity of PCBs went up in smoke. That caused the dislocation of hundreds of residents in the area. Following that, in September of that year, the Minister of Energy, Mines and Resources announced that the government would spend $6 million to lease an incinerator for PCBs at CFB Goose Bay and an additional $15 million for a second transportable incinerator to clean-up PCBs and toxic waste. Since then I have been repeatedly asking the government for progress regarding the clean-up of the PCBs and the status of the second transportable incinerator.

Tuesday I received a reply from the government which said:

> The Government of Quebec announced on January 18, 1991 that all PCBs under provincial control, including St-Basile-Le-Grand, will be destroyed by the end of 1993.

● (1430)

Does this mean that the federal government has abdicated all responsibility for the clean-up of toxic waste at this site?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The honourable senator is telling us that on October 26, in one shot, he asked two or three questions. On Tuesday, only one of those questions was replied to. The questions he asked on October 26 were: When can we expect the incinerator to be operational? When will the toxic rubble at St-Basile-Le-Grand finally be cleaned up? The second question was answered on Tuesday; the first was not.

I shall attempt to obtain satisfaction from my colleague, Mr. Epp, and bring in a reply as soon as possible.

Senator Kenny: The fire took place in September, 1988. A month later the minister announced that the federal government was taking action to resolve the problem and bring forward another incinerator. This is a very long period of time for the government to take on this matter. Given the urgency that the government expressed at the time and the damage that took place, it is remarkable that the government is incapable of advising us whether or not it is going to put in place a second incinerator. It seems to have allocated the money for it. Is it or is it not going to put in place a second incinerator? If it is going to be put in place, when is that going to happen?

Senator Murray: The honourable senator should not leap to the conclusion that the government is incapable of advising him on the question of the second incinerator. The Leader of the Government in the Senate does not have the information at his fingertips. He has undertaken to obtain the information from his colleague, the Minister of Energy, Mines and Resources and to bring it to the Senate very shortly.

Senator Kenny: I accept that. It would not be fair to assume that the Leader of the Government in the Senate should be briefed on all matters before the government. If it were a question of my popping up in my chair and saying, "Let's have the information on this," I would not expect an answer from the government leader. However, the question has been placed before him for three years and the answer has been coming forward for three years. That strikes me as providing plenty of notice.

Senator Murray: Same answer, honourable senators.

PERSIAN GULF WAR

COMMENDATION OF CANADIAN TROOPS

Hon. George van Roggen: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. Is it the intention of the government in due course to introduce in this house, and perhaps in the other house, an appropriate motion to commend and thank our troops in the Gulf and those of our coalition allies?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Prime Minister has already spoken for the government, and I expect for all of us, in that respect earlier today. However, I welcome the suggestion of the honourable senator and I trust that we can get on with it very shortly.

STATUS OF MILITARY DECORATIONS FOR CANADIAN TROOPS

Hon. George van Roggen: I have not looked into this next matter, so I am asking this question on the basis of newspaper reports. A few weeks ago a newspaper report indicated that Canadian forces were no longer entitled to receive, and could not be awarded, the ordinary military medals for valour that we have been accustomed to in previous wars. Would the Leader of the Government let me know what the situation is relative to the decoration of our troops at the present time, whether in the Gulf or otherwise, and whether it is intended that appropriate Canadian medals be authorized for our troops if they can no longer receive British medals?

• (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The short answer to the question, honourable senators, is yes. We will be taking steps to ensure that there is appropriate recognition by way of awards and decorations for those who have served in such an excellent fashion on behalf of Canada and the international community in the Gulf War.

I understood that the Victoria Cross in particular was not available to Canadians and that this decision had been taken in 1972 or 1973. I will obtain further information on the matter and advise the Senate in due course.

OFFICIAL LANGUAGES

CITIZEN INSTRUCTIONAL LANGUAGE TRAINING—ABOLITION OF PROGRAM

Hon. Gildas L. Molgat: Honourable senators, my question is directed to the Leader of the Government and is with regard to a program that was cancelled about a year ago, that being the Citizen Instructional Language Training Program. I presume it was available in all provinces. In my own province it was available for the teaching of English as a second language to immigrants because a large number of immigrants arriving are not fluent in English. This program permitted the province that was participating in this program to have a program of English teaching. This program was cancelled a year ago.

Is the government giving any consideration to reinstituting this program? I ask the question now because I see that we have proceeded with an agreement on immigration with the province of Quebec, an agreement which provides for $332 million in financial compensation to the province. The compensation takes into account the additional expenditures that Quebec must incur because only one-third of immigrants speak French upon their arrival. That agreement provides for second language training. Will the same thing be reinstituted for a province like mine?

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

THE ECONOMY

EFFECT OF GST ON SMALL BUSINESSES

Hon. Charles Turner: Honourable senators, this morning I received a phone call from a small manufacturing businessman in London, Ontario. Like all small businessmen, he is feeling the effects of the recession. He does not receive money for his receivables for 30 days, yet he has to pay the GST up front. He would like to know where he is to get the money to pay the government. If he borrows the money from the bank, will the government pay the interest on the loan? If not, why not? He is going to send the minister a letter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, we look forward to hearing from my honourable friend's constituent.

Senator Turner: Honourable senators, this businessman was against the GST, like all small businessmen, and he is feeling the effects of it right now.

Senator Murray: Honourable senators, I hope my friend will have advised his constituent that the policies of the government are bringing inflation down, that interest rates have fallen by 400 basis points during the current recession, that the vast majority of forecasters are now expecting a resurgence of economic growth beginning in the second half of this year, and that the Minister of Finance brought in a budget only the other day with a plan for economic recovery to ensure that this happens.

Senator Turner: I would like to inform the minister that this man is a former Tory supporter.

INCREASES IN ACROSS-THE-BORDER PURCHASES—EFFECT ON CANADIAN BUSINESS

Hon. Gildas L. Molgat: Honourable senators, my question is directed to the Leader of the Government in the Senate. There have been reports of a substantial increase in across-the-border trade right across the country, that Canadians are going across the Canada-U.S. border purchasing retail merchandise and bringing it back into Canada.

Is the government considering any measures to restrict this one-way trade, with Canadians taking advantage, particularly since the implementation of the GST, of substantially lower prices in the United States and bringing the merchandise back to Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I would be interested to know what restrictive measures the honourable senator has in mind.

Senator Molgat: Honourable senators, I have no restrictive measures in mind. I am asking him what restrictive measures the government is planning. It is not my job to tell the government what it ought to do. I am asking whether the government is planning anything.

Senator Murray: The honourable senator has asked whether we have any restrictive measures in mind and I must advise him that we do not.

Hon. Douglas D. Everett: Honourable senators, the government has asked for some suggestions on how to prevent this trade from taking place and increasing, as it has been to date. I would proffer the suggestion that the Canadian dollar is higher than it should be in terms of the American dollar. In fact, the parity price of the Canadian dollar in terms of the American dollar is probably closer to 80 cents than to 86 cents.

I would suggest to the Leader of the Government that we are now in a position in which we could narrow the short-term rates between Canada and the United States. We are still some 400 basis points over the United States in short-term money and it is that situation which is keeping the Canadian dollar inordinately high. That could be corrected at this time, especially after having passed the GST and taking steps to reduce the deficit, and especially after the policy enunciated by the Minister of Finance and the Governor of the Bank of Canada that there would be an ongoing reduction of inflation.

Under those circumstances, the policy option is now open to reduce interest rates, and indeed to reduce the value of the Canadian dollar in terms of the American dollar, and to close off this growing trade which is exacerbating the recessionary situation for many businesses in Canada caused both by people buying in the United States and by the inability of Canadian businesses to meet the export competition because of an overvalued dollar.

Senator Murray: Honourable senators, as I mentioned a moment ago, interest rates have fallen by some 400 basis points during the current recession. The spread between Canadian and U.S. interest rates has narrowed somewhat.

An Hon. Senator: By how much?

Senator Murray: If the honourable senator wants to know, I have that information here and can look it up and give him the statistic, but the gap has narrowed.

The purpose of the budget introduced on Tuesday by the Minister of Finance is to lower inflation and interest rates. As the honourable senator is aware, the government does not have an explicit exchange rate target in mind, but, if history is any guide, the lowering of inflation and interest rates would have the effect on exchange rates that he describes.

Senator Everett: Honourable senators, I would like to take short issue with the government leader. I believe that the difference between 30-day treasury bills in the United States and 30-day treasury bills in Canada is in excess of 400 basis points at this time. While I commend the actions that are being taken in the budget by the Minister of Finance and the Governor of the Bank of Canada to reduce inflation, I do think that something could be done without creating an inflationary pressure. Especially since the GST is now in place and especially since its revenues are being directed toward the reduction of the deficit, there is an opportunity open to the government to reduce the spread between interest rates here and in

the United States. One must remember in that regard that there is a spread of only about 1.75 per cent or 175 basis points between long-term obligations—that is 20 and 30-year bonds, in Canada and in the United States. This is a policy option that is open to the Governor of the Bank of Canada and the Minister of Finance to lower that spread between the interest rates, thereby lowering the Canadian dollar without egregious inflationary effects but with beneficial effects in this recession—both for exporters and for businesses along the border that are becoming crippled by the outflow of dollars to the United States.

• (1450)

Senator Murray: Honourable senators, I appreciate the point that the honourable senator has made, and in principle I do not disagree with them. He will have rejoiced, as I will, in the fact that the bank rate came down again today, slightly, to below 10 per cent for the first time in a long time.

Senator Molgat: Honourable senators, I wish to thank Senator Everett very much for answering the question that I had addressed to the Leader of the Government in the Senate. From now on I will know where to address my questions on finance and economics.

SOLICITOR GENERAL

CANCELLATION OF CONFERENCE SPONSORED BY LIFERS GROUP AT JOYCEVILLE PENITENTIARY—GOVERNMENT POLICY

Hon. Earl A. Hastings: Honourable senators, I wish to ask the Leader of the Government in the Senate if he has any information to share with the Senate with respect to the matter that I brought before him two days ago—that is, the government's decision to cancel the Conference of Lifers at the Joyceville institution.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Not today, honourable senators.

Senator Hastings: I regret that the minister does not have a response today. I should like to impress upon him the urgency of a response. As I indicated the other day, the conference had widespread support from the minister himself at one stage and from all the officials of the national headquarters of the Correctional Service of Canada, the Chairman of the National Parole Board the officers and warden of the Joyceville institution and regional headquarters, as well as broad support throughout the correctional community. There is a feeling of frustration and depression that the minister could offhandedly simply cancel this on the basis of a concern.

In light of the support and the requests for a reconsideration of the government's decision to treat the matter as urgent, and at least give those who have given of their time voluntarily to the organization of this conference the benefit of the reasons for his decision, if it is merely a matter of money, that can be solved without a drain on the public treasury. The least the minister could do is advise us of his concerns so that we could address them because of the efforts that have been put into this conference.

[Senator Everett.]

I know the government leader's basic liberal-mindedness and reform-mindedness with respect to these issues, which he has displayed since he was assistant to the Minister of Justice many years ago. I know that he understands volunteering in this work. He must appreciate the feelings that exist out there today. I am simply asking him if he could not use these good offices to urge this minister to reconsider his decision. If the minister will not reconsider his decision, could the government leader urge him to give us the reasons for his decision so that they be addressed in the future?

Senator Murray: Honourable senators, I shall endeavour to obtain an early reply to my friend's question from the Solicitor General of Canada.

THE SENATE

TRIBUTES TO *HANSARD* STAFF

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I wish to mention an event that is not necessarily a happy one for us, namely, the pending departure of two of our loyal *Debates* reporters. The reporters are Ms. Barbara Neuberger, who joined the *Debates* staff in December of 1987; and someone who has been with us for a longer period time than that, Dianne Olsen, who has been here on the latest occasion since September of 1985.

My usually efficient grapevine signals that they have decided, in the case of Ms. Neuberger, on a reallocation of her time priorities. She will be leaving the *Senate Debates* staff soon. Ms. Dianne Olsen is returning to British Columbia.

I have no written or otherwise specific authority to speak on behalf of all senators, but, if I may, I will speak on my own behalf and presume to do so on theirs by expressing our understanding regret that they will be leaving us.

We appreciate the excellence of their service—over a three year period for Ms. Neuberger, and at least six years for Ms. Olsen—while they were here. I hope that their memories of their time here will be as good as is ours of their service.

I suggest that if we ever establish a beyond-the-call-of-duty service ribbon for the GST stint that the *Debates* records will enable us to reach them for suitable bestowal.

Some Hon. Senators: Hear, hear!

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I wish to take this opportunity to endorse the comments of my colleague across the way. Naturally, we on our side share those comments. We will regret losing these two loyal and capable employees of the Senate.

Some Hon. Senators: Hear, hear!

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN CHILD)—SECOND READING—SPEAKERS'S RULING SUSTAINED

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 second reading of the Bill S-7, an Act to amend the Criminal Code (protection of the unborn child), and on the ruling given by the Speaker on 27th February, 1991.

Hon. Stanley Haidasz: Honourable senators, as Senator Frith put it yesterday, I do not wish to engage in the debate on the Speaker's ruling, but, rather, state that I believe there was either some misunderstanding of the rules or some forgetfulness of the chronological events as Bills S-7 and C-43 were introduced in this house, and as the purposes of both bills were stated.

Hon. L. Norbert Thériault: Honourable senators, when that point was raised by the Leader of the Government in the Senate regarding the point made by my colleague, Senator Haidasz, I stated that I did not feel that the points made by the Leader of the Government were in accordance with my interpretation of parliamentary rules. I have not changed my mind. I have no more to say on that.

Senator Haidasz: Honourable senators, I appeal the Speaker's ruling.

The Hon. the Acting Speaker: All those in favour of sustaining the ruling of the Chair on Bill S-7, given on Febraury 27, 1991, please say "yea".

Some Hon. Senators: Yea.

The Hon the Acting Speaker: All those opposed please say "nay".

Some Hon. Senators: Nay.

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

Honourable senators, I declare the ruling sustained.

• (1500)

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody moved the second reading of Bill C-93, an Act to amend the Bretton Woods and Related Agreements Act.

He said: Honourable senators, I should like to begin today's consideration of Bill C-93, proposing amendments to the Bretton Woods and Related Agreements Act, by emphasizing the International Monetary Fund's pivotal role in the world financial system. I will then address the specific elements of Bill C-93.

The International Monetary Fund (IMF) is the central institution of the international monetary system. The IMF has two key roles. First, it carries out what we generally call "surveillance". In other words, the IMF monitors and assesses the economic policies of its member countries, and provides advice on the appropriateness of these policies. In addition to country-specific economic analysis, IMF surveillance entails the analysis of developments in global foreign exchange markets; analysis and policy advice on payments imbalances among the major industrial economies; and a broad assessment of the compatibility and consistency of policies among the major industrial countries. Until the emergence of the debt problems of developing countries in the early 1980s, surveillance was the dominant role for the IMF, and remains a function of critical importance to sustained global growth.

The IMF's second major task is to provide credit to countries facing balance of payments financing problems. This credit is given on the condition that countries undertake policy reforms designed to eliminate the imbalances within their economies, thus creating the conditions necessary for sustainable, non-inflationary growth. While a large number of developing countries have turned to the IMF during the past decade, industrial countries can draw on the Fund's resources as well. In the past, countries such as Italy and the United Kingdom have sought access to IMF credit.

The IMF's continuing ability to operate effectively is crucial to the smooth operation of the world monetary and financial system. The early 1990s are marked by uncertainty about the prospects for sustained global economic growth. The crisis in the Persian Gulf and developments in Central and Eastern Europe are clear indications of how the economic outlook can shift quickly and significantly. The evolution of global payments imbalances necessitates a continuing need for balance of payments financing, possibly on a substantial scale.

In May 1990, the Fund's Interim Committee—the major policy advisory body of the Fund, which is chaired by the Minister of Finance—reached agreement to increase total Fund capital subscriptions or "quotas" by 50 per cent. The quotas which members subscribe are the major source of the funds which the IMF lends to countries in balance of payments difficulties in order to correct their imbalances, without resorting to protectionist or other disruptive measures. Quotas are also used to determine the amounts which members can borrow under the various facilities of the IMF. Finally, honourable senators, quotas determine the voting strength of members and the composition of the executive board.

The proposed increase in IMF quotas is part of a regular cycle for reviewing Fund quotas. The higher level of total IMF quotas is required to ensure a better balance between the resources available to the IMF and the needs of members for balance of payments financing over the next few years.

Developing countries have made extensive use of IMF funding in recent years and will continue to do so. There will be a need for the Fund to continue to play a major role in the international debt strategy by supporting countries which are having problems servicing their external debts in their efforts

to restore creditworthiness. For its part, the Fund has shown innovation and flexibility in its policies in response to the special needs of the major debtor countries. It has ensured that the restoration of sustainable, non-inflationary economic growth is a centrepiece of its adjustment programs, and has shown flexibility in the timing and use of its resources in order to accommodate the special needs of borrowers. The Fund and World Bank have also agreed to use their resources to enhance debt and debt service reduction by commercial banks with heavily indebted developing countries, thus reducing the debt overhang. The proposed increase in IMF quotas will create scope for similar innovation in response to future needs.

However, Fund resources are not restricted simply to the developing countries. An important element of the Fund's activities in the period ahead will be to facilitate market-oriented reform in Central and Eastern European countries. In fact, the emerging democracies of Central and Eastern Europe are already looking to the IMF for advice and financial support. We expect close cooperation among the IMF, World Bank and the new European Bank for Reconstruction and Development in support of the economic transformation of Central and Eastern Europe.

The last increase in Fund quotas was seven years ago. That increase, in conjunction with large-scale borrowing, gave the IMF the necessary resources to respond to the debt problems of many developing countries. During that period, however, arrears to the IMF have accumulated and have started to threaten the Fund's continued ability to assist members in dealing with their balance of payments problems.

In response to its mounting arrears problem, the Fund has undertaken policies to prevent arrears from increasing and to promote the elimination of existing arrears. As a further measure to strengthen the Fund's arrears strategy, it was agreed during the quota negotiations that the quota increase would be conditional upon passage of an amendment to the Articles of Agreement allowing for suspension of the voting rights of members in arrears. This would be an intermediate step between powers which the IMF already has under the Articles—an initial sanction of suspension of borrowing rights—and the ultimate sanction of expulsion.

The Fund must also stand ready to deal with crisis situations, both with regard to individual members as well as more systemic threats to the international monetary system. The Fund has recently demonstrated its flexibility in responding to countries affected by events in the Middle East, and will be a key player in helping these countries adjust to changed economic circumstances.

It is in this context that I present for the Senate's consideration the legislation before us today, Bill C-93 to amend the Bretton Woods and Related Agreements Act. Bill C-93 is a central element in Canada's continuing commitment to the smooth functioning of the international monetary system. It provides for an increase in Canada's quota subscription in the International Monetary Fund from 2,941 million Special Drawing Rights, or SDRs, to 4,320.3 million SDRs. In terms of Canadian dollars, this means an increase in Canada's quota from approximately $4.9 billion to $7.2 billion, an increase of $2.3 billion.

I would point out, however, that although our subscription in terms of Canadian dollars will increase by $2.3 billion, the actual Canadian dollar payment is $5.8 million. This payment is a non-budgetary expenditure. Of the remainder, 25 per cent will be paid in Special Drawing Rights from our international reserves, while the balance of our commitment is held in reserve in the event that the IMF needs to draw upon additional resources. The larger IMF quota adds to the resources available to Canada in the event of balance of payments need.

The increase in Canada's quota will allow Canada to maintain an effective voice on IMF issues. Canada has been a full participant in the activities of the IMF and strongly supports its role as the central institution in the international monetary system. In order for the IMF to continue to play a critical and effective role in the system, member countries must act to ratify the quota increase and suspension amendment. Legislative approval of the quota increase and the suspension amendment will demonstrate the importance Canada attaches to the role of the Fund.

That, honourable senators, is an explanation to the bill as I have received it. I would suggest that should the bill receive second reading, it would be referred to the Foreign Affairs committee that usually handles the IMF and international monetary fund items. I commend the bill to the consideration of the Senate.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move the adjournment of the debate.

On motion of Senator Frith, debate adjourned.

• (1510)

THE SENATE

INTRODUCTION OF TEMPORARY LIMITATION OF LEGISLATIVE POWER TO DELAY PASSAGE OF COMMONS BILLS ARISING FROM THE BUDGET—INQUIRY WITHDRAWN

On Inquiry No. 9:

By the Honourable Senator MacDonald (*Halifax*):

> That he will call the attention of the Senate to the advisability of introducing in the Senate, for a trial period, a self-imposed limitation on the exercise of the Senate's legislative power in respect of the passage of bills arising from the Budget, received from the House of Commons whereby, after a specified period commencing on the day a bill is given first reading in the Senate, if the Senate has not adopted a motion for its third reading, the bill will be considered to have been read a third time and passed.

Hon. Finlay MacDonald: Honourable senators, unless some other senator wishes to speak to this inquiry, I would ask that the inquiry be withdrawn.

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

Hon. Senators: Agreed.

Inquiry withdrawn.

THE BUDGET, 1991

STATEMENT OF MINISTER OF FINANCE—DEBATE ADJOURNED

Hon. H. A. Olson, rose pursuant to notice of February, 1991:

> That he will call the attention of the Senate to the Budget statement made by the Minister of Finance on February 26, 1991.

He said: Honourable senators, I apologize for rising to say a few words on this matter on a Thursday afternoon because we all know how rushed senators are on Thursdays.

Senator Frith: Do not apologize.

Senator Olson: Honourable senators, a number of comments need to be made about the budget statement made by the Minister of Finance on February 26, but, at the outset, I promise I will confine my remarks to one aspect of the budget only, that being the monetary policy or, indeed, the lack of commitment respecting monetary policy in the budget. Even in that regard I will be brief.

The reason the monetary policy in this budget is so important is because the consequence of whatever monetary policy is followed by the Minister of Finance and the Governor of the Bank of Canada from time to time usually—in fact, almost inevitably—ends up being reflected in the interest rates that are charged. Farmers are the people I am primarily concerned about, but my concern also extends to those running businesses across Canada.

There are many reasons for the problems we are encountering with respect to this recession that Canada is suffering at the present time, but there is no doubt in my mind, nor in the minds of most Canadians, that interest rates are the major cause of this recession. In fact, the Minister of Finance and, indeed, the Prime Minister, have admitted that it was a deliberate action on their part, or on the part of the government, to have the high interest rates that we have had for the last two years, save for the last three months. They did it deliberately to cause a cooling off of the Canadian economy for the purpose of curbing inflation.

Senator Simard: It was fighting inflation.

Senator Olson: It would be helpful if Senator Simard would let me make my own speech and not try to finish my sentences.

Senator Simard: Do not put words in the minister's mouth that he never said.

Senator Olson: Honourable senators, what I planned to do was to bring in several quotes from some of the eminent economists of Canada concerning the wrong-headed monetary policy that this government and the Governor of the Bank of Canada have been following for a long time, but I must admit that I get a little weary listening to someone quote from newspapers knowing that anyone in the Senate who is interested in these matters has read them in the last two days or so; so I decided not to do that. I assume that most people who are interested in these things know that most leading economists, whether they work for the major banks or for the various institutions that study matters like this, such as C. D. Howe and the Conference Board of Canada, have repeatedly said that the monetary policy and the consequent interest rates have, in fact, brought Canada into a recession,and that by the next quarter it will be a depression. The definition of a depression, of course, is having four consecutive quarters of negative growth. That is what we are getting into.

It is not my intention, therefore, to establish that we are in a recession and that it will very soon be a depression, according to the definitions. I will not quote those economists or even the Minister of Finance, who admits that he is not so proud of the fact that it was deliberate government policy to introduce a monetary policy that would result in such brutal interest rates and bring the country to its knees.

Honourable senators, this policy increased bankruptcies to their highest level in the history of Canada. Never has there been the number of bankruptcies that we have seen in Canada each month for the last four or five months.

The government no longer brags that this was good monetary and financial management, but that does not take away from the fact that it did brag. It did that all the while people in the private sector, who did not have any axe to grind with government policy, were telling the government that it was wrong and that it would bring housing to a halt; and it has. They said it would cause a great deal of suffering and pain in an already depressed agricultural industry; and it has. Honourable senators, that is the area I am primarily concerned about today, because, if the situation does not change, the agricultural industry will have an even more severe crisis on its hands. It is bad enough now, but it is going to get even worse, because there is no prospect, honourable senators, that international grain prices will improve in the near future. The talks that started in Uruguay several years ago have collapsed. There is now some hope that they may be able to revive the negotiations, but for that to turn into an improvement in international grain prices is a remote hope indeed. There is no target yet available as to how much any such improvement might be.

• (1520)

Many people do not understand how, in a situation where there is probably a lower stock of grain in the world in relation to the total annual consumption than we have had in the last 20 years, grain prices can be so low, but it is true. The total consumption level is approximately 525 million or 530 million tonnes world-wide, and usually we have about 28 to 30 per cent, or sometimes slightly over 30 per cent, of that on hand at any given time. Right at the present time we have 15 per cent, about half of the normal on hand.

Hon. Royce Frith (Deputy Leader of the Opposition): What does that say about the law of supply and demand?

Senator Olson: The law of supply and demand is not working, and the reason is because of the subsidy war that is being fought between Europe and the United States. If you

think that is just some psychological situation, I want to tell you that it also involves some very practical problems, one of which is that buyers do not dare buy ahead. That is true whether they come from Eastern Europe, where they need grain desperately, or from any of the traditional customers along the Mediterranean. We sell grain to all of the countries on the rim of the Mediterranean and to several other European countries, and will as to Asia and so on. They just do not dare buy ahead. As a matter of fact, I know of at least two grain buyers who lost their jobs because they made some purchases of grain, even at these low prices, and sometime later someone heard that the United States or Europe had increased the export subsidy; so it made them look like fools for having paid too much. Of course, grain buyers will not go out and make any purchases of grain if they do not know what the subsidy is going to be the week after next; and that has been the situation. Of course, I am not going to give the names or even identify the countries of the two grain buyers that I am discussing, but I can guarantee that it happened. They made a deal for what were the regular requirements for grain and, about three weeks later, the price went down because either Europe or the United States increased the subsidy, and they were fired because they apparently did not know how to make a good deal.

So here we are in this situation. There is not much hope that we are going to have any significant or dramatic change in the international market, at least in the foreseeable future. The price should have gone up substantially long before now because of the situation with respect to supply and demand, but it has not, and because of that, honourable senators, there has been a great deal of distress in the agriculture community, particularly in the grain sector.

The level of interest rates that has been brought on by the Bank of Canada's increasing the bank rate through almost all of 1989 and 1990 has had disastrous effects on people who have already completely lost their net incomes. After all, the price of grain is substantially below the cost of production, even on the immediate cost input, let alone on the capital costs over the long term. So there was no money to pay increased interest charges, and yet the government continued on and brought these people to their knees. Bankruptcies, as I said, have never been higher. I heard the minister tell us here not so long ago that the number of bankruptcies in the farm sector is going down, but there is a good reason for that. It is because one can only go broke once! Once you go broke and are bankrupt, it cannot happen to you again.

Honourable senators, we know that the Governor of the Bank, Mr. John Crow, and the Minister of Finance, have been following a monetary policy that has brought on these interest rates. We were just talking about that a few minutes ago. The rate has been as much as 600 basis points higher than in the United States. Why? They say it is to fight inflation, that that is what they are doing it for. They have done something about inflation, all right; they have cooled the Canadian economy down to where there is not much inflation left except for what the GST has caused. Of course, I do not want to get on to that argument. As a matter of fact, I do not want to get into a controversial debate at all because I want the minister to help me solve this monetary policy problem, which was completely absent from the budget statement of the Minister of Finance a couple of days ago. I say that because, if one listened carefully to what the Minister of Finance had to say last Tuesday afternoon and evening, one would have noticed that he did not make any commitment that the government was going to change monetary policy so that interest rates could come down. Oh, he expressed the hope that that would happen, but he did not give any commitment that the government, from here on out, was going to reduce interest rates. What he said—and this is why it is so difficult—is that the government is going to set up some targets, and he laid them out: 3 per cent by the end of 1992; 2.5 per cent by the middle of 1994; and 2 per cent by the end of 1995.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Inflation targets.

Senator Olson: Yes, those are inflation targets. Those are the targets that he set out, but he did not say that the government would reach those targets if our international trading partners were not at those levels.

Then yesterday the Governor of the Bank, Mr. Crow, did an unprecedented thing. He held a press conference in the Bank of Canada during which he announced his support for what the Minister of Finance was doing, and he then went on to lay out these targets for inflation. In the press release that I received in my office yesterday he said:

> The range of public policies besides monetary policy can make a significant contribution.

That is toward the reduction of inflation.

> However, since inflation cannot persist over an extended period without monetary accommodation, for price stability to be reached it is essential for monetary policy to work firmly and consistently to that end.

Hon. Jean-Maurice Simard: It's team work!

Senator Olson: That's team work, all right, but do you know who pays for this kind of team work? It is the guy who owes any money to the bank. That is who pays. It does not matter when he borrowed the money or what the rate was when he borrowed it, because 98 per cent of loans are now on a floating rate. Every time the Bank of Canada changes the rate, he pays more, or less, depending on what the change is. However, there is even more difficulty if you examine the statement more closely. The governor said:

> in order to keep to this course—

That is to keep on this inflationary course, this depression course:

> —the Bank will be carefully monitoring the trend rates of expansion of money, credit and total spending to ensure they are consistent with the targets and—

Listen to this carefully!

—will be adjusting its monetary policy actions accordingly.

• (1530)

Senator Murray: Are you surprised?

Senator Olson: No, I am not surprised. What I think the bank is doing—and I will read you more quotes because they lead to the same thing—is setting the stage to wrench inflation down to 2 per cent, and it is are going to be as vicious as necessary with respect to monetary policy until that is achieved.

Honourable senators, the problem is that Canada does not set the inflation rate for our trading partners, and no country has a 2 per cent inflation rate at the moment, not even Japan or Germany. If the Bank of Canada is going to force Canada, by monetary policy, to an inflation rate that is lower than our trading partners, it is going to gouge money out of anyone who has a debt, such as the farmers or the fishermen. I think Senator Petten understands the severe distress that goes along with paying those old debts.

The minister did not say anything about inflation. In careful reading of his speech one will see that he alluded to inflation, but he never made a commitment that this government was going to change monetary policy to keep interest rates down. The next morning the Governor of the Bank of Canada takes an unprecedented step; he calls a press conference and says that the bank is going to provide targets to take the fear of inflation out of people. He said that will probably help them from making unjustified wage demands, and that sort of thing. The Minister of Finance has told me several times that interest rates have come down 4 per cent or 400 points, from 14 per cent down to 10 per cent, give or take a quarter. I am not exactly sure where interest rates peaked out, but I believe it was at approximately 14 and a quarter.

Senator Simard: What was it in 1981?

Senator Olson: I am not talking about 1981; I am talking about the problems people have right now.

Senator Frith: He might be talking about 1881.

Senator Olson: We never know. I can tell honourable senators opposite something that perhaps they do not yet understand. When your polls get down to 12 and 14 per cent, the people no longer believe you. They do not believe that what is happening today is a consequence of what happened in 1981 and 1982. You got away with that for years. It is not valid and no one believes it anymore. As a matter of fact, they do not even believe the Minister of Finance.

I see Senator Doyle sitting there, but I cannot understand what he is saying. It does not matter, because his mike is not on, but mine is. The front page of a paper he is familiar with, *Globe and Mail*, said yesterday that "Wilson's optimism lacks credibility."

Senator Doyle: I have not been there for a long time.

Senator Olson: And it was not any better when you were there.

Senator Doyle: Editorials are not on the front page.

Senator Olson: It is unusual to have the Governor of the Bank of Canada and the Minister of Finance going to all this trouble to set the stage to put the screws to anyone who has debt service charges to make. That is what the speech is all about. As I have said, I do not want to be controversial or adversarial because I would like some help in trying to get them to change their minds.

The interest rates we had throughout 1989 and 1990 were brutal. They were 600 points above the United States, while the price of grain was dropping. I know of farms that have been in families for three or four generations that were knocked out because of this double whammy—what happened on the income side and on the expense side because of debt service charges, which was directly caused by the monetary policy of the Bank of Canada.

Senator Frith: It could not have been caused by a Conservative monetary policy. Are you sure it was not during a Liberal administration? That is what the Conservatives would assume.

Senator Olson: That is what they are trying to say; but if you travel the country these days, people do not believe that garbage any more. Don't the Conservatives have people who can tell them what the public is buying? Farmers grind their teeth when they think that they voted Conservative in 1984 and 1988. As I said, I do not want to get into that, because we need to help each other to help those people.

Senator Frith: You are making them uncomfortable, Bud. Be careful!

Senator Olson: When I left my office today I promised myself that I was not going to get into an argument with Senator Murray because I want him to help me to help those people in difficulty.

One also wonders about who is in charge. I believe there were some editorials in the *Globe and Mail* about that too. I am wondering whether it is Mr. Wilson or Mr. Crow. Who is running whom? I have suspected for a long time that the Minister of Finance was sucked in, if you understand that term, by the monetary philosophy of the Governor of the Bank of Canada. In all of his speeches that I have read—and I have read a lot of them because they interest me—I do not believe he understands what is going on on main street or on the north 40 out on the farm. He probably knows what is going on on Bay Street, but that is no comfort to someone who is losing his lifetime assets because of a monetary policy of the government. That is what is happening.

Honourable senators and Leader of the Government, why did the Bank of Canada, in an unprecedented action, hold a press conference? Is the Governor of the Bank of Canada going to provide public relations for the Minister of Finance, or does the Minister of Finance and the government believe that their credibility has sunk so low that people do not believe what they say anymore? The government probably thinks that because of some mysterious aura the public is going to believe the Governor of the Bank of Canada, so it brought him in on the act. But I do not believe that.

Senator Simard: What about the government?

Senator Olson: They are supporting each other; and, in supporting each other, they are setting the stage to gouge Canadians on interest rates again. The government said that the interest rate is down 400 points from its peak of 14 per cent. How much has the spread changed? That is what is important. I do not know what the bank rate of Canada was at 2 o'clock today because I did not find out—

Senator Murray: It was 9.94.

Senator Olson: I thought it would be slightly less than 10 per cent.

Senator Murray: You are right.

Senator Olson: Do you know what the rate is in the United States today? It is 6.27. I found that out this morning. So we are still 400 points apart.

Senator Murray: No!

• (1540)

Senator Olson: Actually, it is 390 points, but 390 points on 600 points—6.26, which is the United States' level—is a higher percentage than it was when we were at 14 per cent. Relative to the U.S., our rate has not come down at all.

I admit it is much more comfortable to be paying whatever prime is today—I think it is approximately 11 per cent—rather than paying 14.75 per cent, which it was at the peak. As a competitive factor with the United States, it has not improved at all. That is sad because it is hurting.

The Minister of Finance and the Governor of the Bank of Canada is proceeding to set the stage in case we do not get down to 3 per cent, and then 2.5 per cent, and then 2 per cent, which I know they are planning to do. They are going to increase viciously the interest rate through the monetary policy until they do to the farmers, the fishermen and the small businessmen exactly what they did through 1989 and most of 1990.

Senator Frith: You can count on it. That is what they will do.

Senator Olson: That is Tory philosophy. It indicates that we have not learned a damn thing in the last 60 years, because that is exactly what the Tory government did in the 1930s. It kept interest rates up around 8.5 per cent, which was a ridiculous amount in relation to any other cost factors that were in the economy.

I want to plead with the minister today to do whatever he can to persuade the Minister of Finance to get Mr. Crow back into the Bank of Canada, where he belongs, and to get him to follow the instructions of this government, which he is obliged to do. You are trying to transfer the blame to the Governor of the Bank of Canada. It is the responsibility of this government and no one else. Yesterday, Mr. Crow acknowledged that if the Minister of Finance is unhappy with what he is doing, all he needs to do is tell him to do something different, and he has no choice: He either does it or resigns. The minister surely knows that. If the government has any notion in the future to repeat the kind of monetary policy and brutal activities that go with that, the Governor of the Bank of Canada should resign, and the sooner the better. Canadians have a right, with something as important as monetary policy and interest rates, to some form of democratic government that asks the government to deliver the results that they deserve from the administration of their affairs at the national level. Of course, monetary policy is at the national level. It is disturbing indeed that the government seems to be setting the stage to do more of what John Crow, the Governor of the Bank of Canada, did throughout 1989 and 1990.

There is much more that can be said about the budget, but we do not need any more harsh monetary policy to satisfy the whims of one, John Crow. It is the responsibility of this government to set it differently so that we do not have that brutal type of monetary policy. It has the authority and the responsibility to use that authority.

I was interested in a discussion that was held a few minutes ago in Question Period. There is no mystery about what would happen if interest rates went down and we started to remove the difference between the U.S. and Canadian rates. The value of the Canadian dollar would change. It would start to decline. Honourable senators, that is something that we needed two years ago. We know what the consequences would be. For those things that we import there would be an increase in the price which eventually would show up in the CPI. To carry on with an artificial and false relationship, rather than the economic relationship between these two currencies, is hurting some people in this country very severely. They have suffered enough. You do not need to demonstrate any longer that you can have these harsh policies to force down inflation. We know that a government can do that for a while, but do not try to tell the people across this country that the government is not responsible for it, because they know better. They know that the government not only has the authority but the obligation to exercise that authority to see that we do not have brutal interest rates that have hurt people so severely during this past while.

The Governor of the Bank of Canada, in my opinion, does not know how much misery he has caused many people. I do not believe that he intends to change his mind. If the targets that he has set out for the decline in inflation are not met, he is going to use the monetary policy and continue to increase interest rates until those targets are met—3.5 per cent, 2.5 per cent and 2 per cent—by 1995.

Honourable senators, if the rest of the world does not move down at that same rate, there is going to be an unjustified brutal handling of Canadians who have to pay debt service charges for whatever reason. One can no longer get a fixed interest rate. One can get mortgages for a few months or something less than five years. However, farmers do not have that available to them. Perhaps there are one or two banks that will give a fixed interest rate for a short period of time, but certainly not for a period of time that is long enough to pay off the debt so that you do not have to pay the float after that. These days the banks are run on a floating basis. Every

time the Governor of the Bank of Canada changes the interest rate, everyone who has any indebtedness pays the shot.

Perhaps the minister will get up and say that the interest rate is on the way down. I would like him to stand up and say one other thing, which is that the monetary policy from here on is not going to brutalize Canadians like it has done for the past two years. There was nothing in the budget that gave a commitment from the Minister of Finance that that was going to happen. As I said at the beginning of my speech, he expressed the hope that interest rates were going to stay down, but he did not give a commitment that they would keep interest rates under control for people who are caught in a recession with a debt they simply cannot pay.

• (1550)

I would plead with the minister to do what he can to persuade his government not to allow the Governor of the Bank of Canada and the Minister of Finance to brutalize Canadians like this any more.

Senator Murray: Honourable senators, Senator Olson seems not to understand, or if he understands he is unwilling to acknowledge, the connection between inflation and interest rates. The historical record is clear. When Canada had low inflation, as we had in the 1950s and 1960s, we had low interest rates. The international record is also clear. Those countries such as Germany and Japan which traditionally have low inflation rates also have low interest rates.

The honourable senator makes light of the inflation targets that have been set out by the government and by the Bank of Canada.

Senator Olson: I do not make light of it; I think it is a plot.

Senator Murray: The conspiracy theory again. My friend says, in effect, that the targets set by the government and endorsed, it appears, by the Governor of the Bank of Canada to bring inflation to 3 per cent by the end of 1993 and to 2 per cent, I believe it is, by the end of 1994, are unattainable. The fact of the matter is that in Canada, between 1953 and 1973, we had an average annual increase in inflation of 2.6 per cent. We must remember that the inflation rates of the 1970s, when my honourable friend and his friends were in power, are not the norm in this country. Double-digit inflation is an aberration. A 2 to 3 per cent inflation rate is attainable as the historic and international records prove.

The honourable senator suggested that the targets set out in the budget are unrealistic because inflation is imported from other countries. What other country, he asked, among our major trading partners has an inflation rate of 2 per cent. The average between 1983 and 1990 in this country was 4.6 per cent, whereas in the United States it was 3.9 per cent, in Japan it was 1.6 per cent and in Germany it was 1.8 per cent. We do not have to wait until international rates come down. The challenge for this government and this country is to bring our rates down to the levels that our competitors have attained with regard to inflation.

Senator Olson: Talk about interest rates, not inflation.

Senator Murray: My friend refuses to acknowledge the connection. We must bring inflation down. If the budget proves anything it is that we are not prepared to leave it all to monetary policy. That is why this budget has established inflation rates for this country over the medium term. That is why we are convinced that bringing inflation rates down is a precondition to bringing interest rates down, to putting the recession behind us and to restoring economic growth as of the second half of this year. Most of the forecasts in the private sector agree with us, with our scenario, with our forecasts and, honourable senators, with our policies.

In the budget we have set out the inflation targets for the next few years. We are going to legislate ceilings on increases in government programs spending. We have extended the expenditure control plan, as the honourable senator knows. We are going to provide for a special fund so that all the revenues from the GST will go to debt reduction and debt servicing.

Senator Olson: We need $42 billion for that.

Senator Murray: Yes, a deficit that was heading for $35 billion in fiscal year 1991-92 has been held to $30 billion and will be down below $25 billion in 1992-93. This is an economic recovery plan. The conditions are being established for a recovery in economic growth to over 3 per cent in 1992 and over 4 per cent in 1993.

The honourable senator can deny the connection between inflation and interest rates if he wishes, but the facts prove him wrong, the record in Canada proves him wrong and the international record proves him wrong. We must get inflation down if we are to get interest rates down. The budget proves that we are determined, through our fiscal actions, not to leave the whole job of battling inflation to the Bank of Canada and to the monetary authorities.

What is the alternative which the honourable senator suggests? It is very simple. It is to pick up the telephone, call the Governor of the Bank of Canada and tell him to get the interest rates down right away. Honourable senators, we say that the way to bring interest rates down permanently is to reduce inflation and inflationary expectations permanently.

The honourable senator is surely not denying the fact that inflationary pressures and inflationary expectations have been higher in this country over the last few years, and are higher now, than they are among our immediate competitors and trade partners. Any attempt to bring interest rates down in the face of serious inflationary pressures would be self-defeating. We could bring short-term inflation rates down initially, but this would only stimulate demand and aggravate the inflationary pressures. Very soon expectations of higher inflation would become entrenched causing long-term interest rates to rise immediately. As the inflation rate increased, short-term interest rates would go up again and we would end up with interest rates higher than those we started with.

Honourable senators, a wealth of international and Canadian experience proves that lower inflation rather than overly expansionary monetary policy is the key to lower interest rates. As I have said, the international record proves it and the

Canadian record proves it. Therefore, by getting inflation down the government is paving the way for lower interest rates. I suggest to my honourable friend that the policy has already begun to show results—

Senator Frith: Just since Tuesday?

Senator Murray: No, we have followed the main lines of this policy for several years now. We have not left it all to the monetary authorities. Interest rates are coming down paving the way for a resurgence of economic growth in the second half of this year.

I know that other honourable senators will want to take part in this debate at a later date. Perhaps my honourable friends opposite wish to take the adjournment. If not, Senator Doody will do so on behalf of Senator Simard.

Senator Olson: I wonder if I could ask the minister one question. I asked him if he would give a commitment on behalf of the government that it is going to narrow the rates between Canada and the United States which, by the way, as a percentage of the total have expanded even in the last four months. Would he give a commitment that the government will narrow that in order that we can have at least some hope of being in line with our competitors?

Senator Murray: Honourable senators, I do not accept the honourable senator's statement about the spread between Canadian and U.S. interest rates. I do believe they have narrowed recently. Obviously I am not going to make the kind of commitment that my honourable friend suggests on behalf of the monetary authorities. We are convinced, as I believe are the international markets, that Canada is on the right track and on the road to a resurgence of economic growth in the second half of this year and over the medium term.

On motion of Senator Frith, debate adjourned.

The Senate adjourned until Tuesday, March 5, 1991, at 2 p.m.

APPENDIX "A"

(*See p. 5370*)

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRTY-FIFTH REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

THURSDAY, February 28, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-FIFTH REPORT

Your Committee, to which was referred the Bill C-79, An Act to amend the Parliament of Canada Act, has in obedience to the Order of Reference of Wednesday, January 23, 1991, examined the said Bill and now reports the same with the following amendments:

1. *Pages 1 and 2, clause 1*: Strike out lines 6 to 27 on page 1 and lines 1 to 12 on page 2 and substitute the following:

"after section 19 thereof, the following headings and sections:

"*Internal Administration*

Committee

19.1 (1) In this section and sections 19.2 to 19.9, "Committee" means the Standing Senate Committee on Internal Economy, Budgets and Administration established by the Senate under its rules.

Intersessional Authority

(2) During a period of prorogation or dissolution of Parliament and until the members of a successor Committee are appointed by the Senate, the Committee continues to exist for the purposes of this Act and, subject to subsection (3), every member of the Committee, while still a senator, remains a member of the Committee as if there had been no prorogation or dissolution.

Senate control

(3) In exercising its functions and powers under this Act, the Committee is subject to the rules, direction and control of the Senate.

Emergencies

(4) Where the Chairman of the Committee deems that there is an emergency, the Committee's Sub-committee on Agenda and Procedure may exercise any power of the Committee under this Act.

Report of decision

(5) The Chairman of the Committee shall report to the Committee any decision made under subsection (4) at the meeting of the Committee immediately following the decision.

Capacity of Committee

19.2 (1) In exercising the powers and carrying out the functions conferred upon it pursuant to this Act, the Committee has the capacity of a natural person and may

(a) enter into contracts, memoranda of understanding or other arrangements in the name of the Senate or in the name of the Committee; and

(b) do all such things as are necessary or incidental to the exercising of its powers or the carrying out of its functions.

Function of Committee inter alia

19.3 Subject to subsection 19.1(3), the Committee may act on all financial and administrative matters respecting

(a) the Senate, its premises, its services and its staff; and

(b) the members of the Senate.

Main Estimate to be prepared

19.4 Prior to each fiscal year the Committee shall cause to be prepared an estimate of the sums that will be required to be provided by Parliament for the payment of the charges and expenses of the Senate and of the members thereof during the fiscal year.

By-laws

By-laws

19.5 (1) The Committee may make by-laws

(a) governing the use by senators of funds, goods, services and premises made available to them for the carrying out of their parliamentary functions;

(b) prescribing the terms and conditions of the management of, and accounting for, by senators, of funds referred to in paragraph (a); and

(c) respecting all such things as are necessary or incidental to the exercise of its powers and the carrying out of its functions.

Chairman to table by-laws

(2) The Chairman of the Committee shall table before the Senate the by-laws made under this section on any of the first thirty days after the making thereof.

Chairman to make by-laws available

(3) When the Senate is not sitting, the Chairman of the Committee shall cause the by-laws made under this section to be deposited with the Clerk of that House and such by-laws shall thereupon be deemed to have been tabled before the Senate.

Coming into force

(4) Subject to subsection (5), by-laws made under this section come into force on such day as may be fixed by resolution of the Senate.

Earlier effect

(5) By-laws made and tabled under this section during a period of prorogation or dissolution of Parliament have effect without a resolution of the Senate until the end of the thirtieth sitting day of the session of Parliament immediately following the prorogation or dissolution, unless they are earlier rescinded by the Senate." "

2. *Page 2, clause 1*:

(a) Strike out line 13 and substitute the following:

"(6) By-laws made under this section" ;

(b) Strike out line 17 and substitute the following:

"(7) Where a member of the Committee par-" ;

(c) Delete, in line 22, the following words:

"Subject to section 20.7".

3. *Pages 2 to 4*:

(a) Substitute the word "Committee" for the word "Board" wherever it appears in sections 20.3 to 20.6";

(b) Renumber sections 20.3 to 20.6 as sections 19.6 to 19.9 respectively and renumber any cross-references contained in the renumbered sections as required.

4. *Page 3, clause 1*: Delete, in lines 39 and 40, the following words:

", subject to section 20.7,"

5. *Page 4, clause 1*: Strike out lines 14 to 22.

Respectfully submitted,

NATHAN NURGITZ
Chairman

APPENDIX "B"

(*See p. 5371*)

STATUTE LAW AMENDMENT PROPOSALS

THIRTY-SIXTH REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

THURSDAY, February 28, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-SIXTH REPORT

Your Committee, to which was referred the document entitled "Proposals to correct certain anomalies, inconsistencies, archaisms and errors in the Statutes of Canada, to deal with other matters of a non-controversial and uncomplicated nature therein and to repeal certain provisions thereof that have expired or lapsed or otherwise ceased to have effect" ("the Proposals"), has, in obedience to the Order of Reference of June 19, 1990, examined the said Proposals and now reports the same with the amendments and comments listed at the end of this report.

Your Committee, agreed on October 4th, 1990, to engage Ms. Lise Boulanger to prepare a preliminary analysis on the Proposals, which is included as Appendix 1. Ms. Boulanger's report was most helpful to your Committee, and was instrumental in focusing the Committee's attention on clauses which raised a specific concern (see below).

In her conclusion, Ms. Boulanger notes that "it is deplorable that no explanatory notes are provided in the case of the proposals contained in the schedules since the schedules in fact contain as many proposals as the main body of the text." Your Committee whole-heartedly concurs, and this issue is dealt with in more depth under *General Concerns*.

Your Committee also had general concerns about the combination of genuine anomalies and miscellaneous amendments, some of them substantive, in the same Proposals.

BACKGROUND TO PROPOSALS

The 1990 proposals represent the sixth series of proposals for a Miscellaneous Statute Law Amendment Act since the program's inception in 1975 (1977, 1978, 1981, 1984 and 1987). This program is aimed at correcting certain anomalies, inconsistencies, archaisms and errors in the Statutes of Canada and at repealing certain provisions thereof that have expired or lapsed. Appendix 2 describes the various parts and schedules of the Proposals.

The proposals for a *Miscellaneous Statute Law Amendment Act* are published by the Department of Justice and studied by the House of Commons Standing Committee on Justice and the Solicitor General and your Committee prior to a bill being published or introduced. If any member of either Committee objects to a particular proposal, it is withdrawn. The actual bill,

incorporating the changes made by the Committees, is then published with speedy passage through both Houses of Parliament guaranteed.

The proposals were tabled simultaneously in the House of Commons and the Senate on February 15, 1990, but not referred to your Committee until June 19, 1990, after they had been approved by the Standing Committee on Justice and the Solicitor General of the House of Commons. Although this procedure avoids the possibility of conflicting amendments, it is very time-consuming and sometimes results in your Committee studying the proposals under serious time constraints.

The Department of Justice has established certain criteria for determining whether or not a proposal may be presented in this document. A proposal must not:

1) be controversial,
2) result in public expenditure,
3) prejudicially affect individual rights,
4) create a new offence or expose a group of persons to an existing offence.

When the proposals were tabled in the House of Commons on February 15, 1990, it was suggested by a member that the criteria be enlarged so as to include proposals put forward by the Standing Joint Committee for the Scrutiny of Regulations. While the criteria have not actually been changed, Justice officials testified that any proposals made to the Department of Justice by the standing joint Committee directly, or proposals made to the Department from other government departments with an indication that they were being made to deal with concerns of the Standing Joint Committee, have been included in this set of proposals.

Proposals originating with the Standing Joint Committee for the Scrutiny of Regulations, or in response to their concerns, usually involve ensuring consistency between the enabling legislation and existing regulatory practice. Your Committee suggests that such proposals could most efficiently be dealt with as a distinct group, perhaps by a joint committee of the two relevant committees or by some other consultative mechanism developed for the purpose. Whether such proposals should be separately listed in the Department of Justice document, or just informally grouped together at the study stage, is a matter to be considered. Your Committee has long been concerned that Parliamentarians must pass legislation with no knowledge of what the regulations may be. Unfortunately, regulations can be used to authorize practices or policies not contemplated by Parliament when legislation is passed. Therefore your Committee is especially concerned that some of the amendments proposed to validate regulations may retrospectively authorize practices never contemplated when the original act was passed.

As Ms. Boulanger noted: "the majority of the 1990 proposals unequivocally meet the criteria listed earlier." Some provisions, however, concerned either potentially controversial substantive amendments or financial expenditures. These are dealt with under *Specific Concerns* later in this report. Your Committee decided to recommend approval of most of these provisions, after hearing testimony as to their purpose and effect.

GENERAL CONCERNS

Although your Committee recommends the approval of the Proposals, with the exceptions noted below, your Committee has a number of on-going concerns which we feel should be resolved before the next set of Miscellaneous Statute Law Amendment Proposals are presented to Parliament.

1. The Proposals deal with two different types of amendments:

    1) non-substantive anomalies, inconsistencies, archaisms, errors, and the repeal of spent enactments;
    2) miscellaneous amendments and repeals of a non-controversial and uncomplicated nature.

The majority of the proposals presented in 1990 fall into the first category and should require little study. As Ms. Boulanger notes, they are uncontroversial and fall into categories of eliminating sexist terms, modernizing the language, updating references, eliminating inconsistencies between the French and English versions, and correcting minor errors.

Similarly, many of the statutes repealed, in whole or in part, have long since ceased to have effect and are already deemed to be repealed pursuant to subsection 2(2) of the *Interpretation Act* which states: ". . . an enactment that has expired, lapsed or otherwise ceased to have effect is deemed to have been repealed." Adding them to a Schedule of the Proposals, however, gives official notice of the repeal to the public and the legal profession.

Most of the contentious proposals fall within the second category, and are initiated by the department administering the legislation rather than by the Department of Justice itself. This category requires closer parliamentary scrutiny, since it can easily contain amendments which are substantive rather than technical. What appears non-controversial and uncomplicated to the department administering the legislation may appear both controversial and complicated to the members of the public affected by the amendment.

For these reasons, your Committee recommends that in future the Proposals be divided into two Parts: one to deal with true anomalies which should not be substantive; and the other to deal with miscellaneous uncontroversial amendments and repeals, which might be substantive as long as they otherwise meet the Justice criteria.

Justice officials drew our attention to two proposed amendments which they thought might be borderline because of their financial implications. Both (clauses 101 and 136), discussed in detail below, are recommended by your Committee for approval. However, rather than asking Parliament to approve amendments that arguably do not meet the criteria, we feel that Justice should modify their criteria somewhat, possibly to cover modest expenditures where the amendment proposed is uncontroversial and corrects an error or oversight that is prejudicial to

a group of persons or to public policy. Such amendments should be accompanied by a letter from the appropriate Minister confirming that funds have already been appropriated and no new monies will be required.

2. At present, the explanatory notes in the main body of the Proposals are often insufficient to allow parliamentarians to readily understand the implications of the change proposed. In part, this seems to arise from the fact that the administering department puts forth the reasons for the amendment, but Justice staff does the explanatory notes. Justice staff has taken the position that their role is to provide a neutral technical description rather than to comment on the policy position of the department.

Your Committee feels that, where an amendment is more than a simple anomaly, inconsistency, archaism or error, the explanatory notes should state the initiating department or agency for each proposed clause, together with a brief justification by the initiating department or agency, as well as the technical explanation.

3. Your Committee is particularly concerned about the complete lack of explanatory notes in the Schedules. We understand that this is because Schedules were traditionally printed with the English version on the left page and French version on the right page, leaving no room for explanatory notes. The printing of schedules was recently reformatted so the English and French versions are found respectively in the left and right column of the left hand page. However, the absence of explanatory notes was continued.

Your Committee feels that there should be explanatory notes in the Schedules similar to those in Part I of the Proposals or, alternatively, a vastly reduced use of Schedules.

4. Your Committee recommends that the Proposals be studied concurrently by the House of Commons and the Senate. Although this might raise the possibility of conflicting reports, we feel that the opportunity for a more considered study of the Proposals would justify the approach. Any resultant conflicts in recommendations could perhaps be referred to a joint committee for resolution.

5. A joint committee might also be a preferable way of dealing with amendments initiated by the Joint Committee for the Scrutiny of Regulations, especially if these could be grouped together. Possibly, a joint committee of the House of Commons Standing Committee on Justice and the Solicitor General and this Committee could meet with the Joint Committee for the Scrutiny of Regulations, and expeditiously deal with these proposals.

SPECIFIC CONCERNS

Your Committee also had specific concerns with a number of clauses, although most were resolved after testimony from Justice staff or from officials from the relevant departments.

Clause 12, amending section 25 of the *Bankruptcy Act*, would permit the deposit of moneys belonging to a bankrupt's estate in an institution that is not a bank, provided that the deposit is insured by the Canada Deposit Insurance Corporation or under a provincial enactment. Your Committee feels that this is a substantive amendment, and that a discrepancy between the English and French versions creates a potential ambiguity. Your Committee recommends that this clause be deleted.

Clause 44, amending paragraph 6(b) of the *Coastal Fisheries Protection Act*, provides that the terms prescribed by regulation for the issuance, suspension or cancellation of a licence are in addition to terms and conditions specified by the Minister. Your Committee heard testimony that it is impractical to specify all of the terms of an individual licence by regulation. The present practice is that licences include terms and conditions customized to the individual licensee, and that the industry does not object. The *Fisheries Act* specifically provides for such individualized terms and conditions, so this amendment is to provide consistency between the two Acts, and to ensure that Ministerial conditions cannot be challenged as *ultra vires*. Your Committee, after consideration, recommends that clause 44 be accepted.

Clause 48 amends subsection 92(2) of the *Cooperative Credit Associations Act* to confirm that provincially incorporated cooperative credit societies can invest in securities dealers. Federally incorporated cooperative credit societies are given this power by section 12.1 of the Act, enacted by section 4 of chapter 21, *Revised Statutes of Canada* (3rd Supplement), but the consequential amendment to section 92 was overlooked. Clause 48 confirms that the enactment of section 12.1 was not intended to imply a difference in the powers of federally and provincially incorporated cooperative credit societies. Your Committee raised a constitutional issue with respect to this clause and it has been withdrawn.

Clauses 61, 62 and 63 amend the *Criminal Code* to the extent set out in Schedule I, Parts I, II (English version only), and III (French version only). Clauses 18 and 20 of Part II, which substituted the phrase "reasonable grounds" for "reasonable and probable grounds" in two separate provisions of the *Criminal Code*, were withdrawn as a result of the report of the House of Commons Standing Committee on Justice and the Solicitor General. The position of the Department of Justice is that these two tests amount to the same thing; that the English versions of these two provisions were simply overlooked when the phrases "reasonable grounds" and "motifs raisonnables" were consistently substituted for a variety of similar tests throughout all federal statutes, including the *Criminal Code* in the Revised Statutes, 1985; and that the proposed amendments involve only uniformity of language throughout the *Code*.

Your Committee does not agree. Had the two clauses not already been withdrawn, we would have recommended that this Committee object to them on the grounds that they could prejudicially affect individual rights. As is discussed below, your Committee feels that all schedules should include reasonable explanatory notes. In the absence of such notes we find it deplorable that amendments to the *Criminal Code* should be grouped in a schedule. Amendments to criminal legislation, by their very nature, have a particularly high potential of interfering with

individual rights. In the absence of explanatory notes, it was most difficult for members of your Committee to feel reassured that no further clauses in Schedule I infringed such rights.

Because of your Committee's detailed study of previous amendments to the *Immigration Act*, we studied clauses 77 to 82, the proposed amendments to the *Immigration Act*, with particular interest.

Clause 77 is an amendment to the *Immigration Act* intended to offer increased protection to refugee claimants returned to a safe country under the provisions of Bill C-55. In its twenty-fifth report to the 33rd Parliament, dated July 20, 1988, this Committee noted and welcomed the fact that the Minister of Employment and Immigration had made a commitment to introduce such a provision in the *Miscellaneous Statute Law Amendment Act*. Through an inadvertent error in the original translation of the Minister's letter, however, a small inconsistency has arisen between the English and French versions. We therefore recommend that the French version be amended to read "l'autorisation légale de s'y trouver" to more closely parallel "given legal authority to be in that country".

Clauses 78 and 79 also amend the *Immigration Act*. They deal with removal orders in cases where an order is made against a person whose claim to be a Convention refugee is initially rejected, but who cannot, for whatever reason, be removed to another country. If the person is subsequently determined actually to be a valid convention refugee, clauses 78 and 79 ensure that the existing removal order will be automatically quashed.

Clause 80 deals with an overlap between the *Mutual Legal Assistance in Criminal Matters Act* and the *Immigration Act*. Where a conditional removal order is made against a refugee who subsequently leaves the country to voluntarily testify under the provisions of the *Mutual Legal Assistance in Criminal Matters Act*, clause 80 ensures that there is no possibility that his or her departure from Canada can be considered as an execution of the removal order. This ensures that refugees testifying abroad have the same right to re-enter the country as non-refugee immigrants, and that no new removal order is necessary should the refugee claim be rejected.

Your Committee consulted an expert in immigration law, and has been assured that the previous three amendments, while substantive, are non-controversial.

Clause 81 deals with an erroneous cross-reference between Bill C-71 (War Criminals) and Bill C-84. Because both Bills were under consideration by Parliament at the same time, it was not possible to finalize the cross-references and clause 81 corrects an outstanding anomaly.

Clause 82 is necessary as a result of the fact that Bill C-55 and Bill C-84 were before Parliament at the same time. Both Bills substituted a new section 121 to the *Immigration Act* but Bill C-84, as the later Bill, contained the most up-to-date cross-references. When Bill C-84 came into force on August 12, 1988, section 121 was properly cross-referenced. Unfortunately, Bill C-55 came into force on January 1, 1989, repealing the correct version of section 121 and substituting an earlier version. Clause 82 reintroduces the necessary cross-references.

Clause 101 amends the *Municipal Grants Act* to allow grants in lieu of taxes to be paid with respect to certain lands in the Territories. The *Municipal Grants Act, 1980*, excluded certain types of property from the definition of federal property on which grants in lieu of taxes could be paid, including most real property for which an original Crown grant had not been issued. For various reasons, federal property in the Territories is often "reserved" for use rather than granted. Grants in lieu of taxes cannot be made with respect to such lands even when they are within a municipality.

Grants to territorial municipalities continued to be made for a number of years after the *Municipal Grants Act, 1980*, came into force. For the last several years, however, such grants have ceased because of doubts as to their legality. Clause 101 is designed to retroactively remedy this problem, and to ensure that municipalities in the Territories are not prejudiced. Notwithstanding the fact that clause 101 has financial implications, your Committee, after hearing testimony and considering the various factors, recommends approval of this amendment. Although it involves the expenditure of money, the amendment is designed to allow a pre-existing program, for which funds have already been allocated, to continue and does not involve new expenditures. We feel, however, that the Department of Justice should modify its criteria for those anomalous situations in which amendments might involve the expenditure of public founds. The amendment is a desirable one, but Parliamentarians should not have to stretch the criteria to pass a worthwhile amendment. Rather, the criteria should be drafted in such a way that all such appropriate amendments are included.

Clause 115 amends the *Parliamentary Employee and Staff Relations Act* to give adjudicators of grievances certain of the powers of the Public Service Staff Relations Board. We requested comments from the Office of the Law Clerk and Parliamentary Counsel, and were advised the proposed amendment is a necessary one to ensure that long-standing Board practice is entirely consistent with the specific powers granted. We specifically inquired as to whether the new powers would make any difference to the adjudicator's ability to summon a parliamentarian, and were advised that, while the Act as a whole infringes on the powers, privileges and immunities of senators, this amendment will not extend the infringement beyond the existing bounds already sanctioned by Parliament.

Clause 120 amends the *Public Service Staff Relations Act* in the same manner as clause 115 amends the *Parliamentary Employee and Staff Relations Act*.

Clauses 134 and 135 amend the *Statistics Act* to allow Statistics Canada slightly greater flexibility in sharing collected information. Your Committee asked the Office of the Privacy Commissioner to review these sections, and was informed that there were no privacy concerns. The revision of section 12 of the *Statistics Act* better reflects the reality of StatsCan's relationship with some of its clients.

Clause 136 amends the *Statute Revision Act* so as to authorize the free distribution of the loose-leaf updates to the Revised Statutes. At present, a number of people, including members

of Parliament, receive the annual statutes of Canada free. However, there is no similar authority to authorize the distribution of loose-leaf updates to the revision. Although clause 136 involves a small financial expenditure, your Committee recommends approval of the clause.

Clause 137 amends the *Statutory Instruments Act* to exclude membership rules established by bands and by-laws made by councils of bands from the application of the Act. This exclusion was recommended by what is now the Standing Joint Committee for the Scrutiny of Regulations in its Fifth Report, tabled in the House of Commons on March 20, 1987. These exclusions are presently authorized under the *Statutory Instruments Regulations*, and clause 137 would continue the existing exemptions and extend them to all membership rules and band by-laws, regardless of when they were established or made. This would ensure that no such rules and by-laws could be considered invalid for non-compliance with the requirements of the *Statutory Instruments Act*. Your Committee considers this to be a substantive matter, and could not be assured that it was uncontroversial. We recommend that the clause be deleted.

Your Committee was originally concerned at the number of amendments to the *Canadian Environmental Protection Act* in Schedule V (Amendments to the French version of certain Acts of Parliament, sections 11-21). We understand from testimony, however, that this is the first opportunity that arose to correct certain anomalies between the English and French versions resulting from the large number of amendments as it went through Parliament.

Of more serious concern was clause 53, an amendment to the *Young Offenders Act*, dealing with situations in which a young person's record can be disclosed. The English version says such records can be disclosed to a peace officer investigating an offence "that the young person is suspected of having committed". The French version states that it can be released to a peace officer investigating an offence "que l'on soupçonne, pour des motifs raisonnables, avoir été commise par l'adolescent".

Your Committee feels that the difference between "suspected" and "on soupçonne, pour des motifs raisonnables" is substantive, and not merely a linguistic anomaly. Where there is a substantive difference between the English and French versions of a criminal statute in particular, we feel that the version which least interferes with individual rights should become the standard. Therefore, your Committee recommends that clause 53 be deleted. We further recommend that Schedule IV be amended, by adding the words "on reasonable grounds" after the word "suspected" in the English version of the provision.

CONCLUSIONS

Your Committee reports the Proposals with the amendments set out in the letter of September 13, 1990, from the Minister of Justice to the Chairman of your Committee (Appendix 3) and with the following amendments:

Clause 12

Strike out clause 12 and renumber subsequent clauses accordingly.

Clause 137

Strike out clause 137 and renumber subsequent clauses accordingly.

Schedule IV

Add after line 17 on page 83 the following:

Young Offenders Act

24. Subparagraph 44.1(1)(*f*)(i) is repealed and the following substituted therefor:

"(i) for the purpose of investigating any offence that the young person is suspected on reasonable grounds of having committed, or in respect of which the young person has been arrested or charged, whether as a young person or an adult, or"

Schedule V

Strike out section 53.

RECOMMENDATIONS

Your Committee also stresses the importance of an improved process for dealing with future Proposals including, in particular:

the division of the Proposals into two Parts: one to deal with true anomalies, inconsistencies, archaisms, errors and the repeal of spent statutes, all of which should be clearly non-controversial, and the other to deal with miscellaneous amendments and repeals, which might be substantive as long as they otherwise meet Justice criteria;

explanatory notes which state the initiating department or agency for each proposed clause, together with a brief justification by the initiating department or agency for any potentially substantive amendments, in addition to Justice's technical explanation;

explanatory notes in the schedules similar to those in the main document;

a reduced use of schedules, especially for such important statutes as the *Criminal Code*;

the concurrent study of the Proposals by both the House of Commons and the Senate, with any resultant conflicts to be referred to a joint committee;

the separate study of proposals initiated by the Joint Committee for the Scrutiny of Regulations, which could be dealt with by a joint committee of the House of Commons Standing Committee on Justice and the Solicitor General and this Committee or such other consultative mechanism as may develop;

the provision, with any proposed amendment involving minor financial expenditures, of a letter from the Minister of the originating department confirming that the necessary funds have already been appropriated;

a revised set of criteria allowing proposals affecting public expenditure in strictly limited circumstances so that amendments such as clause 101 and clause 136 can be dealt with more easily; and

the addition, in all schedules dealing with linguistic concurrence, of the unamended provision in both languages.

Respectfully submitted,

NATHAN NURGITZ
Chairman

APPENDIX 1

PRELIMINARY ANALYSIS

OF PROPOSALS BY

LISE BOULANGER

CONSIDERATION OF THE 1990 PROPOSALS FOR A MISCELLANEOUS STATUTE LAW AMENDEMENT ACT

LISE BOULANGER, Lawyer
1026 Perry Road
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J9H 5C9

October 26, 1990

TO: **The Standing Senate Committee on Legal and Constitutional Affairs**

FROM: **Lise Boulanger, lawyer**
1026 Perry Road
Aylmer, Quebec
J9H 5C9

CONSIDERATION OF THE 1990 PROPOSALS FOR A MISCELLANEOUS STATUTE LAW AMENDMENT ACT

BACKGROUND

The 1990 proposals represent the sixth series of proposals for a miscellaneous statute law amendment act since the program's inception in 1975 (1977, 1978, 1981, 1984 and 1987). This program is aimed at correcting certain anomalies, inconsistencies, archaisms and errors in the Statutes of Canada and at repealing certain provisions thereof that have expired or lapsed.

The proposals for a Miscellaneous Statute Law Amendment Act are dealt with in a special way in that if a member of your committee objects in some way to a particular proposal, then it is withdrawn.

The Department of Justice has established certain criteria for determining whether or not a proposal may be presented in this document. A proposal must not:

1) be controversial;
2) result in public expenditures;
3) prejudicially affect on individual rights; or
4) create a new offence or expose a group of persons to an existing offence.

However, for the first time, these criteria have been expanded in 1990 to include proposals submitted by the Joint Committee for the Scrutiny of Regulations. Mr. Craig Lovgren, Legal Counsel with the Department of Justice, testified before the House

of Commons Standing Committee on Justice and the Solicitor General that two of these proposals contained in clauses 101 and 136 were on the borderline of acceptability given the above-stated criteria, but were nonetheless retained. These proposals will be dealt with further on in this study.

1. ANOMALIES, INCONSISTENCIES, ARCHAISMS AND ERRORS

The majority of the proposals presented in 1990 fall into this category and consist, as the case may be, of eliminating sexist terms, modernizing the language, updating references, eliminating inconsistencies between the French and English versions, correcting minor errors or repealing certain statutes, either in whole or in part.

1. Eliminating sexist terms

It is the internal policy of the Justice Department not to use sexist language when drafting statutes. Since this policy is fairly recent, there are still adjustments to be made. For example, in English, we no longer use the pronoun "he"; instead we repeat the antecedent. For example, the proposals contained in clauses 2, 4, 13, 14, 21, 22 and 23 of Schedule IV (Amendments to the English version of certain statutes) are aimed at eliminating a sexist term and replacing it by a neutral one.

It should also be noted that clause 94 amends subsection 33(1) of the Interpretation Act to allow both masculine and feminine pronouns to be used in the drafting of legislation.

2. Modernizing the language

A number of clauses are aimed at modernizing archaic provisions which date back to the time when Parliament sat only a few months a year. This is true of clauses 6 (Department of Agriculture Act), 71 (Federal Court Act), 109 (Department of National Revenue Act), 125 (Public Works Act), 133 (Secretary of State Act), and 145 (Veterans Affairs Act). The proposal contained in clause 71 was suggested by the Standing Joint Committee for the Scrutiny of Regulations. When the Federal Court Act was passed in 1970, a 1989 provision was retained whereby the rules of the Federal Court can only be laid before Parliament at the opening of a session.

3. Updating references

It is fairly common for a statute to contain references to other statutes. These references can become outdated if the other statute is amended. For example, clause 3 of the proposals amends section 8.6 of the Aeronautics Act since the references contained in this statute became outdated following the adoption of the 1985 Criminal Law Amendment Act. Clauses 11, 22, 23, 82, 87, 88, 90, 110 and 129 as well as clauses 7, 9 11 and 14 of Schedule I (Amendments to the Criminal Code) correct certain references.

4. Eliminating inconsistencies between the two versions

Schedules IV and V are specifically aimed at amending either the English or the French versions of certain statutes. These amendments are sometimes being made in order to ensure consistency between the two versions. For example, clause 1 of Schedule IV amends paragraph 68b) of the Access to Information Act by substituting the English expression "made or acquired and preserved" by "preserved" to make it consistent with the French version which contains the one word "conserver". Clauses 26, 28, 32, 35, 36 and 40 of Schedule V are other examples of proposals aimed at ensuring consistency between the French and English versions of certain statutes.

5. Correcting errors

Following are several examples of errors which these proposals aim to correct:

- Since the Office of the Superintendent of Financial Institutions is not by name a department or ministry of state, the reference to it should have been added under the heading "Other Government Institutions" (clauses 2 and 118);

- The heading "Reports" is substituted for the heading "Annual Reports" to reflect the fact that this section of the Act deals with more than annual reports (clause 9);

- This amendment would correct the reference to "Plan 64317", which should be a reference to "Plan 63417" (clause 106);

- Error in adapting the 1985 Criminal Law Amendment Act to the Revised Statutes (1985) (clause 11, Schedule 1).

6. Repealing legislative provisions

Approximately 42 statutes are totally repealed by the 1990 proposals, while an additional 17 are repealed in part. Item 28 of Schedule VII was substituted by "subsections 72(1.1) and (79.1(2)" during consideration of the proposals by the Standing Committee on Justice and the Solicitor General. The Minutes of Proceedings and Evidence reveal no motive for this amendment.

No explanation is given in the proposals for these partial or total repeals. One has to refer to the background notes prepared by the Justice Department for further details. Many of these statutes, or portions thereof, have long since ceased to have effect and have been repealed pursuant to subsection 2(2) of the Interpretation Act which reads as follows:

> "(2) For the purposes of this Act, an enactment that has expired, lapsed or otherwise ceased to have effect is deemed to have been repealed."

There is therefore some question as to the very need to repeal these statutes and provisions by way of a miscellaneous statute law amendment act. Perhaps a more expedient way could be found to deal with these particular cases.

Items 8 and 27 warrant some consideration and will be focussed on further in part two of this study.

2. OTHER QUESTIONS

While the majority of the 1990 proposals unequivocally meet the criteria listed earlier, this is not quite the case for some of them. It is solely a judgement call as to whether certain proposals are controversial or not. Consequently, the Committee may wish to know more about the reasons behind some of the proposals for which little or no explanation is given.

It should also be mentioned that the 1990 proposals were not reprinted after they were considered by the House of Commons Committee. This Committee did recommend some changes, as can be seen from the enclosed excerpt of its Minutes of Proceedings and Evidence. The following clauses were either amended or withdrawn: clauses 57, 58, 59, 76 and 137; clauses 18 and 20 of Schedule I and item 28 of Schedule VII.

1. Clauses 12 to 21 amend the Bankruptcy Act and while some of the amendments are minor (clauses 15 and 18 to 21), others add or take away certain rights or obligations. Subsection 25(1) of the Act is amended to permit the deposit of moneys belonging to a bankrupt's estate in a financial institution that is not a bank. Subsection 28(1) of the said Act is amended to delete the requirement that copies of certain documents be sent to Statistics Canada. Finally, paragraph b) is amended so as to enable a trustee to maintain a single trust account for all estates summarily administered by the trustee.

2. Clauses 27 to 34 amend the Canada Ports Corporation Act. Since these amendments apply only to federal government property, it was ruled that they did not affect the rights of private citizens.

3. Clause 39 repeals paragraph 114a) of the Canadian Environmental Protection Act and replaces it by another. Since this provision appears to create a new offence it might not meet one of the criteria listed earlier. The Justice Department is of the opinion that this amendment merely serves to clarify the provision.

4. Clauses 49 to 54 amend the Copyright Act, doing away with the need for a Copyright Office seal and the requirement that certificates and copies issued by this Office be sealed. This amendment would ensure that there is only one register (instead of several "registers") and would eliminate the need for both original and certified copy to be produced in the case of any grant of an interest in a copyright. No explanation is given as to the reasons for or the consequences of such amendments.

5. Clauses 55 to 60 amend the Canada Business Corporations Act. At the request of the Standing Joint Committee for the Scrutiny of Regulations, clause 56 was amended to include the directors of the corporation among the persons to whom a proxy circular must be sent. There was agreement on clauses 57, 58 and 59 during the study by the Standing Committee on Justice and Solicitor General (see enclosed text).

6. Clauses 77 to 82 amend the Immigration Act. The amendment to paragraph 46.01(1)b)ii) follows a commitment made by the Minister of Employment and Immigration to your committee (clause 77). Clauses 78, 79 and 80 could be viewed as controversial since they amend the rights of refugees who have been granted landing. Moreover, clause 80 deals with the relationship between conditional removal orders under the Immigration Act and transfer orders made under the Mutual Legal Assistance in Criminal Matters Act.

7. As noted earlier, the proposal contained in clause 101 was deemed by the Justice Department to comply fully with the criteria. This clause amends the Municipal Grants Act to enable grants in lieu of real property taxes to be paid in respect of any real property for which an original Crown grant has not been issued in the Northwest Territories and the Yukon. These grants were paid up until 1980.

8. Clause 104 which amends the National Parks Act would require management plans of national parks to be laid before each House of Parliament rather than just the House of Commons. This amendment is in response to a commitment made by the Minister of the Environment to the Senate Committee on Energy and Natural Resources.

9. Clause 120 amends the Public Service Staff Relations Act to extend the benefit of the grievance provisions of the Act to employees of the Canadian Security Intelligence Service who are not within the occupational category described as administrative support. One has to wonder what effect this amendment will have and whether it is appropriate to include it in the Miscellaneous Statute Law Amendment Act.

10. The proposal contained in clause 136 would amend the Statute Revision Act to provide authority for the distribution without charge of update pages for the loose-leaf edition of the Revised Statutes of Canada. The Justice Department considers this to be a borderline proposal in that it involves public expenditures. However, failure to include this provision in the Act was merely an oversight since it had already been decided that some persons would be entitled to receive the Revised Statutes of Canada.

11. Clause 137 would exclude the membership rules established by Indian bands as well as the by-laws made by the council of a band from the application of the Statutory Instruments Act. This proposal was recommended by the Standing Joint Committee for the Scrutiny of Regulations.

12. Clauses 138 to 140 amend the Trade-marks Act. These proposals would eliminate the requirement of filing certified copies of applications for the registration of a trade-mark in countries of the Union other than Canada. The Justice Department does not provide any explanation to justify these proposals which will in fact considerably affect the procedure that has to be followed when seeking to register a trade-mark. The current one-month period for filing a statement of opposition would be lengthened to two months and changes would also be made to the registration renewal process.

13. Schedule I contains 41 proposals to amend the Criminal Code. Proposals 18 and 20 were withdrawn following the review by the House committee. While these proposals appear to meet the criteria for inclusion in a Miscellaneous Statute Law Amendment Act, the mere fact that there are so many proposals is surprising. Perhaps it would be advisable to request some explanations.

14. Clause 9 of Schedule IV amends the English version of the Customs Act. This amendment is identical to the one proposed by your committee when it examined Bill C-34. It seeks to bring subsection 111(1) in line with section 8 of the Canadian Charter of Rights and Freedoms.

15. Clauses 11 through 21 of Schedule V amend the French version of the Canadian Environmental Protection Act. No explanation is given for the proposed amendments. In some cases, entire paragraphs are added. Undoubtedly, it would be wise to obtain additional information as to the reason and substance of these amendments.

16. Item 8 of Schedule VII repeals paragraph 173(1)f) of the Canada Business Corporations Act. This paragraph allows a corporation to reduce or increase its stated capital which is deemed to be set out in the articles. One has to wonder about the implications of repealing this provision.

17. Item 27 of Schedule VII repeals sections 11 to 14 of the Interest Act. Pursuant to these provisions, debts incurred in Manitoba, British Columbia, Saskatchewan, Alberta and the two territories bear interest at the rate of five per cent per annum. These provisions would be anti-constitutional. Item 27 would repeal these sections in each province and territory which have enacted laws respecting interest payable under a judgement.

CONCLUSION

It is deplorable that no explanatory notes are provided in the case of the proposals contained in the schedules since the schedules in fact contain as many proposals as the main body of the text.

While the majority of the proposals appear to meet the criteria set out by the Justice Department, the Committee may wish to obtain more information, in particular as regards the proposals mentioned in part two of my study.

(sgd)
Lise Boulanger

October 26, 1990

APPENDIX 2

PARTS AND

SCHEDULES

OF PROPOSALS

APPENDIX 2

The Proposals are structured as follows:

Part I consists of clauses 2-148 dealing with various Acts and with the first six Schedules to the Proposals;

Part II (clauses 149-160) deal with statute law repeals, including Schedules VII and VIII;

Schedule I deals with amendments to the Criminal Code, referred to in clauses 61-63 of the Proposals;

Schedule II sets out a new Schedule to the Financial Administration Act, referred to in clause 75 of the Proposals;

Schedule III sets out a new description of the Northern Yukon National Park, referred to in clause 108 of the Proposals.

Schedule IV contains amendments to the English version of various statutes, referred to in clause 146 of the Proposals;

Schedule V contains amendments to the French version of various statutes, referred to in clause 147 of the Proposals;

Schedule VI replaces the words "des Consommateurs et des Sociétés" with the words "de la Consommation et des Affaires commerciales" in various statutes, referred to in clause 148 of the Proposals;

Schedule VII deals with the repeal of various statutes in whole or in part, referred to in clause 149 of the Proposals; and

Schedule VIII deals with amendments consequential on the repeal of one particular banking statute in Schedule VII, referred to in clause 150.

APPENDIX 3

LETTER FROM THE

MINISTER OF JUSTICE

TO THE

CHAIRMAN OF THE COMMITTEE

Minister of Justice
and Attorney General of Canada

Ministre de la Justice
et Procureure générale du Canada

SEP 13 1990

Honourable Nathan Nurgitz
Chairman, Standing Committee
of the Senate on Legal
and Constitutional Affairs
The Senate
Ottawa, K1A 0A4

Dear Senator Nurgitz:

As you know, the **1990 Proposals for a Miscellaneous Statute Law Amendment Act** were tabled in the Senate on February 15, 1990 and were referred to the Standing Committee of the Senate on Legal and Constitutional Affairs on June 19, 1990.

I am pleased to enclose the briefing notes on the Proposals prepared by officials of the Department of Justice. I trust that the Committee will find these notes of assistance as it proceeds to its examination of the Proposals.

I am also writing to you today to ask that several of the Proposals be amended or withdrawn. A list of the changes, together with explanations, is appended and I am requesting that your Committee consider the Proposals subject to these changes.

The changes fall into three categories. The first, listed in Appendix One, consists of changes that are necessary as a result of the passage of other Acts since the Proposals were tabled.

The second, listed in Appendix Two, would delete the proposals that were not unanimously accepted by the Standing Committee of the House of Commons on Justice and the Solicitor General when it considered the Proposals. As you know, the Miscellaneous Statute Law Amendment Program has always proceeded on the basis that proposals that are not unanimously accepted by both the House and Senate Committees are not included in the bill.

The Miscellaneous Statute Law Amendment Program is a way of making non-controversial changes to federal statutes. Since the Proposals were tabled, a number of departments have indicated that they would like certain of the Proposals affecting them to be amended or withdrawn and their wishes are reflected in the final category of changes, listed in Appendix Three.

Ottawa Canada K1A 0H8

Departmental officials will be available to answer any questions you or the other members of the Committee might have about these changes when the Committee considers the Proposals.

Yours sincerely,

Original signed
Original signé pa
A. Kim Campbell

A. Kim Campbell, P.C., M.P.

Encls.

APPENDIX ONE

CHANGES TO THE 1990 PROPOSALS FOR A MISCELLANEOUS STATUTE LAW AMENDMENT ACT AS A RESULT OF THE PASSAGE OF OTHER ACTS SINCE THE PROPOSALS WERE TABLED

Clause 64

Strike out lines 40 to 42 on page 21 and lines 1 to 15 on page 22, and substitute the following therefor:

1990, c. 16, s. 8; 1990, c. 17, s. 16(1)

"court"
«tribunal»

""court" means

(a) in the Province of Ontario, the Ontario Court (General Division),
(b) in the Province of Quebec, the Superior Court,
(c) in the Province of Nova Scotia, the county court of the county court district in which the customs office is situated or in which the importer or owner resides or carries on business,
(d) in the Provinces of New Brunswick, Manitoba, Saskatchewan and Alberta, the Court of Queen's Bench,
(e) in the Province of British Columbia, the Yukon Territory and the Northwest Territories, the Supreme Court, and
(f) in the Provinces of Prince Edward Island and Newfoundland, the Trial Division of the Supreme Court.""

This amendment would ensure that the amendments already made to the definition by the **British Columbia Courts Amendment Act** and the **Ontario Courts Amendment Act, 1989** are reflected in the final text of the **Miscellaneous Statute Law Amendment Act, 1990.**

Clause 65

Strike out lines 19 to 37, on page 22, and substitute the following therefor:

Definition of "court"

""(5) In this section and sections 139 and 140, "court" means
(a) in the Province of Ontario, the Ontario Court (General Division),
(b) in the Province of Quebec, the Superior Court,
(c) in the Province of Nova Scotia, the

county court of the county court district in which was seized the thing in respect of which an application for an order under section 139 is made, (d) in the Provinces of New Brunswick, Manitoba, Saskatchewan and Alberta, the Court of Queen's Bench, (e) in the Province of British Columbia, the Yukon Territory and the Northwest Territories, the Supreme Court, and (f) in the Provinces of Prince Edward Island and Newfoundland, the Trial Division of the Supreme Court.""

This amendment would ensure that the amendments already made to similar provisions in other federal statutes by the **British Columbia Courts** Amendment Act and the Ontario **Courts Amendment Act, 1989** are reflected in the final text of the **Miscellaneous Statute Law Amendment Act, 1990.**

Clause 75

Strike out lines 25 to 48 on page 26 and lines 1 to 8 on page 27, and substitute the following therefor:

"(2) Schedule I.1 to the said Act is amended by deleting therefrom the reference to

"Canadian Space Agency
Agence spatiale du Canada"

and the corresponding reference to the Minister of Industry, Science and Technology.

(3) Schedule I.1 to the said Act is further amended by adding thereto, in alphabetical order, a reference to

"Canadian Space Agency
Agence spatiale canadienne"

and a corresponding reference to the Minister of Industry, Science and Technology.

Coming into force of subsections (2) and (3)

(4) Subsections (2) and (3) come into force on the later of the day on which this Act is assented to and the day on which the **Canadian Space Agency Act** comes into force."

This amendment deletes subclauses 75(2) to (6). These subclauses would have

amended the proposed Schedule I.1 to the **Financial Administration Act** on the coming into force of the **Department of Forestry Act** and the **Department of Industry, Science and Technology Act**. As both of these Acts have now come into force, the effect of these subclauses should be incorporated in Schedule II.

The amendment also adds new subclauses (2) to (4) to deal with the fact that the French version of the name of the Canadian Space Agency in the order designating it a department for the purposes of the **Financial Administration Act** is not the same as the French version of its name in the **Canadian Space Agency Act**, which will provide a statutory foundation for the Agency once it comes into force.

Clause 102

Strike out lines 26 to 33, on page 35, and substitute the following therefor:

R.S., c. 27 (2nd Supp.), s. 10 (sch., item 17); 1990, c. 16, s. 18; 1990, c. 17, s. 36

"102. The definition "judge" in section 18 of the **Narcotic Control Act** is repealed and the following substituted therefor:

"judge"
«juge»

""judge" means
(a) in the Province of Ontario, a judge of the Ontario Court (General Division),
(b) in the Province of Quebec, a judge of the Superior Court for the district in which the conveyance, in respect of which an application for an order under section 17 is made, was seized,
(c) in the Province of Nova Scotia, a judge of the county court for the county court district in which any such conveyance was seized,
(d) in the Provinces of New Brunswick, Manitoba, Saskatchewan and Alberta, a judge of the Court of Queen's Bench,
(e) in the Province of British Columbia, the Yukon Territory and the Northwest Territories, a judge of the Supreme Court, and

(f) in the Provinces of Prince Edward Island and Newfoundland, a judge of the Trial Division of the Supreme Court.""

This amendment would ensure that the amendments already

made to the definition by the **British Columbia Courts Amendment Act** and the **Ontario Courts Amendment Act, 1989** are reflected in the final text of the **Miscellaneous Statute Law Amendment Act, 1990.**

Clause 147

Strike out lines 32 to 38 on page 50 and substitute the following therefor:

Coming into force of subsection 50(2)

"(2) Subsection (1) comes into force with"

This amendment deletes subclause 147(2). This subclause would have postponed the coming into force of subsection 41(2) of Schedule V until the day on which the **Museums Act** came into force. As this Act has now come into force, there is no longer any need for subclause 147(2).

Schedule I

Strike out lines 6 to 13, on page 58, and substitute the following therefor:

1990, c. 16, s. 3

"3. Paragraph (c.1) of the definition "court" in subsection 164(8) is repealed and the following substituted therefor:

"(c.1) in the Province of British Columbia, the Yukon Territory and the Northwest Territories, the Supreme Court, and""

This amendment would ensure that the amendment already made to the paragraph by the **British Columbia Courts Amendment Act** is reflected in the final text of the **Miscellaneous Statute Law Amendment Act, 1990.**

Strike out lines 18 to 20, on page 58, and substitute the following therefor:

"(a) in the Province of Ontario, the Chief Justice of the Ontario Court;"

This amendment would ensure that the amendment already made to the paragraph by section 10 of the **Ontario Courts Amendment Act, 1989** is reflected in the final text of the **Miscellaneous Statute Law Amendment Act, 1990.**

Strike out lines 5 to 12, on page 59, and substitute the following therefor:

1990, c. 16, s. 4

"6. Paragraph (c.1) of the definition "court" in subsection 320(8) is repealed and the following substituted therefor:

"(c.1) in the Province of British Columbia, the Yukon

Territory and the Northwest Territories, the Supreme Court, and""

This amendment would ensure that the amendment already made to the paragraph by the **British Columbia Courts Amendment Act** is reflected in the final text of the **Miscellaneous Statute Law Amendment Act, 1990.**

Schedule II

Strike out the reference on page 69 to

"Canadian Forestry Service
Service canadien des Forêts"

and the corresponding reference to the Minister of Agriculture

Strike out the reference on page 70 to

"Ministry of State for Science and Technology
Département d'État chargé des Sciences et de la Technologie"

and the corresponding reference to the Minister of State for Science and Technology

Strike out the references on pages 69, 70 and 72 to

"Minister of Regional Industrial Expansion"

and substitute references to

"Minister of Industry, Science and Technology"

These amendments would integrate subclauses 75(2) to (4) of the Proposals into Schedule II. Subclauses 75(5) and (6) provided for subclauses 75(2) to (4) to come into force on the coming into force of the **Department of Forestry Act** and the **Department of Industry, Science and Technology Act.** As both those Acts are now in force, the changes, which are consequential on those Acts, can now be integrated into Schedule II in a more straightforward fashion.

Add in alphabetical order on page 70 a reference to

"Goods and Services Tax Consumer Information Office
Bureau d'information des consommateurs sur la taxe sur les produits et services"

and a corresponding reference to the Minister of Consumer and Corporate Affairs

The purpose of Schedule II is to consolidate without amendment all orders in council in force designating divisions or branches of the public service of Canada as departments for the purposes of the **Financial Administration Act.** Since the proposals were tabled, the Office referred to has been so designated : see SI/90-74, 1990 **Canada Gazette** Part II p. 2679.

Schedule V

Strike out lines 39 and 40 on page 93 and lines 1 to 13 on

page 94, and substitute the following therefor:

1990, c. 3, s. 32
(sch., s. 5(2))

"41. Subsection 9(3) is repealed and the"

This amendment deletes subsection 41(1) of Schedule V. Subsection 41(1) would have amended subsection 9(3) of the **National Archives of Canada Act**, as it read before the coming into force of the **Museums Act**. As the **Museums Act** has now come into force, there is no longer any need for subsection 41(1).

APPENDIX TWO

CHANGES TO THE 1990 PROPOSALS FOR A MISCELLANEOUS STATUTE LAW AMENDMENT ACT AS A RESULT OF THE REJECTION OF TWO PROPOSALS BY THE STANDING COMMITTEE OF THE HOUSE OF COMMONS ON JUSTICE AND THE SOLICITOR GENERAL

Schedule I

Strike out lines 26 to 39 on page 62, lines 1 to 7 on page 63 and lines 20 to 28 on page 63 and renumber the subsequent sections of Schedule I accordingly

APPENDIX THREE

CHANGES TO THE 1990 PROPOSALS FOR A MISCELLANEOUS STATUTE LAW AMENDMENT ACT AS A RESULT OF THE WITHDRAWAL OF PROPOSALS

Clause 57

Strike out lines 3 to 11, on page 20, and substitute the following therefor:

"57. Subsection 160(3) of the said Act is"

Strike out lines 20 to 22, on page 20

Subsection 160(1) of the **Canada Business Corporations Act** requires certain corporations to send their financial statements to the Director appointed under that Act. This requirement has applied ever since the Act was enacted where the gross revenues of the corporation exceed $10,000,000 or the assets of the corporation exceed $5,000,000. Clause 57 would amend subsection 160(1) to permit these amounts to be fixed by regulation. The Department of Consumer and Corporate Affairs has requested that this proposal be withdrawn.

This does not affect the proposal to amend subsection 160(3), which deals with concerns of the Standing Joint Committee for the Scrutiny of Regulations.

Clause 58

Strike out and renumber subsequent clauses accordingly

Clause 58 would amend subsection 161(5) of the

Canada Business Corporations Act in relation to disqualifications from acting as auditor. The Department of Consumer and Corporate Affairs has requested that this proposal be withdrawn.

Clause 59

Strike out lines 41 to 44, on page 20, and substitute the following therefor:

"holding body corporate, the Director may make an"

Clause 59 would amend subsection 163(4) of the **Canada Business Corporations Act**, which relates to exemptions from the requirement of appointing an auditor. Part of the amendment would provide that subsidiaries of Canadian corporations only can be exempted. The Department of Consumer and Corporate Affairs has requested that this part of the amendment be withdrawn. This does not affect the other part of the amendment, which deals with concerns of the Standing Joint Committee for the Scrutiny of Regulations.

Clause 76

Strike out and renumber subsequent clauses accordingly

Clause 76 would alter the period for which the Canadian Human Rights Commission reports from the calendar year to the fiscal year. This change was originally requested by the Commission, but it has now indicated that it wishes to continue to report on a calendar-year basis. This proposal should therefore be withdrawn.

New Clause 137

Add immediately before line 1, on page 47, the following new clause:

"**137.** Paragraph 11(2)(**a**) of the **Statutory Instruments Act** is repealed and the following substituted therefor:

"(**a**) the regulation was exempted from the application of subsection (1) pursuant to section 19.1 or paragraph 20(**c**), or the regulation expressly provides that it shall apply according to its terms before it is published in the **Canada Gazette**; and

""

Renumber the subsequent clauses accordingly

Clause 137

Strike out lines 1 to 15, on page 47 and substitute the following therefor:

"137. (1) The said Act is further amended by adding thereto, immediately after section 19 thereof, the following heading and section:

"EXEMPTION OF MEMBERSHIP RULES AND INDIAN BAND BY-LAWS

Exemption from examination, registration, publication and scrutiny

19.1 The following classes of regulations are exempt from the application of sections 3 and 5, subsection 11(1) and section 19:

(a) membership rules established before or after the coming into force of this section by a band under section 10 of the **Indian Act**; and

(b) by-laws made before or after the coming into force of this section by the council of a band under section 81, 83 or 85.1 of the **Indian Act**.""

Strike out line 22, on page 47, and substitute the following therefor:

"Act by reason of the application of section 3 or 5, subsection 11(1) or section 19 of the"

Clause 137 would amend the **Statutory Instruments Act** by excluding membership rules established by Indian bands and by-laws made by councils of bands from the application of the Act. François Bernier, the General Counsel for the Standing Joint Committee for the Scrutiny of Regulations, has pointed out that the amendment as drafted might, by exempting these instruments from the application of subsection 11(2) of the Act, prevent defendants from relying on their lack of notice of an unpublished by-law as a defence to a charge of contravening the by-law.

Mr. Bernier has accepted an alternative proposal, which would exempt membership rules and by-laws from the application of the provisions of the Act respecting examination, registration, publication and parliamentary scrutiny. Since membership rules and by-laws would, under this proposal, remain "statutory instruments", the proposal takes the form of adding an exemption section to the Act (proposed section 19.1) instead of amending the definition "statutory instrument" in subsection 2(1).

The effect of the alternative proposal is identical to that of the original proposal, except that it would now be clear that a defendant charged with contravening a band by-law could rely as a defence on a failure to take reasonable steps to bring the purport of the by-law to the notice of those likely to be affected by it.

The defence is now set out in paragraph 11(2)(b) of the Act and applies in respect of band by-laws because they have been "exempted from the application of subsection 11(1) pursuant to [regulations made under] paragraph 20(c)."

As band by-laws would, under this proposal, be exempted from the application of subsection 11(1) by a provision of the Act (rather than the regulations), a consequential amendment needs to be made to paragraph 11(2)(a) of the Act. This is the reason for the proposed new clause 137.

Schedule VII

Strike out the fourth column, headed "Extent of Repeal" for item 28, on page 102, and substitute the following therefor:

"subsections 72(1.1) and 79.1(2)"

Item 28 of Schedule VII would repeal certain provisions of the **Fisheries Act**. The Department of Fisheries and Oceans has requested that these repeals not be proceeded with, in view of the introduction of Bill C-74. Item 28 should therefore be deleted except to the extent it would repeal subsections 72(1.1) and 79.1(2). The repeal of these two subsections is consequential on the amendment proposed to the definition "sentence" in section 785 of the **Criminal Code** by item 16 of Schedule I to the Proposals.

THE SENATE

Tuesday, March 5, 1991

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

Prayers.

[*Translation*]

OFFICIAL LANGUAGES

THE ESTIMATES, 1991-92—PRIVY COUNCIL VOTE 20—REFERRAL TO JOINT COMMITTEE—MESSAGE FROM COMMONS

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

HOUSE OF COMMONS
CANADA

Thursday, February 28, 1991

ORDERED—That Privy Council Vote 20, for the fiscal year ending March 31, 1992 be referred to the Standing Joint Committee on Official Languages; and

That a Message be sent to the Senate to acquaint Their Honours thereof.

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

[*English*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Eymard Corbin: Honourable senators, I have a petition which is addressed to the Honourable The Senate of Canada and it states:

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable House will therefor provide a remedy.

HUMBLY SHOWETH

WHEREAS the Government of Canada has seen fit, since Confederation and without hiatus, to apply a zero rate of tax to magazines, books and newspapers and, now proposes to include them in GST

WHEREAS uninhibited dissemination of the printed word as a cornerstone of democracy, culture, education and a literate and productive society will be negatively affected by GST application WHEREFORE the undersigned, your Petitioners, humbly pray and call upon the Senate of Canada to reaffirm the historic principles embodied in tax free status for the printed word by proposing amendment to Bill C-62 to include retention of the zero rate

AND as in duty bound your Petitioners will ever pray.

This petition is signed by some 275 members of the reading public, all of them from the province of New Brunswick, most of them from southern New Brunswick, Saint John, Fredericton and vicinity.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I report that the flow of petitions against the GST and the demand for an immediate election, consistent with the form that I have been tabling these last many days, continues. Some that came in today I have not yet organized, but I will have done so by tomorrow.

I have four petitions from Quebec from the region of Victoriaville and Arthabaska. The second group is also from Victoriaville.

[*Translation*]

I have a third one that is from Plessisville, and a fourth one from Victoriaville.

These four petitions bear the names and signatures of about 70 persons.

[*English*]

OFFICIAL LANGUAGES

THE ESTIMATES, 1991-92—LEAVE DENIED FOR MOTION TO REFER PRIVY COUNCIL VOTE 20 TO STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

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

That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 20 of the Estimates for the fiscal year ending the 31st March, 1992; and

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

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

Hon. Royce Frith (Deputy Leader of the Opposition): No.

THE ESTIMATES, 1990-91

LEAVE DENIED FOR MOTION TO REFER SUPPLEMENTARY ESTIMATES (C) TO NATIONAL FINANCE COMMITTEE

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

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending the 31st March, 1991.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXAMINE AND REPORT UPON FEDERAL SUPPORT PROGRAMS FOR AGRICULTURAL PRODUCERS

Hon. E.W. Barootes: Honourable senators, I give notice that tomorrow, Wednesday, March 6, I will move:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the federal government support programs for the agricultural producers of Canada; and
>
> That the Committee present its Report no later than May 2, 1991.

I hope honourable senators have observed that I am adhering to the "Frith rule" here.

Senator Hastings: That is something new!

An Hon. Senator: It is the "Bonnell rule".

Senator Frith: Small progress,but progress nonetheless!

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXAMINE AND REPORT UPON ANNUAL REPORT OF DEPARTMENT OF FORESTRY, 1990

Hon. E.W. Barootes: Honourable senators, I give notice that tomorrow, Wednesday, March 6, I will move:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the Annual Report of the Department of Forestry for the fiscal year ended March 31, 1990, tabled in the Senate on 26th February, 1991 (Sessional Paper No. 342-984), and other matters relating to federal jurisdiction in the Canadian forestry industry; and
>
> That the Committee present its Report no later than December 19, 1991.

QUESTION PERIOD

NATIONAL FINANCE

GST REVENUES—DEBT SERVICING AND REDUCTION FUND—PURPOSE AND METHOD OF OPERATION

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government to help a number of us here, as well as other people across the country, understand the purpose of the so-called Debt Servicing and Reduction Fund and what it was designed to do. I tried to understand its purpose when it was announced by the Minister of Finance, but I really cannot see what it was designed to do. We know that it is estimated that $22 billion will accrue from the GST. It is also my understanding that, as a result of privatization, that figure may be higher. If massive privatizations, such as the one involving Petro-Canada, go forward, the yield could be in the area of $8 billion. In total, it would be substantially less than the projected debt service charges for the same fiscal year which are now estimated to be in excess of $40 billion.

● (1410)

Is it intended that the money from the GST and these privatizations will go into a fund that will by-pass the Consolidated Revenue Fund out of which all debt service charges are paid?

Honourable senators, it is not only I who has this dull or muddy view of the purpose, because economists, including leading bank economists, such as Doug Peters of the Toronto-Dominion Bank, called it "a public relations gimmick." Others have simply called it "smoke in mirrors." However, I am sure the government would not seriously make this proposal and follow through with legislation if there were nothing more to it than that. Yet, that is what the situation appears to be.

Could the Leader of the Government give us some brief indication of how this will work so that it does not interfere with or does not simply substitute for what normally happens, which is that revenue comes in and expenses are paid, including debt service charges? Will this money be separated into some special account?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Mr. Wilson will be bringing in legislation very shortly to create the Debt Servicing and Reduction Fund. At that time I trust the honourable senator will have answers to all his questions. If his questions are not answered in the legislation, he will have another opportunity to put them to the minister and/or officials who would appear before a Senate committee at that time.

Senator Olson: The minister has not told me anything I did not already know. I know that legislation is to be introduced. What I am trying to find out is what it is intended to do. I want to know how the procedure and methodology of using this fund will be applied so that it does not appear to the Canadian public that this is just smoke in mirrors. The government is trying to set up something that it is obviously obliged

to do in any event, which is to account for the revenue and pay the expenses, including the debt service charges.

Senator Murray: Honourable senators, my friend will have to contain his patience until the legislation is introduced. The legislation will indicate how the fund is to be set up and how it will operate.

Briefly, the advantage of setting up the fund is that the government will be unable to use any excess from the GST to increase program spending in other areas. The proceeds from the GST will be dedicated entirely, first, to servicing the debt which now takes almost 40 cents of every revenue dollar, and, ultimately, reducing the national debt.

Senator Olson: I take it, then, that this legislation will be an attempt somehow to try to screw up the discipline of governments a little, because the honourable minister knows, just as well as I do, that no parliament has any right or any authority to commit some future parliament to what it may or may not want to do. Is that all it is good for—to try to screw up the discipline of this government so that it is not tempted to introduce some new sweetheart programs?

Senator Murray: Honourable senators, future parliaments will be committed unless and until they decide to change the law that we have brought in. During the next election campaign my honourable friend's party will have an opportunity to campaign on the proposition that the proceeds from the goods and services tax ought not to be used to service and pay down the debt but rather for some pie-in-the-sky program which I am sure his leader will not hesitate to bring forward.

Senator Thériault: Like the child care program!

Senator Olson: The minister knows very well that what he is talking about now amounts to much the same thing: pipe-dreams and delusions. What the Leader of the Government appears to be saying is that they are going to legislate discipline on this cabinet, because future parliaments are not bound by what this parliament does. He knows that very well. They can change any law at any time. I am asking him seriously because I believed the minister was serious and that he was bringing in something that was useful; but apparently, as the days go by and other people, not just myself, examine what this so-called fund is designed to be used for, it looks like it is nothing more than a public relations gimmick, smoke and mirrors, laying out what the government is absolutely obliged to do anyway. Why does the minister not tell us what it really is so that we do not have to play this funny little game? He has admitted that he is going to try to legislate some discipline on this government. Surely, that is not the full extent of what the legislation is there to do.

Senator Murray: Well, honourable senators, in recent years, we, unlike our predecessors, have been running a surplus on the operating account in government.

Senator Olson: We had that every year.

Senator Barootes: No. You never had one.

Senator Murray: We have not been borrowing to pay our operating account. We have run a surplus on the operating account. The honourable senator should study the idea of a debt servicing and reduction fund using the proceeds from the GST in conjunction with the other decisions or initiatives announced in the budget, such as a cap on spending increases year over year and the other fiscal disciplines that are being imposed. The honourable senator will quickly come to the conclusion, I trust, that over time the proceeds from the GST and privatization, which right now would be insufficient to cover the servicing costs, will, in a very short time, not only cover the servicing costs but would be dedicated actually to paying down the debt. Even the honourable senator must have had a mortgage at some time or other in his life, and he should understand the concept of interest and principal.

[Senator Olson.]

Senator Olson: This is really the silliest argument I have ever heard—

Senator Thériault: They are just copying Washington!

Senator Olson: —that is, that somehow the government can take its obligation to pay the interest on the debt, which obviously has to be the first obligation of any government in office, and say, "Now we are going to set that over here as non-program spending for which we are not responsible." Yet this government has borrowed more money—as has been pointed out, since it went into office in 1984—than all governments in Canadian history before it. The debt is more than 100 per cent greater than it was in 1984 when you took over.

Senator Murray: Compound interest. Surely you understand that.

Senator Olson: Whenever you borrow money, you have to pay the interest on it. If you are going to borrow $30 billion because of the deficit, the Canadian people know that what that leads to is that the taxpayers will have to pay the rate of interest that the Bank of Canada imposes on Canadians into perpetuity. That is the penalty one pays for borrowing money. However, you are not fooling anyone when you try to introduce this bookkeeping red herring whereby you say that the debt service charge is in one pile and programs are in another and that the program costs are below the total revenue for any year. We understand that. Noone is fooling anyone with that. Now, however, you come along with a serious matter legislating a new fund, and we want to know how that is going to work, because noone in the country except the government seems to understand what the smoke and mirrors are all about.

Senator Murray: Well, honourable senators, if I am not mistaken, it was only a very short time ago, in the course of third reading on the GST bill, that my friends opposite supported an amendment which would have that very effect, of earmarking revenues from the GST to a debt-servicing and reduction fund.

Senator Barootes: Hang your heads!

Senator Thériault: You turned it down!

Senator Murray: If I am not mistaken, the amendment was proposed by one of the independent senators and enthusiastically supported by Senator Olson and his colleagues.

• (1420)

Senator Barootes: Senator Buckwold suggested it in his speech too!

Senator Murray: I would have thought that, far from criticizing the initiative Mr. Wilson announced, my friends opposite would be leaping up to claim authorship.

Some Hon. Senators: Hear, hear!

Senator Olson: I take it, then, that the government is now bringing in legislation that was specifically designed around the amendment presented in this house. You are now supporting something you voted against only a few days ago. Is that correct?

Senator Murray: Honourable senators, like a great many other things at the time—

Senator Olson: It did not sound so good then!

Senator Murray: At the time we indicated that the government looked sympathetically upon many of these ideas, but we were not prepared, during the course of that debate, to accept politically-motivated amendments that were presented solely for the effect of delaying and derailing the implementation of that tax.

Senator Olson: My friend could have saved a great deal of time had he stood up in this chamber when those amendments were moved and accepted the amendment, which he is doing now. Now you are bringing in, in legislative form, as a result of the deliberations of the budget, a fund that follows the motion made in this house as to the use of the funds from the GST, which debate occurred in this chamber last November. That is useful information.

Senator Murray: Honourable senators, I do not have the amendments before me, but it seemed to me that the principle was clear. The principle was that the proceeds from the GST, or some of them in the case of that amendment, should be used to pay down the deficit and the debt. We have long accepted that principle, and it was introduced in Mr. Wilson's budget of last Tuesday, which would be followed up with legislation. I would expect the honourable senator to be rejoicing and applauding the initiative of Mr. Wilson.

An Hon. Senator: Don't count on it!

Senator Olson: I would be happy to see the legislation and how the government manages it. But, besides these digressions, the question I asked at the outset was: What is the sense of having dedicated $22 billion, more or less—and it will be a little more or less depending on the amount of revenue received from privatization proceeds—when we know that the debt service charges are $40 billion plus? So the government will have to find more money because it will have to pay interest on the rest of that too. The government is going to have to pay $40 billion whether or not it has a new act and fund.

Senator Murray: That is what I am trying to explain to the honourable senator. The beauty of this initiative is that over a fairly short time the proceeds from the GST will exceed the amount of money that is required to pay the interest on the debt. At that time, what is left will be used to pay down the principal. Again, if my honourable friend ever had a mortgage in his life, he would understand the concept of paying down interest and then attacking the principal.

Senator Olson: Is Senator Murray saying that the government is going to raise the rate of the GST to double the revenue that is being collected now? The revenue being collected from it now is projected to be $22 billion. He has just said that it is an act for the purpose of making sure that somewhere down the road there is going to be revenue from the GST in excess of the interest charges on the national debt, and that this legislation is going to be used to make sure that that money is used to pay down the principal of the national debt. That is what he has just said. It will be the 22nd or 23rd century before that happens.

In all seriousness, is that the only purpose of this fund? If so, we are now making legislation for 75 or 100 years in the future.

Senator Murray: The honourable senator has not read, or, if he has read he has not understood, the projections which Mr. Wilson provided in the documents accompanying the budget. We are heading for a balanced budget in a very few years, and even before that the borrowing requirements of the government will be at or close to zero.

Senator Olson: Let the record show that the answers were completely unsatisfactory.

PERSIAN GULF WAR

COST OF CANADIAN PARTICIPATION IN SANCTIONS AND WAR

Hon. Stanley Haidasz: Honourable senators, I would like to ask the Leader of the Government in the Senate whether he can give us the most recent estimate available to the government of the cost of Canada's participation in the sanctions and the war against Iraq.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not carry those figures at my fingertips, but I will endeavour to obtain an accurate figure and bring it in in a day or so.

IRAQ

AID FOR POST-WAR RECONSTRUCTION—GOVERNMENT POSITION

Hon. Stanley Haidasz: Honourable senators, I would like to ask the Leader of the Government in the Senate whether Canadian aid for the post-war reconstruction of Iraq will be given now or after the demise of Saddam Hussein?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, not being the Almighty, I am not in a position to say when the demise of Saddam Hussein might take place.

Senator Haidasz: Would the leader at least tell us whether it is the intention of the Government of Canada to contribute Canadian funds to the post-war reconstruction of Iraq?

Senator Murray: Honourable senators, yes, it is our intention to participate in that effort.

Senator Haidasz: I should like to ask the Leader of the Government in the Senate whether it has been decided how much taxpayers' money will be allocated to the post-war reconstruction of Iraq.

Senator Murray: No, honourable senators. It should also be pointed out, however, that there are very considerable opportunities for Canada's business firms to take part in the reconstruction of the physical infrastructure and the economies of the affected countries, including Kuwait as well as Iraq.

POST-WAR RECONSTRUCTION—LIST OF ASSETS ELIGIBLE FOR CANADIAN ASSISTANCE

Hon. John B. Stewart: Honourable senators, I wonder if the Leader of the Government in the Senate could tell us whether the Government of Canada has drawn up a list of those Iraqi assets that would be eligible for the Canadian assistance that will be available in the program to which the Leader of the Government has just now made reference?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have not seen such a list but I shall make inquiries.

REPARATIONS FOR WAR DAMAGES—GOVERNMENT POLICY

Hon. Peter Bosa: Honourable senators, a statement has been attributed to the Secretary of State for External Affairs that, contrary to Secretary Baker's statement that the Americans are going to go after Iraq for war reparations, Canada is not going to pursue the same policy. Could he elaborate on that?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure that the statement which my friend attributes to Mr. Clark is accurate or in context. I saw Mr. Clark, as I am sure did Senator Bosa, saying on television that the question of reparations was not at the top of Canada's priorities; but he did not say that it was not a matter to be pursued.

• (1430)

POST-WAR RECONSTRUCTION—BASIS FOR CANADIAN ASSISTANCE—GOVERNMENT POLICY

Hon. John B. Stewart: Honourable senators, could the Leader of the Government tell us if Canadian assistance for the reconstruction of Iraqi assets will be conditional upon Iraq's performing any reparation requirements that are drawn up? I ask the question because I hope that we would not get ourselves into a position in which Canadians would be paying to assist or reconstruct Iraqi assets while other countries were drawing off from Iraq on a reparation's account.

[Senator Murray.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, we are not seeking to act independently and unilaterally in a matter of this kind. It is precisely for the purpose of consulting with other authorities that Mr. Clark has met in the past few days with the Secretary General of the United Nations, with Secretary Baker in Washington, and is now en route to the Gulf area, where he will meet with representatives of the Government of Saudi Arabia and other governments in the region.

Senator Stewart: In other words, the Government of Canada at this point does not have a position with regard to assistance for the reconstruction of Iraqi assets; that is, the Canadian position will be determined consequent upon knowing what other governments will do with regard to reparations. Is that the situation?

Senator Murray: Honourable senators, we are giving considerable thought to what we can and should do, but the short answer to the honourable senator's question is that we are consulting with other members of the coalition and other governments in the region on this matter.

REPARATIONS FOR WAR DAMAGES—GOVERNMENT POLICY

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a follow-up question on this point. In the *Toronto Star* this morning it appears that Mr. Clark has gone farther than the minister has suggested to the Senate. Mr. Clark is quoted, in a *Toronto Star* article written by Olivia Ward arising out of an interview that he had at the United Nations yesterday, as suggesting that Canada "was not amongst the countries that were insisting on reparations." It does not appear, as the minister has suggested, that Canada is consulting. It appears that Canada has taken a position that it is not amongst those countries that are insisting upon reparations.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, those are two different questions. That was not the question asked by Senator Stewart. His question was not about reparations, but about what we might do with regard to rebuilding the physical assets of Iraq. That was the question he posed.

I replied to the earlier question about reparations by referring to Mr. Clark's interview yesterday, in which he stated that the question of reparations was not at the top of our priority list.

CANADIAN POSSESSION OF ALIEN PROPERTY

Hon. Stanley Haidasz: Honourable senators, would the Leader of the Opposition, if he cannot answer today, answer tomorrow what external assets of Iraq, if any, are in the possession of Canada's custodian of alien property.

Hon. C. William Doody (Deputy Leader of the Government): Do you mean the Leader of the Government? You asked the Leader of the Opposition.

Senator Haidasz: I apologize. I would like to ask the Leader of the Government in the Senate whether any external Iraqi properties or assets are in the hands of Canada's custodian of alien property?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am not aware of any, honourable senators.

CRIMES AGAINST HUMANITY—RESPONSIBILITY OF IRAQI LEADERSHIP

Hon. Jerahmiel S. Grafstein: I have another question arising out of Mr. Clark's interview at the United Nations yesterday, and that is the position of the Canadian government with respect to holding the leadership of the Saddam Hussein government responsible for crimes against humanity and whether or not the Canadian government intends to pursue this issue or intends to take a backseat on this issue?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that is a matter that would be pursued at the United Nations, and I do not think that the honourable senator would expect that Canada would be, as he puts it, taking a backseat on the issue.

Senator Grafstein: There appear to be two parallel paths to deal with this question. One is through the United Nations, which historically has not been involved in the mechanics of holding tribunals or establishing tribunals that would deal with the issue of crimes against humanity. My question for the Leader of the Government in the Senate is the Canadian government's position to take a leadership role in establishing tribunals that would hold Mr. Saddam Hussein and his leadership accountable if, in fact, they have been responsible, as is now alleged, for serious breaches of laws against humanity?

Senator Murray: I do not think I would give a different answer to that question than I gave to the first.

HONOURABLE JACQUES FLYNN, P.C.

PAYMENT FOR SERVICES TO GOVERNMENT DURING GST DEBATE

Hon. Eymard Corbin: Honourable senators, I would ask the Leader of the Government in the Senate if he has received a bill from our former colleague, Jacques Flynn, for services he performed during the GST debate?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I thank the honourable senator for raising this question again. I may have inadvertently misinformed him the last day he brought it up. I confess that I have not seen a bill. I believe there is one either for disbursements or for professional services or for both. I am not certain. I suspect that it has been paid. I thank the honourable senator for reminding me to obtain the information. Indeed, if he wants to be more precise about it, he might wish to put a question on the order paper, to which I would reply with all the details he is looking for.

• (1440)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to five questions. I would ask that these answers be printed as part of today's proceedings.

THE ENVIRONMENT

RAFFERTY-ALAMEDA DAMS PROJECT—REIMBURSEMENT OF GOVERNMENT FUNDS—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the first delayed answer I have is in response to a question raised in the Senate on November 27, 1990, by the Honourable Gildas L. Molgat, regarding Rafferty-Alameda Dams Project—Reimbursement of Government Funds.

(*The answer follows:*)

Eight million of the ten million dollars was paid to Saskatchewan prior to the initiation of the federal court action to seek an injunction to stop construction. Two million dollars is being held in abeyance. If the present court action proceeds it would be the intention of the Federal Court to seek reimbursement.

THE ECONOMY

MIGRATION OF CANADIAN MANUFACTURING FIRMS—EFFECT ON INDUSTRY—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on December 19, 1990, by the Honourable Royce Frith, regarding the Economy—Migration of Canadian Manufacturing Firms—Up-to-Date Figures on Job Creation, Creation of New Firms, and Bankruptcies.

(*The answer follows:*)

The number of business bankruptcies in 1990 was 11,642, which is higher than the 1982 peak of 10,765. However, as a percentage of total establishments, 1990 bankruptcy incidence was only 0.73 as compared to 1.28 in 1982.

Personal bankruptcies in 1990 totalled 42,782—higher than the 30,642 recorded in 1982. The incidence of bankruptcy was higher at 0.43 compared to 0.36 in 1982.

Bankruptcies in all years are substantially lower than new business creations. Between 1981 and 1990 business bankruptcies ranged from about 8,000 to 11,000 compared to new businesses which ranged from 90,000 to 140,000.

Bankruptcies—see tables 1 and 2

The most recent data released by Statistics Canada indicate that the total number of business and personal bankruptcies in Canada in January 1991 increased by some 21 per cent from December 1990, and were 69 per cent higher than January 1990.

Personal bankruptcies were 76.7 per cent higher in January relative to a year ago, and despite a decline in the number of bankruptcies in December (to 4,821), have returned to near the record monthly peak, reached last November (4,879).

The incidence of personal bankruptcies—the ratio of personal bankruptcies to private households—for 1990 was 0.45. The previous high was 0.36 reached in 1982.

Preliminary estimates for 1991, using January data, indicate an increase in this ratio to 0.61.

Business bankruptcies in 1990 totalled 11,642. The previous peak of 10,765 was reached in 1982. January business bankruptcies totalled 1,170, and were 43 per cent higher than a year ago.

The incidence of bankruptcy—the ratio of bankruptcies as a proportion of total business establishments—for 1990 was 0.73, still much lower than the rate of 1.28 reached in 1982.

Preliminary estimates, again using January data, indicate an increase in this ratio in 1991 to 0.81.

New Business Creation—see Table 3

The Canadian Federation of Independent Business (CFIB) estimates that some 140,000 new business were created in 1990. This is virtually the same rate of new business growth observed since 1987, and is significantly higher than the 89,000 new businesses created in 1982.

The CFIB also estimates that in 1990 some 140,000 firms will go out of business, a significant rise from the 120,000 closures noted in 1989. However, it should be remembered that business closures can occur for a number of different reasons including *inter alia*: sale, merger, retirement, and/or bankruptcy.

Employment—See table 4

During the period 1984 to 1989 employment level growth averaged more than 2 per cent per year, with total employment increasing from 10.6 million in 1984 to 12.6 million in 1990.

The recent slowdown in the economy has caused employment growth to lose momentum, but employment still registered an increase of some 0.69 per cent in 1990.

[Senator Doody.]

Table 1

Canadian Business Bankruptcies

	Business Establishments (No.)	Business Bankruptcies (No.)	Bankruptcy Incidence (%)
1981	781,386	8,055	1.03
1982	840,361	10,765	1.28
1983	925,060	10,260	1.11
1984	934,304	9,578	1.03
1985	1,021,045	8,663	0.85
1986	1,098,903	8,502	0.77
1987	1,238,776	7,659	0.62
1988	1,363,096	8,031	0.59
1989	1,475,874*	8,664	0.59
1990	1,597,984*	11,642	0.73

* Data are not available past 1988; for analytical purposes, the number of business establishments has been extrapolated to 1990 using the average annual growth rate of the 1981-88 period.

Canadian Personal Bankruptcies

	Private Households (No.)	Personal Bankruptcies (No.)	Bankruptcy Incidence (%)
1981	8,281.5	23,036	0.28
1982	8,439.5	30,643	0.36
1983	8,581.3	26,822	0.31
1984	8,717.2	22,022	0.25
1985	8,853.7	19,752	0.22
1986	8,991.0	21,765	0.24
1987	9,085.4	24,384	0.27
1988	9,189.9	25,817	0.28
1989	9,298.7	29,202	0.31
1990	9,403.6*	42,782	0.45

* The number of households for 1990 was extrapolated at the 1987-89 average rate of growth.

Table 2

Recent Monthly Bankruptcy Statistics — Canada

	November 1990 (%)	December 1990 (%)	January 1991 (%)
Business	1130 (42.1)	1005 (48.2)	1170 (43.0)
Personal	4879 (64.4)	3928 (68.9)	4821 (76.6)
Total	6009 (59.4)	4933 (64.3)	5991 (69.0)

Note: (%) denotes year over year percentage change.

Table 3

Estimated Business Creations and Closures 1980-1990

Fiscal Year*	Creations	Closures
	(000's)	
1980	93	70
1981	87	82
1983	95	87
1984	101	82
1985	116	91
1986	125	96
1987	140	100
1988	140	111
1989	140	120
1990**	140	140

* Ending March 31 of the following year.
** Estimate
Source: Estimates prepared annually by the Canadian Federation of Independent Business Research Department.

Table 4

Employment in Canada 1980-1990

1980	10,708,800
1981	11,002,000
1982	10,620,800
1983	10,675,100
1984	10,932,500
1985	11,221,200
1986	11,531,700
1987	11,861,800
1988	12,245,200
1989	12,485,800
1990	12,571,900

Source: Statistics Canada

EXTERNAL RELATIONS

ECONOMIC AID TO POLAND—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on February 26, 1991, by the Honourable Stanley Haidasz, regarding External Relations—Economic Aid to Poland—Government Position.

(*The answer follows:*)

As the honourable senator has noted, this matter is being discussed in the Paris Club of official creditors. A Polish delegation also visited Ottawa earlier this year to discuss Poland's request.

Canada is playing a very constructive role in these discussions. Canada recognizes the historic and courageous efforts under way in Poland to pursue fundamental political and economic change, and the government accepts that significant additional debt relief is essential to achieve this goal.

It is unlikely that the Paris Club will agree to debt reduction of 80 per cent, and our discussions with Polish authorities suggest that they do not expect such massive relief, but we are confident that an agreement will be reached with Poland in coming months.

THE ENVIRONMENT

OIL POLLUTION IN THE GULF OF ST. LAWRENCE—SOURCES OF POLLUTION—DEATH OF SEA BIRDS ON P.E.I. BEACHES—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on February 26, 1991, by the Honourable Lorne Bonnell, regarding Oil Pollution in the Gulf of St. Lawrence—Sources of Pollution—Death of Sea Birds on P.E.I. Beaches.

(*The answer follows:*)

Environment Canada is discussing with the Canadian Coast Guard suitable studies to determine the technical feasibility of all options for the recovery of the Irving Whale.

The environmental risks and benefits associated with these options for recovery of the oil and barge will have to be evaluated.

Terms of reference for a study are being developed.

EXTERNAL RELATIONS

GOVERNMENT LOANS TO THAILAND—GOVERNMENT POSITION

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 February 26, 1991, by the Honourable Stanley Haidasz, regarding Government (EDC) Loans to Thailand.

(*The answer follows:*)

Initial reports indicate there has been little disruption to business in Thailand.

Thailand's miliary council has apparently announced it will appoint a panel to look at large investment projects. It is not known if this will slow negotiations on the MRT project.

The Canadian Government will continue to offer strong support to Lavalin International Inc. as we have done in the past. We shall keep a close watch on developments in order to more clearly evaluate the impact of the coup on Lavalin and other Canadian companies pursuing business in Thailand.

[*Translation*]

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT ACT

THIRD READING—DEBATE ADJOURNED

On the Order:

Third reading of Bill C-34, An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof.—(*Honourable Senator Bolduc*).

Hon. Roch Bolduc: Honourable senators, I move that the Bill be given third reading.

Hon. Fernand-E. Leblanc: Honourable senators, in his appearance before the National Finance Committee on February 28th, the Principal of the Canadian Centre for Management Development, stated among other things:

> . . . the mission of the Centre . . . is to improve the quality of management and through it . . .

According to him . . .

> . . . the quality of the Public Service and, as a consequence, the quality of service to the people of Canada.

I am sure that no one could disagree with that laudable objective. However, I am not convinced that this Act, which confers on the Centre the status of a departmental corporation, is necessary to achieve it.

The Centre has now been operating quite successfully for over two years under an Order in Council, obtaining the resources it requires through the Estimates process. Its predecessor organization, the Centre for Executive Development in Touraine, functioned perfectly well as part of the Public Service Commission. Mr. Dewar, the Principal of CCMD, indicated in the Committee meeting, answering a question from Senator Bolduc, that the National Defence College in Kingston, which many senior public servants as well as military officers attend, is an integral part of the Department of National Defence and that there has never been any suggestion that its status should be changed. He stated, however, that an Act of Parliament would benefit CCMD in various ways. First of all, it is "declaratory" and draws attention to the importance of training as a major part of management in the Public Service. The Principal feels that insufficient attention has been paid to training in the past. He thinks that Bill C-34 helps the Centre to be more outward-looking and to focus on the knowledge and expertise it can acquire from the universities and the private sector.

He believes that the bill confers a degree of independence, allowing the Centre to operate under a Board of Governors and report to Parliament through a minister—who will now apparently be the Secretary of State—without requiring it to respond to the day-to-day needs of the minister in the way a department does. In turn, this should make it easier to attract academics and other outside persons to work as faculty members of the Centre.

Finally, Mr. Dewar believes that the legislation will enable Public Service managers to operate more effectively and efficiently in a climate of increasing globalization, shifts in social values, rising expectations of government services and contining restraint.

[Senator Doody.]

I must say that I do not find the principal's asrguments very convincing, although I am sure he is sincere in stating them. For example, as Senator Pitfield pointed out in his speech on the bill on June 13, 1990, Clause 20 states that the Secretary of the Treasury Board, of the Public Service Commission and the Centre's principal are *ex officio* governors. Since the Clerk of the Privy Council is the head of the Public Service and the other two officials determine the conditions under which Public Service managers are recruited, paid and promoted, I find it difficult to see who this proposed structure for the Centre can assure its independence and help it to train managers, and I quote:

> Who are capable of questioning the status quo and creatively envisioning and managing change.

It seems more likely that such a structure would be a sure-fire recipe for the Centre to become part of the Public Service establishment with a mission to indoctrinate managers in whatever management theories and fads are fashionable at the moment. As well, the Principal acknowledged to the Committee that there is a need for the Centre to recruit more women and members of minority groups to its faculty, to give its students greater exposure to management experience from the private sector and to get them out of their isolation in Ottawa. He did not indicate how the bill would help him to accomplish all this. Perhaps, as Senator Pitfield suggested, it would be outside the hothouse atmosphere of Ottawa and learn how managers operate in the real world.

Finally, there is the question of the costs associated with this legislation. In a time of continuing restraint, I wonder whether establishing the Centre with a separate administration and its own Board of Governors can be economically justified. On February 26th, the Minister of Finance announced in the Budget that the numbers of senior managers, known as the SM and EX groups, will ne reduced by some ten per cent, apparently over the next two years. This suggests to me that there will be fewer managers in future to attend the courses that CCMD offers and therefore that fewer faculty members will be needed and costs can be saved. However, I observe in the 1991-92 Estimates that the Centre requests the approval of an increase of 8.6 per cent over the 1990-91 estimates, which I find hard to reconcile wth the prospect of declining numbers of students. Even though there is provision for a full evaluation and review of th Centre's activities and organization within five years, I fear that passage of Bill C-34 may result in the Centre being funded every year simply because it is there.

For all these reasons, I intend to vote against the bill. Besides, the Committee has taken a vote on that matter, which resulted in five Senators being in favour of Bill C-34 and four against, including the President.

Thank you, Honourable Senators.

• (1450)

[*English*]

Hon. Roch Bolduc: Honourable senators, the hearings of the National Finance committee gave us the opportunity to have, as a witness, among others, the director of the Canadian Centre for Management Development, Mr. Dewar. He is a top career civil servant, a man of wide experience in public administration who has served, among other positions, as Deputy Minister of National Defence.

I believe we have received from him satisfactory answers to numerous questions which had been in the mind of many senators on both sides of the chamber.

He has argued eloquently, and with a good deal of relevancy, on the necessity to apprise the senior administrators, or to remind them, of the importance of values which must characterize them, such as probity and efficiency in serving the public and the government.

He has also pertinently stressed the constant necessity for senior civil servants to take into account, in the management of the public sector, the specific criteria which characterize it, namely the primacy of the public interest over special group interests, the primacy of the rule of law and of its respect over the rule of men and administrative discretion, and the limited public resources at their disposal as managers.

He has also confirmed to the honourable members of our committee that the centre's program of management training will put emphasis on increasing the administrative abilities of our senior people, as well as developing their analytical abilities in policy or program formulation, as well as deepening their understanding of values inherent to the Public Service.

Mr. Dewar also reassured us that the management and the operation of the centre will comprise a fair share of human resources coming from the Public Service, from the academic community, and from private enterprise where, as a matter of fact, a fierce competition gives a strong impetus to the hierarchy to constantly innovate in the management of its resources. There is no doubt that this will benefit our senior people.

The management of the centre wishes also to cooperate with other training institutes, for example, ENAP, with which an accord has been signed and which has an excellent record in serving the Quebec public service. Let us hope that this collaboration will extend to the management schools of our Canadian universities such as Western, York, HEC in Montreal, as well as the National Defence College in Kingston. All those establishments, I believe, serve the country very well.

Some Senators had doubts about the necessity of incorporating by statute this administrative unit which is already in place. Mr. Dewar explained to us that the process of development training needed the administrative autonomy and flexibility of a government corporation on the one hand, and that, on the other hand, the impact of a statutory declaration of its mission as well as the required performance evaluation of the centre and the accountability of its management justified a specific statute to establish the centre which, incidentally is not an academic institution but a management training centre for government employees.

[*Translation*]

Honourable senators, I noticed that Senator Leblanc questioned the CCMD's autonomy on the grounds that the Board of Governors will include the Clerk of the Privy Council and Secretary to the Cabinet, the Chairman of the Public Service Commission and the Secretary of the Treasury Board.

I don't think there is any reason to get upset. The purpose is not to give the CCMD some kind of theoretical autonomy vis-à-vis the government. The purpose is to give it administrative autonomy so that it can manage the development process effectively. However, I don't think it would be appropriate to turn the CCMD into something that would be completely outside the government.

What the CCMD must do is focus the attention of senior officials on management techniques that are applicable to government because they have been tested in the government or in the private sector, and at the same time make them aware of the general environment in which they live and their specific job environment in the government. That environment is quite different, I must say, from the private sector.

My point is that corporations as such should not be seen as a manoeuvre that would have the effect of removing them entirely from the government. That is not the objective.

Corporations must keep step with the government's objectives but at the same time, they must have sufficient administrative flexibility to manage the learning or training process.

This new legislation must be seen within the context of Public Service 2000, which is a very important focus throughout the government.

As for his reference to the National Defence College, I don't think the college's objective was necessarily to give management courses to senior members of the Canadian Forces or to senior management, in other words, to colonels, brigadiers, major generals, lieutenant generals and generals. The purpose is, in fact, to expose them and, first of all, to acquaint them with international politics and strategic issues and also to bring them into contact with the civilian half of the group. It is important for our military people not to be isolated, so that at the National Defence College, in groups of 35 or 40, half the group will consist of civilians from the private sector, universities and governments.

It is a valuable experience for us—I am an ex-student of the college myself and I am proud of it—it was a valuable experience to be able to discuss military and strategic issues. I think it was also valuable for the colonels who were there and who today have become generals who, as you all know, have just given an impressive performance.

[*English*]

We have underlined many desirable facets of the government management training policy. I would like to mention here two important ones that we have stressed to the authorities of the centre. First, the necessity of frugality in spending

public money, particularly in a period of austerity. Self-restraint must be the lot of higher civil servants and senators, as well as all Canadian citizens.

Secondly, we have affirmed the importance for senior government officials to be in constant contact with executive interchange, by trainees or otherwise, with the real world of the various Canadian regions and private businesses in Canada.

With the testimony of Mr. Dewar and with the additional information provided by the management of the centre, both of which complement the law prescriptions, I have the honour to move the third reading of Bill C-34.

• (1500)

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour please say "yea".

Some Hon. Senators: Yea.

The Hon. the Speaker: All those against please say "nay".

Some Hon. Senators: Nay.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I propose, pursuant to Provisional Rule 3(e) that the vote be deferred until 5:45 p.m. tomorrow.

The Hon. the Speaker: Honourable senators, pursuant to Provisional Rule 3(e), the vote will be taken at 5:45 p.m., Wednesday, March 6.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING—MOTIONS IN AMENDMENT CONCURRED IN

Hon. C. William Doody (Deputy Leader of the Government), for Senator Nurgitz, moved, the third reading of Bill C-79, to amend the Parliament of Canada Act.

He said: Honourable senators, it was mentioned at second reading, that a number of committees, both in the House of Commons and in the Senate, have looked at this bill. It has been studied quite extensively in the Senate by both the Internal Economy committee and the Legal and Constitutional Affairs committee. Various amendments were proposed in committee. However, there are two additional amendments that I would like to introduce at third reading. I hope that they meet the approval of our colleagues. They have been discussed with senators on both sides of the chamber.

I note that during second reading Senator MacEachen raised a question with the sponsor, Senator Nurgitz, regarding the matter of whether or not this bill accorded privileges or special status to members of Parliament that are not enjoyed by ordinary citizens. I do not think that question has been answered to this point.

[Senator Bolduc.]

It is my understanding that the Parliament of Canada Act amendments do not result in special treatment for MPs and senators in matters of criminal law. The act enables a senator, in our case, to ask the Internal Economy committee for an opinion concerning the propriety of his or her use of goods or services for carrying out parliamentary functions. The act also permits a peace officer to seek an opinion from the committee. It is important to note that a peace officer is not required or obliged by the act to seek an opinion before investigating a senator. The opinions are meant to assist peace officers in doing an investigation if an investigation is required.

Members of Parliament and senators are subject to laws like any ordinary citizens. They are also subject to parliamentary rules and privileges, which are complex. It is felt that the opinion or the assistance of an expert body—in this case the committee—may be helpful to those people charged with the responsibility of carrying out the investigation. The provisions do not create a special treatment for parliamentarians as investigations can and will be carried out by the appropriate authorities, as they would be with any citizen who is suspected of committing a crime.

These changes are intended to clarify the rules on how parliamentary resources are used. For instance, a similar situation exists with regard to any citizen who is alleged to have misused an employer's funds. The police would normally consult the employer regarding the rules, procedures and expected behaviour of employees for using the funds. Senators, of course, do not have an employer in the same sense, but the committee is responsible for managing parliamentary funds. If an opinion is given by the committee, the court is required by the act to take it into consideration, but it is not bound by the opinion. I would assume, however, that the court would give some weight to the opinion of the committee that is charged with the responsibility of drawing up and administering the rules and privileges of the Senate, but it is not bound by that opinion. So each case will be judged and considered on its own merit and, as I have said, if an opinion is sought, it is not binding on the courts.

Honourable senators, if that explanation is satisfactory, I would like to introduce the first of two amendments that I have. The first amendment deals with the use of the word "by-laws" in the new legislation. Senators on both sides of the chamber felt that "by-laws" is not a term that has been in use in the Senate but a term that has been in use in the other place. They felt that the term "regulations" would be more suitable for use in that part of the act that pertains to the Senate. Therefore, I move:

> That Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended
>
> (a) by striking out in clause 1 the heading immediately preceding section 19.1 (as renumbered by the said report) and substituting therefor the following:

"*Regulations*"

(b) by substituting in clause 1 the word "regulations" for the word "by-laws" wherever it appears in sections 19.5, 19.6 and 19.8 (as renumbered by the said report).

The second amendment that I would offer for honourable senators' consideration deals with subsection (3). We had asked in committee that this subsection be removed because it did not seem to be necessary. However, I am told by our legal counsel that subsection (3) is necessary when you consider it in relation to subsection (2). Subsection (2) provides statutory authority for the continued existence of the Standing Committee on Internal Economy, Budgets and Administration during a period of prorogation or dissolution. Subsection (3) completes the picture by providing statutory authority for making changes in the membership of the committee during such a period. Before subsection (3) was deleted, it read as follows:

Composition of Committee

(3) The Leader of the Government in the Senate, or the nominee of the Leader, and the Leader of the Opposition in the Senate, or the nominee of the Leader, may, in accordance with the rules of the Senate, change the membership of the Committee from time to time, including during periods of prorogation or dissolution.

It seemed to me at first glance that it meant that there had to be concurrence of both leaders to change the composition. I am told that that is not so, that it means that during a period of prorogation or dissolution each leader or the nominee of the leader—that is, the whip—has the authority to make changes. The "and" in the second line combined with the verb "may" has the effect of conferring this authority on each leader. Therefore, I move:

That Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended in clause 1.

(a) by adding, immediately after subsection 19.1(2), the following new subsection:

"Composition of Committee

(3) The Leader of the Government in the Senate, or the nominee of the Leader, and the Leader of the Opposition in the Senate, or the nominee of the Leader, may, in accordance with the rules of the Senate, change the membership of the Committee from time to time, including during periods of prorogation or dissolution.";

(b) by renumbering the remaining subsections and any cross-references thereto accordingly;

(c) by striking out the heading immediately preceding section 19.5 and substituting therefor the following:

"*Regulations*";

(d) by substituting the word "regulations" for the word "by-laws" wherever it appears in the said clause.

It appears to me that these last two sections have already been dealt with in previous amendments.

• (1510)

Honourable senators, those are the amendments I want to put before the chamber and I would request that they be supported.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we support these two amendments. However, Senator MacEachen will have something to say about the bill as amended.

[*Translation*]

The Hon. the Speaker: Honourable senators, it is moved by the honourable Senator Doody, seconded by the honourable Senator Grimard, that Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended

(a) by striking out in clause 1 the heading immediately preceding section 19.1 (as renumbered by the said report) and substituting therefor the following:

"*Regulations*"

(b) by substituting in clause 1 the word "regulations" for the word "by-laws" wherever it appears in sections 19.5, 19.6 and 19.8 (as renumbered by the said report).

Honourable senators, is it your pleasure to adopt the motion in amendment?

Some Hon. Members: Agreed.

The Hon. the Speaker: As for motion in amendment No. 2, it is moved by the honourable Senator Doody, seconded by the honourable Senator Doyle, that Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended in clause 1:

(a) by adding, immediately after subsection 19.1(2), the following new subsection:

"Composition of Committee

(3) The Leader of the Government in the Senate, or the nominee of the Leader, and the Leader of the Opposition in the Senate, or the nominee of the Leader, may, in accordance with the rules of the Senate, change the membership of the Committee from time to time including during periods of prorogation or dissolution.";

(b) by renumbering the remaining subsections and any cross-references thereto accordingly;

(c) by striking out the heading immediately preceding section 19.5 and substituting therefor the following:

"*Regulations*";

(d) by substituting the word "regulations" for the word "by-laws" wherever it appears in the said clause.

Honourable senators, is it your pleasure to adopt the motion in amendment?

[*English*]

Hon. H. A. Olson: Honourable senators, I will not speak at length and I am not going to be adamant that my suggestion be accommodated at this time, but it seems to me that there should be some consent of a member before he or she is removed from a committee. That is not provided for in this second amendment. I have worried about this in the past and I am sure you all realize that we have had some reason to be concerned about it more recently.

The amendment as put forward by Senator Doody does not provide for that. I would seriously say that this gives quite a lot of authority and power to the leaders of both parties who can just throw members off a committee whenever they have a whim to do so, however well motivated that whim might be.

As I have said, I am not going to insist that this amendment be changed now, but it is something I would like the deputy leader to think about because a day will come when the members of a committee and, indeed, the members of the caucus of the Senate, should have something to say about this matter. I understand the need for speed to accommodate changes in a case where a senator cannot attend and a substitution is made.

Honourable senators, these amendments may be put forward in great sincerity, but then someone may abuse the law. I would hope that the mover of this motion would take that into account so that we do not go too far down this road of by-passing the democratic selection and election of members to a committee.

The Hon. the Speaker: Is Senator Olson proposing an amendment?

Senator Olson: No, I am just making some cautionary remarks and putting out a guideline. I am also giving notice that if this is abused too badly we will be forced to take some action to re-establish democracy.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt motion No. 2 in amendment?

Hon. Senators: Agreed.

Motion agreed to.

THIRD READING ON BILL AS AMENDED—DEBATE ADJOURNED

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, as Senator Doody mentioned at second reading of the bill, I asked Senator Nurgitz, the sponsor of the bill, whether members of the House of Commons and senators were given any special privileges in the bill that were not available to the ordinary citizen. I did not have in mind privileges that might be regarded as necessary to the discharge of the function of a senator or provisions for services that are necessary to permit a senator to carry out his or her duty. Senator Nurgitz told me that he agreed that it would be undesirable to convey in the law privileges which were not available to other citizens and that he would follow up; at least, he gave me that impression.

I regret that Senator Nurgitz is not present today, but I do know that the committee examined the bill and I noted that Senator Doyle raised a somewhat similar question, particularly with reference to the criminal law; but I do not find that the matter has been explored as fully as I had hoped. I am back at the matter today because what Senator Doody has said has not fully satisfied my concern on this particular point.

Before going on to deal with the point, I should say that I realize that a great deal of work has been done on this bill. The functions of the boards have been clarified, the status of the Senate in the system has been properly acknowledged, and the amendments that have been put today are further indication of the efforts that have been made to improve the bill and make it more serviceable. But I think it would be unfortunate if the passing of the bill embedded in the law privileges for senators and members not available to ordinary citizens.

As I remember, when the bill was first introduced it provided an opportunity for a member of Parliament or a senator to go before a board to seek the opinion of the board as to whether any impropriety had occurred with respect to the use by the senator of the resources provided by the Senate or the House of Commons. If a police officer made the request, pending the opinion of the board, the process was frozen for at least 30 days. If, at the end of the 30 days, the board gave no opinion, then, of course, the section ceased to operate. Why would one take an objection to that? Well, it was pointed out that there was a considerable delay of 30 days provided in carrying out the legal processes, which would give the opportunity for evidence to be destroyed, if indeed any violation had occurred. I do not know of any citizen who would have that opportunity to delay the process for that length of time and to make it obligatory for another body to intervene before the process was carried forward. Now, that appeared to be the main concern originally, and I am advised that in the committee of the House of Commons, according to a note provided by the Library of Parliament, those objectionable provisions were removed. The note says:

● (1520)

> . . . the potential for delay and the possibility to obstruct the investigation were also eliminated.

That is with one caveat, which I will come to in a moment.

> In its place were introduced provisions allowing but not requiring a peace officer to request an opinion.

In the original provision, a peace officer had to go before the board.

> Also, a Board which wished a peace officer to have an opinion (but which had not been asked for it) were given the right to give it to the peace officer, who would then have to give it to a judge if the officer were applying for the specified legal processes.
>
> These processes do not apply to ordinary citizens. They cannot go to any body and ask if their past, present or future actions were proper, and be assured that the forth-

> coming opinion will be considered by a judge. There is a procedure in income tax matters that permits citizens to request advance rulings, but there is no other general provision that covers all Acts of Parliament as does that in C-79.
>
> Thus, to that extent, Parliamentarians are treated differently.

And it is true. The document goes on:

> But it must be remembered that the opinion of the Board is not binding on the judge; it must only be considered.

Senator Doody mentioned that this afternoon.

> Furthermore, the intent of the bill as amended appears to be that police investigations not be impeded. However, there is one provision that may serve to undercut that apparent intention.
>
> In an amendment at Report Stage of the House, a provision was introduced so that if a Senator or Member merely requested an opinion, and if the Board informed the peace officer of that fact, the peace officer would apparently have to wait for the opinion.

So, in the situation as described, if a member of Parliament or a senator, who may have an indication that an investigation is underway, goes to the board for an opinion and the board then tells the peace officer that it is preparing an opinion, the peace officer cannot take any further action. Furthermore, there is no time limit specified in the bill within which the board must act? This document goes on to say:

> This amendment would appear to re-introduce into the bill some of the aspects that were strongly criticized in its original form.

I find that worthy of note and worthy of looking at very carefully before the bill is passed. Is it possible under the amended bill, as it came from the House of Commons, for a Member of Parliament or a senator to ask for an opinion which would then delay the process of, for example, carrying out a search warrant indefinitely, until the board acts? Is that now the provision of the bill? That is what this document, which has been made available by the Library of Parliament, says.

May I just go on to deal with another aspect of this same question of the special or different treatment for parliamentarians from other Canadians? This document goes on to state:

> One other provision of the bill as amended also serves to distinguish Parliamentarians from other Canadians. The bill provides that applications for most of the defined processes must be made only to a judge of a provincial court. In other types of cases (i.e. where the goods, services etc. of a Parliamentarian were not involved), justices of the peace would also have jurisdiction. The intention of this provision seems to be to signal that applications for the defined processes are serious matters and should be so treated. It must also be noted, however, that the test of whether the process should be issued is exactly the same whether it is handled by a judge or by a justice. Thus, it may be argued that Parliamentarians are not really being treated differently, and to the extent that they are, such treatment is a reflection of the serious effect the issuance of legal process may have on the career and life of a Parliamentarian.

I am not in a position to judge authoritatively on the significance of an application to a judge of a provincial court as distinct from a justice of the peace, but presumably this bill provides that the applications go to provincial court judges, and it is argued in the document that it might be justified because parliamentarians are special people or that the impact of any such process would be greater on the career and life of a parliamentarian.

In any event, I want to tell Senator Doody that I am concerned about this point, and I have not completed the research that I think I ought to do before I, for example, consider moving an amendment. I think it would be unfortunate, as Senator Nurgitz said, if there were provisions here—for example, as have been described by the Library of Parliament paper—which would permit an investigation to be delayed indefinitely, with the implications to be drawn from that. The conclusion would be that the club has come together to surround its brother or sister and that the process would or could be delayed indefinitely. Is that the correct interpretation? Is what I am arguing correct? Is that the correct conclusion to be drawn from the bill as amended? That is the Library of Parliament's argument, but I am not yet prepared to accept it. I should like to do more work on it, and, if I find that the argument is soundly based, I might bring in an amendment tomorrow to clarify that point. If I can be convinced that there is no foundation to my concern, I will drop the matter and let the bill go through.

● (1530)

Hon. C. William Doody (Deputy Leader of the Government): Do you have one or two concerns, senator? I should also like to do more research.

Senator MacEachen: I mentioned two. The first is the more substantial. The second concerns a difference, but I cannot judge the significance of the difference.

On motion of Senator MacEachen, debate adjourned.

THE BUDGET, 1991

STATEMENT OF MINISTER OF FINANCE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Olson, P.C., calling the attention of the Senate to the Budget statement made by the Minister of Finance on February 26, 1991.—(*Honourable Senator Frith*).

Hon. Jean-Maurice Simard: If Senator Frith does not mind, I would like to speak to this.

Hon. Royce Frith (Deputy Leader of the Opposition): I am content to yield to anyone who would like to speak on this matter.

[*Translation*]

Senator Simard: Honourable senators, I am pleased to take part in the debate on the inquiry of the Honourable Senator Olson, in which he took part on February 28.

The Honourable Senator gave us further proof of the trap senators and anyone else must beware of when they make commitments at the very beginning of their speech. Senator Olson, for instance, told us he would be brief, but he was not last Thursday! We do not hold that against him! Senator Olson is never brief anyway!

He also told us that he would address only one aspect of the Budget, that being the monetary policy. I think that he succumbed a few times to the temptation of touching on others subjects. I remember in particular this very interesting exchange between him and Senator Murray. We will not hold that against him either!

Senator Olson told us that the primary cause—there are many others, of course—of this recession in Canada was precisely high interest rates. An old hand of politics like Senator Olson should know that, while interest rates play an important role, their impact is not the most decisive. There is still a link between inflation and interest rates.

On this subject, I think that Senator Murray did indeed make, in response to Senator Olson's speech, the kind of connection that should be made between the two. I also wish to thank Senator Murray for his contribution to this debate.

Of course, these comments concerning Senator Olson at the beginning of my speech serve as an introduction. I am particularly grateful to Senator Murray for kindly reminding Senator Olson and his colleagues that, for the opposition, this tactic, this battle horse is not new.

Senator Olson has been telling us for a year at least—speaking no doubt on behalf of his Party and his colleagues—that the interest rates can be brought down by a phone call to the Governor of the Bank of Canada or by a decision imposed upon him by the Minister of Finance or his deputy-minister.

Clearly, that would be naïve and futile. It would make things much worse in the long run than a high interest rate policy applied at a given point in time.

Senator Olson, in his speech, almost cried out in indignation. I think he is trying to scare Canadians when he says that for once—surely it is not the first time—the Minister of Finance and the Governor of the Bank of Canada would agree to set targets to fight inflation.

Senator Olson told us it would be unheard of—he mentioned it two or three times in his speech last Thursday—and almost scandalous for the Minister of Finance and the Governor of the Bank of Canada to agree on such targets, because it is probably some form of conspiracy . . .

[*English*]

Senator Olson: I did not say that at all!

[*Translation*]

Senator Simard: That is what you said in essence, Senator Olson. Is is quite clear. I have the text of your speech here. It is clear to anyone who cares to read it that you find it scandalous that the Governor of the Bank of Canada and the Minister of Finance could agree with each other.

[*English*]

Senator Olson: It is! It is!

Senator Simard: We have come a long way from the Coyne years! I do not think there is a scandal.

Senator Olson: The press conference was a scandal!

Senator Simard: These two high-ranking financial personalities each have different but certainly converging objectives and missions; that is, to have a healthy and inflation-free Canadian economy that will provide jobs. There has been no conspiracy. There was no need for these two people to hold separate press conferences.

Senator Olson, you attacked the integrity of the Governor of the Bank of Canada when you suggested that he was being influential in his giving of a press conference. That is a shame. It is not acceptable. The scandal is that a senator would pass such a judgment or have Canadians pass such a judgment.

Senator Olson: I am glad that message got through, because that is what I intended to say.

● (1540)

Senator Simard: I do not intend to say, as Senator Olson did, that I am going to be brief, so that I will not break that promise as Senator Olson did last week.

In order to set the stage and put the budget of Mr. Wilson in proper perspective, I would like to read excerpts of an article by Mike Duffy entitled, "Not for the faint-hearted." This article explains a lot about the priorities and objectives of the budget and explains how it fits into the overall scheme of the government. The article reads:

> It's a job that's been held by some of the most prominent names in Canadian politics: Crosbie, Chretien, Sharp, MacEachen, Lalonde, MacDonald, Turner—the list goes on and on.
>
> But since World War II, no one has been minister of finance longer than the incumbent, Michael Holcombe Wilson.
>
> Like a parent dealing with a rebellious teenager, Wilson has given the Canadian economy "tough love."
>
> No one in my memory has been as immune as Wilson to his critics and the faint-hearted in his own party. In the process, he's succeeded in doing what his predecessors only dreamed of, administering the bitter medicine needed to cure the ailing Canadian economy.
>
> And thus we reach "Lucky Seven," as some are calling Wilson's seventh budget address. If Ottawa insiders have it right, this budget is probably also his last.
>
> It comes as Wilson marks his seventh year as minister—the sixth-longest serving finance minister in Canadian history. After seventy-seven months in the job, Wilson is ready, even eager for a change.

> The only question is, will Prime Minister Brian Mulroney allow him to leave finance and take another non-financial portfolio? One that would allow him to jump right back into business should he decide not to run in the next election?
>
> There are a lot of reasons for the PM to keep Wilson where he is.
>
> The economy is still in recession, the GST has just gone into operation, and we're beginning negotiations aimed at expanding the Free Trade Agreement with the United States to include Mexico.
>
> But while all of that is true, it is also true that no minister deserves more than Wilson to have his career desires met.

It goes on to consider his record with regard to income tax. We all know, and even Senator Olson will agree, that Michael Wilson lowered personal and corporate tax rates and simplified them, and that he has closed many loopholes. In fact, Michael Wilson plugged loopholes in the tax law cutting everything from business lunches by 20 per cent the write-offs for boats. That should please our NDP and Reform Party members and maybe some Liberals. He imposed a minimum tax on corporations. I will jump to the last paragraph and conclude.

> Michael Wilson rejected the politically easy course taken so often by his predecessors.

I do not always agree with this great Maritimer, Mike Duffy, but I believe many Canadians will agree with this article. He continues:

> He has taken decisions that will guarantee our kids' futures. He deserves a chance to choose his next portfolio.

Hon. Royce Frith (Deputy Leader of the Opposition): Mike Duffy did not get one of the Prince Edward Island appointments to the Senate but he is getting his speeches read into the record anyway.

Senator Simard: He would be very welcome and he would be a good one.

Hon. H.A. Olson: The sooner Mike takes a new appointment the better for Canadians.

Senator Simard: That is your opinion.

Senator Olson: I am just agreeing with you.

Senator Simard: I was hoping you could agree with some of the things he has done.

Senator Frith: He disagrees even with your agreeing with him.

Senator Simard: I was hoping that you could agree with some of the things he has done, but I have no illusions. These people across the aisle begged the house and the world to accept legislation before Christmas and when we do bring it in it is no good. So I do not expect these people to agree with Michael Wilson. I hope the Prime Minister asks Mike to make another sacrifice in order that he can continue to do a good job.

[*Translation*]

Honourable senators, to start with, I thought it opportune to acknowledge the eloquent and necessary efforts, although not popular, deployed by Michael Wilson over the years. Coming back to the budget tabled last week and the current debate, I can say without any hesitation than Canada is slowly climing back towards a new prosperity which will give Canadians a sense of belonging, a taste for life.

A new prosperity, because the prosperity that Canada once knew was mangled, destroyed by Liberals between 1974 and 1984.

I will give you a few more quotes to prove what I was saying. I will quote famous journalists and economists later in my speech. You don't have to take my word for it as you seem prepared to do.

The lavish expenses, the financial squandering of the Liberals during these years were not only detrimental to their hold on power, they were also detrimental to the future.

The Liberals, in effect, mortgaged the future of the country by putting Canada on the way to deficit budgeting, a way we could leave only with great difficulty and at an enormous cost to our people.

Jeffrey Simpson in an article in the *Globe & Mail* dated Wednesday, February 27, describes the Liberal years as "nightmare years". And I quote:

[*English*]

> Minister Michael Wilson's seventh budget confirms yet again the overwhelming fiscal weakness of the federal government. Ottawa became a fiscal cripple in the years 1975 to 1984, when the federal government accumulated nearly $200 billion of debt. Compounded interest on that accumulated debt cost another $120 billion by 1989-90.

Please, colleagues opposite, when you mention the $400 billion debt of Canada remember what Geoffrey Simpson and many other columnists say, that of that $400 billion, $200 billion is the amount that you people accumulated and $120 billion is the compounded interest on that sum, the debt that the Tory government inherited in 1984.

[*Translation*]

Senator Thériault: Does that apply to New Brunswick as well?

Senator Simard: We will talk about it later.

● (1550)

[*English*]

Senator Olson: But in 1984 you had a plan to fix all that.

Senator Simard: This is exactly what we are doing. I am coming to that momentarily. Do not get restless. You will get it all anyway.

Hon. John B. Stewart: The next century is also coming!

Senator Simard: Jeffrey Simpson states that the total bill for these ten nightmare years of economic mismanagement—and this is not a Tory speaking—is in the vicinity of $320 billion.

Mr. Simpson states that it was obvious by the time the Tories took power in 1984 that, having spent a decade getting into an utterly untenable fiscal situation, Canada would need more than a decade to extricate itself from trouble. That difficult and painful process of escape is still on and will be for some years yet.

[*Translation*]

Honourable senators, the steps taken by Mr. Wilson in this budget aim at reducing the debt and therefore the deficit.

In the simplest of terms, the debt, as we all know, is the amount of money we have to borrow to pay for the expenditures that exceed the revenues.

For all and each of the years between 1970 and 1985, the liberal government has spent more than it has received, undoubtedly to please everyone and to gain votes.

I know it is difficult for Senator Thériault to recognize that fact but that is the truth and it must be said.

Senator Thériault: What have you done in New Brunswick?

[*English*]

Senator Simard: This is the message that I and everyone on this side receives. I hope we will get a couple of converts on the other side who will travel to all the cities and villages to remind people of the job that needs to be done, why we are doing it, and who caused the problem that we inherited.

[*Translation*]

Senator Thériault: Would Senator Simard authorize a question?

Senator Simard: Yes, of course.

Senator Thériault: Honourable senators, I wonder why Senator Simard did not practice what he is preaching now when he was in charge of New Brunswick's finances.

Senator Simard: Honourable senators, we might go back to that. I can tell you that I presented four budgets which all resulted in surpluses. I needed a lot of guts to remove from the roles a great many taxpayers which the previous government, under former Premier Robichaud, had put there. But I did it.

While Quebec and Ontario were developing their industries and building highways, we did the same. I remember that Senator Thériault at the time was an elected member. Senator Thériault go out of politics in 1974, 1975 or 1977—

Senator Thériault: 1979.

Senator Simard: During the first four years, while I was minister of Finance, Senator Thériault was predicting the end of the world. He was one of those who were urging us to spend even more. Well, we removed people from the roles. We built the necessary infrastructure. We have no difficulty defending our management over that period.

As a matter of fact, Senator Thériault will always be guilty of the same sins because as other members on his side, he has never been able to accept the decision of New Brunswick voters. If the New Brunswick voters were as intelligent as I think, they were right. I cannot say whether they may err, but we have no reason to believe they can. If they put their trust in the Hatfield government for 17 years, it is certainly because this government must have done something interesting, unless the alternative would have still been worse.

We will talk again about these years some other time. For now, I wish to talk about 1991 and the forthcoming years. If you have other questions, however, I should be pleased to answer them.

Senator Thériault: Honourable senators, may I ask whether you agree with the policy of the Minister of Finance of Canada who will be responsible for the demise of Medicare in New Brunswick?

Senator Simard: Thanks to Mrs. Bégin, a well-informed person who is a former Liberal minister in a previous federal government, I am in a position to answer this question. I will come to that in a little while, Senator Thériault, so just bear with me.

I am coming back to the current Budget. In 1984-85, the deficit of operation amounted to $16.1 billion and the servicing of the debt to $22.5 billion for a total deficit of $38.5 billion.

In 1990-91, our operations surplus amounts to $12.5 billion and the servicing of the debt $43 billion for a net deficit of $30.5 billion. It is still much too high, but we are moving in the right direction.

Senator Thériault: Try and preach that in New Brunswick!

Senator Simard: From reading these data, it is clear that this government, notwithstanding the unpopularity of some of the measures it was compelled to take, administered, not for its own satisfaction or personal glory, but with a view to balancing public finances and put Canada again on the right track.

To move from a deficit of operation of $16.1 billion to a surplus of operation of $12.5 billion represents a tunraround of $28.6 billion over a short period of five years. A challenge properly met by Mr. Wilson and the Mulroney Government.

The continued efforts of government will make it possible to achieve a real balanced budget by 1995-96. It is only then that a reduction of the public debt will be possible.

The policies announced on February 26 by Mr. Wilson are still intended to restore prosperity in Canada through expenditure control and eventually deficit reduction.

These latest initiatives, which are part of an overall plan launched in 1984, include the following: legislation will be passed to cap program expenditures; all revenues from the GST and privatization will flow into a Debt Servicing and Reduction fund; government operations, including wages, will be severely restricted; after 1991-1992, average growth of program expenditures will be limited to 3 p. 100 per year; the number of senior civil servants will be reduced by 10%; transfers to the provinces will also be subject to budgetary restraints. However, the main transfers will continue to grow faster that the rest of the federal program expenditures. Contributions to unemployment insurance will be increased. Tax increases will only apply to tobacco products.

Honourable senators, let me go back for a moment to the growth rate of government expenditures. It will reach 69 percent in 1991-1992, that is an increase of $7.5 billion.

At first glance, that rate may still seem too high. But further analysis shows this rate is linked to four expenditure items which will increase for very special reasons. I am sure our friends on the other side will want to support these expenditures in the coming year.

The budget provides $3 billion for the training of the unemployed, $1.6 billion for the elderly, which I am sure Senator Olson will support, $1.3 billion for assistance to struggling farmers, $0.6 billion for our presence in the Persian Gulf, and $1 billion for the rest of government expenditures.

Honourable senators, I am confident the vast majority of Canadians will approve of this budget.

Here is what we could read in the newspapers the day after the budget was tabled: in *Le Soleil*, "Wilson donne l'exemple", in the *Financial Post*, "Firm attempt to control spending", and in *La Presse*, "Un budget honnête qui voit loin".

Those are headlines or titles of editorials concerning the budget.

[*English*]

The *Financial Post* attempts to control spending.

● (1600)

In the *Ottawa Sun*, Mike Duffy wrote: "This budget is truly an historic document, one for which our children will thank him." *The Gazette*: "Wilson's budget sees brighter days soon for the economy." The *Financial Post*: "Economists mostly bestow a thumb's up."

[*Translation*]

Of course, the budget did not please everyone; on the whole, however, reactions are positive, our citizens agree with the ultimate goal of the government's financial program and with the initiatives required to achieve the goal of reducing the public debt.

Two budget initiatives in particular caught my attention:

First, the initiative of legislating the growth of expenses.

Second, the control of the growth of transfer payments to provinces.

Honourable senators, whether the hon. senator Olson likes it or not, program expenditures will be capped by through legislation for the next five years. I think this sends a clear message to Canadians, to labour unions, to employers and the private sector. Besides, many private sector companies active in various areas have had to make cuts themselves, in order to balance their budget if not for their own survival. When the government endeavours to cap by an act of law its own expenses over the next five years, I challenge any future government to change that legislation. Such a government should have serious reasons to do so, otherwise it would be putting itself at risk.

Honourable senators, this indicates the firm intention of the Minister of Finance to control expenses and to force our managers to run operations in an even more rigorous manner.

Providing for such a capping through legislation will garantee the realizaton of the goals set forth in the budget concerning program expenditres.

That legislation will change substantially the way the government manages its expenditures and will give Canadians even stronger assurances that the program expenses growth will be controlled once and for all.

[*English*]

Under the legislative spending limits, the budget makes this clear statement: "Spending limits will provide the assurance that higher taxes, including the GST, will not be used to finance higher than projected or new spending programs." I invite Senator Olson and his colleagues to further reflect, and maybe Senator Olson should retract the statements that he made earlier this afternoon. We can all be part of them, I suppose. Some of us are, more than others, but I believe that in this instance, Senator Olson, you demonstrated today that your partisanship got the best of you. I am sure that you will want to consider this new measure, this legislated spending limit and perhaps lend support to these two measures. It is never too late, as we all know.

Therefore, colleagues, a guarantee in black and white, a guarantee to the citizens of Canada and to the financial community, that is what these two measures are all about. We hope that the other levels of government in Canada will follow this initiative.

[*Translation*]

The growth of transfer payments to provinces will also be limited.

Since 1985, provincial spending increased much faster than federal spending. Despite the freeze, transfer payments to provinces will continue to increase faster that federal program spending.

To service their debt, provices pay an average of one third of what the federal government has to pay.

[*English*]

Let us not forget that the major federal transfer to the provinces will exceed $33 billion in 1990-91, a 40 per cent increase since 1984-85. This is an average increase of almost 6 per cent by comparison with the total federal-provincial spending group by only 3.7 per cent annually over the same period. Thus transfer payments to the provinces will continue to grow but at a slower rate under the Budget expenditure controls. Only in 1992-93 will this measure really take effect, where total transfers will be limited to $35.1 billion rather than the original projection of $35.8 billion. This will give the provinces the time required to adjust. Now we are talking $1 billion. That is a lot of money. Perhaps I should point out, by way of explanation or illustration, that this measure, that will come into effect in this first year of the five-year extension—that is, in 1992-93—will represent less than one-third of 1 per cent of all provincial revenues.

So that should put Senator Thériault's concerns to rest, and I will return to this in a minute.

[*Translation*]

In the past, provinces benefited from an increasing support from the federal government when its financial situation allowed.

So it is reasonable to ask provinces to contribute to restrictions when our country's situation makes it necessary.

If both levels of government make an effort to control public spending and limit taxation, all Canadians will benefit from that and we will be on the way to economic growth and prosperity.

I invite honourable senators of the opposition to set aside partisanship, to support the federal government and to urge provinces to take over the funding of education, health care and social programs, even though they have to rearrange their priorities.

I listened carefully to the comments made by the former financial critic of the Liberal Party in the House of Commons, Mr. Doug Young, who is a former member of the New Brunswick Legislative Assembly and former leader of the Liberal Party in New Brunswick. He is now financial critic on Treasury Board votes. He said that it was terrible that Mr. Wilson would ask provinces, in his budget, to take over and to continue to give services even though the federal government was limited the growth in expenditures. Our friend, Mr. Doug Young, said this:

[*English*]

"The Government of Canada will soon resemble the kind of weak national government envisaged in the Allaire Report."

As far as I am concerned, a weak government is not one which tries to limit transfers to provinces to get a hold on its financial problems. There are no new ways. We have done all we can and we have to pay higher interest rates. This is when a weak government exists.

Senator Olson: That is what we have now.

Senator Simard: No, sir. The situation is serious enough, but every time this government has tried to limit expenditures, cut waste, whether it is Via Rail or Air Canada or Radio Canada, or what have you, you people opposite have always said, no, have organized meetings, almost suggested insurrection. You have done that.

Senator Olson: You are using pretty strong language.

Senator Simard: Yes, you have done that. We encourage you to demonstrate as Senator Buckwold did last year from coast to coast. No, I think that Mr. Young again is wrong.

Now here is what the Deputy Leader of the Liberal Party said last week when this reduced transfer to provinces—not reduced transfers, but limited growth transfers—

Senator Olson: What she said is that you are going to ruin medicare.

Senator Simard: Sheila Copps got up in the other place and said that these new tax measures were a Separatist's dream, a featherless nightmare. Senator Thériault was good enough to agree with that statement. He continues to scare the people of my own province, as well as other Canadians, with the threat that the end of medicare is in sight.

[Senator Simard.]

• (1610)

Let me quote what another great Canadian, a former Liberal minister, said. She could be called the mother of medicare. I refer to Monique Bégin and this is what she said last week. You do not have to take a Tory's word for it. I remember when Monique Bégin came to New Brunswick and tried to discourage us. She almost made threats in those days because we were considering user fees. She had medicare at heart, just as Senator Thériault seems to have it at heart. Canadians have medicare at heart.

This is what Monique Bégin said last week: "The five principles are at the heart of Canadians and we will not lose them." The former Minister of Health also predicted that the principles of medicare will survive in Canada, even if the federal government loses its financial influence over the system.

She went on to say that the five basic principles of medicare have become deeply rooted in Canadian society and that no province can destroy them, even if Ottawa ceases to provide cash for provincial medicare programs. We know we are not doing that.

Senator Thériault may put his mind to rest. He can stop spreading rumours and doom and gloom with his statements.

[*Translation*]

Finance Minister Wilson deserves our praise, and I am convinced that his efforts will be successful. I have a few more comments, but I will get back to that later on.

[*English*]

What I believe this budget is all about is leadership. I am proud to be a Progressive Conservative Party supporter, supporting a government that has had the courage, and which continues to have the courage, to do the tough thing. That is what leadership is all about.

Senator Olson: You mean high interest rates.

Senator Simard: I would like to quote from an article written by Diane Francis which appeared in a local paper about two weeks ago. She stated:

> As for economics, let's not forget that most of Canada's current mess is courtesy of Trudeau, whose so-called "just society" with its unsustainable-university-transfer equalization policies contributes more than anything else to the current debt-deficit crisis.
>
> Of course, Mulroney's far from blameless and he should have been more hard-nosed in slashing costs. But Canadians are spoiled and this is, after all, a democracy. Besides, we Canadians have a misguided propensity to blame Ottawa for every grievance—including obscene tax hikes by cities and provinces over which the prime minister has no control.

She concludes the article with these words:

> So ask me who's been the better prime minister during my adulthood: Pierre Trudeau, who gave away everything

and left us with a flawed constitution or Brian Mulroney, who is trying to do the right thing on both fronts?

Mulroney has been a much better leader all in all than Trudeau, whose policies—we are now discovering—are unsustainable, both economically and constitutionally.

The only explanation is a matter of style not content. Mulroney is one of Canada's few middle-class prime ministers and, like all middle-class lads, he realizes that if mortgage payments go up we have to fork out more, turn down the heat and lights a bit to save money or do a bit of both.

Trudeau, on the other hand, fashioned policies which made Canadians believe they could be indulged, little rich kids—as Trudeau himself was—endlessly demanding generosity from daddy in Ottawa.

If we are going to compare the leadership of yesteryear with today's leadership, one could read the article from which I have just quoted; or one could perhaps compare the new leader of the Liberal Party and his leadership with that of the present Prime Minister.

I would now like to turn to what Robert Fife was saying in a local paper a few days ago. In talking about Mr. Chrétien on Meech Lake he stated, "Even before he won the leadership, he flip-flopped, vacillated on free trade, somersaulted on Oka and waffled on the hated goods and services tax." Mr. Fife pointed out that despite an overwhelming opposition to the GST, it took Mr. Chrétien until fall to say he would scrap the 7 per cent tax if elected Prime Minister; but the polls showed most Canadians did not believe him. "On no single issue has Chrétien lost more than with his flip-flopping on the Gulf War." The day before the bombs began raining down on Iraqi forces Chrétien declared, "Our troops should be called back if there is a war." The next day John Turner delivered one of his finest speeches, outlining why Canada should back the U.S.-led and UN-sanctioned war. I submit that is not quite leadership.

I wish to conclude with another quotation of Mr. Chrétien's.

[*Translation*]

Honourable senators, I want to take this opportunity to send a message to Senator Murray as well. This afternoon, there were some questions about the gulf war and reparations for damage caused by the war. Considering the statement made by the Leader of the Liberal Party and reported by Canadian Press last week—the issue here is leadership or the absence thereof—I would urge Senator Murray, as opposed to what the Liberal party leader told us . . .

[*English*]

Last week, Mr. Chrétien was saying "maybe," and I have a headline here from the Canadian Press which I would like to read.

[*Translation*]

Jean Chrétien, Leader of the Liberal Party of Canada, feels that the coalition forces should let Saddam Hussein save face.

I am still talking about leadership! I will make a connectin with the Budget later on. Here we have the new Leader of the Liberal Party asking the coalition forces to let Saddam Hussein save face, because according to what he is telling us, it is a lot easier to get into a war than to get out of it!

Can you imagine a Canadian leader asking the world to let Saddam Hussein save face, a man with blood on his hands and probably one of the best known war criminal since the Nuremberg trials, a man who attacked Israel! Senator Murray, I hope that your recommendations to the governement will not put too much emphasis on this statement by Mr. Chrétien.

I think it is more important for the Iraqi people and especially those who were the victims of Hussein's machine to save face . . .

Senator Thériault: You are pitiful!

Senator Simard: . . . to have something to eat and to see their country rebuilt. I am very disapointed. I am sure Senator Thériault is so upset because he doesn't feel comfortable with this statement by his new leader.

Senator Thériault: You are pitiful!

Senator Simard: That is where leadership counts! Mr. Chrétien hs failed to show leadership. We know it took time for him to go to war! He says it is hard to get into a war but even harder to get out. For him, it was hard to get in s well! He failed to show any leadership during the debate on the Goods and Services Tax, during the crisis in Oka, and during the debate on Meech Lake.

Compare Mr. Chrétien's leadership with that of the Prime Minister of Canada! I would like to conclde with a reading from an article by Marjorie Nichols which appeared last week in the Ottawa Citizen.

● (1620)

[*English*]

If leadership were a quality that could be quantified and subjected to a productivity test, Martin Brian Mulroney would rank with the best and the brightest leaders.

My dictionary defines a leader as "one who leads, a chief director." According to that test, Mulroney must be given high grades.

In the six years and five months since Mulroney and his Tories were swept into power, Canada's political/governmental landscape has been irreversibly altered.

I am quoting this article because this is where the budget fits in: with the government's overall plan of bringing common sense and sanity to the financing of Canada. This is what leadership is all about. Ms. Nichols went on to say that we have come a long way in our program, that:

Privatization, deregulation, free trade, tax reform and the GST have transformed this country.

Later in the article she says:

The National Energy Policy has been abandoned and the National Energy Board defanged. Also gone is the

> Foreign Investment Review Agency, replaced by a government entity that encourages foreign investment.

As opposed to discouraging it. According to Ms. Nichols the Prime Minister "lives and breathes politics." There is nothing wrong with that. Some people seem to think that it is awful. Certainly to face the Liberals you have to be partisan, you have to breathe politics and you have to keep up the fight. She went on to say that Mulroney:

> . . . has single-handedly transformed the Conservative party into the most prosperous and powerful machine in this country. styleoff ti4;4
>
> The affirmation of Brian Mulroney's leadership abilities is that he remains the leader of a two-term majority Tory government in a peaceful, prosperous, united and liberal country next door to the world's nosiest and pushiest neighbor.

Ms. Nichols finishes with this question:

> Know anyone else who might do better?

In conclusion, honourable senators, I apologize for taking so long. I was not interrupted very much, but that is probably my own doing.

Senator Murray: You just weren't provocative enough.

Senator Simard: I understand that we might be going away for two or three weeks. Before Christmas it was difficult at times to participate in debate because senators opposite had decided that there would be no debate, that they would do their show and that would be it. As a result, I have accumulated some material over the past few months. In any event, I thank honourable senators for their patience. I hope that senators opposite will all support the budget and do what we on this side are doing. Senator Olson will be going to Alberta. I hope that he will tell the people there that a little more than government policy is at stake here.

Senator Olson: I will tell them the truth.

Senator Simard: There is training for the unemployed and measures involving the handicapped. Of course, Canada has to pay for its war effort, and that is in the budget as well. We are on the right track and, God willing, the Tory party may be in power longer than senators opposite had expected.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I will take the adjournment again under the same condition; that I will yield to anyone who wishes to speak to the order.

On motion of Senator Frith, debate adjourned.

SECOND WESTERN HEMISPHERIC CONFERENCE OF PARLIAMENTARIANS ON POPULATION AND DEVELOPMENT
INTER-PARLIAMENTARY CONFERENCE ON GLOBAL ENVIRONMENT

Hon. Mira Spivak rose pursuant to notices of Thursday, June 14, 1990:

That she will call the attention of the Senate to the Second Western Hemispheric Conference of Parliamentarians on Population and Development, held at Quito, Equador, from 6th to 9th March, 1990.

and

That she will call the attention of the Senate to the Inter-Parliamentary Conference on the Global Environment, held at Washington, D.C., from 29th April to 2nd May, 1990.

She said: Honourable senators, I shall be speaking to both Inquiry No. 7 and Inquiry No. 8, if I may, at the same time. They deal with meetings of parliamentarians that I had the privilege to attend during the spring of last year.

Parliamentarians from 28 nations of the Americas came together in Quito, Equador, between March 6 and 9, 1990, for the Second Western Hemispheric Conference on Population and Development. The first such conference had been held in Brazil in 1982, as a result of which the Inter-American Parliamentary Group on Population and Development was formed to coordinate and support the parliamentarian movement in the western hemisphere to enhance the awareness of the relationship between population and development.

Delegates at that conference were given a vivid and painful view of the problems in the region by the elected representatives of those regions. For example, members of the newly-elected Chilean government and members of the former government spoke. The delegation included both the niece of General Pinochet, the military dictator of Chile, and the widow of one of his victims. They described: (1) economic stagnation; (2), a debt crisis, now the single most important factor influencing development in the region—in negative balance with more money flowing from Latin America and the Caribbean to developed countries than coming in; (3) population growth rates in some countries which will double within 25 years; (4) a devastated environment, polluted watersheds, oceans and rivers and unsafe levels of air pollution—in fact, recently the *Globe and Mail* reported that in Sao Paulo, air pollution is the leading killer of children under four and that respiratory ailments account for 20.3 per cent of deaths, compared with 11.3 per cent from infections caused by parasites; (5) cities in which the urban population has doubled every 14 years since 1950, where poverty, crime, congestion, pollution and street children are ubiquitous and where basic services are inadequate; and (6) women and children dying in large numbers from preventable diseases and diseases that have reappeared such as measles.

Population and development at this Second Western Hemispheric Conference were, as the Quito Declaration states, approached from the perspective of four different concerns.

The first was the health of the family with emphasis on the need for accessible, high-quality, family-planning services for all and focusing on the special needs of adolescents.

The second was environmental degradation, particularly the problems of urban concentration and pollution in the cities and

the destruction of one of humanity's most precious resources: The tropical rain forests.

The third combined several aspects of social progress, including the problem of street children; the need for more equitable representation of women in the South American and Caribbean parliaments; and the effect of the debt crisis on social programs that are critical to the welfare of the people in the region.

The fourth was the importance of population policies and the need to consider demographic variables, including migration, as an element of development planning.

To this end, parliamentarians pledged themselves to work with their parliaments, constituents and national leaders to enhance the health of the people of the region by means of primary health care, family planning services and information, family life education, maternal and child health services to all in need, especially adolescents.

They pledged to halt the destruction of the environment by measures such as consulting and, where appropriate, collaborating with relevant groups to implement policies on pollution controls; developing sustainable agriculture; protecting watersheds and tropical rain forests; and preserving the diversity of our flora and fauna. It was recognized that we are all trustees for the next generation and that protection of our fragile ecosystem is the responsibility of all nations—North and South. Debt for Nature Swaps was supported.

They pledged to improve the lives of children by promoting health measures such as child survival strategies consisting of growth monitoring, oral rehydration, breastfeeding and immunization; as well as providing universal and completely free primary school education, investing in community centres, making use of outreach workers to offer street children specialized care and protection and by signing, ratifying and implementing the Convention on the Rights of Children. That has been done. The conference focused much of its discussion in this area on the phenomenon of street children.

They pledged to improve the status of women by increasing educational and employment opportunities; by eliminating laws and social practices that discriminate against women; and by ratifying and implementing the Convention on the Elimination of All Forms of Discrimination Against Women.

They pledged to adopt and implement population policies that are rational, equitable, and in accord with national aspirations.

They pledged to improve justice and equity within the region and the nations of the region by attempting to reach agreements that will relieve the crushing debt burden, and by adopting economic adjustment policies, where necessary, that do not deprive people of their basic rights to health, education, employment or social services.

The conference placed special emphasis on the key role of women in the development of Third World countries. It was noted that, in every Latin American country, female literacy lags behind male literacy rates; women earn less; and the labour of those who work in the fields and at home is not valued by economists and planners. Women are considered worthless unless they bear many children, yet this is seen as proof of male virility. Physical violence against women is common and widely tolerated. Women's health suffers because of lack of access to family planning and other health services. Of course, women are also under-represented in the important decision-making fora in society.

Thus, it was deemed a priority, both as a matter of human rights and to foster economic development, to improve the status of women in the region, and a number of specific measures were put forward and discussed to achieve this end. International Women's Day happened to fall on one of the days of the conference. Many of the articulate, intelligent representatives of their countries, who happened to be women, addressed the conference on that day in a moving and eloquent fashion: Women from Venezuela, Cuba, Mexico, Brazil and Argentina.

Honourable senators, I want to comment more briefly on the other important meeting of parliamentarians that I had the privilege to attend in Washington from April 29 to May 2, 1990. Through some process of elimination, I had the honour of leading the Canadian delegation to the Inter-Parliamentary Conference on the Global Environment called by six U.S. senators and chaired by Senator Albert Gore of Tennessee. This was the first international conference to focus strictly on parliamentary strategies to address global environmental issues. Those issues identified were: Global climate change in discussions led by Senator Albert Gore; depletion of the stratospheric ozone layer, a topic directed by Senator John Chafee of Rhode Island; deforestation and desertification, led by Senator Rudy Boschwitz of Minnesota; loss of biodiversity, led by Senator Max Baucus of Montana; sustainable development, led by Senator John Heinz of Pennsylvania; degradation of oceans and water led by Senator John Kerry of Massachusetts; and population, led by Senator Tim Wrath of Colorado.

Not only were the American senators, Republican and Democrat, equally charming and intelligent with firsthand knowledge of the issues involved, but their advisors numbered among them some of the world's most celebrated scientists such as Dr. Carl Saigon, the noted author and astronomer; Jacques Cousteau, and Dr. Sherry Roland, the man who discovered the hole in the ozone layer.

The conference produced a document: *Legislative Strategy Papers, April 29-May 2, 1990,* which contains the lists of legislative goals and strategy options adopted by delegates attending. As well, a computer network was specially developed for the conference which is an international network for environmental policy. Lastly, a Declaration of Environmental Interdependence was signed by most though not all delegates of the 30-some countries represented. Of course, I signed on behalf of Canada, although I am not sure senators are aware of that fact.

Honourable senators, I do have the Declaration of Environmental Interdependence in my possession. I will spare you the reading of it, but if any of you are interested in it, I will be glad to share it with you.

The Hon. the Acting Speaker: If no other honourable senator wishes to participate, these Inquiries are considered as having been debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, March 6, 1991

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

Prayers.

[*Translation*]

THE LATE HONOURABLE EUGENE A. FORSEY, P.C.

TRIBUTES BY STANDING COMMITTEE FOR THE SCRUTINY OF REGULATIONS

Hon. Michel Cogger: Honourable senators, with your leave I would like to draw the attention of this chamber to the tributes to the Honourable Eugene A. Forsey at the meeting of the Committee for Scrutiny of Regulations on February 28 this year. As a number of you may know, ex-Senator Forsey was the first joint-chairman of the committee, known at the time as the Committee on Regulations and other Statutory Instruments. He made an exceptional contribution towards developing parliamentary control over legislation delegated by Parliament.

[*English*]

As was said by my co-chairman at last week's meeting, from 1973 to 1979 Eugene Forsey co-chaired the committee with, in succession, such distinguished parliamentarians as Gordon Fairweather, Bob McCleave and Gerald Baldwin. In his recently published memoirs, Dr. Forsey readily acknowledged the contribution of these colleagues and of the staff of the committee at the time in the formative years of the joint committee. But in reading this chapter of Dr. Forsey's memoirs, it is soon evident that his own contribution was unique. His commitment to the supremacy of Parliament and the preservation of the Rule of Law was heartfelt and unyielding.

Throughout his tenure on the committee, Eugene Forsey was ever vigilant to ensure that regulations, in his words, "fall squarely within the powers conferred by Parliament" and that regulation-making powers "are not so exercised as to trench unduly on the lives, rights and liberties of the Queen's subjects." He was ever aware that the mass of subordinate legislation scrutinized by the committee, to which he once referred as "that mystic Moorish maze of regulations", "is often of crucial importance to the daily lives and fortunes of thousands, or even millions, of ordinary people."

In reading his memoirs, I was struck by this passage which Eugene Forsey quotes from his earlier writings:

> Freedom depends on law. But law which can be set aside whenever the Government sees fit, for so long as it sees fit, without Parliament or the people hearing a word about it, is not law at all. It is a shadow. It leaves the citizen utterly defenceless . . . No law is safe, and when no law is safe, no citizen is safe.

Honourable senators, as I said, last week the joint committee paid formal homage to its first co-chairman. I wanted to put these words on the record.

Hon. Senators: Hear, hear!

OFFICIAL LANGUAGES

THE ESTIMATES, 1991-92—PRIVY COUNCIL VOTE 20c—REFERRAL TO JOINT COMMITTEE—MESSAGE FROM COMMONS

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

HOUSE OF COMMONS
CANADA

Tuesday, March 5, 1991

ORDERED—That Privy Council Vote 20c, for the fiscal year ending March 31, 1991 be referred to the Standing Joint Committee on Official Languages; and

That a Message be sent to the Senate to acquaint Their Honours thereof.

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the flow of petitions, in the same form as those that I have been presenting for, lo, these many days, continues.

[*Translation*]

Today, we have five from Quebec, from the cities of Montreal, Laval, Greenfield Park the area around Montreal. The second petition is mainly from residents of Amos and Victoriaville and the third is also from the same area. The fourth is from the Senneterre area—I think it says Barraute—but I can't read the name of the town. The fifth is also from the same area. Each of these petitions is signed and the lines are complete. Thank you.

Hon. Eymard G. Corbin: Honourable senators, I have the honour to present a petition signed by 75 people, most of whom are residents of southern New Brunswick, from the communities of Blacks Harbour, Hampton, Saint John, Fredericton, Grand Bay, Pocologan, Westfield and many others in

that area. These people object to putting a tax on literature in Canada.

[*English*]

CENTENNIAL FLAME RESEARCH AWARD BILL

TWENTY-SIXTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Lorna Marsden, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, March 6, 1991

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

TWENTY-SIXTH REPORT

Your Committee, to which was referred the Bill C-258, An Act respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities, has in obedience to its Order of Reference of Tuesday, January 15, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MARSDEN
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.

OFFICIAL LANGUAGES

THE ESTIMATES, 1990-91—SUPPLEMENTARY ESTIMATES (C)—NOTICE OF MOTION TO REFER PRIVY COUNCIL VOTE 20c TO STANDING JOINT COMMITTEE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Thursday, March 7, 1991, I will move:

That Privy Council Vote 20c of the Supplementary Estimates (C) for the fiscal year ending the 31st March, 1991, be referred to the Standing Joint Committee on Official Languages; and

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

[Senator Corbin.]

QUESTION PERIOD

DELAYED ANSWER TO ORAL QUESTION SOLICITOR GENERAL

CANCELLATION OF CONFERENCE SPONSORED BY LIFERS GROUP AT JOYCEVILLE PENITENTIARY—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one delayed answer in response to a question raised in the Senate on February 26, 1991, by the Honourable Earl A. Hastings regarding the Solicitor General—Cancellation of Conference Sponsored by Lifers Group at Joyceville Penitentiary—Government Policy.

I am somewhat reluctant to table this answer because I will miss the daily phone calls from Senator Hastings regarding it.

(*The answer follows:*)

The meeting at Joyceville Institution which was planned for later this spring by the Lifers' Group of that Institution was cancelled as a result of serious concerns raised by members of the general public and victims' groups as reflected in the media, correspondence and calls. With this type of very real public concern, it would have been particularly difficult to meet the intent of the workshop insofar as the Solicitor General was concerned. Many correctional initiatives depend on community support both for implementation and for ongoing success. To this extent, corrections must move very cautiously, and can not alienate those whose help and support is essential. Given the reaction to the news of the meeting, this concern was present.

Cost was not the determining factor in the decision to cancel the meeting. The cost to the Correctional Service of Canada of $20,000 had been budgeted for and would have been absorbed by the CSC.

The meeting was originally approved as one means by which the Correctional Service of Canada could hear the concerns of interested individuals and groups. The meeting would also have been used to seek constructive suggestions for further improvements to security and program development which would address the needs of long-term offenders generally, and more specifically offenders serving life sentences. Currently, there are approximately 2,000 offenders in the system serving life sentences, and all of these offenders become eligible for parole at some point in their sentence.

Although the inter-institutional meeting has been cancelled, other initiatives will be taken to involve offenders directly in identifying concerns and developing programs to meet the special needs of long-term offenders. Lifers will be part of this process and, in fact, the Commissioner of Corrections is planning to meet the Joyceville Lifers' Group later this month. As was noted in the press release, a task force on the management of long-term offenders is underway and there is no intention to backtrack on the

Ministry's intent to provide effective programming for all segments of the offender population.

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

THIRD READING—DIVISION DEFERRED

On the Order:

Motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Grimard, for the third reading of Bill C-34, An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof.—(Division deferred to 5.45 p.m.).

Hon. C. William Doody (Deputy Leader of the Government): My understanding is, honourable senators, that an agreement has been reached between the whips to have the vote at 5 o'clock this afternoon with a 30 minute bell.

Hon. Royce Frith (Deputy Leader of the Opposition): So the bell will start at 4:30 p.m.

Senator Doody: My understanding was that the bell would start at 5 o'clock.

Senator Frith: If the division is to be taken at 5 o'clock the bell should be at 4:30 p.m.

The Hon. the Speaker: Honourable senators, is the understanding that the vote is going to be at 5:45 p.m.?

Senator Doody: My understanding was 5 o'clock. If there is a 5 o'clock vote, then presumably the bell would be at 4:30, but that is not the way we have done it before. A 5:45 p.m. vote would cause the bells to start at that time and the vote would be at 6:15 p.m., so obviously there is something missing in the terminology; but I am sure it is nothing that the two whips cannot straighten out.

Senator Frith: I am not sure of that.

Senator Doody: It is very vague.

• (1410)

Senator Frith: If you go by the *Rules of the Senate*, Rule P-3.(a) states "the taking of the division." It is a question of what you mean by "taking of the division." It does not say the starting, but states:

> . . . the taking of the division may . . . be deferred until 5:45 o'clock p.m. on the next sitting day, whereupon—

It is ambiguous.

Senator Doody: Yes; it is.

Senator Frith: It then states:

> . . . whereupon the bells to call in the Senators shall be sounded until the Whips have entered the Chamber and have indicated to the Senator then in the Chair that they are ready to proceed to the taking of the vote; but, in any case, the said bells shall be sounded for not more than 30 minutes, whereupon the vote shall be taken.

You could read it either way.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Remember the way we did it?

Senator Frith: Yes. You could read it either way. It is ambiguous. In any event, I am sure that we can agree on how we want it done.

Senator Doody: Yes. Perhaps the two whips can try to confer on this and make up their minds as to which way they want to do it. We should be able to inform the senators as quickly as they can so that they can be here either at 5.00 or 5.30.

Hon. M. Lorne Bonnell: Honourable senators, we should decide, by unanimous consent as a Senate, to start ringing the bells, for example, at four o'clock and that we vote at five o'clock. We should not leave it up to the whips because there are some independents here who do not have whips. With the Senate making the decision, we will then have made a unanimous decision.

Senator Doody: I am always fascinated by a committee of 104 or 105 trying to accomplish something. I have seen interminable discussions with a committee of eight or twelve. As for the independents, we would certainly welcome them into our caucus if they need a whip.

Hon. Earl A. Hastings: Never!

Senator Doody: I am sure they would be equally welcome in the other caucus if the only requirement in this place were the advice of a whip. This has been the responsibility of the whips in the past. We should let the whips work it out.

Senator Frith: We can agree to it, but let us do it on their recommendation.

The Hon. the Speaker: Honourable senators, are we to have the actual vote at 5.00 or 5.45 p.m.?

Senator Frith: We will let the question of the time stand until the whips have agreed. They can then tell us if they are prepared to have the bells ring at 4.30 for a vote at 5.00. We will then ratify what they agree upon.

Senator Doody: Exactly.

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

Hon. Senators: Agreed.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING—MOTIONS IN AMENDMENT CONCURRED IN

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Barootes, for the third reading of Bill C-79, An Act to amend the Parliament of Canada Act as amended.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have continued my examination of the particular matter that I raised yesterday. I do not know if Senator Doody has conducted his examination to determine whether or not there is a basis for my concern, but my further examination convinces me that there is a basis for concern. Therefore, I want to pursue the matter and possibly put an amendment before the Senate for consideration.

Before I return to the point that I raised yesterday, I should mention that after we finished with the debate Senator Lewis referred to clause 20.3(1) of the bill, which provides that the Internal Economy Committee:

> . . . has the exclusive authority to determine whether any previous, current or proposed use by a senator of any funds, goods, services or premises made available to that senator for the carrying out of parliamentary functions is or was proper,—

The following paragraph 20.3(2) provides that:

> Any senator may apply to the Board for an opinion with respect to any use by that senator of any funds, goods, services or premises referred to in subsection (1).

The question or the concern that might require clarification on this point is exactly what are the ramifications of the use of the words "exclusive authority" if the section provides that Internal Economy has the exclusive authority to determine whether any use of funds or materials is or was proper? If the committee through an act of Parliament has the exclusive authority, where does that leave the courts? If the committee determines that an action was proper, is it still possible for the Crown to lay charges and the court to hear those charges?

It was interesting that in the House of Commons, when the bill was before the committee, the Government Whip, Mr. Hawkes, gave an example of what could occur.

> If we say . . .

And I presume the expression "we" in this case refers to a board . . .

> . . . that Rod Murphy can take his budget and buy a Mercedes-Benz car, he should not be in trouble if he spends it on a Mercedes-Benz car. He must have the certitude that the board can, through by-law, tell him how to spend his money. So when I read that the board has in law the exclusive authority, it does not bother me, because I think that is what the whole thing is.

This quotation is from the Special Committee on the Review of the Parliament of Canada Act Issue 16, November 8, 1990 at page 18.

The question I pose for an answer by whomsoever can provide it is how far does this exclusive authority by the board, either in the House of Commons or the Senate, to determine the proper use of funds extend? Does it extend as far as the example provided by Mr. Hawkes? Is the purchase of a Mercedes-Benz automobile, if office funds were that abundant, a proper use of parliamentary funds just because the committee decides that it is? Is the effect of section 20.3 of Bill C-79 that the resources provided to parliamentarians may be used for absolutely any purpose authorized by the committee? If that is the case, then, of course, that is the end of the matter, I would think, and there would be no role for a court; but that is a point that was suggested by Senator Lewis yesterday in a whisper in my ear. I followed it up and that is what I found.

However, I return to the point that I made yesterday, and I might be able to state it more clearly today. It is provided in the legislation that a member of the House of Commons or the Senate can apply to the board for an opinion as to whether his use of resources is proper, either past, present or future. I have no difficulty with that as it stands on its own, but the difficulty appears to arise when that seeking of an opinion is linked to the commencement of a legal process. As I understand the reading at the present time, if a member of Parliament or a senator sought an opinion as to his use of funds by the board, the issuance of a search warrant or an arrest would be stopped until that opinion was issued. The judge, in deciding whether to authorize the issuance of a warrant for the arrest, must have in his hands the opinion of the board.

● (1420)

Do we want to have in the law a provision which permits me, if I get wind that I am under investigation, to go to the board and ask for an opinion, and allow the board to take its time—days, weeks or months—and only when it gives its opinion can the police act? I say that because the opinion has to be in the hands of the judge before the warrant to search, for example, could be issued.

I think that problem was detected in the House of Commons and an amendment was made to the bill in that House to remove that objection. The amendment was moved at the report stage of the bill in the House of Commons, but, in retrospect, it seems to have made the situation even more difficult. Whereas in the original version there was a limit of 30 days on the time allotted to the board to give its opinion, in the amendment there is no limit whatsoever.

I have talked to Mr. Gauthier from the other place who seconded the amendment at the report stage. I believe it fair to say that he did not detect this difficulty in the amendment. His purpose was to give members and senators an opportunity to have an adjudication by the board on the use of funds. I do not have any difficulty with that. It can be quite useful. If a senator is concerned, or has doubt, about what he is doing or what he proposes to do, and if he can go to his peers and say, "What do you think?", and if they examine it objectively and say, "Well, what you are doing is okay, or is not okay," then I think that is a useful thing. However, if the process of going to a judge to have a search warrant or to lay a charge cannot be completed until the opinion of the board is given, then that is an anomaly. At the very least it is a provision that certainly confers upon members of Parliament and senators a status that is not available to any other citizen. Do we want that?

Members did not want it in the House of Commons because they tried to remove it. Inadvertently, I say, they put it back.

I am putting an amendment on the table. I am not going to try to take the weight of the ethics of the Senate or the House of Commons on my own shoulders, unless there is some view that we ought to do something about it. What I propose is an amendment to remove that objectionable clause in its entirety and replace it with a new one.

The new clause would provide that where a peace officer has in his possession an opinion, he must provide it to the judge who is being asked to issue a process. On page 2, in clause 20.3 (2) of the bill, there is the provision that:

> Any senator may apply to the Board for an opinion with respect to any use by that senator of any funds, goods, services or premises referred to in subsection (1).

Subsection 1 is there to look at if we wish to do so. Clause 20.4 (1) states:

> During any investigation by a peace officer in relation to the use by a senator of funds, goods, services or premises . . . the peace officer may apply to the Board for, or the Board may, on its own initiative, provide the peace officer with an opinion concerning the propriety of such use.

So that the peace officer may go to the board asking for an opinion, or the board may issue one on its own; and, if he has it, the peace officer must show it to the judge. Once that process is launched, so to speak, the following comes into effect:

> Where an opinion is provided to a peace officer pursuant to subsection (1) or the peace officer has been advised by the Board that an application . . . has been made by the senator to whom the investigation relates and where an application for a process is made to a judge, the judge shall be provided with the opinion and shall consider it in determining whether to issue the process.

I am not sure what is the correct word, but the course of justice is stopped until an opinion is forthcoming from the board. There is no time limit on the board. I think that is unintended and unnecessary because it has the implications which were criticized when the bill was before the House of Commons. What I would suggest is that if a peace officer has in his possession an opinion, he must provide it to the judge who is being asked to issue a process—if he has it; but if he does not have it, he is not stopped from going to the judge to make an application. That would mean that the peace officer, if he had an opinion from the board would have to show it to the judge; but he would not have to wait or have an opinion from the board before he could go before a judge. The reason is that one could delay. What would our defence be if I asked for an opinion from the board and the board took 30 days or three months, as could happen, before rendering an opinion? In the meantime, everything has stopped because the peace officer cannot go to the judge because the judge cannot decide on whether to issue an arrest warrant or search warrant unless he has the opinion. I think I have laboured this point excessively.

• (1430)

If honourable senators think there is merit in removing those provisions from the bill, I have an amendment that would strike out lines 1 to 10 on page 3. These are the lines that provide the basis for the difficulty I have outlined. I would move:

> That Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended
>
> (a) in clause 1 by striking out lines 1 to 10, on page 3, and substituting therefor the following:
>
> "Opinion to be considered
>
> (2) Where an opinion is provided to a peace officer pursuant to subsection (1) and where an application for a process is made to a judge, the judge shall be provided with the opinion and shall consider it in determining whether to issue the process." and
>
> (b) in clause 2, by striking out lines 19 to 29, on page 8, and substituting therefor the following:
>
> "Opinion to be considered
>
> (2) Where an opinion is provided to a peace officer pursuant to subsection (1) and where an application for a process is made to a judge, the judge shall be provided with the opinion and shall consider it in determining whether to issue the process."

That second part provides the same rule for members of the House of Commons as it does for the Senate. I would be happy to discuss these amendments privately to determine whether they have merit before I move them. Perhaps we could stand the debate for a little while and chat about it.

Hon. Royce Frith (Deputy Leader of the Opposition): In considering the amendment, we might also remember something not crucial but relevant from a procedural point of view—namely that we have already adopted amendments and that this bill will go down the corridor to the House of Commons amended anyway. It's a question of whether the bill will go to the House of Commons with this amendment as well. In other words, this amendment will not create any delay in the process of the bill, since it has to go back to the House anyway with the other amendments that we have already agreed upon; and we may very well agree to this one too.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I am hesitant to stand because I have already spoken at third reading.

Senator Frith: Not on the amendment.

Senator Doody: My understanding is that this proposal has been discussed with members of the other place, and that they have found it to be an improvement over what was originally proposed. As Senator MacEachen has said, through some inadvertency that limiting clause went in at the report stage. We have no quarrel with that and, if it is the wish of the Senate to accept this amendment, it will simply be added as another amendment to the already amended bill.

With regard to the question raised by Senator Lewis through Senator MacEachen, that is another concern. My understanding of what Mr. Hawkes said is that it was simply an extreme to demonstrate that the Board of Internal Economy of the other place would set out the rules and procedures that govern the expenditures of funds allocated to individual members for their use. The same would apply in the Senate. The Board of Internal Economy would set out the guidelines, or in our case regulations, and they would govern the use of public funds by individual senators. The example of a Mercedes Benz, of course, is an absurdity to the ultimate degree, because I can imagine no committee, certainly not the Internal Economy committee to which I belong, that would sanction the purchase of a Mercedes Benz. As a matter of fact, as Senator Hastings has said from time to time, he has trouble getting the 10,000 sheets of paper for his newspaper, important though it is to the electorate in Alberta. So I do not have the same concern as Senator Lewis on that particular problem. It simply means that the committee that is responsible will set out the regulations to govern the expenditure or the use of funds. Then, if a senator or a peace officer is asking for an opinion, they are the regulations that are used in determining whether or not, in the opinion of the board, the funds have been expended properly.

I must speak to Mr. Hawkes about his hyperbole. Read at random, it can certainly be quite disconcerting. However, I think I know what he was getting at.

In any event, I think that this amendment is perfectly acceptable. I should also call the attention of the chamber to the fact that I will have to ask someone to move another amendment, which is a technical one that was brought to my attention today by the Law Clerk, who tells me that one of the clauses has to be renumbered to fit into the procedure.

Senator Frith: Let us just say that it is agreed.

Senator Doody: Someone will have to move it and it will have to be seconded by someone else. It is here.

Hon. Colin Kenny: Honourable senators, I have some questions regarding this amendment. First, am I correct in understanding that the proposed amendment mirrors what happens in the House of Commons, so that the treatment in the House of Commons and in the Senate would be precisely the same?

Second, would someone applying to the committee for an opinion have the certainty that that opinion would stand?

Senator Doody: As to the first question, the answer is yes. The House of Commons and the Senate are in this bill treated exactly the same in this regard.

As to whether the opinion will stand, it has to be considered by the legal officer, the judge, but it does not have to be accepted. The judge does not have to accept the opinion but must consider it when he is considering the particular case. Each case will be judged on an individual basis.

Senator Kenny: If I understand correctly, as the bill is now written, the judge would have to accept the opinion?

[Senator Doody.]

Senator Doody: No. He has to consider it. He has to take it into consideration when he is making up his mind as to how he should dispose of the case, but he does not have to accept it as the decision that he has to hand down.

Senator Frith: A word about that point, and about the point raised by Senator Lewis. I think we should understand what we are doing, and I think that what we are doing is correct. We have to put it into the context of complaints about the use of resources. When the police investigate those complaints they often find that there is little by way of guidelines as to what is authorized use of resources in some cases. However, they do find that in many cases it was not clear what rules apply to the use of resources. At one stage we were told that the police had said, "You ought to have regulations so that if we get complaints about use of resources from, for example, a disgruntled employee"—which sometimes happens—"we can have something to turn to." That really was part of the motivation for establishing these rules.

The use of the word "exclusive" is, I think, quite intentional and not inadvertent, with the intention that anyone who wants to know what is authorized for use of resources, and who makes the decisions, will know that it is the Board of Internal Economy in the other place and the Internal Economy committee here; but it does have the consequence that Senator Lewis was saying. It says "exclusive," and, of course, he and other lawyers in the Senate know that there is a body of law that fills 20 shelves 20 feet long as to when a law can exclude review by the courts or when it cannot. Of course, that would come into effect here, too, but I do not think we want to get into that huge branch of administrative law dealing with what are called privative clauses. I think the point raised by Senator Lewis is well raised, but I thought it would be worthwhile explaining the genesis of this clause, and that it is not a capricious use of either the establishment of the rules or the use of the word "exclusive."

• (1440)

Hon. P. Derek Lewis: Honourable senators, may I make a comment relating to Senator MacEachen's point. If this amendment requires a police officer to provide the judge with the opinion of the board, we must remember that the judge has to exercise his discretion when he issues the process. The police officer may or may not have this opinion, but it seems to me that we should go further and say that the judge should be informed if such an opinion has been requested. That might have some significance to a judge who is trying to make up his mind. If an opinion has been requested, he should know, although there may have been some delay or reason why the police officer had not received it. I think the judge should know whether or not an opinion has been requested.

Section 20.4(1) says:

> . . . the peace officer may apply to the Board for, or the Board may, on its own initiative, provide the peace officer with an opinion . . .

So it is not required of the board, but it may do so on its own initiative.

Senator Doody: I think that is deliberate.

Senator Lewis: That could be, but I am wondering whether or not the judge should be informed. If there is an opinion in existence, he should have it; but if it is known that an opinion has been requested, he should be given that information. He may ask where the opinion is and be told that it has not yet been received. I think that might be of some significance to a judge.

Senator Doody: I think I can remember that discussion having taken place in committee some months ago. I cannot recall exactly the reason for it's not being done that way. I am sure there are many other refinements, fine tunings, corrections and additions that can be made to the bill, but I do not think we should get into that at this point. It is a matter of timing. If it is at all possible, I would like to get the bill as amended read the third time today so that it will be sent back to the House of Commons. It would then be looked at there and a message would be sent back to us tomorrow so that we could have Royal Assent tomorrow and go on about our business. We have spent so much time with so many amendments, corrections and discussions on this particular bill that I am beginning to wonder if we will ever see the end of it.

Senator Frith: Perhaps we should launch the ship and see if it leaks.

Senator Doody: We will send it out to sea and let the naval architects in the other place decide whether or not they want to make more improvements. I suspect the bill will be looked at again before too long; but, in any event, I would be hesitant to suggest that we tinker with it any more than we have—not to say that the improvements we have made are not significant.

Hon. Romeo LeBlanc: Honourable senators, I should like to make a point of clarification. When the Internal Economy committee examined this matter some months ago, it was careful to ensure that the word "board" not apply in the case of the Senate, not because we wanted to be different but because the powers that the board will have in the House of Commons are considerably different—and I use the word "different" not more or less from the powers that be Internal Economy committee has. We have insisted that the Internal Economy committee's recommendations to this house for approval or disapproval be continued; in other words, that the policies put forward by Internal Economy should be subject to ratification by the whole Senate, continuing with our tradition and the rules we try carefully to follow. I want to make it plain that this provides no increased power to the Internal Economy committee. It might be a different way of using that power, which will always be subject to the ratification of this house.

Senator MacEachen: Honourable senators, before the motion is put, which I will be pleased to move, may I make sure that the Senate knows that the extent of my consultations with the other place have been confined to Mr. Gauthier who was involved in the report stage amendment. My office has discussed this with him, but I have not gone beyond that. I do not want to oversell the process.

• (1450)

Honourable senators, I move the amendment which I read and which, I think, has been circulated.

[*Translation*]

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs . . .

Some Hon. Senators: Dispense!

[*English*]

Senator Kenny: It has not been circulated.

Senator Frith: I thought it had been.

Senator Kenny: No one has a copy of it.

Senator Doody: It is being circulated now.

The Hon. the Speaker: Do honourable senators wish me to read it or do you wish to dispense?

Senator Doody: I believe Senator Kenny wants it read.

Senator Murray: Senator Kenny wants a copy.

The Hon. the Speaker: Copies are being made and will be distributed shortly.

Is it your wish, honourable senators, to wait for those copies to be distributed before we vote on third reading of Bill C-79, as amended?

Senator Frith: I believe another amendment has to be put.

Senator Doody: Senator Simard will put another amendment, which is a technical amendment.

Senator Frith: I believe it involves renumbering.

[*Translation*]

MOTION IN AMENDMENT

Hon. Jean-Maurice Simard moved: That Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended in clause 1 by substituting subsection number 19.5(7) with subsection number 19.2(2).

[*English*]

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

Hon. Senators: Agreed.

Motion in amendment agreed to.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Doody, seconded by the Honourable Senator Barootes, that this bill, as amended, be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Doody: I do not believe Senator MacEachen's motion in amendment has yet been put.

The Hon. the Speaker: I believe honourable senators agreed that I should dispense with the reading of it. Then Senator Kenny stood up.

Is it your wish, honourable senators, that I read the amendment?

Senator Kenny: May we have five minutes to read it?

Senator Doody: Take all the time you want. It is a noble piece of legislation.

The Hon. the Speaker: Is it the wish of honourable senators to proceed to Order No. 3 and then to revert to this order?

Senator Frith: I think we should wait until Senator Kenny has had an opportunity to read this amendment. He, or anyone else, may then wish to deal with it.

Hon. Eymard Corbin: Honourable senators, I think matters would be expedited if the Chair were to read the amendment as moved by Senator MacEachen. That is the proper way of doing business.

Senator Frith: Yes, but we did ask for dispensation.

Senator Corbin: No unanimous agreement was given to that. I should like to have the amendment read.

[*Translation*]

The Hon. the Speaker: Honourable senators, it is moved by Senator MacEachen, P.C., seconded by Senator Frith that Bill C-79, as amended by the 35th report of the Standing Senate Committee on Legal and Constitutional Affairs, be not now read a third time but that it be amended

(a) in clause 1 by striking out lines 1 to 10, on page 3, and substituting therefor the following:

"Opinion to be considered

(2) Where an opinion is provided to a peace officer pursuant to subsection (1) and where an application for a process is made to a judge, the judge shall be provided with the opinion and shall consider it in determining whether to issue the process." ; and

(b) in cluse 2, by striking out lines 19 to 29, on page 8, and substituting therefor the following:

"Opinion to be considered

(2) Where an opinion is provided to a peace officer pursuant to subsection (1) and where an application for a process is made to a judge, the judge shall be provided with the opinion and shall consider it in determining whether to issue the process."

[*English*]

Do honourable senators wish me to read that in English also, although Senator MacEachen moved it?

Senator Ottenheimer: Dispense.

The Hon. the Speaker: Is it the wish of Senator Kenny that we now take a vote on this?

Senator Kenny: Yes, go ahead.

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

[Senator Doody.]

Hon. Senators: Agreed.

Motion in amendment agreed to.

THIRD READING

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Barootes, that this bill, as amended, be read the third time.

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.

BUSINESS OF THE SENATE

TIMING OF DIVISION ON BILL C-34

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, perhaps I could interrupt for just a moment. Further to the vote we are to have this afternoon, there has been—as we all agreed just a moment ago—a misunderstanding about what 5 o'clock meant and what the 30-minute bell meant.

My understanding is that the whips have agreed that the bell will start at 5 o'clock and the vote will be at 5:30 p.m. Hopefully, for future votes, we can pin down what we mean when we say that a vote will be at a particular time. In this particular instance the bell will start at 5 o'clock and the vote will be held at 5:30 p.m.

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

Hon. Senators: Agreed.

VIOLENCE AGAINST WOMEN IN CANADIAN SOCIETY

DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Frith calling the attention of the Senate to the issue of violence against women in Canadian society.—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, I should like to speak briefly to this major social problem which faces our country. First, I should like to congratulate Senator Frith for his introduction of this problem in a Senate debate on February 13, 1990 and Senator Spivak who, last week, again took up the question. They are not alone among Canadians who are concerned about this issue. I know that many members of Parliament, those serving on a committee examining this issue in the other place as well as individual MPs, are also concerned. Mr. Lyle Vanclief, a member of Parliament, recently held a seminar in his riding at which the women's shelters advocates and others discussed this issue. It is becoming a

problem which is under common debate. Each of the senators here described the situation eloquently. It is not my purpose today to review again the sad statistics and the arguments on this problem of violence against women. It takes many forms, as senators know, from emotional and physical abuse to murder.

● (1500)

Those of you who do not believe it is a common problem should ask the women you know about what has happened to them, because it is very difficult to find women in our society who have not, at some time in their lives, been assaulted at least verbally and violently if not physically.

This past weekend I met a leading Canadian politician who has a number of daughters who told me that each of his daughters, the oldest being in her mid-twenties, had already suffered some kind of violent assault, verbal or physical—and these are people from a relatively privileged background. There is no protection.

I do not want to go over that evidence. I want to suggest to my honourable colleagues that there are three major unresolved questions to which we must put our minds and commit our resources. The first is what causes this persistent violence against women. It is not a new issue, but it is becoming an increasingly evident issue. The second question is what it is in our society, in our culture, in our way of doing things, that makes it possible for violence to continue against women. Third, and in many ways most important, what can be done? However, we cannot answer the "what can be done" question until we have answered the previous two questions.

There is increasingly rich literature on the question of the causes of this violence. Most fields of social science and many fields of biology and medicine are now asking these sorts of questions, and the explanations vary. One criticism of this literature is that it is confined to academic circles, that there are scholarly articles written and published, that there are learned societies that get together and debate the issues, but that that literature is not connected to the everyday life of not only victims but of community workers and others who work with victims of violence.

There is, for example, increasing evidence that the behaviour is inherited, either socially or in some other way. A study of the children of battered women, published in 1990 by Professor Jaffe and his colleagues, concludes that males who come from homes where they witness their mothers being battered are a thousand times more likely to end up as batterers themselves; and that, alas, is a great many homes.

There are other explanations offered. In some of the literature, people argue that the causes of violence against women are, to a large extent, economic—that is, people who are under enormous pressure and in very difficult straits. However, upon reviewing that evidence, some authors have recently argued that when that economic tension is relieved one begins to see that it is not that alone, that there is something in our patriarchal way of doing things that is intrinsic to this problem of violence. It remains an unresolved debate in the literature, but a very important one. The causes of this must be uncovered.

The second question, of course, is what maintains this violence. Why does it go on generation after generation? What are the aspects of our culture, as compared to other cultures, that support violence against women? What is acceptable behaviour in our society? Apparently, violence against women is acceptable behaviour in our society. There is evidence of that everywhere. That question can be answered. That is not locked in the same mysteries as other questions, but that answer has not yet been made clear.

The third question is, of course, what can be done. It is true that a number of governments have tried to make progress on this issue. The first action was symptomatic relief—that is, providing shelters for women who are being battered and their children. We are trying to re-educate police officers and police forces to lay charges against batterers. That action is underway. The current federal government has, as have previous governments, supplied support for that. On February 20 last the current government announced a new family violence initiative. It was a real attempt to undertake immediate symptomatic relief.

There is, of course, also the question of gun control laws. Many years ago the Honourable Ron Basford told me that gun control legislation is a women's issue since we are the ones at the fatal end of the guns most of the time. We now have that issue before us again. The public debate is revealing as to who sits on which side of that issue.

In her statement in the Senate on February 27, which I do not propose to review here, Senator Spivak reviewed various initiatives. I would like to suggest to my honourable colleagues that there is now wide-spread agreement among groups across this country—women's groups, men's groups and mixed groups—that there is a need to have a royal commission on violence against women. I am not ordinarily a strong advocate of royal commissions, but I do think that this is exactly the sort of subject on which the depth and scope provided by royal commissions would be extremely valuable. The issue is worse than it used to be and the questions that I and others have posed need to be answered. The Montreal massacre, of course, brought it very much to our attention.

I should like to quote from an article written by Mary Labatt published in the news letter of the Federation of Women Teachers' Associations of Ontario in January of this year. I quote:

> In Montreal, more women were killed by their partners in 1990 than were killed at the Polytechnique. But, nobody noticed these women because they were killed in their own homes. They were nameless and faceless victims.
>
> In 1989, 119 women were murdered in domestic relationships. Most publications say that one in ten Canadian women is battered by her male partner, but research now indicates that one in four women is physically abused by her male partner.

I would like to point out that in half of those cases the women were under the age of 17. This happens at an age at which these girls are extremely vulnerable. The people perpetrating this violence are of all ages. This is not a problem of young men or middle-aged men or old men, but 99 per cent of assaults against women are perpetrated by men and almost 97 per cent of the assaults against men are also perpetrated by men. So the issue that we must consider is male behaviour.

Labatt goes on:

> In the Smith study, an additional measure of abuse revealed an even higher incidence rate over 36 per cent. One study found that 80 per cent of the children witness their father's violence and it is known that this trauma can leave indelible scars on their developing personalities.

Battering is one thing. Labatt continues:

> A Canadian woman is raped every seventeen minutes . . . and the incidence of rape is rising alarmingly. Eighty-four per cent of assaulted women are raped by someone they know and 57 per cent of the rapes occur on a date . . . And 60 per cent of rapes take place in private homes.

Date rape is a very common and very sad problem in our society.

> The attitudes of young people towards date rape are unbelievable. One researcher found that fifty-four per cent of high school boys and forty-two per cent of the girls sampled said it was acceptable for a boy to hold a girl down and force her to have sexual relations with him if he had spent a lot of money on her, they had dated a long time, or she led him on . . . In another study, 65 per cent of the boys and 47 per cent of the girls thought a man could force a woman to have sex if they had been dating for more than six months . . . A study at York University revealed that 31 per cent of the males and 22 per cent of the females thought the girl was to blame if her partner forced sexual relations on her . . .

This goes on and on. These are Canadian studies and are recent studies. They tell us more than we ever wanted to know about the attitudes of those people who are most frequently the victims of this violence.

● (1510)

Honourable senators, this is a crucial question and there is no easy answer to what must be done. It is quite clear that the palliatives that we have so far attempted in Canada are not the answer. The incidence of violence is not going down. All your daughters and granddaughters are at risk, as, apparently, are a great many of your sons and grandsons, who, one assumes, will end up as potential perpetrators of these crimes.

I suggest to you again that, in order to answer the question of cause, the answer pertaining to the question of maintenance, and the answer to the question of what can be done, we need a royal commission of the kind that is being proposed by women's groups in this country—for example, the FWTAO, among others. This idea has widespread support across this country. It would be useful to provincial ministers, police forces, social workers, educators, parents, victims, and people who fear their own potentiality for violence.

The Senate should call upon the government to establish this royal commission. I hope that the government will listen to this. It is a major issue. But if the government does not listen, then I suggest that Senator Spivak's proposal, that a start on this issue should be made by one of the Senate committees, becomes a priority.

On motion of Senator Fairbairn, debate adjourned.

THE ESTIMATES 1990-91

EIGHTEENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Leblanc (*Saurel*), seconded by the Honourable Senator Thériault, for the adoption of the Eighteenth Report of the Standing Senate Committee on National Finance (Main Estimates 1990-91), presented in the Senate on 23rd January, 1991.—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, I do not want to absorb the whole afternoon, but I know that Senator Leblanc is anxious to get the Senate to concur in this report and move on.

Let me briefly congratulate the chairman and the deputy chairman of this committee, Senator Bolduc, for another extremely valuable report from the National Finance Committee.

This report on program evaluation arose in part out of a concern about budget cuts in the budget prior to this one. As senators will recall, there were cuts to women's programs and native communications programs. The question that arose was: Were those cuts motivated by poor evaluation? That is, were those programs not succeeding in meeting their aims, or were they motivated by political ends? At the end of this extremely interesting study we are not sure what the answer to that is, but neither of those programs had received negative evaluations. In fact, they had positive evaluations. Therefore, one assumes that those cuts were politically motivated.

The committee learned, for example, that the Canada Assistance Plan, a program that has been badly mauled by this government in Bill C-69 and in this past budget, had never had a program evaluation until the Auditor General's report for 1989 reviewed it. Since then, however, a program evaluation has been undertaken.

The committee reports that there was a great deal of evidence that, although there are negative evaluations of programs, it is seldom that reallocation of budget occurs as a result. That led us on to further study concerning the process, objectivity and the results of evaluation.

Honourable senators, I strongly recommend this report to you as being a useful and interesting report on the management of government. We had extremely fine witnesses both

from Canada and elsewhere, including from the Public Service and the private sector, and I believe that we learned a great deal. I hope that this report will make an ongoing contribution to the debate on the quality of management of publicly-funded programs.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

SOCIAL AFFAIRS, SICENCE AND TECHNOLOGY

TWENTY-THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Twenty-Third Report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: "Children In Poverty: Toward A Better Future", tabled in the Senate on January 31, 1991.

Hon. Lorna Marsden: Honourable senators, I am pleased to tell you that the report that we tabled earlier entitled: "Children in Poverty: Toward a Better Future", is now out in its proper covers and is available for distribution. Those of you who have read the *Globe and Mail* this morning will know that Mr. Geoffrey York wrote a story about a meeting that we had with the people who had been witnesses and with some members of the press yesterday.

Honourable senators, in the view of the members of the Standing Senate Committee on Social Affairs, Science and Technology, the poverty of children in this country is most alarming. Despite efforts by many people and many governments, the poverty of children is not diminishing. Children are poor because their parents are poor, and their parents are poor largely because they do not have jobs that pay them a sufficient amount to support their families or they do not have jobs at all.

The issues of poverty are of great consequence on the Canadian economy. Based on a study that we commissioned—which is printed as Appendix 1 in our report—this report points out that over the next 20 years we can expect approximately 187,000 students to leave school due to their poverty. These high dropout rates will cost Canadians an estimated $620 million in unemployment insurance costs and an additional $710 million in social assistance payments. If we got rid of these high dropout rates, federal and provincial income tax revenues would rise by $7.2 billion and consumption taxes by $1.5 billion. I should point out, honourable senators, that these estimates were made before the GST came into effect. The incomes of these workers would be considerably greater—about $23 million greater over the next 20 years.

We know that people who drop out of school have a poor future in terms of the economy. This is a key issue in trying to prevent not only the misery to those people and their families, but also to prevent those costs and those foregone revenues for government.

• (1520)

Honourable senators, we drew particular attention in this report, based on some excellent testimony from a variety of aboriginal groups, to the problems of poverty among members of the aboriginal community. For example, did you know that about 51 per cent of all aboriginal children are living in poverty, and the difference is not very great whether they live on reserve or off-reserve; that the life expectancy of an aboriginal person at birth is 8 years less than that of a non-aboriginal person holding everything else constant? There are very serious problems there, and it is to these kinds of problems that the committee turned its attention in trying to create solutions.

Members will recall that on December 19, 1989 we tabled in this chamber an interim report entitled "Child Poverty and Adult Social Problems" in which we laid out the relationship between being brought up in poverty and one's later life. The purpose of the current report is to seek solutions.

There are 16 recommendations in our report. I will not go through all of them, but I hope that honourable senators will read this report. It is not that long and is very much to the point. The recommendations fall in two categories. If we are going to help people get out of poverty, we need to supply income support. Obviously one is in poverty if one does not have enough income. However, supplying income is not enough. We also need to look at services such as housing, the food banks, a variety of issues that make the life of children who are living in a culture of poverty better.

On the income side we have two alternatives to propose. In the first alternative, called the mixed alternative, we take all the current child benefits programs, maintain the family allowance, and add $500 million, which is a tiny proportion of the amount that has been taken out of children's programs by de-indexing and cuts of various kinds. That would raise a very large proportion of families now in poverty above the poverty line. The second alternative would include everything as well as the family allowance in creating a child benefit which, through the income system, would generate revenue. No additional funds would be required, but there would be a loss of family allowance.

In our meeting yesterday, in response to our report, members of Parliament from all three parties on the other side largely supported the mixed option, the one that retains the family allowance. However, in this report we have laid out for honourable senators our thinking, our calculation and the options so that this can be debated.

On the income side, I would like to remind all senators that the federal minimum wage is the lowest of any jurisdiction in Canada; and, with regard to those children of two-parent families living in poverty, a great many of the parents are working full-time and for a full year, but if you earn the minimum wage, you are earning about 40 per cent below the poverty line. A few years ago it was 80 per cent of the poverty line. The federal minimum wage needs to be brought up to the level where if you work full time and earn it, you are not in poverty. It needs to be indexed to the cost of living. In addition, we need to ensure that any federal contracting or

federal government programs pay at least the federal minimum wage.

There are many other recommendations and I am not going to draw them all to your attention now, but I do hope that members of this chamber will obtain copies of this report, distribute them in their various constituencies and talk about it. It is one in a long series that have come forward from "Child At Risk" under Senator Bonnell's chairmanship through a series of other reports on child benefits. I believe that it makes very serious and practical recommendations.

Before resuming my seat, I would like to express thanks to Sandra Harder from the Library of Parliament's research staff who worked so hard and so well in the creation of this report, and Patricia MacDonald of the Parliamentary Centre who is the research officer for our committee. Both of them, with Serge Pelletier, who was then the clerk of our committee, worked long hours and on weekends in order to produce this report. In particular, I would like to thank and congratulate Senator Brenda Robertson who was the inspiration for our taking up this subject of the study of child poverty and who herself has shown tireless commitment to the success of this report. I thank them and members of our committee and other senators who joined us from time to time to hear our excellent witnesses and to produce what I hope will be a series of implemented recommendations.

Hon. Senators: Hear, hear!

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

VETERANS AFFAIRS

CANADIAN VETERANS' ASSOCIATION OF THE UNITED KINGDOM—ELIGIBILITY OF MEMBERS FOR CANADIAN BENEFITS

Hon. Jack Marshall rose pursuant to notice of Tuesday, May 30, 1989:

> That he will call the attention of the Senate to a visit to England for meetings with the Canadian Veteran's Association of the United Kingdom with regard to their appeal to the Canadian Government to recognize their eligibility for benefits under the *War Veterans Allowance Act* and the *Civilian War Pensions and Allowances Act* (residence rule).

He said: Honourable senators, although very belatedly, I rise to address my Inquiry No. 3 dated March 30, 1989 which I introduced almost two years ago, and I apologize for the delay. While it may appear that I was neglectful in addressing an inquiry so long after I introduced it, the delay is entirely justified and this will become obvious as I explain other elements of the inquiry that evolved over the past 23 months.

The inquiry calls the attention of the Senate to a visit I made to England for meetings with the Canadian Veteran's Association of the United Kingdom in 1988 in regard to their appeal through the Senate Sub-Committee on Veterans Affairs to the Canadian Government to recognize their entitlement to benefits under the War Veterans Allowance Act, benefits still denied them because of an outdated, outmoded and obsolete clause in the act introduced some 31 years ago. This clause demands that in order to qualify for benefits under the act, the veteran must come back to Canada and spend 12 months here before returning to his or her chosen country of residence.

Honourable senators are aware of the number of pleas that I and others have made in this chamber through Inquiries and Motions culminating with the introduction of Private Member's Bill S-4 in May 1989 to amend the act, a private member's bill which was justifiable, fair and humane in its intent, but was denied by the outmoded rules of this chamber and ignored by the press. One of the roles of the Senate is the protection of minority rights which in this case would be the protection of a small group of Canadian veterans who, as is their undeniable right, chose to live where they wished after service to their country.

It is therefore my intention today to review at length all the various points I made over the past many months to relate the inconsistencies of successive Canadian governments with regard to anomolies in the act and to relate my findings regarding other issues of which we were previously unaware—nor was the government aware, and it became evident that those who should have been responsible did not care one bit. Fortunately, that resulted in positive action on behalf of Canadian veterans living overseas through a co-operative effort of the Senate Subcommittee on Veterans Affairs and the Canadian Veterans Association of the United Kingdom.

● (1530)

Honourable senators may also recall that at the invitation of the Subcommittee on Veterans Affairs, and prior to my visit in 1989, the National Secretary of the Canadian Veterans Association of the United Kingdom, Mr. Percy Mercer, came to Canada at our invitation to appear before the subcommittee to give evidence on the plight of many of those Canadian veterans who are living in absolute poverty. To make my point, I refer in his testimony to one case, among others, of a veteran who was a prisoner of war for three years. This prisoner died not only destitute, but left his wife in the same condition after his death because he was not aware of the benefits to which he was entitled.

This veteran, William Simmonds, as a result of the Prisoner of War Compensation Act passed in 1976, was entitled to 25 per cent compensation, or $461.80 per month at present rates. After his decease, his wife should have been entitled to half of that amount, or $231 per month for the rest of her life.

Honourable senators, the Simmonds did not even know there was a POW Compensation Act which Canada introduced in recognition of those who suffered in POW camps during the wars even though too many years after the fact, and neither did the Canadian Veterans Association in the United Kingdom know. Nor was there any effort to advise them, even though a small staff is employed within the External Affairs Department at the High Commission office in London to serve

veterans and other Canadians. All I could find out when I visited and spoke to officials was that there was no evident responsibility, they claimed, or they did not have the budget, they claimed, to seek out Canadian veterans to advise them of changes in the legislation which might be to their benefit. As a matter of fact, when I met with them they did not even know what I was talking about.

As I concluded from discussions with High Commission officials, it became obvious that there never was much concern shown in the veterans affairs division of the High Commission office, or by either of the governments of Canada since the war, to honour our commitment to those Canadian veterans. This was the case despite the pleas made by various individuals from time to time until the Senate subcommittee took up their cause three years ago. As a result of this embarrassment to the government, the social worker from the High Commission office in London was brought to Canada for a six-week orientation regarding the legislation—proof that I was right.

As a result of the evidence from Mr. Mercer on the Simmonds' case, it became immediately apparent there may be others who were entitled not only to POW compensation but, more so, that there could be many others who may have been entitled to a disability pension and were not even aware of it. This proved to be the case, as honourable senators will readily observe as I continue my remarks.

It was decided that all those who were listed with the association, and for whom it and we were seeking the war veterans allowance, which the government still refuses to grant them, should be interviewed again to ascertain from their medical records their potential entitlement to benefits under the Pension Act. This, honourable senators, has been going on for over 23 months with more than satisfactory results, mainly through the cooperative efforts of the subcommittee and the CVAUK. The main reason for the delay in addressing my inquiry was to await for these results, allowing for matters to evolve to the benefit of our Canadian veterans and their dependents who were living for too long under destitute conditions to which they need not have been subjected.

I should clarify one inconsistency in the legislation, honourable senators, which came to light, and one which I find difficult to comprehend. I ask honourable senators to pay particular attention to note the hypocrisy of the legislation and its inconsistencies.

While the War Veterans Allowance Act restricts the entitlement to a veteran living in a foreign country through an outdated residence rule, namely, the requirement to return to Canada for 12 months in order to qualify, there is absolutely no restriction on residents as it relates to a prisoner of war or a disability pensioner. While all Canadian governments—and I emphasize the word "all"— have refused stubbornly, and still refuse, to recognize the right of those Canadians to a war veterans allowance, they recognize without question and without any restriction residence of a Canadian veteran who was entitled to a disability pension. This was despite the fact that so many were not aware of their rights, and nor was there any responsibility to advise them. More correctly, noone cared.

What is more bizarre, honourable senators, is the following example of an actual situation in the case of a Canadian veteran in the U.K. which I discovered as a result of an award of a disability pension for which he applied. One of the applicants, John H. Mackie, was informed by the Canadian Pension Commission that his disability had been assessed at 1 per cent, effective February 26, 1988. Since the assessment is less than 5 per cent, a monthly pension is not payable. Instead, the veteran receives a one-time single payment, in this case of $455.28.

Under the veterans' legislation, a 1 per cent disability pension, although seemingly insignificant, gives the veteran the right to apply for a war veterans allowance, which is usually granted on a means test and age eligibility. In this case, veteran Mackie would by all accounts qualify. Instead of getting the one-time payment of $455, he would be entitled to $1,315 per month, if married, or $866.19 a month if single, under the act. He would receive that every month, along with other related benefits, for the rest of his life. His wife would continue to receive the married rate for a year after his death, and then receive the single rate for the rest of her life.

The utter hypocrisy, then, is that veteran Mackie can receive the one-time payment of $455 for his 1 per cent disability pension without any restriction and without being subject to any tax, but his right to apply for a war veterans allowance is denied him unless he returns to Canada for a year. This is despite the fact that he might be unable to travel, or, even if he is able to travel, that he might have to swim because he cannot afford the fare in the first place because he is too poor.

As a result of the discovery that there could be many more Canadian disability pensioners in the U.K. who potentially are entitled to such benefit, Mr. Mercer and his colleagues have been seeking out these veterans and widows. They have submitted some 131 cases, either through the High Commission office in London or the Foreign Service Office of the Department of Veterans Affairs here in Ottawa. Some have been submitted to the Royal Canadian Legion. I have received copies of all cases so as to monitor their progress. This has been going on for the past many months.

As a result of the latest report I received from the Pension Commission, I am pleased to advise that some 43 claims from those veterans who could not qualify for a war veterans allowance have been approved for disability pensions, and payments are being made to veterans and/or their widows living in the U.K. amounting to over $250,000. These veterans, or their widows, will continue to receive monthly benefits for the rest of their lives, instead of the miserable £46 per week from the U.K. government under its social security system, and the little over £10 per week, just increased from £45, from the Canadian government under what is called the Needy Fund. Many more applications are in process.

• (1540)

Let me give just two or three examples of the awards made to some we found who had become entitled to a disability pension or widow's pension.

One widow is currently paid a 10 per cent single rate of pension of $147.78 monthly and a grade attendance allowance of $880.11 for a total of $1,027 monthly effective December 16, 1988, and, as well, was granted a retroactive allowance of over $2,000 in a lump sum.

Another widow is being paid $264 monthly with a retroactive award back to April 15, 1985 in the amount of over $9,000.

Another widow is deemed entitled to a full widow's pension of $1,108 monthly and she received a retroactive award totalling some $35,000. This particular lady was called by Percy Mercer and, when he told her, she was in such shock that she wondered if she could spend the money. As a matter of fact, she told Mr. Mercer that she had saved up enough money to buy a second-hand coat and said, "I guess now I will be able to buy a new one."

I referred to the Simmonds' case earlier and I am pleased to be able to report that last year on her 90th birthday Mrs. Simmonds asked me to thank Canada for what she termed a blessing in that she is now receiving $264 a month. She received a retroactive cheque amounting to almost $9,000, instead of the pittance she was receiving over the years. Her husband, William Simmonds, would be very proud that his wife has been awarded her just due, but perhaps he would be bitter that he was not recognized while he was alive for his years as a prisoner of war.

It is also sad, honourable senators, that, because of the utter complacency of the veterans affairs representatives at the High Commission, the husbands of these widows should have been and could have been in receipt of a pension, in most cases perhaps ever since the end of the war in which they fought some 45 years ago; and the widows should have been receiving their widow's portion since their husbands died and not the pittance they have been receiving from an uncooperative U.K. government. Just think of the amount of money Canada has been saving since 1945.

During my trip to the U.K. I visited some of these widows and veterans, and I can tell you, honourable senators, it was not a pleasant experience, other than to learn some lessons about Canada's commitment to its veterans and its relationship with the government of the country in which they chose to live, in this case our mother country—the country for whom those veterans fought—the United Kingdom. Great Britain and the United Kingdom government will not exempt war veterans allowance from income tax and our government uses that as an excuse not to repeal the restrictive clause. It even refuses to enter into a protocol agreement with the country for which these Canadian veterans sacrificed their lives. However, we have protocols with countries like Germany, which was our enemy; and many other countries exempt from tax war veterans allowance in reciprocal protocols.

To give Senators an idea of our generosity to allied veterans whereby we allow them to exempt tax on allowances, I place on the record the numbers we recognized as of January 4, 1991 and the countries involved. For example, we have Canadian war veteran recipients living abroad, and I will just run down a few of the figures. In the United States there are 49; in England and Scotland there are 103; in Wales there are 3; in Ireland there are 7; in Europe there are 1,349; in Australia there are 6; in New Zealand there are 3. There are also some in Indonesia, Israel, South Africa, Jamaica, St. Pierre and Miquelon, the Mediterranean and others unknown, for a total of 1,554. These statistics were prepared by the Departmental Statistical Unit in March 1990.

Here is a list of the veterans and the numbers of allied veterans living in Canada by district office. In the Atlantic regions there are 486 now receiving full war veterans allowance from Canada because they lived in Canada for ten years after they left their country. In the Quebec region there are 2,791; in the Ontario region there are 2,704; in the prairie region there are 490; in the Pacific region there are 907; for a total of 7,378. They have to reside in Canada for ten years and are then entitled to war veterans allowance. They can then leave and go wherever they want. The U.K. government will not recognize our Canadian veterans for that service.

It is comforting, honourable senators, that, as a result of the events which took place, the Department of Veterans Affairs is now expending every amount of energy and attention to process applications initiated through the channels I have described. It should be recorded that the pensions which accrued to those Canadians overseas came about through proper channels of the system and not through any appeal to government. As became obvious, this was the right decision.

One sad note in the exercise, however, despite the success we have had with many claims for pensions, is that many of the veterans or widows have died since the time they applied for the pension and before their awards reached them. It is difficult to describe this in better words than those of three of the many letters I received from members of the families. One said:

> I sincerely apologize for not letting you know of my mother's death. But I was given to understand Canada House in London would let you know as I sent them the death certificate.
>
> My mom died on 1st July 1990. Sorry for any inconvenience.

Can you imagine, honourable senators, she is sorry for any inconvenience she caused Canada. She enclosed the original death certificate and asked me to return it. That letter was signed by Mrs. G. McGill.

Another letter received in my office concerns a veterans widow, Mrs. Florence N. Morton, and it states:

> Thank you for your letter of 31 August regarding Canadian veterans entitlement to survivor benefits. It is with sadness that I have to inform you that my mother, Mrs. F. N. Morton, died on 16 July 1990. And therefore all your splendid efforts on her behalf are to no avail. She passed away peacefully and was, to her very last day, eternally grateful for the care and attention given her by

the Canadian Veterans Association, she was so grateful for anything she received.

Another says:

> I have read your letter with interest and can only admire the splendid efforts your Association has made for veterans. It must be a great comfort to know their welfare is in such good hands.

Another states:

> I am sorry you were not informed at an earlier date of my mother's demise. I have written to at least three departments informing them of the date of death, and unfortunately, this information had not reached you.

Here is another:

> My grateful thanks to you and the Senate Committee for the efforts you have made on my late mother's behalf.

This letter was signed by Jennifer S. Butcher.

Honourable senators, may I take this opportunity to give full credit to a few senior officials in the Department of Veterans Affairs for their sympathetic cooperation in taking action to process the claims for pension. First and foremost to Mr. André Lemieux, the Chief Pensions Advocate for his immediate and decisive action by sending an advocate over to the U.K. to interview Canadian veterans and widows on the spot to avoid delays of long distance correspondence to seek supporting evidence from widows who would find it difficult to cope.

In this regard, one of the advocates, Mr. Walter Mutz, spent 10 days in London with Mr. Mercer and interviewed some 32 cases which allowed for speedier processing. Also to the former Chairman of the Canadian Pension Commission, Major General John Wolfe, who, as the decisions and awards I have referred to have shown, directed the most serious concern and speed in dealing with the claims and was considering other positive action to process claims through the commission, that of sending a team of commissioners to England to process the cases on the spot for speedier action and in order to ensure that these aged veterans and/or their widows received their just and overdue recognition to allow them to enjoy some comfort in their few remaining years. Just imagine what would have happened if they had done this 40 or 50 years ago. Unfortunately, General Wolfe recently retired, but I am sure we will receive the same service from the acting chairman, Mr. Murray McFarlane. I also extend gratitude to the pensions advocate, Mr. Walter Mutz, who is deserving of the highest praise for his tireless efforts in processing most of the claims for pensions, to his colleagues in the foreign district office, and to Mrs. Doris Boulet, for keeping my office apprised of the awards on a regular basis. She is in Charlottetown.

● (1550)

If I may be so bold, I would like to relate to honourable senators a portion of a presentation made to the subcommittee by the chief of the Bureau of Pensions Advocates during our fact-finding mission to DVA headquarters in Charlottetown last March. I quote from the brief of Mr. Lemieux:

> The bureau has been involved with the Canadian Veterans' Association of the United Kingdom since February 1988. To date, our District Office in Ottawa, which handles all Out-of-Canada claims, has created 131 files. Many of these cases were brought to our attention by your chairman. Indeed, it is a matter of record that your Committee has a long-standing interest in the plight of these Canadian veterans and/or their dependents. I know that your Chairman . . . communicates regularly with Mr. Percy Mercer and is well aware of the Bureau's involvement with both Mr. Mercer and Mr. Greenhalgh of the Canadian High Commission.
>
> As a point of fact, it was at the insistence of your Chairman that arrangements were made for Mr. Walter Mutz, one of the Pensions Advocates in our Ottawa District Office, to travel to England in January 1989 for the purpose of meeting or contacting Canadian veterans or their widows. In his words, "The trip went very well and was worthwhile". Thirty-two files resulted from his visit. Plus an additional 35 files have been opened since.
>
> You might be interested to know that today 67 First Applications have been submitted to the Canadian Pension Commission; 43 of same have resulted in favourable decisions; 22 have met with rejection. Our rate of success: 66 %. With respect to the balance, 10 have been withdrawn and the others are pending submission.

These are Canadian veterans who went overseas, who could not get a job there and who eventually came home. They found that the job they had before the war was no longer waiting for them, so they went back to England with their wives, and many of them just did not do very well. Some of them, of course, have done very well. One of them is the national secretary of the CVAUK, who is doing all this legwork. He is a successful businessman in England.

Honourable senators, while we can take some satisfaction from what we have achieved in regard to those who have now received disability pensions, regrettably we are as yet unsuccessful in the fact that Canada still refuses to recognize those veterans in the UK now referred to as "needy". Despite the procrastination of government, I have been able to receive sympathetic support from many of the veterans groups I have addressed over the past two years here in Canada because, fortunately, they have listened. Branch No.297 of the Royal Canadian Legion in Cornwall has in the past three years sent over 2,000 pounds sterling each year to help these needy veterans. Branches of the legion in Chalk River, Perth, Deep River, Petawawa and Smiths Falls have also contributed in kind, and they are due thanks from the committee and from the Senate. The unsung heroes in the United Kingdom who have been providing funds to those veterans are the members of the Canadian Women's Club under the present chairperson, Mrs. G.N. Sellers, and they have devoted most of the time of their club to finding funds to be able to provide a little comfort to those destitute veterans from Canada.

It is true that just recently, on August 17, 1990, the Minister of Veterans Affairs announced that the British

Department of Health and Social Security has raised the amount that Canada is allowed to pay to needy Canadian veterans in the UK before these payments begin to affect their monthly National Assistance Benefits. The maximum has gone from 21 pounds sterling to 43 pounds sterling per month. However, even this increase leaves these needy veterans in poverty and barely able to exist, veterans who might have been receiving decent pensions over the decades.

It is beyond comprehension to try to reason why a government, regardless of political stripe, can be so generous in some aspects to some veterans and yet so blatantly mean as to ignore the few hundred who chose to reside in a country other than Canada. I would hate to think that it is because these people over there do not vote for anyone in Canada, but I can only conclude in my suspicious mind that that is so.

Let me review now some of the appeals to recognize these Canadians that have been made to governments over the years, just to emphasize how long it has been going on. Back in 1951, some 40 years ago, the Royal Canadian Legion, in one of its first meetings with government, stated as one of its priorities, "that War Veterans Allowance Benefits be extended to Canadian veterans living outside Canada." Leaping ahead to 1974, when I was an MP, I was asked by the Honourable Robert Stanfield to prepare a policy paper on Veterans Affairs. One of the listed commitments read, "we would extend full benefits to Canadian veterans living abroad". I shall not comment as to whether or not we would have extended those benefits, because here we are, 16 years later, without that commitment being fulfilled by either party. Again, in November 1984, the Senate subcommittee, chaired by Senator Lorne Bonnell, recommended in its report "They Served: We Care", "that the residence requirement of the WVA and Civilian War Pensions and Allowances Act be amended to permit qualified persons to benefit from the legislation while residing outside Canada." It is interesting to note that out of the seven recommendations we made, six were implemented. Is it not strange that this one was not?

This is the argument I get from the department to justify their inaction: DVA claims that even if we repealed the section of the act that demands that the veteran return to Canada for 12 months and granted their War Veterans Allowance, the UK government would tax most of it back. Yet, from my discussions while in the UK with veterans who came back to Canada for a year and who are in receipt of the WVA, they contend that they are better off by some $500 per month. No one has proved to me that I am wrong, and I challenge anyone to do so. The department admits that they would be some 20 per cent ahead, and to me that is justification enough to pay them WVA. They have no right to deny them that percentage, however small.

Let me place on the record some of the repeated promises of government made by ministers of the department over the years. Let us go back to September 10, 1984 to find what was said by the Honourable George Hees:

> I cannot see a strong case being made to extend income maintenance provisions of Canada's social assistance, of which WVA is a part, to individuals who elected to remain in another country and want to apply for a Canadian benefit such as WVA.
>
> There are no plans at the present time to amend WVA with respect to the eligibility requirement for veterans residing abroad.

Now let us move ahead two months to November 22 to a letter Mr. Hees wrote to the CVAUK:

> . . . you can rest assured that both I and the officials of my department are giving serious consideration to relaxing this requirement even further and will be doing so . . . if it is at all possible bearing in mind the current economic state.

If my memory serves me right, all we heard in those days was how strong the economy was. Was that not an election year?

The most striking comment by Mr. Hees is this remark he made around the same time while visiting the UK:

> The need to go back to Canada is nonsense. After all . . . if they were able to go back the money would be provided . . . it would have to be provided if they were able to come back, but they cannot because they are too sick. They are too aged and they are too infirm to return.

● (1600)

Yet, since the act was amended to introduce the restriction in 1960, not one effort was made to repeal the clause in the act which, in simple terms, says that in order for a Canadian veteran who chose to reside in, or return to, another country following cessation of both World Wars and the Korean Conflict, to receive War Veterans Allowance, he/she must return and fulfil a 365 day residency requirement in Canada to qualify. That is absolutely and utterly ridiculous at this time when they are so old.

Honourable senators, I have asked time and again for ministers to use their discretionary powers to grant a compassionate award to override the meanness of the U.K. government, but to no avail. They say that it cannot be done. Honourable senators, I know that it can be done. I know that it has been done and it could be done again. It has been done within the last few years, and I refer to a memorandum from the then Minister of Veterans Affairs and place on the record an extract which says, in part:

> Over and above the legal considerations involved, I have to be concerned about the human dimension of these cases and the fact that their resolution has dragged on an unconscionably long time. Moreover we are far from certain that this period would not extend further. Consequently, I believe that the only sensible course of action is to put the cases that have been held pending into pay immediately, and, therefore, I felt it appropriate to give you this as a ministerial directive.

So it can be done. I understand that this ministerial directive cost many thousands of dollars, and I say "bravo" to that minister; but why could not he or his predecessor or his successor do the same for destitute overseas veterans? They can. I can only ask the question: What about the incontrovert-

ible right of Canadian veterans who chose, as a right, to live in a country other than Canada? That is their choice under the Charter of Rights and Freedoms, which says that every citizen of Canada has the right to enter, remain in and leave Canada. It also says that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law.

Let me put on the record another contradiction. I refer to a Veterans Affairs backgrounder dated February 1988. I highlight only a couple of segments from a five-page document, and I quote from this backgrounder published by the department:

> Prior to 1960, all veterans who chose to live outside Canada forfeited any rights to the allowance.

I say that is complete and utter discrimination and a denial of human rights. This is a statement made by the Canadian government referring to veterans who, as young men and women, answered our government's call and, without question, volunteered their lives not only to fight for their chosen country, Canada, but also for their mother country, England, which refuses still to exempt them from income tax despite the fact that we do when it concerns U.K. veterans who chose to live in Canada. Canada tells them they forfeited their rights. I say the government has, up until now, broken faith.

We should wonder what the recruiting officer said to those young Canadians back in 1939 and 1914 when they joined. I can just imagine them saying, "Yes, my good man, you can offer your lives for your country, and if you are lucky enough to come out of battle alive, you have no right to go and live wherever you choose. You had better go back to Canada or you will not get any benefits." These are benefits to which Sir Robert Borden committed himself before Vimy Ridge. He promised all Canadian troops that no man, whether he died on the battlefield or came back to Canada, would have cause to say that Canada did not fulfil its commitment to all veterans of the Canadian forces.

Another contradiction and supposition is that these veterans decided to live or remain in a foreign country. This is not so, as I found out, and as the government neglected to find out. The majority of these Canadians returned to Canada after the war, in a good number of cases with war brides, but they found to their dismay that the jobs which they had left prior to going overseas were gone, or that they just could not get them back or could not find another job. So many decided to return to the U.K., for example, where they made contacts through the families of their wives, through friends or in other legitimate ways.

Finally, honourable senators, I am reminded that on Tuesday, November 20, the Minister of Veterans Affairs appeared before the Standing Senate Committee on Social Affairs, Science and Technology to discuss Bill C-87—and Senator Marsden will, I am sure, recall this—an Act to amend the statute law in relation to war veterans. In his introductory remarks, the minister explained that the bill would improve wording and correct archaic, outdated and paternalistic approaches to the way we sometimes do things, or have done them in the past. That was the minister himself. The bill amended 14 pieces of legislation and 64 clauses in the act. I asked the question: Would it not have been a simple deed to have added one more simple clause, number 65, to amend another archaic clause in the War Veterans Allowance Act which denies Canadian veterans their right to eligibility to all veterans benefits because they chose to live outside the country they served, a country which, when called upon, they volunteered to defend?

So, honourable senators, as we rejoice that our young Canadian men and women are returning from the Persian Gulf without loss of life or casualty, we should recall that we still have Canadian veterans from World War I, from World War II and from the Korean War who are still not recognized for the benefits they deserve and to which they have a right. Thank you, honourable senators.

The Hon. the Acting Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

[*Translation*]

THE OTTAWA SENATORS

NEW NATIONAL HOCKEY LEAGUE FRANCHISE

Hon. Jean-Maurice Simard rose pursuant to notice of Friday December 21, 1990:

> That he will call the attention of the Senate to the granting of a National Hockey League franchise to the City of Ottawa and in particular to the fact that, unfortunately, promoters and supporters did not feel it was necessary to give a French name, or at least a bilingual name, to the hockey team The Ottawa Senators.

Honourable senators, I will be brief, just the time to withdraw this Order.

So, honourable senators, I am pleased to rise on the notice of inquiry I gave on December 21, 1990, when I called the attention of the Senate to the creation of a new National Hockey League club in Ottawa in a year and a half from now, which takes us to the fall of 1992.

This notice of inquiry provided me with the opportunity to congratulate Mr. Finestone and his team as well as Terrace Investments on obtaining the preliminary approval of a National Hockey League franchise.

In my opinion, having a National Hockey League team in Ottawa will not only increase the visibility of the National Capital Region abroad, but it will make a substantial and long-lasting contribution to the economy of the region. The investment required just to house the new club and accomodate supporters and visitors is already a major one.

Incidentally, while we support this worthwhile project, Mr. Finestone's group and Terrace Investments will get a chance to deliver the merchandise with no governmental assistance.

Greater numbers of visitors in the region and more frequent visits will produce interesting financial benefits. Remember

that such benefits could have been directed to another city or even outside of Canada.

All the more reason to applaud to the decision of the National Hockey League.

So, I will gladly reiterate my congratulations on a job well done and assure the new team of my support.

Honourable senators, my main reason for bringing up this issue was to encourage this group which, I hope, will reflect the linguistic duality of Canada in its daily operations, as well as in its marketing and through its personnel selection.

Honourable senators, because a large proportion of supporters of the new hockey club are francophones and this club will be representing the National capital of an officially bilingual country, I hope that the concerns I expressed in December and which were shared by many can be overcome and that the Ottawa Senators will be known as the Ottawa Senators-Sénateurs d'Ottawa.

I therefore urge the owners of the club to reflect in their organization and in marketing this new sports product the bilingual vocation of the National Capital Region.

My office contacted the management of the team. I also contacted journalists concerned with this issue. I have reasons to believe at this time that my prayers will be answered.

This new club of the most prestigious hockey league in the world, the National Hockey League, will be a constant reminder of the linguistic duality of Canada.

In closing, I want to wish the best of luck to the Ottawa Senators-Sénateurs d'Ottawa.

The Hon. the Acting Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

• (1610)

[*English*]

OFFICIAL LANGUAGES

THE ESTIMATES, 1991-92—PRIVY COUNCIL VOTE 20 REFERRED TO STANDING JOINT COMMITTEE

On Motion No. 3 by the Honourable Senator Doody:

That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 20 of the Estimates for the fiscal year ending the 31st March, 1992; and

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move Motion No. 3 standing in my name.

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

Hon. Senators: Agreed.

Motion agreed to.

[Senator Simard]

THE ESTIMATES, 1990-91

SUPPLEMENTARY ESTIMATES (C) REFERRED TO NATIONAL FINANCE COMMITTEE

On Motion No. 4 by the Honourable Senator Doody:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending the 31st March, 1991 (Sessional Paper No. 342-1006).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move Motion No. 4.

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

Hon. Senators: Agreed.

Motion agreed to.

AGRICULTURE AND FORESTRY

AUTHORIZED COMMITTEE TO EXAMINE AND REPORT UPON FEDERAL SUPPORT PROGRAMS FOR AGRICULTURAL PRODUCERS

Hon. E. W. Barootes, pursuant to notice of Tuesday, March 5, 1991, moved:

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon

federal government support programs for the agricultural producers of Canada; and

That the Committee present its Report no later than May 2, 1991.

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

Hon. H.A. Olson: Is the chairman not going to say a word or two about why this is so urgent? Perhaps he does not need to.

Senator Barootes: Do you wish me to say a few words?

Hon. C. William Doody (Deputy Leader of the Government): They might wish to change their minds.

Senator Barootes: Did my deputy leader say yes or no?

Senator Doody: I said that they might change their minds once you explained it to them.

Senator Barootes: I will have to talk my way out of it.

Senator Frith: Senator Olson may decide to support you after all!

Senator Barootes: That would be nice, because I do enjoy the support of my friends opposite, and perhaps I can convince some of my own people of the importance of this.

As senators are aware, the Department of Agriculture has launched with considerable fanfare two programs to assist grain farmers and producers in the west. The first program is the Gross Revenue Insurance Plan or GRIP, and the other is the Net Income Stabilization Account, NISA. Moreover, this

last Friday and Saturday, Ministers of Agriculture met in Regina and discussed what they called a third line of support or attack for immediate monetary assistance before the seeding season. There have literally been tens of meetings—30 in our province alone—with respect to these two programs in order to provide farmers with explanations of the details and how they would apply to individual farmers in various areas.

The shortcoming of what has been going on, senators, is that unfortunately no definitive information has been elicited to fully satisfy some of our farm folk; that is to say, on what date are eligible producers to apply, what is the deadline and detail about the breakdown of fiscal responsibility between federal and provincial governments and the producer with respect to insurance and other programs. That is what we would like to elicit from our Minister of Agriculture and from the Minister of Grains and Oilseeds. It is to that extent that our committee in the Senate would like to undertake this study. My understanding is that the ministers involved would be pleased to appear before the committee in order to allow us to extract from them as much definitive, up-to-date information as possible, not only for our own benefit but for the benefactors of these programs out west. Thank you.

Senator Olson: Honourable senators, I want to support everything Senator Barootes said—

Senator Barootes: Where did I go wrong!

Senator Olson: —about the deficits in information that has not only been provided to us but to the producers who will be participating in these programs. The date of May 2 is fine because we will be able to study a lot of other things, but I hope that when the Minister of Agriculture and the Minister of Grains and Oilseeds appear before the committee, we will be able to get the rest of the information from them because the farmers or producers have to know in advance what the programs are going to cost them and what the insurance premiums are going to be. It is clear that that information has not yet been made available.

• (1620)

Honourable senators, there are some very serious problems in this regard, because March 31 is probably the deadline, or at least it has been the deadline, for signing up for this insurance program. There is good reason for that and I do not argue that point. However, in this case, a signatory signs on for five years, not for one year at a time like the Crop Insurance Program; a person must wait three years before he can get out of this program and he must then wait another two-year period if he decides to sign up for the program again. The longer term commitment and the higher financial commitment involved in this is a very serious management consideration for all of the producers who will be involved.

Therefore, I would completely support Senator Barootes, and I would hope that this motion is passed today. We would then have authority to ask both ministers to appear before us to give us the complete information that is required.

Honourable senators, I would add just a word of caution: It will not be good enough to ask senior bureaucrats for this information, because, no matter how good they are, if the government has not made up its mind to the point where they have signed or can sign a detailed agreement with the provinces as to what the shares are going to be, how much will be paid by the federal government and how much will be paid by the provincial government—and if the producers do not know what their share of the program is going to be—they will not be able to help us. If there is a problem with respect to the government's share and the producers' share, then we must act quickly. There may be a dispute among the actuaries who are doing the calculations of what would be an appropriate insurance premium. I would suggest, honourable senators, that we should hear from the two ministers, or at least one of them who can speak with some authority. If they are still hung up in some negotiation with the provinces, then the producers ought to know that, because we are running out of time.

I thank honourable senators for their patience and would hope they will support Senator Barootes' motion.

Motion agreed to.

COMMITTEE AUTHORIZED TO EXAMINE AND REPORT UPON ANNUAL REPORT OF DEPARTMENT OF FORESTRY, 1990

Hon. E. W. Barootes, pursuant to notice of March 5, 1991, moved:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the Annual Report of the Department of Forestry for the fiscal year ended March 31, 1990, tabled in the Senate on 26th February, 1991 (Sessional Paper No. 342-984), and other matters relating to federal jurisdiction in the Canadian forestry industry; and
>
> That the Committee present its Report no later than December 19, 1991.

He said: Honourable senators, I feel embarrassed to rise again in this hallowed chamber, but I would move this particular motion standing in my name.

Motion agreed to.

The Senate adjourned during pleasure.

• (1630)

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

THIRD READING

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

Honourable senators, it is moved by the Honourable Senator Bolduc, seconded by the Honourable Senator Grimard:

> That Bill C-34, An Act to establish the Canadian Centre for Management Development and to amend certain acts in consequence thereof, be read the third time.

Motion agreed to and bill read third time and passed on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins
Balfour
Barootes
Beaudoin
Beaulieu
Bélisle
Berntson
Bolduc
Buchanan
Castonguay
Chaput-Rolland
Cochrane
Cogger
Comeau
David
DeWare
Di Nino
Doody
Doyle
Forrestall
Grimard
Hatfield
Johnson
Kelleher
Kelly
Keon
Kinsella
Lavoie-Roux
Lynch-Staunton
MacDonald
(*Halifax*)
Macquarrie
Marshall
Meighen
Murray
Oliver
Ottenheimer
Poitras
Robertson
Roblin
Rossiter
Simard
Spivak
Sylvain
Tremblay
Twinn—45

NAYS

THE HONOURABLE SENATORS

Bonnell
Bosa
Cools
Corbin
Davey
De Bané
Fairbairn
Frith
Gigantès
Grafstein
Graham
Haidasz
Hastings
Hays
Hébert
Kenny
LeBlanc
(*Beauséjour*)
Lefebvre
Lewis
MacEachen
Marchand
Marsden
Perrault
Rizzuto
Robichaud
Stewart
Stollery
Thériault
Turner
van Roggen—30

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: I declare the motion carried. Let the doors be opened.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, March 7, 1991

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

Prayers.

THE HONOURABLE CHARLES TURNER

TRIBUTES ON RETIREMENT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I would like to take note of the fact that the Honourable Charles Robert Turner will terminate his career in the Senate on March 24 of this year because of the constitutional provision requiring retirement at age 75. I understand that this may be the last appropriate day to pay tribute to Senator Turner while he is present and able to take his seat in the Senate.

As many of us know, for many years Senator Turner has been a political institution in his native city of London, Ontario. It was not his city of birth, that was Toronto, but London became the place where Senator Turner became not only a political institution but he became identified with all of the varied interests of that active city. When he was a member of parliament, and undoubtedly since then, Senator Turner usually spent his weekends in his native city, in his constituency, and he always reported to us on the results of his active weekend visiting all the clubs and associations to which he not only belonged but of which he was a friend. Charlie was, if I may say, a real joiner. He was not only a member as a trainman and as a CNR engineer, he was a member of the United Transportation Union and a past member of the Brotherhood of Engineers. In addition, he belonged to the London East Optimist Club, the World Federalist Parliamentary Association, the Canadian Parliamentary Association, the Canadian Club of London, the City of London Press Club, the Irish Benevolent Society, the Railway Fuel and Operating Officers Association, the Independent Order of Oddfellows, the Loyal Order of the Moose, the Independent Order of Foresters, and the London Liberal Association.

Hon. Senators: Hear, hear!

Senator MacEachen: When Senator Turner entered the House of Commons he had already spent 27 years in the service of the CNR, where he was an active member of the union. He was first elected in the general election of 1968, subsequently winning re-election in four consecutive general elections: 1972, 1974, 1979, and 1980. He served as Parliamentary Secretary to the Minister of Labour and to the Minister of Public Works, Science and Technology. However, he made his real mark in the House of Commons—and it was a significant mark—as Chief Government Whip, to which post he was appointed in 1980, a post he held until his retirement in 1984. Subsequent to his retirement from the House of Commons, he was named to the Senate on July 9, 1984.

Early in his parliamentary career he was nicknamed "Choo-Choo Charlie" by Prime Minister Trudeau—an allusion to his years as a railway engineer and his capacity for hard work. Throughout his political career, Senator Turner has been attentive to the concerns of his constituents. As I mentioned already, the weekend for him was not a time of rest and relaxation; he customarily travelled to London during the weekend with his wife Marjorie, and his work as a constituency person became legendary.

There was one notable exception to Senator Turner's regular routine, and that was the interruption during the bell-ringing episode in the House of Commons which lasted for 15 days.

Senator Turner, as Chief Government Whip, did not leave Parliament Hill for 15 days. He slept within shouting distance of the chamber of the House of Commons for 15 nights. I think he slept part of the time in the government lobby.

Upon his retirement as MP for London East, Prime Minister Trudeau paid Charlie a fitting tribute when he said that "it can truly be said that he helped to give politics a good name." The proof, according to the then Prime Minister, was that "after four years as the government whip, Charles Turner remained one of the best liked and most respected of our politicians."

I had the occasion to work quite closely with Charlie as whip in the House of Commons. He understood what the line of command meant. When he received the directions that he sought, he followed them out meticulously; and when he gave directions, or when he gave orders as chief government whip, he expected them to be carried out meticulously. He never wavered in his determination that discipline, good order and loyalty should be the practice of Liberal members of the House of Commons.

During those four years, Charlie's weekly summation and weekly exhortations at the caucus were certainly highlights for all of us. He was a splendid person to work with, and he carried that same attitude of teamwork and collegiality to the Senate.

After having spent so many years as a trainman, it is interesting that he should have been translated into a parliamentarian and that he became as well-liked as a parliamentarian as he was as a union member and as a trainman. The transition was easy for Charlie because those qualities that made him effective in his pre-parliamentary career were still at his disposal when he entered Parliament.

It is a big day for Senator Turner, because being in Parliament and being associated with members of the House of

Commons and the Senate has been a great, precious and valued experience for him. He has enjoyed it and appreciated it. It is also a big day because he is separating himself from all those wonderful experiences.

I regret Charlie's departure. He has been everything one would want as a friend and a colleague. He has been a source of strength on all occasions. If I may be forgiven, I should like to read a letter that I received. I have not asked his permission, but it is a handwritten letter that Charlie wrote to me in December. It is a bit political, but most of you are accustomed to political comments.

Hon. C. William Doody (Deputy Leader of the Government): We have six independents!

• (1410)

Senator MacEachen: It does encapsulate Charlie's attitude. He said:

> Dear Allan,
>
> As I move to the end of my political career, I must say that today, December 13, 1990, I was very proud to be associated with you, Senator Frith and Senator Corbin and all my Liberal senator friends. Proud to be a Liberal. Proud of the way we have stood up for the little guy and all Canadians.
>
> This will be a day I will never forget. Let us all fight on.

Charlie, I was moved by that letter, because I knew it was heartfelt, and I will treasure it as one of the expressions of comradeship that comes in politics and which could never have come from a more treasured colleague than yourself.

Honourable senators, I am sure that Senator Turner carries with him today the gratitude that we all share for his service and contribution, and we extend our best wishes for his future life and career in London.

Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have never until today admitted to Senator Turner that on two occasions in my adult life I put in several years in the ranks of management of Canadian National Railways. So I had heard a great deal about Senator Turner long before I ever had the pleasure of meeting him personally.

In Parliament, in the House of Commons and in the Senate, he has been an authentic voice of the working people of Canada, especially the trade unionists of Canada and in particular the employees of the Railway Workers of Canada. Senator MacEachen has referred to his work as Chief Government Whip in the other place. All of us understand what a pivotal position the whip holds in our parliamentary system. He must have the total confidence, both of the leadership, of the caucus and of the backbench, and it is a great tribute to his own personality, talents and integrity, and the respect in which he has been held by his own party, that he held the position of Chief Government Whip for so long under sometimes trying circumstances in the other place. I may also say that under our system, the whip has also to enjoy the respect and esteem of members on the other side of the house, and this, it is generally agreed, Charlie Turner did during all the days that he served in Parliament.

He was one of two or three who were named here officially by his namesake, Prime Minister Turner, in 1984, and in this place he has remained an active and eloquent voice for what he calls the "little people," particularly the working people of this country.

Honourable senators, on behalf of the government and of my colleagues on this side, I am very pleased to pay tribute to Senator Turner's long, constructive and excellent service to his country and to Parliament, and to wish him well on the occasion of his retirement from this place.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I want to endorse and associate myself—incorporate by reference, I suppose, could be the expression—everything that was said by Senator MacEachen and Senator Murray about Charlie Turner.

I want only to add a couple of very personal dimensions about Charlie. The first one is that I believe I knew Charlie Turner before we knew that we knew each other. That is because when I was a student I spent several summers working on a signal gang installing a block signal system on a double track between London and Sarnia. The division actually started at a wonderful little station that had only room to stand in. It was about the size of a phone booth. I think it was called Lobo. The switch went from there to the Glencoe subdivision and down toward Chatham.

To me, engineers were great beings in those days. I was a young guy digging trenches to bury cable and climbing telephone poles to string it, as well as doing various other things. I say they were great beings because they went by in those marvellous old iron horses. Charlie was what in the business was called a hogger, for engineers are called hoggers.

I do not think I have ever before corrected my colleague Senator MacEachen, and I will probably never do so again. However, Charlie was never a trainman. A trainman is a very specific definition of a person in a crew. Charlie was the hogger. I am sure many was the time that I stood looking up in awe at the person who was running this marvellous big wheezing giant locomotive.

Although we never acknowledged it at the time, we have since realized that we had a common friend in the person of E.L. Baker who was the signal superintendent and who worked out of London, where, of course, Charlie also worked.

My next experience with Charlie was when he was the candidate in London East in the 1970s, and I was campaign chairman for Ontario. Charlie, when looking over all the ridings for the strong spots, the soft spots and the medium spots, saw there was no question where London East stood. I am sure this is something that Senator Atkins has done many times. There was no reason why London East stood there. I suspect there were times when I said, "Forget about London

East, Charlie will win it." Senator Atkins may have said the same thing occasionally, although probably from a different point of view.

I learned a lot from Charlie. In my opinion, Charlie Turner was the perfect constituency man for the reasons partly outlined by Senator MacEachen. He was well known, he was beloved, he paid attention to his work. As Senator MacEachen said, he went back to his constituency every weekend. Every Saturday of his life he was at some event in the constituency. He was a perfect one-man Gallup poll as to what was going on. Any of you have been with him—and I see many honourable senators nodding—will remember that. He would come back and say, "This is what they are saying in London." Sometimes we had to wait for Mr. Gallup to confirm what Charlie said was true. If you could not wait for Gallup, you could always count on Charlie.

He had great respect as a union man and as a railroader. He has great respect as a politician, and as a citizen. He is a uniquely great Canadian. There will never be another Charlie Turner. He himself defines what he is and what is great about his Canadianism.

● (1420)

There is a Yiddish word that explains Charlie Turner. I know Senator Barootes, Senator Nurgitz and Senator Buckwold speak Yiddish almost as well as I do, and they will know what this word means: Charlie Turner is a *mensch*.

Hon. Thomas H. Lefebvre: Honourable senators, someone once asked me how I would describe my colleague and friend the Honourable Senator Charles Turner. I said, "You would have to say I knew him as the former member of the House of Commons for London from 1968 to 1984, elected and re-elected five times, in good times and very tough times for the Liberal Party. It was a personal victory on many of those occasions."

I knew him as a railroader. Some of us also knew him as a musician, and I will let him elaborate on that when he speaks. In his young days he was well known in Northern Ontario and Quebec as a professional musician.

He is also known as a gentleman, a father, a grandfather, and companion to his loving wife Marjorie for 51 years.

These are some of the highlights of a life filled with hard work and much happiness.

Charles Turner has been my good friend for more than 20 years. We worked together on many occasions both in this chamber and in the House of Commons down the hall. I have always said, if you ever wanted to have as a friend someone who is modest, self-effacing, honest, steadfast, and having much integrity, then you could never do any better than having Charles Turner as that friend and I am happy that he was mine.

One of the most intense periods in which both of us were implicated in our respective jobs was our stint in opposition when I happened to be Chief Opposition Whip and Charlie was the Chief Deputy Whip. He could be counted on day and night to do anything required to help make our jobs easier, but, more importantly, to keep Parliament controlled and operating. It is during such times that the qualities and values of a person become more and more evident. After the 1980 general election, as mentioned by Senator MacEachen, Charles Turner became the Chief Government Whip, and continued his great work while enhancing his already excellent personal reputation.

[*Translation*]

Speaking also on behalf of my wife Lea, I want to say how proud and honoured we are to have Marjory and Charles Turner as our friends.

When I first set foot in Parliament as a junior member, in 1965, one of the more senior members told me the following about politics: It isn't easy to become a politician; it is hard work; critics can be merciless; you put in long hours; and the problems you have to deal with become increasingly numerous and complex. But above all: never give up.

I agree with every word, but we should not forget there are very few professions that provide this opportunity to work in an environment that is so highly charged both emotionally and intellectually, and at the same time gives parliamentarians a chance to get involved in very complex and very important issues that that are vital to the well-being of our fellow citizens.

Those are the circumstances in which we meet people who become both colleagues and friends. I am very glad that in the course of my career as a politician and parliamentarian, I had this opportunity to enjoy the friendship of a man of great integrity and dedication, my friend, Senator Charles Turner.

[*English*]

When one becomes a parliamentarian, one's horizons are immediately widened. The people we meet come from every profession, trade, ethnic and cultural background and from every corner of this vast country. These individuals have their own characteristics and qualities. My life has been enriched by meeting, working and making friends with all of these persons. One whome I will always cherish as a friend is the Honourable Charles Turner, an outstanding former member of the House of Commons and a gentleman senator.

Charlie, you have earned your excellent reputation. I wish Marjorie and you many years of happy retirement in health and in peace. Best wishes from all the members of my family.

Hon. Eymard Corbin: Honourable senators, I was elected to the House of Commons in 1968 at the same time as Charles Turner. I have been thinking over the past days about what sort of address I would make on the occasion of his departure. I have come to the conclusion that there would be no better testimony to his merit and hard work as a politician over these last few decades than to quote from his own speeches, speeches he made in the House of Commons and these he made here in the Senate, speeches that were full of the hard-won experience and sound common sense which he always exhibited. I have perused some of his first speeches in the Commons, and I have come up with, I think, a number of worthwhile quotations. I may take a little more time than I normally do in these

matters, but I feel it is important to remind ourselves of the will that propelled this member of the House of Commons and Senate from London. His first speech in the House of Commons was made on October 25, 1968. He was speaking to an amendment to the Criminal Code to permit peaceful picketing. He said:

> It is true there will always be areas of conflict. It is for this reason we have collective bargaining. However, there is no sense conducting bargaining in an atmosphere of hostility. Management and labour must learn to live together and to communicate.

He said further on:

> In my 25 years of experience with the collective bargaining process, I have found that union members turn to the picket line only as a last resort, and after the majority of the members have voted in favour of strike action in a democratic manner by secret ballot.

He continued by saying:

> Our society expects a man to marry, rent or buy a home, bring children into this world and clothe and educate them; he is also expected to buy all the things that are displayed in stores and supermarkets, buy a car, take a yearly vacation—even on a buy now and pay later basis—contribute to the church and community efforts, as well as pay federal, provincial and municipal taxes. All this adds up to one thing, Mr. Speaker: money or the weekly pay cheque . . .
>
> The working people of this country, Mr. Speaker, take great pride in being good Canadians, and we must not forget that unions and picket lines have helped immensely in the creation and building of this great nation, so that all Canadians may enjoy a better way of life.

● (1430)

In another speech, on the Canada Labour (Standards) Code, he said:

> It is time we introduced laws in this country that would stop companies laying off employees when they feel like pulling up stakes and moving to other parts of the country or closing down entirely. These laws should apply from coast to coast and they should be federal laws. When a company has been established in any part of Canada for many years, the management of that company has a responsibility to the community in which it is located.

On March 6, 1972, Charlie Turner spoke on a bill to finance Canadian National Railways and Air Canada. Goodness knows how many speeches he made in the House about those two institutions and how many interventions he made in committees, but he always spoke from the heart; he spoke from experience and with the interest of the little guy in mind. He concluded that particular speech by saying:

> The workers of all companies in Canada are entitled to a decent pension at an earlier age. They should not be thrown out of work without adequate pensions that are tied to the cost of living. I urge the railways and all industries to update their pension plans and meet the personal needs of employees and retired employees in a fast changing society.

[Senator Corbin.]

In the ensuing years, Charlie Turner continued to serve in the House of Commons until 1984 when he was called to the Senate. Yet he never forgot his background, his vocation in life, and he kept on speaking from personal and sometimes private experience. To illustrate what I say, I will quote for you a brief passage from a speech he made on December 20, 1985, when we were studying the Financial Institutions Depositors Compensation Bill. He said:

> Honourable senators, over 60 years ago, my parents lost their savings in the Home Bank bankruptcy in Toronto. My mother, who was an orphan, on the advice of her banker and her lawyer—who happened to be a Conservative—invested the liquid assets of the estate of her mother and father. My father, who was a little immigrant boy, came to this country, worked hard and saved a few dollars, met a lady and decided to get married, and lost his savings. This was shortly after they had married and bought a house. Honourable senators, what a way to start out in the Canadian way of life. This is the "just society", and we are again experiencing that today.

He said, in concluding his remarks:

> Honourable senators, I take no risk in my investments. I use common sense and, therefore, I am opposed to supporting Bill C-79, which does not cover all the citizens who made investments in both banks, but instead bails out a favoured few of the uninsured depositors.

He made yet another speech, on February 5, 1986, on the Family Allowance Act. It was an unusually long speech for Senator Turner, of course full of common sense, and again he told everyone where his heart lay. He said:

> Therefore, the loss will be experienced by poor families. This is not redistribution. In 1986, more than $16 million will be withheld from families living below the poverty line. To me, as a working guy, this is a disgrace.
>
> Honourable senators, in my opinion, the answer is, yes, we are our brother's and our sister's keeper. Therefore, as one who has watched the families of my former riding grow up, and knowing what financial problems they have endured during their children's growing-up period, I can only suggest that Bill C-70 be referred back to committee . . .

So there you have Charlie Turner, in words, speaking from the heart and from tough experience.

Charlie, as Vice-Chairman of the Senate Liberal Caucus, you will be missed tremendously. Your departure will create a vacuum, and you will be extremely difficult to replace. I would like to extend to you, to your wife Marjorie, to your children and your grandchildren my very best wishes.

Hon. Senators: Hear, hear!

Hon. Joyce Fairbairn: Honourable senators, so many warm and wonderful words have been said about Senator Charlie Turner this afternoon that one might think there is nothing

further to be said; but I am going to say it, anyway, because I am so fond of him and we are such good friends.

I want to begin by thanking Charlie for what he has contributed to our country in the 23 years he has served in both Houses of Parliament, what he has contributed to the people of London, Ontario, whom he has represented on Parliament Hill since 1968, and what he has contributed to the Liberal Party, which he has supported with a lifetime of loyalty, candour and honour. I also want to say a personal "thanks for the memories Charlie," of a close working relationship which we have shared on Parliament Hill for such a long time.

As Senator MacEachen said earlier, former Prime Minister Pierre Trudeau hit the nail on the head when he paid tribute to Charlie at a testimonial dinner in London in 1984. He said that Charlie helped give politics a good name, and he went on to note that he has remained one of the best liked and most respected of our politicians. Honourable senators, I believe those words are even more appropriate today, because, in the intervening seven years, Charlie has contributed with dedication and excellence to the work of the Senate.

Senators may know, or at least suspect, that Charlie has a soft spot in his heart for Senator MacEachen. He also has another long-standing soft spot in that big heart for Pierre Trudeau. Before becoming a candidate in 1968, Charlie had already laid the groundwork for the kind of respect and affection that has marked his relationship ever since with Mr. Trudeau, whom he simply referred to as "the boss." Mr. Trudeau referred back to Charlie as "Choo-choo" in somewhat irreverent recognition of his 27 years as a locomotive engineer for the CNR. If I might digress, all of us know of Charlie's association with the railroad, but some may not be aware that he earned his living for five years as a young man as a professional musician. He played with bands in Quebec and Ontario. He played at Standish Hall over in Hull, and he also played with Johnny Lombardi's band in Toronto. So he is definitely a man of many talents.

To return to 1968, when Mr. Trudeau was running as a candidate for the Liberal leadership, Charlie was the president of the London East Liberal Constituency Association. He received word from an organizer that Mr. Trudeau would be in the region looking for support and that Charlie and his riding delegates could come and meet him in Guelph. "No way," said Charlie, "If he wants to meet me and the boys he should come right here to London." Three weeks later candidate Trudeau was in London expressing his appreciation to Charlie for his frankness, and they became fast friends. This is a small example of the straightforward and down-to-earth attitude that Charlie carried with him throughout his political life as a self-styled representative and spokesperson for the ordinary individual or, as he puts it, the little guy.

● (1440)

Charlie always talks about "guys," even when he means "persons." It is a habit that neither Senator Lorna Marsden nor myself have persuaded him to break, but we know very well what he means. He means fairness and justice and equality for all Canadians, female and male, of whatever age, colour, race, religion or political affiliation. He means an extra bit of fairness for those who are poor and disadvantaged and lack or miss the opportunities from which Charlie and all of us have been able to benefit. As he has said so often himself, "It is the little guy that makes the world go round. The big guy is nobody if he doesn't have the little guy to do the work."

Most of us are familiar with Charlie's work on Parliament Hill starting with the five consecutive election victories he had in London in good times and bad. In the House of Commons he served, appropriately, as the Parliamentary Secretary to the Minister of Labour and then later with his old friend, the late Bud Drury, when he was the Minister of Public Works and Science and Technology.

As Senator Corbin has noted, by going through some of Charlie's speeches over the years, he always spoke out for the less fortunate and the working person. He talked about transportation and safety. He talked about unemployment insurance, workers' rights, portable pensions and pensions for veterans. He talked about pollution in Lake Erie back in the late 1960s long before the environment had become a popular and fashionable political issue.

Charlie was also a House of Commons person and he worked for part of his career there assisting the Speaker as Deputy Chairman of Committees of the whole house.

It is said that his ambitions in life were to be, first, a railway engineer, and he did that; second, a politician, and he did that; and third, a policeman. I think he took particular pride in being made an honourary member of the protective staff on Parliament Hill in 1983, therefore managing to achieve his third ambition as well.

It was as Chief Government Whip in the House of Commons that Charlie really hit full stride from 1980 to 1984. He was just terrific. For years he had helped members of the caucus and their staff in any way he could to keep the team working. He helped members from all parties find their way in the parliamentary system. He listened to their troubles and to their joys. He was generous with his time and with his friendship. He was loyal, he was fair and he was tough. The combination of all those qualities made him a very special whip.

One of my greatest memories of working with Charlie when I was associated with Mr. Trudeau was during the historic bell-ringing episode of March, 1982. Senators will recall that the then Conservative opposition in the House of Commons refused to come in for a vote for two weeks in their effort to force the government to split its omnibus energy bill. All this was taking place in the middle of very controversial constitutional discussions. As whip, Charlie really was the captain of our ship. He brought a cot into the government lobby and he literally lived there day and night to maintain a presence for the government. We all worried about his health, but Charlie said he figured that only through that example could he ask other members to come in and share the load, and he was absolutely right. It was a magnificent performance of determi-

nation, and the experience made Charlie invaluable to our Senate Liberal caucus as we worked our way through the many weeks, and indeed months, of opposition to the goods and services tax last fall.

● (1450)

All of his responsibilities in Ottawa over the years have never kept him away from his duties in London. His constituency work was, and has continued in his years as a senator, to be legendary. At one point in 1979 it was said that in 11 years he had missed only four weekends of returning to his riding in London while Parliament was sitting. Charlie, honourable senators, did not whip back and forth, to and from London by plane. He drove that distance every weekend, because, where Charlie went, his wife Marjorie went as well. She has been his greatest source of support and advice since they were married 51 years ago. She was also one of his best organizers. In addition to his amazing ability to attend every conceivable function in the riding, Marjorie has always been on the other end of the telephone, a constant link with anyone who had an idea, who had a complaint, or who had a need. Charlie drove back and forth all of those years because there were not equal travel points for spouses—indeed, for many years there were hardly any points at all—and the two Turners have always travelled as a team.

Honourable colleagues, the senator from London is, indeed, quite a guy, and I will miss him sorely. I am tremendously sad to see him retire, although he assures me that he will keep active in politics and volunteer work with the charities and all the people who have come to count on him for so long.

Over the years, Charlie has always greeted me with a gruff but cheerful question: "Joyce, are we winning or losing?" If he were to ask me that question today, my answer would be that the Senate is losing a very fine representative and friend; but the democratic process is always winning when a person like Charlie Turner dedicates his life and abilities to its service.

Charlie, may you and Marjorie have many more happy and active years back in London, with time spent with your family, particularly your grandson, Mike, who has been such an important part of your life. Remember always that you have another houseful of friends to come back to and visit here in the Senate.

Hon. Senators: Hear, hear!

Hon. Pierre De Bané: Honourable senators, during the 16 years I served in the House of Commons with Charlie Turner, there were very few members of Parliament for the province of Ontario who survived throughout the whole period. During those years I saw David Lewis, the leader of the NDP in Ontario, defeated, and I saw ministers of the cabinet defeated. One of the very few people who survived for 16 years as a member of the House of Commons for the province of Ontario, was the member from London East, Charlie Turner.

I remember, in 1972 and 1979, that running as a Liberal in Ontario was no easy venture, but Charlie Turner survived. I sometimes wonder why, during those 16 years, Charlie Turner had such success in the province of Ontario while others did not. Other speakers have paid tribute to the values that Charlie Turner held dear. Honourable senators, Charlie Turner represents the ordinary people of this country. There is no doubt that that has played a great part in the support and confidence his constituents have extended him.

Honourable senators, as a representative of French-speaking Canada, I would like to pay a personal tribute to Charlie Turner. During the 16 years he was a member of Parliament we witnessed significant improvements towards making both linguistic groups feel comfortable in this country. At that time I saw people pressuring the government to slow down the pace of linguistic reform, arguing that English-speaking Canadians would resent the speed at which policies were being implemented. Charlie Turner, however, would have nothing to do with applying that sort of pressure. I would like to tell Senator Turner that, as a member from the province of Quebec, I always admired his courage, his decency and fought for his beliefs.

[*Translation*]

Honourable senators, as a colleague who had the privilege of being elected at the same time as Senator Charlie Turner, I would like to take this opportunity to join the other senators and especially Senator MacEachen, Senator Murray, Senator Fairbairn, in expressing my great respect for the values he has embodied and the courage he has shown in the course of performing his duties here in Parliament, and I wish to offer him my best wishes for a long and happy retirement.

[*English*]

Hon. Stanley Haidasz: Honourable senators, I also wish to associate myself with the previous speakers in expressing my deep appreciation and respect for Senator Charlie Turner. Having worked on the railroad myself almost every summer holiday for Canadian pacific and for whom my dad worked for 45 years—I was very glad to hear about his experiences at CNR. Above all, I appreciate his defence of the men and women who work for our railway companies in this country.

Throughout the years we served together in the House of Commons and here in this chamber I have admired Senator Turner's courage admonishing us when we forgot to look after, as Senator Fairbairn called them, "the poor guys"—the really poor and disadvantaged people in our country. I also wish to thank him for his wise advice and for his support, both here in this chamber and in the other place. I consider him one of my political mentors.

● (1500)

Many of you probably do not know, nor has it been stated, that Charlie Turner also took time out to meet with his constituents who were of other than English and French origin. Many times he stuck out his neck to help the immigrants and the refugees who chose to settle in that beautiful, serene and prosperous city of London. In particular, the Polish Canadian Community of London is indebted to Senator Charlie Turner for his assistance, compassion, and the understanding he has shown to their problems.

I also want to thank Senator Turner personally for his hospitality and support whenever I, as a minister, visited London to spread the good news of the federal government's policy of multiculturalism.

This afternoon I join other honourable senators in expressing to our colleague, Senator Charlie Turner, our thanks for the services he has rendered to our country and our people, in this chamber and in the House of Commons. I wish him, his wife and family, much health and happiness.

Hon. Len Marchand: Honourable senators, I, too, wish to join in the tributes being accorded my old pal, Charlie Turner. Charlie is probably getting anxious about the many good things that are being said about him, and he probably wants to respond to them; so I will not take up too much of your time.

I first got to know Charlie as a friend and colleague back in 1968. We served there together between 1968 and 1979 and worked together in many ways, on committees and so on, on behalf of the Liberal Party.

During all that time the one thing I always appreciated was that Charlie and his wife Marjorie were good friends. We had many conversations concerning matters of the day, about government and politics. I could always count on Charlie for good friendship and good advice.

The tributes that have been paid to him today have been many. I know him as a good, honest, decent and hard-working man who has served the people of this country extremely well. I will miss him as a friend around this place. I will also miss the friendship of his wife Marjorie. I wish them both good health, much happiness, and many happy years together.

Some Hon. Senators: Hear, hear!

Hon. Lorna Marsden: Honourable senators, I have never worked on a railway and I have never been an MP, but I have had the great pleasure and privilege of being Senator Turner's seatmate for the last few years. It has been both a great pleasure and a great privilege.

This afternoon we have heard, from so many who have been friends of my seatmate for many years, that Parliament is losing a very experienced member with all the accumulated wisdom that he has gathered during those years. The Liberal benches are certainly losing a stalwart and one of our important sources of commonsense and advice.

The people of Ontario, and in particular the people of London, have had every phone call, letter and visit responded to on every question asked, from citizens as individuals to businesses, schools, universities and hospitals. As I have sat here I have seen those answers go out by the hour. Nothing gets left behind. It is most impressive. We have learned a great deal from that.

To Senator Turner I say it has been a great experience to be your seatmate. I feel as though I have made a strong friend and have learned a lot about life and politics. We have not quite got through all the details of your life story yet. We need you here a few more years, and that would be very enjoyable indeed.

You have changed my mind on many things, and you have certainly added a great deal to what I know and what I think. I will always appreciate that.

We are losing you from this chamber, but we are not losing you from our lives, and certainly not from our thoughts. On behalf of this corner, I am asked by my colleagues around here to express to you, to Marjorie, to your grandson, Michael—whom we all feel that we know—and to all the members of your family, our best wishes for a great deal of health and happiness. We hope to see you here often.

Some Hon. Senators: Hear, hear!

Hon. Charles Turner: Honourable senators, this will be a hard act to follow. Honourable senators and friends, thank you for your touching remarks. I shall treasure them as the finale to my political career—a career that has been long and rewarding.

It has been many years since, as a boy at the age of 13, I found my political leanings. Yes, even at that age I knew where I stood—despite my father's conservatism.

Scolded by a Tory candidate in Toronto after seeking information on the history of the Tory Party for a current events school essay, I marched down the street to Liberal campaign headquarters and to a receptive welcome.

Not only did I receive my sought-after information, but I was also introduced to the Maple Leaf hockey stars of the day: the famous "Kid line" right winger, "Charlie" Conacher; left winger, Harvey "Busher" Jackson; centre "Joe" Primeau; and the great defenceman, the "Big Train", Lionel Conacher, who later became a member of the House of Commons. What a great day for a kid who thought he knew them by listening to the Foster Hewitt radio broadcasts on my crystal radio set in my bedroom.

I can look back on the past and say that I owe much of my success to the man at the Liberal Party campaign headquarters. He helped me out and he also asked me to be a volunteer worker. So, I say to all my senator friends: Reach out your hand to help the youth of today, because you never know what the future holds for that particular person. As the years roll by that youth may grow up to be a candidate of your political party.

Yes, senators, it was a great day, and the beginning of my life-long passion with politics. After writing the school essay and receiving a mark of 98, I marched back down to the Liberal Party headquarters and began working on the 1930 provincial election campaign. That is 61 years ago! It is no wonder I feel that I am growing older each day. But I have never looked back as I progressed through the political ranks.

• (1510)

I have met very many interesting people, many that I have read about in the magazines and newspapers of this great land. In the "dirty thirties", my Dad requested me to go with him to the great Toronto election meetings, where I met personally the Right Honourable Mackenzie King and the Right Honourable R.B. Bennett at the election rallies in Toronto's Massey Hall.

During my career as a railway passenger engineer and fireman, I have pulled the private cars of the Right Honourable Louis St. Laurent from Toronto to Windsor; the Right Honourable John Diefenbaker from Chatham to London to Hamilton; the Right Honourable Mike Pearson from Toronto to London. Upon arrival at the station, every one of those great Canadians took the time to walk up to the engine to shake hands with and to thank the crew personally for a good ride and to wish them well in their future endeavours. To me, that is the mark of true and dedicated political leaders, who will always be remembered in the history books of this great land.

When I decided to run in the 1968 federal election campaign, I was ready. I had been schooled and trained in every part and parcel of an election campaign. The general elections of 1968, 1972, 1974, 1979 and 1980 were the precursor of my joining honourable senators in July 1984.

We have been through some momentous times in the past two decades and I am proud to have been part of the team, with my former bosses, with Pierre Elliott Trudeau, John Turner, Jean Chrétien, Allan J. MacEachen, Royce Frith, Eymard Corbin, our caucus chairman. My seat-mate, Lorna Marsden, Professor of Sociology, adopted me as her oldest student by far. She tried to teach me the finer points of economics and politics, but I must admit that she did not have much to work with. They are all distinguished people, distinguished people all, and I have been privileged and proud to serve with them and with all of you. Together we have been part of the history of this land: The energy debate in the House of Commons, the bell-ringing for 14 days, 22 hours and 11 minutes, when the deputy whips, Ralph Ferguson, M.P. for Lambton-Kent, René Cousineau, M.P. for Gatineau and myself, were on duty 24-hours a day and therefore slept in the Liberal lobby of the House of Commons. Then, of course, the GST debate, the abortion bill, the drug bill C-22, the Benson fiscal reform, and free trade and the defeat of the Joe Clark government.

At times it has been a heady experience for a former railway engineer, but I must admit how much I enjoyed being a member of the House of Commons and of the Senate Transportation committee when I could grill my former railway bosses. I must also admit that I was really tough on them. Now it is time for me to be shunted off into the siding, out of this house and away from the people who have meant so much to me over the years.

In leaving, I am reminded of the two short blasts of the locomotive communicating signal that would tell me, a passenger locomotive engineer, it is time to pull out of the station and proceed to make my final run into the land of retirement. The only thing missing is the banner on the front of the locomotive.

As a former member of Parliament for 16 years, and a member of this house since July 1984, it is now my turn to move on, but, before I do, I would like to thank all honourable senators, members of Parliament, the pages, the security staff, both inside and out, the Black Rod, the Sergeant-at-Arms, the table officers, Senate Debates and Hansard reporters, the cafeteria and restaurant employees, nurses, bus drivers, messengers, secretaries, custodians, the elevator operators in the Victoria Building, the Post Office employees for both houses—in fact, all the employees of this great building—for all their many courtesies. You have all treated me with kindness, efficiency and courtesy.

I thank also my long-time friends, Senator Thomas Lefebvre and his wife, Léatrice. Tom was the person who willed me the job of Chief Government Whip so that I could accumulate a lot of grey hair. However, I must say that his help and advice kept me on the straight and narrow path and out of trouble.

My thanks are due also to my good friend, Senator Joyce Fairbairn, and her husband Mike Gillan. She was my "Dorothy Dix", "Ann Landers", "Dear Abby" all wrapped up in one, my trusted confidante, and the one to whom I took all my troubles. I thank her for her very special way of supporting me at all times. We were in many wars and battles together. She will always be remembered by my wife, Marjorie, and we wish her all the best in the years ahead. In our eyes she was a very special person and a helpmate.

As you all know, the political life affects families. I come from a closely-knit family. Therefore they were all in the game. I am grateful to them and to all my railroad buddies for their loyalty to me, their patience and their strength; and to my wife Marjorie, who stood behind me at all times and gave me the strength to carry on when the going was tough, and who has been my best friend and has tolerated politics for my sake. On February 7, 1991, we celebrated our 51st wedding anniversary. She has been my wife and house secretary in a first-class manner, taking all the phone calls, answering all the doorbell house calls, and giving my constituents first class service, especially during election campaigns when I was occupied elsewhere.

My two daughters, Charmain and Gloria, would travel from their homes in Toronto and Burlington to work on Saturdays during my election campaigns. To my son-in-law, Al, who worked very hard on my first election, to my three grandsons, Mike, Mark and Terry, all attending university, I offer my thanks and my fondest and deepest appreciation. I look forward to having more time with them than I have had so far, to show how much I appreciate them.

Thanks to my former secretary and assistant, Mrs. Frances Chisholm, and Mildred Maloney, for their dedication, loyalty and hard work. They and all of you have helped me live a full and rewarding life as a senator, Chief Government Whip, Parliamentary Secretary, Assistant Deputy Speaker and MP during the past 22 years and 9 months. To all who have pushed me up the ladder of success, I will always be grateful, and I sincerely hope that I have not let you down.

I thank the people of London-East and all the Londoners who sent me to Parliament to represent them in five elections with good majorities. I thank the London-East Riding Association for their confidence in me. I feel a deep identification with my people and their families and their hopes for this great

country, a great land. It is the greatest honour to hold office in Parliament and the Senate.

I sincerely hope that we have helped solve the many problems of the people of London and the area, so that life could be a little easier for those great Canadians. Now I am back to London, Ontario, the city which has been so good to me. In my retirement years I hope to give something back to my community by becoming more heavily involved in charitable causes and fund-raising for the hospitals of the area.

As I go about my new life, I shall think of you all often. To slightly paraphrase Keats:

> I can scarcely bid you goodbye, even in a speech.I have always made an awkward bow. Good luck and God bless you all . . .

And I will see you all in heaven. Thank you very much.

● (1520)

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Eymard G. Corbin: Honourable senators, on behalf of Senator Frith, I have a number of petitions to present. If I give the short title of the petition it would cover it all. The petition is addressed to the Honourable the Senate of Canada, and states, "We refuse the dictatorship of the GST." It is from Ontario and contains 14 signatures.

The next one is from Manitoba and contains approximately 420 signatures.

[*Translation*]

I have another petition from the province of Quebec, where people object to the new federal goods and services tax introduced by the Conservative government. This petition is from the Victoriaville area. I have another one with signatures from Alberta.

[*English*]

I also have a number of petitions which say "No" to the GST. Each one of these sheets of paper I have in my hand is a petition in itself. Some are dated the month of March, 1991, while others are dated February, 1991. Some are in English—

[*Translation*]

Some of these petitions are in French and were sent from various regions in Canada.

[*English*]

Honourable senators, the other day I presented here in the Senate a petition against the GST. For some reason it came back to my office with a card marked "Urgent" on it. I will present it again in case it was not validly done the other day.

This petition is from the southern region of New Brunswick, containing signatures from the areas of Grand Bay, Saint John, Fredericton, Westfield, Back Bay, the Fundy Islands, and others.

I also have other petitions containing the names of hundreds of people who oppose the implementation of the GST. They, too, are from areas such as Saint John, Grand Bay, Pocologan, Rothesay, Welsford, and others.

I have another petition from the Upper Saint John River Valley, from the areas of Stickney, Mount Pleasant, Hartland and Peel. It also contains the names of residents from the Bathurst area.

[*Translation*]

I have some petitions signed by Canadian citizens, mostly from the Montreal area. I have four full pages.

[*English*]

I also have petitions opposing the national Goods and Services Tax from the areas of Woodstock, Saint John-Westfield, Hampden and Douglas, New Brunswick.

For today, the final petition covers a number of localities, such as Sackville, Nova Scotia and Sackville, Fredericton and St. Maurice, New Brunswick.

That is it for today, honourable senators. I am sorry I do not have more right now.

NATO NORTH ATLANTIC ASSEMBLY AND EURO-ATLANTIC ROUND TABLE

MEETING OF ECONOMIC, SCIENTIFIC AND TECHNICAL COMMITTEES AND DISCUSSION ON EUROPEAN SECURITY AND CO-OPERATION—NOTICE OF INQUIRY

Hon. Earl A. Hastings: Honourable senators, I give notice that on Tuesday next, March 12, 1991, I will call the attention of the Senate to the participation and contribution of honourable senators in meetings of the Economic and Scientific & Technical Committees of the NATO North Atlantic Assembly, held in Paris, on February 11, and Brussels, on February 12 and 13, and in the Euro-Atlantic Round Table discussions on European Security and Co-operation held in Berlin, on February 14 and 15, 1991.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is the time when the adjournment motion is usually moved. I will do that in just a moment. If I may take the time of the Senate for just one minute, I should like to give honourable senators a rundown on what the status is and where we are currently.

As honourable senators are aware, we had talked about a Royal Assent today in anticipation of getting back from the House of Commons Bill C-79, the amendment to the Parliament of Canada Act. It appears that members there have run into some sort of a problem and the bill will not be back today. Because that was really the only important bill that we had for today's Royal Assent, it is probably better to defer Royal Assent until we return from our brief adjournment. At that time we can deal with that bill, with Bill C-34 and with any other bills we might receive.

Having said that, I suggest that we adjourn today until two o'clock on Monday, March 25. That, of course, presupposes that we get the Bretton Woods bill, Bill C-93, into committee today. I do not think there is a problem with that. We have had an assurance to that effect.

There are three financial bills in the other place which may be coming to us within the next several weeks. There is the borrowing bill, and also Supplementary Estimates (C), which is not in the other place but is now here in committee. There was a meeting on it already today, and I understand that another meeting, or more meetings, will be held before the magic date of March 31. That bill does not present a problem. I understand that the interim supply bill should not present a problem either. We will deal with that when we return on March 25. As far as I understand, everything is in order concerning the borrowing bill. The Estimates have been tabled, as has the government's spending plan. The Budget has been brought down, and so on. I assume that we can deal with that very quickly.

It may be helpful, if any senator has any problems with that, to come back during the week of March 19 to deal with the borrowing bill. I hope that will not be necessary, but it may be. If so, we will certainly call the Senate back for that purpose.

Honourable senators, having said that, with leave of the Senate and notwithstanding Rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Monday, March 25, 1991, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1530)

QUESTION PERIOD

THE BUDGET, 1991

CUTS TO GRANTS AND CONTRIBUTIONS—COMPOSITION OF REVIEW COMMITTEE

Hon. Lorna Marsden: Honourable senators, I have a question for the Leader of the Government in the Senate. In the Budget Speech, it was announced that the Honourable Harvey Andre would be chairing a committee that was reviewing the cuts to grants and contributions.

Could the Leader of the Government in the Senate tell us what the composition of that committee will be, when it is expected to begin and end its work, and whether there will be a report to Parliament listing the reasons behind the committee's recommendations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): In answer to the latter part of the question, honourable senators, I am reasonably confident that the answer is yes, the Minister would be reporting to Parliament the decision to have him and a committee review these matters as announced in the Budget Speech of the Minister of Finance. My recollection is that he is working within a six-week timeframe. I cannot say, because I do not know, who the other members of the committee are. I assure the honourable senator I am not one of them.

SOLICITOR GENERAL

CANCELLATION OF CONFERENCE SPONSORED BY LIFERS GROUP AT JOYCEVILLE PENITENTIARY—GOVERNMENT POLICY

Hon. Earl A. Hastings: Honourable senators, I should like to make a few observations with respect to the response I received yesterday from the government to my question about the cancellation of the offender management conference that was to be held at Joyceville Institution with the focus on long-term sentences. I am particularly impressed that the former Solicitor General and our colleague, Senator Kelleher, is with us today. I assure you, senator, things have been getting worse since you left that department and this latest fiasco is another indication of just how bad things are getting in his former department.

Senator Kelleher: Do I take that as a compliment?

Senator Hastings: I am going to comment on the answers which were really not answers at all. I had asked the Minister to share his concerns and exactly who were the individuals concerned on which he had based his decision. We received a response to neither but four paragraphs of correctional rhetoric to justify or excuse the Minister's decision. He sort of wandered into the area of some unknown concern by the general public and then alluded to the concern expressed by the Victims of Violence, an organization dedicated to harassment and tormenting offenders while they are in custody. I asked the question, had he conferred veto authority with respect to correctional programs on the Victims of Violence? One can only assume from his response, and from the response of the Government Leader in the Senate, that the answer is yes.

The Minister responded to me by saying:

> Many correctional initiatives depend on community support both for implementation and for ongoing success. To this extent, corrections must move very cautiously and can not alienate those whose help and support is essential.

We must agree with that observation, especially when he refers to "those whose help and support is essential." I think the Minister might have given consideration to the support this conference had received from the wardens and staff of the institution. He might have given consideration to the inmates themselves whose help and support are needed to make these events successful.

May I place on record the view of the staff of Joyceville Institution with respect to the Joyceville Lifers Group. I have a

letter from the Assistant Warden Correctional Programs, Mr. Lou Kelly, who states:

> I would like to take this opportunity to recognize and applaud the contribution of the Joyceville Lifers Group on the opening of the Oakwood Day Care Centre.
>
> Quite clearly, the Joyceville Lifers Group is establishing a very positive image in both the institution and the community. Congratulations.
>
> Sincerely,
>
> Lou Kelly.

That is the view of the staff of that institution with respect to the work of William MacAllister, co-chairman; John Hipolite, co-chairman; and Gary Foshay, the secretary of the organization. I suggest to the minister that he might have given consideration to their support which was needed, as well as that army of volunteers who dedicate themselves to working in the institutions, and certainly not the Victims of Violence whose total contribution and effort seems to be the persecution of the inmate or the offender while he is in custody.

I will not burden honourable senators with a list of those who have supported this very worthwhile conference, including the chairman of the Justice Committee of the other place, the honourable member for Mississauga, Bob Horner, who said it was a good idea. From all across the corrections community there has been nothing but support and criticism of the minister for his decision to cancel and seek solace in a task force which is the refuge of every cabinet minister in trouble. So we have a task force, which is a logical step and I commend the government for that, or at least I commend the Commissioner of Corrections for it. It is the only logical step toward recognizing the importance of providing offenders with programs to help them meet their individual needs and with a view to increasing their potential for integration back into society.

Honourable senators, the problem is even more acute when one considers the number of inmates in this category. At the present time there are 3,670 inmates, or 28 per cent of the total population of 13,203, serving sentences over 10 years; 2,049 are serving a life or indefinite sentence, and 600 are eligible for a judicial review after serving 15 years. That number, and the projected increase in the number of inmates required to serve long-term sentences in the coming years, certainly puts increased emphasize on the Correctional Service of Canada to adapt to this reality so that it may accomplish in a more efficient manner its mission in society.

I would ask the minister and honourable senators why and what on earth will be the use of a task force that is going to examine this area and bring forth logical worthwhile reforms for developing an inmate's responsibility to the management of his own sentence, personalized programs, the development of programs adaptable to the needs of the inmate in serving long-term sentences? What is the logic in advocating the creation of lifers' clubs within the institutions to undertake these programs and support and assist in these programs? What is the use of the taskforce, if, in the end, the minister, with one whisper, one criticism, one small word from the Victims of Violence, drops his responsibility and runs for his office—his "chicken coop office," as the *Whig Standard* in Kingston called it, drops a "chicken feed" press release, and runs for cover instead of assuming his responsibility? I want to assure the minister that I intend to follow this taskforce and recommendations which are now in the discussion stage; and the lifers and all the people I have indicated who are supporting this conference will be prepared in the future to play their part. We can only hope there will be a new minister fulfilling that responsibility.

• (1540)

CENTENNIAL FLAME RESEARCH AWARD BILL

MOTION FOR THIRD READING

Hon. Noel A. Kinsella, for Senator Doody, moved the third reading of Bill C-258, respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities.

He said: Honourable senators, in putting this motion, I would like to point out that, as you learned from the report of the Social Affairs, Science and Technology Committee, Patrick Boyer, who initiated the private member's bill, appeared before us. His presentation was very helpful to all honourable senators who participated in that committee meeting. The project is an excellent one, the idea of using the fund accumulated from coins thrown in the Centennial Flame in front of the Parliament Buildings for promotion and understanding of issues affecting Canadians with disabilities. Mr. Boyer indicated at the meeting that there were some difficulties with the bill, but he was hopeful that we would be able to go forward with it and avoid amendments. So the report from the Social Affairs, Science and Technology Committee was without amendment.

Mr. Boyer wrote to Dr. Bruce Halliday, Chairman of the Standing Committee on Human Rights and Status of Disabled Persons of the other place to point out some of the matters relating to the bill that came up before the Senate committee. I think it would be helpful to read some of those points into the record because they establish the fact that Mr. Boyer recognizes a few areas of deficiency. Mr. Boyer wrote:

> Several amendments were considered, with which I have full sympathy, but the Senators decided not to propose these amendments since they might ultimately cause the whole Bill to be lost, given the fact the House of Commons would have to then again pass the Bill as amended, which is quite problematic given the House Order Paper and the pending prorogation.
>
> In lieu of amendments at this time, I did give my personal commitment to the Senators on the Committee that I would do my utmost to ensure that their concerns were reflected in the operation of the Centennial Flame

Research Award, which is my purpose in writing to you at this time. As you know, Bill C-258 provides that the Standing Committee on Human Rights and the Status of Disabled Persons, which you Chair, will play an important role regarding the Centennial Flame Research Award.

Previously we have discussed the importance of the Committee drawing up some simple procedural rules and criteria to govern its operations for this purpose.

I would like to suggest that, when the Bill is fully enacted and receives Royal Assent, and your Committee proceeds to commit to writing these simple procedural rules, the following three points be incorporated:

1) Wherever appropriate and possible, all references should be to "The Parliament of Canada" or "The Senate and House of Commons" rather than simply "The House of Commons";

2) At the time the research study is presented by the award recipient each year, it be made available simultaneously to $%both$% Houses of Parliament; and

3) Elaborating upon the meaning of section 6 of the Bill (copy attached) it should be clarified that the funds for the award shall consist of all money collected from the Centennial Flame itself, and monies received as donations which may be paid directly into a Centennial Flame Research Award Account by donors and benefactors who wish to contribute to the money being raised without such funds literally taking the form of coins tossed into the fountain.

Honourable senators, with those points on the record, I move that the bill be read a third time.

Hon. Peter Bosa: Honourable senators, I have no problem with this bill, and I fully concur with the objective and the aim that this legislation is trying to achieve, which is to award a sum of money to a disabled person so that that person may write a report on the contribution of disabled persons to society. It is a meritorious objective and my colleagues and I support it.

However, there are a few anomalies in the bill that I would like to bring to your attention and on which I would like to propose an amendment. The amendment that I propose to put forward provides for the greater participation of the Senate in the administration of the act. The present bill is strictly a House of Commons bill, notwithstanding the fact that the Centennial Flame where the monies are collected is on Parliament Hill and that Parliament is made up of both houses, the House of Commons and the Senate. The amendments will provide statutory authority for the acceptance of donations to the Centennial Flame Research Award Fund over and above any money collected from the Centennial Flame on Parliament Hill. It will also make certain other technical changes to the bill that are consequential to the first changes that I have just described.

In providing for greater participation of the Senate in the administration of the act, the definition of "committee" will be

[Senator Kinsella.]

amended to refer to the committees of both houses that normally deal with matters relating to the status of disabled persons. The two committees that would act as administrators of the research award fund could make whatever arrangements between them as are necessary to carry out the roles of administrators. They could, for instance, appoint certain members of each committee to work together in respect of the administration of the act. The amendment does not create a joint committee, which would make it difficult in the other place to pass amendments. It simply makes both committees responsible for the administration of the act and allows for more flexibility and how the committees will carry out the task of seeing that the awards are granted each year to worthy candidates. There are a few other technical changes in the wording that improve but do not change the substance of the bill as passed by the House of Commons.

● (1550)

MOTION IN AMENDMENT

Hon. Senator Bosa: Therefore, honourable senators, I move, seconded by Senator Hébert:

That Bill C-258 be not now read a third time but that it be amended to provide for the participation of the Senate in the administration of the Centennial Flame Research Award, to extend to Canadians who are unable to visit the Centennial Flame on Parliament Hill the opportunity to contribute to that Award and to make provision for other matters incidental or ancillary to the objectives of the Bill:

(a) by striking out the definition "Committee" on page 1 and substituting the following:

""Committee" means those committees of the Senate and the House of Commons established to deal with matters relating to the status of disabled persons, acting as administrators of the fund established under section 3;";

(b) by striking out lines 1 to 9 on page 2 and substituting the following:

"Fund established

3.(1) There is hereby established a fund to be known as the Centennial Flame Research Award Fund into which shall be paid, in each fiscal year,

(a) all money collected from the Centennial Flame monument on Parliament Hill in Ottawa, and

(b) any money otherwise received as a donation to the Centennial Flame Research Award Fund.

Payments out of fund

(2) Following an approved application for an award under this Act in the second or any subsequent fiscal year of the fund, there shall be paid from the fund an award for the purpose set out in section 4.

Purpose of award

4. The purpose of the Centennial Flame Research Award Fund is to provide awards of money to enable disabled persons to conduct research and prepare

reports on the contributions of one or more disabled persons to the public life of Canada or the activities of Parliament.";

(c) by striking out lines 17 to 21 on page 2 and substituting the following:

"recipient who qualifies under subsection (1) and meets such other criteria as the Committee considers appropriate and the Speakers of the Senate and the House of Commons approve." ;

(d) by striking out lines 22 to 33 on page 2 and substituting the following:

"Administration

6. The Board of Internal Economy of the House of Commons shall supervise the collection of money for the Centennial Flame Research Award Fund and, subject to this Act and to such regulations as the Board may make in that behalf, may take any measures necessary for carrying out the purposes of this Act." ;

(e) by striking out line 35 on page 2 and substituting the following:

"of the Senate and the Speaker of the House of Commons approve a recom-" ; and

(f) by striking out line 41 on page 2 and substituting the following:

"both Houses of Parliament."

I may add, honourable senators, that this is a non-partisan bill. It was adopted unanimously in the other place. I cannot see anyone in the Senate objecting to the improvement of this bill by including our chamber as an integral part of this program. When this bill is sent back to the other place, I do not foresee that the members there will have any objections to adopting our amendments.

MOTION IN AMENDMENT CONCURRED IN

The Hon. the Acting Speaker: Honourable senators, it is moved by the honourable Senator Bosa, seconded by the honourable Senator Hébert, that Bill C-258 be not now read a third time but—

Some Hon. Senators: Dispense!

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

Hon. Senators: Agreed.

Motion in amendment concurred in.

THIRD READING

The Hon. the Acting Speaker: Honourable senators, it is moved by the honourable Senator Kinsella, seconded by the honourable Senator Sylvain, that this bill, as amended, be read the third time.

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.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Macdonald *(Cape Breton)*, for the second reading of Bill C-93, An Act to amend the Bretton Woods and Related Agreements Act.—(*Honourable Senator Frith*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable Senators, I do not intend to take a lot of time speaking to the second reading of this bill. Its objectives are well known. Its principal objective is to increase the capital subscriptions of the fund which was undertaken seven years ago. The increase is now required in the light of the growth in world trade, the expansion of capital flows and because of the still unsolved and daunting problem of international debt.

The purpose of the increase in the capital subscription is to strengthen the fund to meet its additional responsibilities and to maintain it as an integral part of the smooth operation of the international financial system. We support that. It is a good thing and we have no difficulty whatsoever with it.

There is another provision in the bill which is new, and that is to increase the sanction against a country that is in arrears in its payments. I think that, at the present time, if discipline is to be taken against a country in default, the discipline is extreme because it involves the expulsion of the country from the fund. There is a less onerous but nevertheless strong penalty put in under which a country in arrears might lose its voting rights in the fund.

Honourable senators, both the Parliamentary Secretary in the House of Commons, and Senator Doody in the Senate, in introducing the second reading of the bill, underlined the importance of the International Monetary Fund in the resolution of current international indebtedness. We all know that the indebtedness of certain countries in the world is, to say the least, very severe. It was the subject matter of an intensive study by the Standing Senate Committee on Foreign Affairs, which submitted its report with a number of recommendations in 1987.

● (1600)

Senator Doody referred to innovative measures that have been undertaken by the fund and forecast even greater coordination between the World Bank and the fund in the resolution of the international debt problem. I want to underline that, while we support the bill, its examination in committee will give us an opportunity to delve more fully into what has happened with the international debt problem since 1987 when the Senate committee submitted its report. Has the situation

become better or worse? At the present time, what are the prospects for resolving the international debt problem?

The Senate committee made some recommendations, and it would be interesting to find out to what extent the International Monetary Fund and the international community have responded to these recommendations, and to what extent improved coordination has taken place between the IMF and the World Bank. We would like to look at some of those problems in committee. We would like to know whether the so-called structural adjustment has worked in the developing countries since 1987.

We know that one of the conditions imposed by the International Monetary Fund, as it extends financial assistance to developing countries and other countries, is to exact changes in the economic policies and sometimes in the industrial policies of the developing countries. That series of policy changes recommended by the International Monetary Fund is sometimes referred to as "structural adjustment." What kind of structural adjustment has taken place in the developing countries since 1987?

In following up, one might want to find out to what extent the pronounced increase in Canada's international indebtedness has had on the international debt problem throughout the world. It is known to all that Canada is financing an increasing amount of the current deficit through borrowing abroad. That is a new trend in Canadian international finance. We are financing current consumption through borrowing abroad. Historically we have financed capital investment through borrowing abroad and used the increased productivity and the earnings of that capital investment to retire the debt and to pay interest payments. It is quite a different case now in Canada. Senator Doody raised another aspect which is the role that the International Monetary Fund might have in assisting the new situation in Eastern Europe. A number of Eastern European countries have asked to join the fund and would like financial assistance. It will be interesting to explore that in the committee.

The consideration of Bill C-93 in committee would also provide an opportunity of obtaining up-to-date information on a number of proposals for handling international indebtedness put forward since the Senate report of 1987, such as President Mitterrand's proposal to the Toronto Economic Summit in June 1988, the Japanese Minister of Finance's plan of the summer of 1988 and, of course, the March 1989 Brady plan. It would be of interest to look at debt reduction mechanisms such as buy-backs, swaps, debt exchanges, exit bonds and at the operation of the IMF's structural adjustment facility, which was set up in December 1987.

The parliamentary secretary to the minister, introducing the bill in the House of Commons, made reference to the innovative policies of the IMF. He said that a clear example of that innovation was a decision to use IMF resources and those of the World Bank to permit developing countries to buy back a portion of their commercial debt at a discount on the secondary market, thus reducing their overall debt burden. He also said that the proposed increase in IMF quotas would create scope for similar innovation in response to future needs. Honourable senators, it would be of interest to know whether the buy-back of the debt in the secondary market is of much significance. It may be innovative and useful, but is it a significant solution or is it merely a drop in the bucket, as some might suggest?

Honourable senators, I am mentioning these items so that officials, whom we expect to appear before the committee, will pay attention to our interest in this matter. Regrettably, the last time the Foreign Affairs committee tried to get thoughtful responses from officials on these matters, the effort was not particularly successful. I believe the officials failed to understand that the Foreign Affairs Committee had thoroughly examined the debt question, and a number of the members of the committee had developed considerable knowledge on the matter. The responses of the officials were at a level that did not take into account the effort that had been made to develop an understanding of this problem. So it would be my hope that when the bill goes to committee, officials would take our request for information more seriously than was the case the last time we asked for such help.

The Hon. the Acting Speaker: Honourable senators, I wish to inform you that if Senator Doody speaks now, it will have the effect of closing the debate on second reading.

Hon. C. William Doody (Deputy Leader of the Government): I have little to add. I simply want to thank Senator MacEachen for his comments, and, at the appropriate time, I will refer the bill to the appropriate 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 Doody, bill referred to the Standing Senate Committee on Foreign Affairs.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if there are no objections, I would ask that all remaining orders stand, along with all inquiries and motions No. 1 and No. 2.

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

Hon. Senators: Agreed.

OFFICIAL LANGUAGES

THE ESTIMATES, 1990-91—SUPPLEMENTARY ESTIMATES (C)—PRIVY COUNCIL VOTE 20c REFERRED TO STANDING JOINT COMMITTEE

Hon. C. William Doody (Deputy Leader of the Government), pursuant to notice of Wednesday, March 6, 1991, moved:

That Privy Council Vote 20c of the Supplementary Estimates (C) for the fiscal year ending the 31st March, 1991, be referred to the Standing Joint Committee on Official Languages; and

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

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, March 25, 1991, at 2 p.m.

THE SENATE

Monday, March 25, 1991

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

Prayers.

[*Translation*]

THE LATE MADAME PAULINE VANIER, P.C.

TRIBUTE

Hon. Lowell Murray (Leader of the Government in the Senate and Minister of State (Federal-Provincial Relations)): It is my painful duty to inform you that the Hon. Pauline Vanier, a member of the Privy Council of Canada, passed away last Saturday, at the venerable age of 92.

Madame Vanier, wife of the late Georges Vanier, who was Governor General of Canada from 1959 to 1967, earned the respect of all in her own right.

After losing her husband in 1967, she gave away most of her belongings and devoted herself to the mentally handicapped, working at l'Arche, the establishment founded by her son Jean near Paris.

Always concerned for the welfare of the needy, she had made tremendous efforts in France after the war to help the victims of the war. For her accomplishments, the French government awarded her the Jacques-Cartier medal. She continued her work when she came back to Montreal with her husband in 1953.

All her life, Madame Vanier was very unassuming, gracious and generous toward those who were treated harshly by life.

Madame Vanier gave much more than she ever received.

Mother of five, her family was always foremost in her mind and she appreciated the pressures the modern family is subjected to. However, considered that the young people are much brighter today than they were in her days because they are calling the institutions into question. That is but one example of the open-mindedness of this great lady.

Allow me, on behalf of the government and of my colleagues on this side, to offer my sincere condolences to the members of this great Canadian family.

[*English*]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, Senator Murray has outlined the illustrious career of Madame Vanier and why her passing has elicited such comment in the country, particularly as it relates to her selfless service in the many causes which she served so unstintingly, some of which were mentioned by the Leader of the Government.

Honourable senators, all I can do is associate myself with any praise that has been bestowed upon Madame Vanier, since it is so richly deserved, and extend my condolences to those who are bereaved by her passing.

FINANCIAL ADMINISTRATION 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-91, to amend the Financial Administration Act and other acts 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 Wednesday, March 27, 1991.

BORROWING AUTHORITY BILL, 1991-92

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-97, to provide borrowing authority.

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): Honourable senators, I realize that two days' notice is necessary for bills in this place. I had hoped that we would be able to move this one along more quickly. As this is the borrowing authority bill, we would very much appreciate having it passed before we adjourn for the Easter break. We hope to be able to accomplish that on Thursday and have Royal Assent; we would thus have that business concluded before Easter.

The borrowing authority bill is an annual event, and this one is not that much different from others. All the necessary advance information has been provided to the Senate, the House of Commons and the public, inasmuch as the budget and the financial plan of the government and the Estimates, and so on, have all been made available.

On March 21, 1991 the government announced that treasury bills are to be offered for sale on March 28. They are to be sold under the authority granted by section 47 of the Financial Administration Act. That is because the borrowing authority for the present year has now run out and there is none left. It would be most appreciative if honourable senators could see fit to let us have second reading on this bill to get it

into committee so that committee members can have a look at it and then we could have it returned here in time for Royal Assent before we adjourn.

With that in mind, I would ask leave to proceed with second reading today. However, if that is impossible, then I ask for second reading tomorrow. We are at the disposal of the Senate. If it decided not to give leave, then it would have to be done on Wednesday.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have a brief comment concerning the remarks of the Deputy Leader of the Government. We have no difficulty in principle to the borrowing bill, except that we think that it deserves the usual scrutiny in committee and the usual notices for the various readings of the bill.

Subject to confirmation by the government, it is my understanding that it is the intention of the government to bring back the House of Commons on April 8. In that event, we would return on the following day. Therefore, would it not be appropriate to give the borrowing bill second reading, send it to committee this week and deal with it finally on the week that we come back? That would seem to be a reasonably rapid dealing with the bill. If there are reasons that have not yet been stated, and if a case for urgency can be given, we would then take a look at those reasons.

Senator Doody: I appreciate Senator MacEachen's comments. I know precisely what he is saying. The reason for asking for the bill in the shorttime frame that I indicated is that borrowing authority in the current year has run out and they are now operating under section 47, which enables them to use short-time borrowing only. That disrupts their mix of short-term, long-term and flexibility in terms of interest rates, windows of opportunity, and all the jargon that is appropriate to the borrowing people in the department. It is entirely up to the Senate as to how they want to proceed. However, it would be convenient and helpful if we could get the borrowing authority passed before we adjourn for Easter. I will leave it at that right now.

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 44(1)(*f*), it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Roblin, that this bill be placed on the Orders of the Day for second reading later this day. Is leave granted, honourable senators?

Senator MacEachen: No leave is given.

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 Wednesday, March 27, 1991.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Eymard G. Corbin: Honourable senators, in the name of Senator Frith I have the honour to present 86 petitions bearing 1,523 signatures.

The petitioners reside in various localities in the Province of Quebec. They are against the imposition of the 7 per cent tax on goods and services.

[*English*]

Hon. Peter Bosa: Honourable senators, on behalf of Senator Frith, I have the honour to present 24 petitions consisting of 514 signatures protesting against the GST.

THE UNIVERSITY OF EMMANUEL COLLEGE

PRESENTATION OF PETITION

Hon. Sidney L. Buckwold: Honourable senators, I have the honour to present a petition from the University of Emmanuel College, of the City of Saskatoon in the Province of Saskatchewan, praying for the passage of an Act to amend the Act of Incorporation of the University of Emmanuel College.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Daniel Hays: Honourable senators, I have the honour to present a petition on behalf of the Honourable Senator Frith. The petition protests the goods and services tax. There are three petitions containing 63 signatures from residents of various parts of Alberta.

Hon. P. Derek Lewis: Honourable senators, I have the honour to present two petitions on behalf of Senator Frith. There are two petitions from the area of Goose Bay and Happy Valley in Labrador. The petitions contain 39 signatures protesting the imposition of the goods and services tax.

[*Translation*]

Senator Corbin: Honourable senators, in the name of Senator Frith I have the honour to present a petition in support of the goods and services tax. The petition is dated March 6, 1991. It bears one signature, but no address is given.

[*English*]

Hon. M. Lorne Bonnell: Honourable senators, I have a petition that I submit on behalf of myself. It is signed by 200 Prince Edward Islanders and the undersigned petitioners humbly pray and call upon the Senate to prevail upon the Government of Canada to stop the goods and services tax. I table this without reading the names.

• (1410)

[*Translation*]

INTERNATIONAL ASSEMBLY OF FRENCH-SPEAKING PARLIAMENTARIANS

THIRTEENTH REPORT OF CANADIAN SECTION TABLED

Hon. Jean-Marie Poitras: Honourable senators, I have the honour to table, in both official languages, the thirteenth report on the activities of the Canadian section of the International Assembly of French-Speaking Parliamentarians.

THE ESTIMATES, 1990-91

TWENTY-FIRST REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Roch Bolduc: Honourable senators, I have the honour to present the twenty-first report of the Standing Committee on National Finance concerning Supplementary Estimates (C) for the fiscal year ending March 31, 1991.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings* and the *Debates 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, p. 5488*)

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

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

Motion agreed to.

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

TWELFTH REPORT OF COMMITTEE PRESENTED

Hon. Daniel Hays, Chairman of the Standing Committee on Energy, the Environment and Natural Resources, presented the following report:

Monday, March 25, 1991

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

TWELFTH REPORT

Your Committee, authorized to study "Energy and Canadians into the 21st Century: A Report on the Energy Options Process", has, in obedience to its Order of Reference of June 21, 1989, proceeded to that inquiry and now presents its interim report.

A full two and a half years have passed since the Energy Options Advisory Committee completed its report entitled "ENERGY AND CANADIANS INTO THE 21ST CENTURY", a Report on the Energy Options Process. Up to the present, there has been no response to the report on the part of the federal government. While the views of the House of Commons Committee on Energy, Mines and Resources were sought and received by the government, that Committee's set of witnesses was limited to members of the Advisory Committee itself and no public response to their report (tabled 11 June 1990) has been offered.

Your Committee is of the opinion that the Energy Options report should be used to assist in the formulation of a comprehensive national energy strategy. We believe that such a strategy must be articulated in order to provide a framework of guiding principles within which decisions in the energy sector can be made. Such a strategy is, in fact, common in many industrialized countries such as France, Japan and recently the United States. With a view to ensuring that the effort put into the Energy Options process is not lost, your Committee is currently assessing certain aspects of the report. Such a review is further warranted given the heightened level of concern over the link between energy and the environment.

Your Committee has begun its formal hearings on the report, and to date three witnesses have been heard. The Committee intends to complete its study in the new Session of Parliament. It was in the expectation of the upcoming prorogation that the decision was made to issue this Interim Report outlining our call for the creation of a national energy strategy and delineating the issues which we feel merit consideration.

The central focus of our study will be the demand side of the energy equation, which has historically received little attention. Within this context we have identified two issues on which we intend to concentrate: energy and the environment; and energy efficiency. In recent years, both industry and government have begun to recognize that an important link exists between energy use and environmental degradation. The federal government has recently released its Green Plan, which includes proposals that will deal with this issue thereby affecting the energy sector. The House of Commons Standing Committee on the Environment is concluding a major study on the issue of global warming. Industry is also beginning to address its role in meeting the environmental challenges it faces. Your Committee wishes to contribute to these efforts by examining measures which could reduce greenhouse gas emissions. These might entail the promotion of energy efficiency and fuel-switching, regulation of emissions, the introduction of a carbon tax and the adoption of other market-based instruments. As part of the Committee's review, a critical evaluation of relevant sections of the Green Plan will be conducted.

In examining the link between energy and the environment, the Committee may also consider investigating a number of additional issues. Topics for consideration could include oil tanker safety and the environmental effects of oil and gas drilling in the Beaufort Sea.

It is widely recognized that increased energy efficiency can contribute effectively to reducing the environmental impact of energy use. Moreover, efficiency gains can represent the least-cost path to addressing our energy needs, and thus provide net economic benefits. The Committee heard evidence of the enormous potential for efficiency improvements within North America. We believe this issue should be examined in greater detail as it applies to the Canadian context. In particular, we will address the energy-saving opportunities available in cer-

tain end use applications, including the federal government's own operations, as well as the barriers to improved efficiency and the role of government in reducing them.

In its deliberations, the Committee will take into account the need for greater balance in government intervention in the energy sector. Traditionally, federal and provincial government's efforts have been concentrated on the supply of energy. Governments in Canada have begun to re-examine the usefulness of demand reduction in addressing our energy requirements. The Committee sees merit in promoting movement towards a greater balance in the energy sector.

SENATOR DANIEL HAYS
Chairman

The Hon. the Speaker: 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

AGRICULTURE

INTERIM FINANCING FOR GRAIN PRODUCERS

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government in the Senate if he could give us any report of progress on what the government intends to do about some interim financing for grain producers, because the season is nearly upon them.

We know that Bill C-98—the GRIP and NISA programs—is progressing through the House of Commons and will probably be here later this week. However, even if it is passed, it does not make any contribution toward planting and other expenses for the spring season of 1991.

Therefore, I was wondering if the Leader of the Government could give us some report on what the cabinet has decided or what it is going to do about this requirement. The Minister of Agriculture, as well as the government leader, have indicated that this was a matter that was under very serious and active discussion by the government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will ask for a report from my colleague, Mr. Mazankowski.

ROYAL CANADIAN MOUNTED POLICE

CONTRACT POLICING TO PROVINCES AND TERRITORIES

Hon. Gildas L. Molgat: Honourable Senators, my question is for the Leader of the Government in the Senate and is with regard to the RCMP. I am quoting from a Manitoba government news release where the Manitoba Minister of Justice states:

> The federal government has issued a "take-it-or-else" ultimatum. They are demanding we accept non-negotiated cost increases of up to 25 per cent per year or they will terminate RCMP services in all jurisdictions.

The Minister of Justice backs this up with a communiqué which reads as follows:

> Ministers responsible for policing in British Columbia, Alberta, Saskatchewan, Prince Edward Island, Newfoundland, Manitoba, New Brunswick, Nova Scotia, Northwest Territories and the Yukon expressed concern over the present impasse with the Federal Government over RCMP contract policing. At a recent meeting with the Federal Solicitor General and the Provinces/Territories, Mr. Cadieux failed to demonstrate any flexibility on the major issues of cost sharing and further indicated his interest to terminate RCMP contract policing to the Provinces and Territories at the expiry of the existing 10 year contract on March 31st, 1991.

This is a communiqué, as I mentioned, from all the provinces and the two territories. They go on to say that they cannot understand why the federal Solicitor General would adopt such a callous and inflexible attitude.

● (1420)

The communique continues:

> The Provincial and Territorial Ministers . . . agreed this was a gross example of Federal high handedness in dealing with Canadians.
>
> The Ministers also agreed that this appeared to be yet another example of the Federal Government's willingness to sacrifice a great Canadian institution, like the RCMP, to short-sighted and high-handed views of management.

I will not read the whole communique but essentially it is along the same lines regarding the federal government. I wonder if the minister could tell us where the matter now stands?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not have an up-to-date report on those discussions. I can say with certainty that, contrary to the statement by the Manitoba minister, we have no interest in, and no intention of, terminating police services to those provinces with which we have policing contracts on behalf of the Royal Canadian Mounted Police.

Senator Molgat: I would point out to the minister that, while this is the Manitoba minister speaking, he backs up his statement with this communique issued by the eight provinces and two territories saying exactly the same thing. So it is not just the Manitoba minister making the statement; it is eight provinces and two territories.

Senator Murray: Honourable senators, what we are trying to accomplish here is to have the provinces pay a greater share of the total cost of the RCMP presence in those eight prov-

inces that use the RCMP as a provincial police force. I can produce statistics for the honourable senator, not today but tomorrow or the next day, which will demonstrate that the citizens in those provinces where the RCMP act as a provincial police force are paying, on a per capita basis, less for provincial police services than is the case in those provinces, such as Quebec and Ontario, which have their own provincial police force. In other words, the federal government has been carrying too great a share of the cost of the RCMP in those provinces and we intend to rectify that situation.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to four questions that I would ask be printed as part of today's proceedings.

ENERGY

DISBANDMENT OF COGLA—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on February 26, 1991, by the Honourable Colin Kenny, regarding Energy—Disbandment of COGLA.

(*The answer follows:*)

Given the low level of oil and gas activity in the North, coupled with the transfer of COGLA type responsibilities to Offshore Petroleum Boards on the East coast, it is appropriate for the federal government to move at this time to transfer COGLA's remaining functions to other organizations.

COGLA's oil and gas regulatory responsibilities will be integrated among three federal government agencies: the National Energy Board, Indian Affairs and Northern Development and Energy, Mines and Resources.

A task force of representatives from COGLA, EMR, IAND, and the NEB has been set up to examine how best to carry out this integration, and to recommend to the ministers of EMR and DIAND how and when the changes will occur. A decision by the two ministers will be made at the end of March.

COGLA's disbandment has been contemplated by the federal government for quite some time and is not a result of the Environmental Impact Review Board's criticism of the agency in July of 1990. In fact, by integrating COGLA's responsibilities in other agencies, the federal government is re-affirming its commitment to the Frontier Energy Policy of 1985.

PERSIAN GULF WAR

STATUS OF MILITARY DECORATIONS FOR CANADIAN TROOPS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on February 28, 1991 by the Honourable George van Roggen regarding Persian Gulf War—Status of Military Decorations for Canadian Troops.

(*The answer follows:*)

In the past, Canada relied on British honours to recognize brave Canadian military personnel.

Over the years, but especially since the creation of the Order of Canada and the Bravery Award in 1967—the Centennial of Confederation—Canada has cautiously evolved its own national honours and awards, including the establishment of a Chancellery at Government House to provide a National Honours Secretariat.

Over the past few years, a comprehensive national honours policy has been developed to guide all national honours, including those of the Canadian military.

While the entire honours system is not yet complete, those few outstanding honours categories, including the Canadian Military Valour decorations, are in the final stages of approval.

For the first time since Confederation, Canadian valour decorations will soon be available to Canadian service members for extraordinary valour in the face of an enemy.

With the conclusion of hostilities, the Government of Canada is taking steps to ensure that there is appropriate recognition for those members of the Canadian Forces who served in the Persian Gulf during the period of crisis and hostilities.

OFFICIAL LANGUAGES

CITIZEN INSTRUCTIONAL LANGUAGE TRAINING—ABOLITION OF PROGRAM

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a delayed answer raised in the Senate on February 28, 1991, by the Honourable Gildas L. Molgat, regarding Official Languages—Abolition of the Citizen Instructional Language Training Program.

(*The answer follows:*)

The decision to terminate the CILT Agreements as of March 31, 1990 was part of the federal government's overall deficit reduction strategy which, in a time of fiscal restraint, involved making very difficult decisions.

Language training for adult immigrants is an educational matter of concern to both the federal and provincial governments. At the federal level, initiatives in this area are focused in the Department of Employment and Immigration which continues to address the issue of language training for adult immigrants through provincial educational institutions. The Department also gives financial support to agencies which assist newcomers in developing language skills.

In this context, new initiatives have been introduced to help immigrant women whose lack of language skills can

present a barrier to their full participation in the community and to their advancement in the labour force.

PERSIAN GULF WAR

COST OF CANADIAN PARTICIPATION IN SANCTIONS AND WAR

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on March 5, 1991, by the Honourable Stanley Haidasz, regarding the Persian Gulf War—Cost of Canada's Participation in the Sanctions and War Against Iraq.

(*The answer follows:*)

The total cost of the Canadian Forces operations in the Gulf to March 31st, 1991, has been estimated at $690 million.

This covers all costs of the operations, including such items as pay for CF personnel in the Gulf, the cost of outfitting the ships and aircraft, and the cost of operating them while there. It does not include the cost of ammunition expended or any loss of major equipment.

The estimated monthly costs were $90 million. During January and February 1991, however, they rose to $105 million. This monthly figure represents incremental costs of $70 million for items such as fuel, rations, special foreign allowances, spare parts, and repair and overhaul, and normal operating costs of $35 million such as salaries and the depreciation of equipment.

Many of these incremental costs are offset by reducing activities and expenditures in other areas. To the extent that they cannot be offset from elsewhere in the Defence Budget, they will be funded from the $600 million special allocation of the 1991-92 Federal Budget.

It should be remembered that although hostilities have ceased, there will be costs related to the redeployment and repatriation of the Canadian Forces from the Persian Gulf.

NATIONAL DEFENCE

ESTABLISHMENT OF STANDING COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the advisability of striking a Standing Senate Committee on National Defence.—(*Honourable Senator Molgat*).

Hon. Gildas L. Molgat: Honourable senators, Senator Marshall outlined very well the work that the National Defence Committee has done over the years. It is generally accepted that the committee made a major contribution to reviewing the whole of Canada's defence stand and presented useful recommendations to government, a number of which were followed. The most notable recommendation, which took some time to actually occur, was the production of a white paper. In the committee's view, that was urgently needed. We regretted the delay, but it was finally completed. Unfortunately, shortly after its production, the subsequent budget destroyed any possibility of that white paper being accepted.

The committee, at the conclusion of its work, was unanimous in its last report that the National Defence Committee be re-established. We fully understand the difficulties in the Senate insofar as numbers and the problem of being able to staff committees. However, since that recommendation, we have had several new senators arrive in this chamber and I believe we are now in a position to look at the re-establishment of the National Defence Committee as a standing Senate committee.

When we consider the amount of money spent by Canada on defence matters, there is a sound reason for having a Standing Senate Committee on National Defence to look at this major expenditure. In the past it has been said, with valid reason, that you cannot separate defence from external affairs, that the two are linked, and that defence is an extension of external affairs.

• (1430)

However, we are at the point now where the Foreign Affairs Committee has another major job on its hands and that is the monitoring of the Free Trade Agreement with the United States, plus all of the reviews of the very major changes that have gone on in the world and are continuing in the field of external affairs. So I doubt that the committee would be able to devote the time specifically to defence matters, that I think is now needed and has been needed for sometime. With the immense change in the world situation, with the whole attitude vis a vis the East Bloc, and so on, it is urgent that we review our defence position in Canada.

The department apparently is proceeding with its own review, but the latest report I have is that it has been delayed. In a recent story in the Toronto Star, "Defence Chief Blames War for Delay in Review", Mr. McKnight was reported as saying that the review could not be done because of the war. We know that some 18 months ago, it was agreed that there would be a complete review of the internal structure of National Defence Headquarters, and a contract for some $5 million was awarded to an outside group to do that study. At some time or other that study will be published, as will the government review. At that time I think it is important that a committee of the Senate be ready to look at those reports before the government proceeds to act upon them. A Senate committee would provide the opportunity for outside voices to be heard, not simply people in the Department of National Defence, but many others from across the country who have an interest in this subject and who can express opinions on the studies that will be produced. I think that would help greatly in coming to a better conclusion.

It is my view that we have to be prepared to completely review our defence stand. We have to question whether what in the past we believed to be the proper structure of a military force is indeed valid in today's world, in the kind of obligations

that Canada might face. Will we indeed be faced with a land battle where traditionally we depend on the original structure of infantry, armour and artillery, or are we looking at light mobile defence forces? From the point of view of aircraft, despite what undoubtedly was very good service by our fighter aircraft in the Gulf War, do we, from a Canadian standpoint, really need that type of aircraft? Would we, as Canadians, be better off with a large fleet of transport planes, planes that, for example, would have a second use, namely, for surveillance and transport within the country; planes that would permit us to take young Canadians, for example, from one end of the country to the other to help develop within Canada an opportunity for Canadians to know each other? We attempt to do this within the military through the three cadet services: the Navy Cadets, Army Cadets and Air Cadets. We move them around in the summer and take them out to camps in various parts of the country. We should be doing more of that.

In my view, we should be doing more of that. Yet every summer we find ourselves restricted because of costs and availabiltiy. Perhaps we should be looking at these new approaches from a defence standpoint. So I think that it is time that we re-establish this committee. With the new senators, we now have the personnel within the Senate to man a new committee.

The need is there now. These reports should be out soon and we will be ready to deal with them. I urge honourable senators to accept Senator Marshall's motion to proceed with the re-establishment of the committee.

Hon. Stan Waters: Honourable senators, I should like to follow up on the remarks of Senator Molgat and Senator Marshall on the need to establish a Standing Senate Committee on National Defence. I will not repeat all the powerful and very convincing arguments made to me about the necessity for doing that. In fact, I find it very disquieting that a sombre nation like Canada, spending nearly $14 billion a year on defence, does not have such a standing committee in the Senate. That should be of very great concern to all of us, particularly in a time of tumultuous change in the military structure of the whole world. The threat analysis is all changing. The former alliances, both NATO and the Warsaw Pact, are crumbling. The lessons of the Gulf War need to be digested. We are re-equipping our armed forces. We do know where we are going in terms of strategic goals because the foreign policy analysis has not been finished, and yet we are still prepared to commit $13 billion dollars to a program of which we do not know the military objectives. I find that very disturbing.

We should also remember, in this time of tumultuous change, that we are talking not only about rearmament and new armament, but about the challenges we face in disarmament, in arms control and in identifying new alliances. We will have to take a very hard look in future at where we fit into NORAD and NATO. There is a complete restructuring of the traditional military alliances that we have lived with for 45 years. These are very important times and it is important that we get our direction right. We will not get our direction right if we do not organize a committee and obtain some foreign policy goals from External Affairs to identify where we are going.

[Senator Molgat.]

I separate myself from Senator Marshall's remarks in one area. He suggested that it might be wise to follow the example of the House of Commons and combine this committee with the committee on veterans' affairs. I think that is totally inappropriate. They have totally different objectives. It might administratively be convenient, and I do not know what arguments and rationale they use in the House of Commons, but to me it makes no sense to combine the two. I do not see any advantage in that at all.

I would like to reinforce the remarks made by Senator Marshall and Senator Molgat and stress that it is not only important but urgent that this committee be established. Thank you, honourable senators.

Hon. Duff Roblin: Honourable senators, I would like to say how much I appreciate the fact that three of our colleagues have raised the very important question of defence. It indicates to me that in this chamber we are not impervious to the march of events. In view of the turmoil that exists in the world, which we have seen developing these last few years, the question of our defence policy is again under examination and scrutiny.

I well recall that at one time the Foreign Affairs Committee encompassed within its range of responsibilities matters dealing with defence. Some time ago a subcommittee of the Foreign Affairs Committee was set up to give concentrated attention to this matter. In the course of time the subcommittee was translated into a special committee, and it is the record of that committee to which some of my colleagues have referred today.

I wish to pay tribute, if I may, to both Senator Marshall and Senator Molgat for the zeal with which they pursued the investigations of that committee. It is perhaps important to recall that, at the time, Canada's foreign policy was settled. At that time the Cold War was in full flight, so to speak. We in the National Defence Committee had no problem deciding what was the foreign policy of Canada. At that time it was quite clear what our foreign policy was. That is important, because defence does not have a life of its own. Defence depends on what is the foreign policy of the country, and it is counter-productive to think that we can develop a policy on defence in isolation, or without regard for the changing foreign policy of the nation.

Under those circumstances, I was, at the time, an ardent supporter of the defence committee. I thought that, as a special subcommittee of the Standing Senate Committee on Foreign Affairs, it did all right, and I am not sure that its contribution, though perhaps it status, was improved by making it a special committee. At any rate, at the time, when one considered the settled state of our foreign policy, the mandate of that committee was pretty clear and we were able to offer some useful contributions to defence policy in this country.

But it is now equally clear that the conclusions we reached then are quite inappropriate for today. The reasons they are inappropriate have been mentioned by Senator Molgat and others, and I concur with the observations made by the honourable senator, and by Senator Waters, on the need for a new look at defence problems in the present circumstances.

What concerns me, however, is the best way to go about this. While I do not dismiss out of hand the concept of a special committee on defence—I am personally willing to listen to arguments on this subject and to consider all aspects of the proposal—it does seem to me that we should consider the link between defence and foreign affairs and ask ourselves whether we can usefully go very far in our re-examination of the defence situation until we have a pretty good idea of our concept of our foreign policy. As has been stated by members of this house, there is a debate going on in the country these days with respect to our foreign policy, and it would perhaps be useful to examine the impact of foreign policy on defence. That leads me to the conclusion that we should not automatically accept the idea that a separate defence committee is the way to go. I must confess that if I had to make a decision—and if I had the authority to decide at this particular moment—I would be inclined to say that we might be better advised to pursue the foreign policy objectives of Canada in the foreign affairs committee, as we have done in the past. We should not concentrate so much on the Free Trade Agreement, which, in a sense, is now passé, although it has not disappeared from the arena of public discussion by any manner or means. The fact that the committee has recently been concentrating so much attention on the Free Trade Agreement means that it has not looked at other matters that might be of interest to it.

I believe there is a general feeling in the committee that perhaps we have done all we can with respect to the Free Trade Agreement, although some senators may think that we should continue to look into that. We are certainly continuing our study with respect to the trilateral discussions with Mexico, but I would suggest that that should no longer be the central focus of what the Foreign Affairs Committee should now be considering. I had the impression that the Standing Senate Committee on Foreign Affairs was now considering the new foreign policy interests of Canada and the sort of reference it should seek from the Senate in order to discuss those new foreign policy interests. Proposals have been made in the committee that we should re-examine those fundamental aspects of our foreign policy and decide how the committee might contribute to a study of the problems and to proposals for a solution. If I have judged its feeling correctly, I think the committee will conclude that that area should receive primary attention from here on in.

If that should be the case, then the question of defence is closely aligned to what that policy directive or policy discussion should be. The correct defence policy of the country, I suggest, will be closely related to what we conceive to be the foreign policy interests of the nation.

The conclusion of that line of argument leads me to suggest that perhaps we should ask the Standing Senate Committee on Foreign Affairs to consider this question of defence and to consider whether, within its program for the future, there will be time, interest and personnel to include the question of defence in its study of the foreign relations policy of the nation. Should the committee reach the conclusion that it can usefully, efficiently and effectively deal with the question of defence in connection with the general state of foreign policy, then that is one thing; if it decides that it has too much on its plate and that members would rather tackle the problem in some other way, then they will no doubt be able to formulate some reflections on that matter.

My conclusion, honourable senators, is that I would not like to support this solution as it stands, because I think it requires further study before we can decide how best to proceed. While I do not propose to make any motion to that effect at the present time, I know that at the next meeting of the foreign affairs committee, which is tomorrow, I will have the opportunity, should I wish, to ask the committee to consider the general character of this problem and to apply its collective mind to the solution that should be proposed. When that consultation has taken place, perhaps I, for one, will have a better idea of how to approach this problem.

Honourable senators, I will conclude by saying that there is a problem. The defence policy of the country is now unsuited to the terms we see around us today. The white paper that was received with such interest a short while ago is no longer a safe guide for conduct in all aspects of our defence policy. I agree with those who say that these are important matters that require our attention, without much delay. However, I do believe it would be advantageous to consider the matter on the wider basis that I have suggested and, hopefully, we will find the correct and most productive method by which this problem can be approached.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, while this matter is being discussed by either the Standing Senate Committee on Foreign Affairs or the Standing Senate Committee on Rules and Orders, perhaps I could take the adjournment in my name so that the matter may be further discussed in this chamber.

On motion of Senator Doody, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 5482*)

THE ESTIMATES, 1990-91

TWENTY-FIRST REPORT OF NATIONAL FINANCE COMMITTEE

MONDAY, March 25, 1991

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

TWENTY-FIRST REPORT

Your Committee, to which Supplementary Estimates (C) laid before Parliament for the fiscal year ending March 31, 1991, were referred, in obedience to the Order of Reference of Wednesday, March 6, 1991, submits its report as follows:

Supplementary Estimates (C) are the third and final supplementary estimates for the 1990-91 fiscal year. Your Committee held two meetings, on March 7 and March 19, 1991, to review these supplementary estimates. Officials of the Treasury Board Secretariat appeared as witnesses at both meetings.

Because of large reductions in statutory expenditures resulting mainly from lapses and legislated changes, total proposed expenditures in these supplementary estimates are actually negative in the amount of $2.253 billion. Consequently, these supplementary estimates reduce the estimates tabled for the 1990-91 year (budgetary plus non-budgetary) from $153.273 billion at the time of Supplementary Estimates (B) to $151.020 billion.

Background information supplied by the Treasury Board Secretariat, which forms part of this report, includes: a listing of all voted items greater than $5 million; a summary of the expenditure framework and estimates for 1990-91; a statement of 1990-91 supply to date; and a list of $1 votes that authorize the transfer of funds from one vote to another and the payment of grants, plus miscellaneous items.

The $2.253 billion negative total in these supplementary estimates is made up of a reduction of $2.843 billion in statutory expenditures, which are included in the estimates for information only, and a proposed appropriation of $590.3 million that is to be voted by Parliament. Total budgetary expenditures of $150.607 billion exceed both the government's projection of $147.8 billion in the 1990 Budget and the 1990-91 Main Estimates and its revised projection of $150.3 billion at the time of Supplementary Estimates (B). In the Budget of February 26, 1991 and in the attached Treasury Board information, the forecast of total budgetary expenditures for 1990-91 has been increased by a further $1 billion to $151.3 billion. In other words, the government has had to revise the expenditure framework upwards on two occasions to accommodate the total budgetary expenditures in the estimates for 1990-91. These increases are largely attributable to changes in economic conditions and associated increases in major statutory expenditures. In particular, the onset of the recession resulted in increased unemployment insurance payments and increases in the federal government's transfers to the provinces under the

Canada Assistance Plan, while the high interest rates that prevailed during the fiscal year led to substantial increases in interest payments on the public debt. These increases were only partially offset by the reductions in statutory expenditures, referred to above, that appear in Supplementary Estimates (C).

When Supplementary Estimates (B) were tabled on November 23, 1990, the President of Treasury Board announced a reduction in current-year government expenditures of $350 million in order to offset the additional budgetary requirements of the same amount for the Department of National Defence. This reduction was to be achieved through a combination of deferrals of $100 million in grants and contributions in four departments and agencies (other than National Defence). These cutbacks were not included in the departmental information of Supplementary Estimates (B) and similarly do not appear in Supplementary Estimates (C). The amounts to be voted for each department and agency in these supplementary estimates are net in the sense that the reductions required have been subtracted from the amounts requested. Where the department's or agency's reduction exceeds the amounts requested, and for those departments and agencies that do not appear in these supplementary estimates, part or all of the reduction remains in a frozen allotment with Treasury Board and must be lapsed by the department by March 31, 1991.

A number of specific expenditure items were questioned by members of your Committee in the course of its customarily careful scrutiny of these estimates.

An appropriation of $44.9 million is being requested for the Canadian Broadcasting Corporation to help defray severance payments and other benefits for the 1,100 employees the CBC plans to lay off, pursuant to the closure of 11 television stations announced in December 1990. As well, there is an inter-vote transfer from capital to operating expenditures of $28.0 million to offset a shortfall in advertising revenues. Four separate museums have been established from what was formerly the Canadian Museums Corporation. Appropriations are required for each of these new crown corporations because they are now responsible for their own statutory employee benefits, formerly payable through Treasury Board Vote 15, and must also pay provincial sales taxes.

The estimates of the Canadian International Development Agency include a $25 million grant for international humanitarian assistance, which is directly related to the effects of the war in the Persian Gulf region, and a $19.1 million contribution for geographic programs, specifically increased food aid for the Horn of Africa. $153.5 million and 1,644 additional person-years are being requested under National Revenue, Customs and Excise for administration and collection of the Goods and Services Tax. Privy Council estimates include $18.0 million for the Citizen's Forum on Canada's Future. This Forum was established under the Inquiries Act, which gives it no authority to spend funds without the specific approval of Parliament.

$31.8 million has been included in the estimates of the Department of Public Works for accommodation needs of various departments, along with $24.5 million for further accommodation requirements for the implementation of the Goods and Services Tax. Although some downsizing of the federal government is taking place, additional expenditures connected with new initiatives and the accommodation requirements of 215,000 public servants invariably arise, for example: the need to remove asbestos in government-owned buildings; accommodation for the Canadian Space Agency, GST administration and Environment initiatives; and increased costs incurred when leases are renegotiated. The estimates of the Treasury Board include $32.5 million for additional costs to meet provincial health payroll taxes, which several provinces have introduced in place of health care premiums.

A number of the large reductions in statutory expenditures were also questioned. Under Employment and Immigration, $1.319 billion is being saved from elimination of the government's

contribution to the Unemployment Insurance Account and $227 million in respect of its contribution to UI benefits for self-employed fishermen. These savings arise from the passage of Bill C-21 amending the Unemployment Insurance Act. $700 million less is needed for the Public Debt Program of the Department of Finance, reflecting recent reductions in interest rates. Under this program, $41.15 billion was identified in the 1990-91 Main Estimates and an additional $2.5 billion appeared in Supplementary Estimates (B). With the present $700 million reduction, total interest payments on the public debt for 1990-91 are estimated to be $42.95 billion. Finally, the large positive and negative adjustments in statutory payments under the Social Program of the Department of National Health and Welfare (Family Allowance, Old Age Security, Guaranteed Income Supplement, Spouse's Allowance and the Canada Assistance Plan) can be ascribed to unforeseen shifts in economic and demographic variables.

At a later date, Treasury Board will be providing written responses to specific questions raised by the members of your Committee. These will include additional detail on the expenses of the Citizens' Forum on Canada's Future and on the use of the Treasury Board Contingencies Vote.

Respectfully submitted.

Roch Bolduc
Deputy Chairman

Summary of Items ($5 million or greater by Vote) included in Supplementary Estimates (C), 1990-91

Department Program Item	Gross	Transfer	Net Appropriation	Vote Increase
AGRICULTURE				
Agri-Food Program				
Purchase and resale of pelts	13,028,536	13,028,535	1	5c
COMMUNICATIONS				
Cultural Initiatives Program	5,563,000	-	5,563,000	10c
Canadian Broadcasting Corporation				
Additional operating costs	72,950,000	28,024,000	44,926,000	30c
Canadian Museum of Civilization				
Establishment of CMC	31,612,338	29,342,938	2,269,400	46c
Canadian Museum of Nature				
Establishment of CMN	14,565,478	12,644,613	1,920,865	47c
National Gallery of Canada				
Establishment of NGC	27,417,600	25,775,000	1,642,600	67c

Canadian Museum of Science and Technology				
Establishment of NMST	13,610,000	12,152,000	1,458,000	72c
ENERGY, MINES AND RESOURCES				
Lloydminister Heavy Oil Upgrader	7,300,000	-	7,300,000	L15c
EXTERNAL AFFAIRS				
Canadian Interests Abroad Program				
Currency Fluctuations	15,500,000	15,499,999	1	1c
Activities - Iraqi invasion of Kuwait	8,686,000	8,686,000	-	1c
Canadian International Development Agency				
Increased grant: international humanitarian assistance	25,000,000	25,000,000	-	35c
Increased contribution for geographic programs	19,144,000	2,120,000	17,024,000	35c
FISHERIES AND OCEANS				
Additional operating requirements	14,904,000	6,869,800	8,034,200	1c
Ex-gratia payment - Canadian Saltfish Corp.	15,000,000	-	15,000,000	1c
Fisheries Adjustment Program	14,548,000	-	14,548,000	1c
FORESTRY				
Contributions and operating funds under F.R.D. agreements	10,068,595	3,182,595	6,886,000	10c

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT				
Indian and Inuit Affairs Program				
Increased contribution for post-secondary Education	23,690,709	16,936,999	6,753,710	15c
Increased contribution for emergency response costs on reserve	10,305,417	-	10,305,417	15c
Grant to Stoney Indian Band	19,600,000	-	19,600,000	15c
Increased grant for Band Management	5,937,130	-	5,937,130	15c
Transfer Payments to the Territorial Governments Program				
Formula financing -- Yukon Government	12,720,000	-	12,720,000	45c
Transfer of Airports to the N.W.T.	9,860,137	-	9,860,137	50c
JUSTICE				
Legal Aid cost-sharing agreements with provinces and territories	22,906,886	912,000	21,993,886	5c
NATIONAL DEFENCE				
Additional operating costs	75,100,000	75,099,999	1	1c
Increase to Working capital advance account	20,000,000	-	20,000,000	L11c

NATIONAL HEALTH AND WELFARE				
Health Program				
Non-insured health services	12,074,000	9,823,000	2,251,000	15c
Increased contributions to Indian Groups for construction of health facilities	5,000,000	-	5,000,000	15c
NATIONAL REVENUE				
Customs and Excise				
Implementation of the Goods and Services Tax: (Vote 1)	143,550,000	-	143,550,000	1c
(Vote 5)	9,993,000	-	9,993,000	1c
Taxation				
Pension Reform - Program Costs	8,972,211	8,972,210	1	10c
PRIVY COUNCIL				
Citizens' Forum on Canada's Future	17,960,000	-	17,960,000	1c

PUBLIC WORKS				
Real Property Program				
Accommodation needs - various departments	31,794,985	-	31,794,985	5c
Accommodation requirements re: GST	24,548,000	-	24,548,000	5c
Contribution - Old Port of Chicoutimi	6,190,170	-	6,190,170	5c
TRANSPORT				
Additional operating costs	92,233,000	92,232,999	1	1c
Marine Atlantic Inc. - Newfoundland dockyard Corporation operating loss	9,600,000	9,599,999	1	40c
Via Rail Canada Inc. - Increased operating costs	6,500,000	-	6,500,000	45c
TREASURY BOARD				
Employer Contributions to Insurance Plans Programs				
Additional costs for provincial health payroll taxes	32,500,000	-	32,500,000	15c

VETERANS AFFAIRS				
Veterans Affairs Program Increased costs for Other Health Purchased Services	10,000,000	9,999,999	1	1c

SUMMARY OF EXPENDITURE FRAMEWORK AND ESTIMATES FOR 1990-91

Expenditure Framework	
Budgetary Main Estimates	$147.6 billion
Projected Total Budgetary Estimates	$150.6 billion*
Projected Budgetary Expenditure	$151.3 billion

ESTIMATES TABLED TO DATE FOR 1990-91

	TO BE VOTED	STATUTORY	TOTAL
		(in thousands of dollars)	
Main Estimates			
Budgetary	$44,314,283	$103,278,804	$147,593,087**
Non-Budgetary	206,789	163,269	370,058
	$44,521,072	$103,442,073	$147,963,145
Supplementary Estimates (A)			
Budgetary	$ 550,852	-	$ 550,852
Non-Budgetary	-	-	-
	$ 550,852	-	$ 550,852
Supplementary Estimates (B)			
Budgetary	$ 1,841,442	$ 2,902,400	$ 4,743,842
Non-Budgetary	$ 15,197	-	$ 15,197
	$ 1,856,639	$ 2,902,400	$ 4,759,039
Supplementary Estimates (C)			
Budgetary	$ 559,285	$(2,840,312)	$(2,281,027)
Non-Budgetary	31,000	(2,800)	28,200
	$ 590,285	$(2,843,112)	$(2,252,827)
TOTAL ESTIMATES TABLED			
Budgetary	$47,265,862	$103,340,892	$150,606,754
Non-Budgetary	252,986	160,469	413,455
	$47,518,848	$103,501,361	$151,020,209

* Total Estimates will always differ from Total Budgetary Expenditures. The following adjustments not reflected in Estimates account for the $0.7 billion difference in current forecasts.

1) Consolidation adjustments	2.4
2) Anticipated lapse	(1.8)

** Numbers differ from Part II of the Estimates (General Summary) due to rounding

SUPPLY TO DATE FOR 1990-91

Three Appropriation Acts have been approved in respect of Estimates for 1990-91:

Supply Approved to Date:

Appropriation Act No. 1, 1990-91 granted Interim Supply for the 1990-91 Main Estimates equal to an initial allocation of 3/12ths for all Votes plus 51 additional proportions	$12,969,848,294.15
Appropriation Act No. 2, 1990-91 granted Supply for the balance of Main Estimates for 1990-91	$31,551,223,241.85
and	
Supply for the whole of Supplementary Estimates (A), 1990-91	$ 550,851,998.00
	$45,071,923,534.00
Appropriation Act No. 3, 1990-91 granted Supply for the whole of Supplementary Estimates (B), 1990-91	$ 1,856,639,306.00
TOTAL	$46,928,562,840.00
Awaiting Approval:	
Supply for the whole of Supplementary Estimates (C) 1990-91	$ 590,285,166.00
TOTAL	$47,518,848,006.00

LIST OF ONE DOLLAR VOTES INCLUDED IN SUPPLEMENTARY ESTIMATES (C), 1990-91

The 39 One Dollar Votes included in these Estimates are listed in Appendix I by ministry and agency along with the page number where each vote may be located in the Estimates.

These One dollar Votes are grouped below into categories according to their prime purpose. The votes are also identified in Appendix I, according to these categories. The category for each vote has been designated by an "X". In those instances where a vote falls into more than one category, the prime category is designated by an "X" and other categories by an "*".

A. Twenty-five votes which authorize the transfer of funds from one vote to another. (An explanation of the new requirement and the source of funds is provided in Supplementary Estimates).

B. Nine votes which authorize the payment of grants. (An explanation of the new requirement and the source of funds is provided in Supplementary Estimates).

C. Five miscellaneous votes. (Additional explanations are provided in Appendix II).

- one vote which provides a guarantee of loans made by Canadian Financial Institutions -- External Affairs;
- one vote which provides authority to delete from the accounts of the Staff Development and Training revolving fund an amount representing the loss on operations pertaining to the termination of discretionary language training -- Public Service Commission;
- two votes which write-off certain debts due Her Majesty in Right of Canada -- Employment and Immigration;
- one vote which repeals a certain section of the Self-Supporting Airports and Associated Ground Services Revolving Fund Act -- Transport.

Estimates division
March 7, 1991

APPENDIX I

LIST OF ONE DOLLAR VOTES IN SUPPLEMENTARY ESTIMATES (C), 1990-91

Page	Department and/or Agency	Vote	Categories		
			A	B	C
26	Agriculture	1c	X		
27	Agriculture	5c	X		
27	Agriculture	15c		X	
28	Agriculture	20c	X		
29	Agriculture -- Canadian Livestock Feed Board	40c	X		
30	Atlantic Canada Opportunities Agency	1c	X		
30	Atlantic Canada Opportunities Agency	5c		X	
38	Consumer and Corporate Affairs	1c	X		
40	Employment and Immigration	1c	X		
41	Employment and Immigration	6c	*		X
41	Employment and Immigration	10c		X	
42	Employment and Immigration	17c	*		X
42	Employment and Immigration	20c	X		
45	Environment	15c	*	X	
46	External Affairs	1c	X		
46	External Affairs	10c	*	X	
46	External Affairs	L13c			X
48	External Affairs	20c	X		
61	Forestry	1c	X		

Page	Department and/or Agency	Vote	Categories		
			A	B	C
63	Indian Affairs and Northern Development	1c	X		
66	Indian Affairs and Northern Development	30c	X		
66	Indian Affairs and Northern Development	35c	X		
66	Indian Affairs and Northern Development	40c	X		
70	Industry, Science and Technology -- National Research Council	70c		X	
73	Justice -- Canadian Human Rights Commission	10c		X	
77	National Defence	1c	X		
77	National Defence	10c		X	
80	National Health and Welfare	1c	X	*	
81	National Health and Welfare	5c	X		
86	National Revenue -- Taxation	10c	X		
95	Secretary of State -- Public Service Commission	26c			X
97	Solicitor General -- Correctional Service	10c		X	
100	Transport	1c	X		
100	Transport	2c			X
100	Transport	18c	X		
100	Transport	20c	X		
100	Transport	25c	X		
100	Transport	40c	X		
106	Veterans	1c	X		

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Employment and Immigration -

Vote 6c Employment and Insurance - Pursuant to Section 25(2) of the Financial Administration Act, to write-off from the Accounts of Canada 27 debts due Her Majesty in Right of Canada amounting in the aggregate to $1,161.72 in regards to Government Annuities Account overpayments - To authorize the transfer of $1,161 from Employment and Immigration Vote 5, Appropriation Act No. 2, 1990-91 for the purposes of this Vote.

Explanation:

This item authorizes the write-off of 27 overpayments from the Government Annuities Accounts with a total value of $1,161.72. These overpayments are debts included in the Statement of Assets and Liabilities. The overpayments are considered unrecoverable because:

- the debtor is deceased;

- the debt records have been lost;

- collection costs cannot be justified.

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Employment and Immigration

Vote 17c Immigration - Pursuant to Section 25(2) of the Financial Administration Act, to write-off from the Accounts of Canada 2,225 debts due to Her Majesty in Right of Canada amounting in the aggregate to $2,243,290.28 in regards to transportation loans issued pursuant to Section 119 of the Immigration Act - To authorize the transfer of $486,840 from Employment and Immigration Vote 5 and $1,756,450 from Employment and Immigration Vote 10, Appropriation Act No. 2, 1990-91 for the purposes of this Vote.

Explanation:

TB 815126, December 13, 1990.
This item authorizes the write-off of 2,285 transportation loans with an outstanding balance of $2,243,290.28. These loans are being written off for the following reasons:

- the debtor is deceased - $72,000 (71,149.65)

- the debtor is not a resident of Canada or cannot be located - $44,000 (43,790.47)

- the debtor is incapable of paying the debt - $49,000 (49,047.29)

- the debtor is an undischarged bankrupt - $18,000 (18,222.49)

- the further costs of collecting the debt are not justified - $13,000 (12,732.20)

- the debtor has his account transferred to a private collection agency - $2,048,000 (2,048,348.18)

A similar item is included in S.E.(C) each year.

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

External Affairs & International Trade Canada:

Vote L13c — Pursuant to Section 29 of the Financial Administration Act to authorize the Minister on behalf of Her Majesty the Queen in right of Canada to guarantee loans made by Canadian financial institutions in accordance with terms and conditions approved by the Minister of Finance to the government of Czechoslovakia in an amount not to exceed $30,000,000 and to the government of Hungary in an amount not to exceed $15,000,000.

Explanation — The G-24 (a coordinating body of OECD countries to provide assistance to Eastern Europe) has agreed to undertake a concerted effort to provide balance of payments support for Eastern European countries undertaking major programs of economic adjustment with the support of the International Monetary Fund. The total assistance to be provided is $US 1 billion for the Czech and Slovak Federal Republic (CSFR) and $US 500 million for Hungary.

The provision of loan guarantees constitute Canada's contribution to this undertaking of the G-24 group of donor countries. Canada's commitment is $US 25 million ($Cdn 30 million) for the CSFR and $US 12.5 million ($Cdn 15 million) for Hungary. This represents approximately 2.5% of the G-24 effort.

TB recommended this authority to parliament under the following conditions: (a) all agreements shall be subject to the approval of the Minister of Finance on the terms and conditions of loans made by Canadian financial institutions; and (b) 50% of the value of the loan guarantees or as otherwise agreed by the Minister of Finance shall be offset against the the 1991-92 ODA Reserve as a fiscal control measure.

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Public Service Commission -

Vote 26c To authorize the Minister to delete from the accounts of the Staff Development and Training Revolving Fund an amount of up to $800,000 representing the accumulated loss on operations pertaining to the termination of discretionary language training.

Explanation:

TB 815465 December 20, 1990 transferred the provision of discretionary language training from the Revolving Fund to appropriations beginning in 1991-92. (The Revolving Fund was shared by discretionary language training and the Special Operating Agency.)

In 1990-91, discretionary language training is expected to incur a deficit of approximately $650K. Since discretionary language training will no longer be part of the Revolving fund and there will be no means of recovering the debts incurred by this activity, PSC seeks authority for its Minister to delete that debt from the Revolving Fund accounts.

Authority is also requested to remove the assets and liabilities related to the provision of discretionary language training (estimated at $150K) from the Revolving Fund accounts in order that the accounts accurately reflect only the Special Operating Agency activities.

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Transport -

Vote 2c Self-supporting Airports and Associated Ground Services Revolving Funds Act - In accordance with Section 12 of the Revolving Funds Act, 1985 R.S.C.,c. R-8, to repeal Section 10 of the said Act, as of March 31, 1991

Explanation:

Transport Canada has operated the "Airports Revolving Fund" since 1969 as a management and accounting tool. It has proposed winding up the Fund because it no longer serves the practical purpose for which it was intended. The Department is developing new costing and financial reporting management tools on an individual airport basis. Officials expect that each airport can be operated on a more commercial basis as a result.

Four of the eight airports in the Fund are being transferred to local airport authorities (Vancouver, Edmonton, Calgary and Montreal). It would not be practical, or necessary, to retain the Fund to handle accounting transactions for the four remaining airports. For example, the flexibility to vote-net revenues, originally provided for under the Fund, is now available to Transport on a more widespread basis.

THE SENATE

Tuesday, March 26, 1991

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

Prayers.

OFFICIAL LANGUAGES

REPORT OF COMMISSIONER TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the Report of the Commissioner of Official Languages for the calendar year 1990.

[*Translation*]

APPROPRIATION BILL NO. 4, 1990-91

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-99, an Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st of March 1991.

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.

[*English*]

APPROPRIATION BILL NO. 1, 1991-92

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-100, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending 31st March, 1992.

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.

POVERTY

NATIONAL COUNCIL OF WELFARE—RECOMMENDATIONS AND DOCUMENTS PRINTED AS APPENDIX

Hon. David A. Croll: Honourable senators, I ask leave to table a press release dated March 19, 1991, issued by the National Council of Welfare recommending that the government abandon its policy of cutting Canada Assistance Plan payments to Ontario, Alberta and British Columbia; and documents entitled: *Comparison of Poverty Lines for 1989 and 1990;* and *Estimated Welfare Incomes for Single Employables in 1989.*

I further ask that these documents be printed as appendices to today's *Debates of the Senate.*

(*For Appendix "A" see p. 5527.*)

INTER-PARLIAMENTARY UNION

REPORT OF EIGHTY-FOURTH INTER-PARLIAMENTARY CONFERENCE, PUNTA DEL ESTE, URUGUAY, TABLED

Hon. Joan Neiman: Honourable senators, with leave, I have the honour to table the eighty-fourth report of the Inter-Parliamentary Conference held in Punta del Este, Uruguay, from October 15 to 20, 1990.

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

Hon. Senators: Agreed.

Report tabled.

EIGHTY-FOURTH INTER-PARLIAMENTARY CONFERENCE, PUNTA DEL ESTE, URUGUAY—NOTICE OF INQUIRY

Hon. Joan Neiman: Honourable senators, I give notice that on Wednesday, March 27, 1991, I will call the attention of the Senate to the Eighty-fourth Inter-Parliamentary Conference held in Punta del Este, Uruguay, from October 15 to 20, 1990.

PRIVATE BILL

UNIVERSITY OF EMMANUEL COLLEGE—BILL TO AMEND ACT OF INCORPORATION—FIRST READING

Hon. Sidney L. Buckwold presented Bill S-20, to amend the Act of Incorporation of the University of Emmanuel College.

Bill read first time.

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

On motion of Senator Buckwold, bill placed on Orders of the Day for second reading on Thursday, March 28, 1991.

[*Translation*]

SCRUTINY OF REGULATIONS

FOURTH REPORT OF JOINT COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Michel Cogger: Honourable senators, I have the honour to present the fourth report of the Joint Committee for

the Scrutiny of Regulations, dealing with the *Narcotic Control Regulations* and the *Food and Drug Regulations*.

Honourable senators, 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 it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see appendix "B", p.* 5530.)

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

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

[*English*]

CANADIAN LOBSTER: A MARKETING CHALLENGE

SEVENTH REPORT OF FISHERIES COMMITTEE TABLED

Hon. Brenda M. Robertson, Chairman of the Standing Senate Committee on Fisheries, tabled the committee's seventh report.

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

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

• (1410)

CRIMINAL CODE
CUSTOMS TARIFF

BILL TO AMEND—NOTICE OF MOTION TO AUTHORIZE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-80

Hon. Finlay MacDonald: Honourable senators, I give notice that on April 9, 1991, I will move:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report upon the subject-matter of Bill C-80, An Act to amend the Criminal Code and the Customs Tariff in consequence thereof, in advance of the said Bill coming before the Senate, or any matter relating thereto; and
>
> That the Committee present its report no later than November 28, 1991.

As I am sure honourable senators know, Bill C-80 is the gun control legislation.

QUESTION PERIOD

BANK OF CANADA

UNDERTAKING TO ACCEPT GOVERNMENT EXPENDITURE GUIDELINES—REQUEST FOR MONITORING AND REPORTING TO SENATE

Hon. H.A. Olson: Honourable senators, I have a question for the Leader of the Government with respect to the operating expenses of the Bank of Canada. I am interested, of course, in the reply but I am also asking this question because I am sure the Leader of the Government expects me to ask it, since I know of his deep and abiding interest in the operations of the bank.

First, I would ask the Leader of the Government to give us an explanation of exactly what the officials of the Bank of Canada promised—and I am asking because I am not sure what it means—when they gave some kind of undertaking that they would abide by and live within the expenditure guidelines set down by the government, which included approximately a 3 per cent increase. I believe the House of Commons has already had some kind of committee hearing, and, following that meeting, the Governor or one of the senior officials of the bank gave an undertaking that they would live within the guidelines. I would like to know what that means.

Secondly, at the same time I would like the government leader to give us some assurance that this will be monitored and reported to the Senate from time to time so that we can make sure that they do, in fact, keep their commitment.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask my colleague, Mr. Wilson, to provide what further information is available on that matter at this time.

Senator Olson: Well, that is a good start and I would like to have that information; but surely the Leader of the Government could be a little more helpful and tell us why it is that the Bank of Canada, which has been following a policy that bleeds everyone else to death, can get away with spending 200 or 300 per cent more than the expenditure guidelines by which they admonish everyone else to live, and which indeed is the government's guideline for increased expenditure. If you have been to cabinet meetings, then you must have heard about this.

Senator Murray: Honourable senators, this, as the honourable senator knows, is quite a complex question. I do not think I could do justice to it during the oral Question Period, but I shall, as I said, ask my colleague, Mr. Wilson, for a more complete report, which I hope will satisfy the honourable senator's curiosity.

Senator Simard: His partisanship, too!

Senator Olson: Honourable senators, I believe the government leader could do justice to it and that he should try to do justice to it. I have been to one or two cabinet meetings and I know what is discussed there.

Senator Murray: Not recently, I hope.

Senator Olson: . . . and I know that when one comes out of there, one has certain information that is not highly classified. The government leader could tell us and tell us today. What is the justification for the Bank of Canada's coming forward with approximately an 11 per cent increase in administration costs for the projected fiscal year over the last year, when it is asking everyone else to live within 3 per cent and, in some cases, to live with a reduction?

Senator Murray: The honourable senator wants some information on this interesting subject. He shall have it. The information will be authentic, because I will let the Governor of the Bank of Canada and the Minister of Finance speak for themselves, in their own words, which I shall be happy to convey in due course to the honourable senator.

Senator Olson: Honourable senators, that may be a reply, but it is totally unsatisfactory.

Senator Nurgitz: I thought he was doing good!

Senator Olson: I know you thought he was doing good. I know from past history and recent history that the minister has a deep interest in the operations of the Bank of Canada. That is not something new. He has had it for years. He used to ask questions about it at exactly five minutes after two every Thursday. He also has a deep and profound knowledge of how much damage has been done to hundreds of thousands of people across this country who have no way of defending themselves against the actions of the Bank of Canada in following the monetary policy that has been so devastating. For him to say all of a sudden that he does not know about it is absolutely incredible.

Senator Gigantès: He means he does not care!

Senator Olson: I am not going to accuse him of that. I think he is trying to be cautious in replying and that he will refer this and delay it and all that sort of thing. I would ask him to be more forthcoming because I am sure he attended the meetings in which explanations for these actions were given. For example, I doubt that the kerfuffle that went on between the chairman of the Banking Committee in the House of Commons and the Governor of the Bank of Canada and his officials completely escaped the minister. He knows about that. Tell us why the Bank of Canada is not applying the expenditure guidelines to itself when it is admonishing everyone else in the country to do so?

Senator Murray: Honourable senators, I have taken, and continue to take, considerable interest in the policies of the Bank of Canada and of monetary policy in this country. I have never pretended to have at my fingertips the details of the remuneration program or the administrative and operational expenses of the bank. I can and will obtain that information and table it here at my first opportunity.

With regard to the policies of the bank, let me say that I commend the bank, as I think the honourable senator should, for joining with the government in committing itself and the country to certain inflation targets, which, when realized, will have the effect of bringing interest rates down in this country and ensuring a quick recovery and renewal of sustained economic growth in Canada. If I may say so, this would be vastly preferred to the alternative put forward by the honourable senator, which is to turn on the money machine, print money and cause inflation to be fuelled in an extraordinary fashion.

Senator Olson: That is the minister's interpretation of what I said, but I will tell him to his face that he is totally, absolutely and completely wrong. I have never advocated that policy in my life, and I do not do so now. I can also tell him that I have sympathy for the hundreds of thousands of people who have gone bankrupt and are now out on the streets with debts exceeding their assets. That hurts and it is the result, in many cases, of the policy that has been followed by the Bank of Canada and supported by this government. You should be ashamed to the point where you hang your head in sympathy for the people you have hurt so badly.

Thousands of farmers across this country have either gone bankrupt or are on the verge of bankruptcy because they have been forced to pay as much as 50 to 80 per cent more debt service charges than was the level when they committed the debt.

• (1420)

The government leader should know about that, and if his government does not know about it, believe me, it will find out on election day. That is what I am concerned about, and that is why I take it very seriously that any official, namely the Governor of the Bank of Canada and the Minister of Finance, would admonish everyone else to live within certain guidelines and then come in with expenditures that are 300 per cent or more above what they are asking everyone else to live with. By the way, it is not only salary; they are asking everyone else to cut personnel when they are adding personnel to do the same job they have been doing over these years. It is a pretty false admonition to come along and say "We have to do this and we have to do that."

There are a lot of people in this country who did not believe that advocating lower interest rates would depreciate the value of the Canadian dollar. In fact, when the interest rates did start to come down the Canadian dollar did not come down, which puts exactly a lie to what the government and the bank were advocating. If the value of the Canadian dollar had gone back to where the economic value would be determined, by trade balances and various costs on both sides of the border that have to be taken into account, a lot of people in Canada, in the agriculture industry, the lumber industry and the petrochemical industry, would have been far better off than they are now. If the government does not have the wit to see that, and even after the fact it still continues with this garbage or false argument that what it did was the right thing, then it can face the consequences.

That is why I asked my question. The reason I am pursuing this matter is because I have had enough of replies stating that you did the right thing. The fact is that you did the wrong thing, and it is proving to be more wrong day by day judging from the number of people who were critically and financially hurt by what this government did over those years. That is why

I want to know what the Bank of Canada is doing, because it is important to alot of people who live in my part of Canada.

Senator Murray: The honourable senator began this exchange by asking for some information which I undertook to provide. I wonder whether it is worthwhile doing so, because it is clear that he has already made up his mind. He has rushed to the condemnation of the Bank of Canada, its officers, employees and the governor, as well as the Minister of Finance. The honourable senator is not seeking information, he is seeking an opportunity under the guise of placing a question to make a speech. That is an imposition on the time of other honourable senators, it is against the rules, and I decline to join with the honourable senator in that exercise.

Senator Olson: That is great! If that is all the concern the minister and his government has for the people of this country, people who have been damaged by this policy, then the least that we in the Opposition can do is to make sure that it is recorded and reported to the people that he and his government do not give a damn about how much people have been hurt. I raised this matter because of the snippy answers the minister always gives me, such as "We did the right thing." You did not do the right thing; you did the wrong thing.

Senator Simard: You said that awhile ago.

Senator Petten: It bears repeating.

Senator Olson: Yes, I did. The minister is now hiding behind what I am doing by saying that it is improper and therefore avoiding responsibility to the Canadian people for the damage he has done to those who have gone bankrupt. Bankruptcies were up another 45 per cent in February in some parts of Canada. Is that of no concern to the government either? What is it that concerns this government? Canadian citizens are suffering because of the government's and the bank's policy, and the government leader should be concerned about it. If that is the kind of answers we are going to get, I will have to report to the people insofar as I can, and I have some capability to do that, at least to some of the people in the area that I come from. I have a computer and a mailing list too.

Senator Barootes: Eighteen hundred.

Senator Olson: It is more than that now. If that is all the concern that the government expresses for farmers, fishermen and small business men who have been severely damaged by the interest rate policy he is now supporting, so be it.

At the beginning I simply asked the minister if he could get some information so that we could follow the sincerity of these guys. If they have any sincerity at all in admonishing other people to live within guidelines, surely they can live within them themselves. That is what I asked, but I have no capacity to monitor that. I know that the minister has and I want him to give me a undertaking that he is going to monitor that, and that he will report to the Senate from time to time.

But the first thing he needs to respond to is what it is that they promised to do. We know that their new Estimates for the ensuing year are about 300 per cent more than the government guidelines. What is the justification for approving it? Why does the government not take its responsibility and put them back within the guidelines too?

Let the record show that the minister chooses to ignore these questions that are so important to a lot of people.

Senator Murray: Let the record show that the minister has, three or four times already this afternoon, undertaken and committed to bring in the desired information.

POLAND

FOREIGN DEBT—REDUCTION BY PARIS CLUB—TERMS AND CONDITIONS OF REPAYMENT

Hon. Stanley Haidasz: Honourable senators, last Saturday, March 16, we learned from the press that the countries of the Paris Club agreed to reduce Poland's foreign debt by 50 per cent. Would the Leader of the Government in the Senate inform us of the terms and conditions that Poland would have to meet in order to pay back Canada only 50 per cent of its debt?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think I should point out that Poland is Canada's largest debtor country. It owes Canada approximately $3.2 billion. Much of that debt relates to grain sales made by the Canadian Wheat Board in the 1970s. My notes from the Department of External Affairs, which were prepared subsequent to the decision of the Paris Club, to which my friend has referred, indicate that Poland is implementing a comprehensive and difficult program of economic reform, replacing a nonproductive centrally-planned regime with a open, competitive economy. Projections by the International Monetary Fund and other experts suggest that Poland would not have the capacity to meet its obligations fully in the immediate or medium term future without international assistance. Therefore, Polish debt would continue to be a problem for the international financial system in the indefinite future.

With regard to the specific question put by the honourable senator as to what the terms are, I can only tell him that Canada and the dozen other creditor countries in the Paris Club have agreed in principle on measures to alleviate Poland's dealt service burden in order to support its adjustment efforts, but that Poland must now conclude an agreement with the IMF on an economic reform program and much of the assistance which the Paris Club has agreed to provide will be conditional on Poland's continuing with its economic reform efforts.

As I indicated, our assistance to Poland will take the form of a reduced interest rate charged on outstanding loans. Once an agreement between Canada and Poland is signed we will begin to receive interest payments from Poland for the first time in several years.

FURTHER REDUCTION BY UNITED STATES—GOVERNMENT RESPONSE

Hon. Stanley Haidasz: Honourable senators, I have a supplementary question. Following a statement by President Bush during President Walesa's visit to Washington last week the press reported that President Bush had stated that the U.S. would raise its reduction from 50 per cent to 70 per cent with respect to Poland's indebtedness.

Following that announcement by President Bush, a spokesman for the Canadian External Affairs Department stated that Canada would not follow the example of President Bush and up its reduction from 50 to 70 per cent.

• (1430)

I would like to ask whether this spokesman from the Department of External Affairs was revealing the federal government's policy? If so, does that mean that the federal government will not offer any hope of reducing Poland's debt further than 50 per cent?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Any hope? Honourable senators, as I indicated, Poland is our largest debtor country. It owes us $3.2 billion, most of it as a result of grain sales made during the 1970s. I do not have the figures in front of me, but I think I can say with certainty that Canada's exposure, in terms of the Polish debt on a per capita basis, is considerably greater than that of the United States.

Hon. George van Roggen: Very much larger.

Senator Murray: Very much larger, Senator van Roggen reminds me. Our exposure is much greater than that of the United States, and indeed of any other country.

In any case, with regard to the 50 per cent figure that was used, the 50 per cent reduction in its debt payments, that was the figure agreed upon by the Paris Club at its meeting the other day. It will be done, I am told, in two stages. For the first part, Poland will begin payments on its debt for the first time in a decade.

GOODS AND SERVICES TAX

USE OF REVENUES TO REDUCE NATIONAL DEBT—GOVERNMENT POSITION

Hon. Sidney L. Buckwold: Honourable senators, during the GST debate, as I presume you all recall, one of the amendments brought forward—I believe by Senator Lawson—was directed to taking any surplus revenue that might be achieved through the GST and applying it by law to the reduction of the federal debt. It was a very fine statement by Senator Lawson, who had the good sense to oppose the bill.

If senators refer to the *Debates of the Senate*, they will see that the very excellent presentation of Senator Lawson was ridiculed, pooh-poohed and shrugged off, and the amendment was defeated.

Senator Simard: Question!

Senator Buckwold: I see that Senator Simard has had a good rest and is back in good form.

Senator Murray: And we can say the same for you.

Senator Simard: Are you prepared for another trip, senator?

Senator Buckwold: Well, if you can find the money, I am ready for the trip, senator.

In reading the Budget Speech—and I apologize for having been away for two weeks during that period. I read a response by Senator Simard, by the way, in the budget debate—I was interested, as others were, to read:

> As part of our Plan for Economic Recovery, we will ensure that all GST revenues are allocated solely to the effort to bring the public debt under control. This will be done through legislation to establish the Debt Servicing and Reduction Fund into which all GST revenues will flow.

That was very interesting, and exactly the kind of thing that was proposed in the amendment debated by the government, an amendment which, in my personal opinion, should have been accepted but was not. It was merely reaffirmation of the fact that there would be no amendments, a reaffirmation of the fact that the government, under no circumstances at any time during this discussion and debate on the GST, would accept any amendments and run the risk of sending it back to the House of Commons. Yet if one reads the *Debates of the Senate* and the responses of those who were involved, the idea was considered absolutely nonsensical.

My question to the Leader of the Government is to define what is meant by "all revenues." I am delighted to see the government doing what it is proposing. But does "all revenues" mean that every penny that is received from the GST will be used to reduce the debt, which we applaud, or does it mean that surplus funds over and above what was collected under the manufacturers' sales tax, which has been eliminated, will be used under that definition of "all" to reduce the debt? The emphasis on the word "all" revenues twice in the speech of the Minister of Finance would indicate to me all revenue.

Again, then, where do we replace the $20 odd billion that was forthcoming under the now defunct manufacturers' sales tax which is replaced by the GST? I would appreciate a response from the Leader of the Government in this regard.

The Minister of Finance has indicated that legislation will be forthcoming to bring this into law. In the meantime, I think the Canadian public would be very interested in knowing that every penny of the GST is going to reduce the debt and that the $20 billion revenue to the government that will otherwise be lost will come from some other place. I am not quite sure. I have never seen that explained and I am looking forward to a response from the Leader of the Government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot and should not add to the announcement that was made by the Minister of Finance in his budget. That matter was the subject of an exchange between Senator Olson and me in Senators Buckwold's absence a while back. As I

indicated to Senator Olson, we expect to table legislation on this matter before very long and the honourable senator will have the answer to his question fully at that time.

Senator Buckwold: Honourable senators, one would be led to believe by that response that the Leader of the Government does not know. It is a very simple question. Maybe it is a simple person asking it, but the question was: Does this mean all revenue or surplus revenue? Surely that has been discussed. It is a very important philosophical approach. The legislation says "all revenues." To tell us now that when the legislation comes through we will then know the answer is an evasion of a question that the Canadian public is entitled to know.

Senator Murray: I appreciate the point that the honourable senator has made, but I do not intend to take it upon myself to elaborate on the budget presented by Mr. Wilson in this respect, and I shall ask him if he wishes to do so in advance of bringing in legislation. If he does, I shall inform the honourable senator.

STATUS OF TAX ON BOOKS

Hon. Finlay MacDonald: Honourable senators, I have a question for the Leader of the Government in the Senate encouraged by Senator Buckwold's question. Our mutual friend and former leader, Bob Stanfield, used to say that it is one thing to sacrifice your principles and win, but it is quite another to sacrifice your principles and lose.

I recognize that the brilliant but mischievous tactics with regard to the amendments to the GST had some merit going for them. Considering the encouragement the Prime Minister gave to that first amendment in Vancouver with respect to the GST on books of various kinds, could the Leader of the Government indicate to us whether any progress has been made, or are there any changes contemplated by the department, with respect to tax on books?

● (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I remember the debate very well. I remember the amendment very well. The statement of the Prime Minister and of the Minister of Finance and others, including myself, at the time was that we would examine this matter in the light of experience with the GST and in the light of the impact of the GST on that and other sectors of the Canadian economy. As we speak—March 26, 1991—the GST has been in operation for only three months. Therefore, I think it would be premature to expect the government to have arrived at a definitive conclusion at this stage.

Hon. Philippe D. Gigantès: Honourable senators, I should like to ask a question of the honourable senator who is chairman of the Standing Senate Committee on Transport and Communications, with regard to this quotation he has attributed to Mr. Stanfield. I must say that I am a little taken aback that Mr. Stanfield should be talking of abandoning one's principles. One would not think he would do that. When the honourable senator spoke, did he consider an accepted Tory doctrine to be: Abandon your principles but try to win at least?

[Senator Murray.]

Senator MacDonald: Honourable senators—

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the question is out of order. I do not think the senator is allowed to ask questions of other senators in this place. However, as Chairman of the Standing Senate Committee on Transport and Communications, the honourable senator may be subject to questions dealing with the business of the committee.

Senator Gigantès: On the point of order raised by the Deputy Leader of the Government in the Senate, I would point out that my question affects the conduct of the committee. The honourable senator is Chairman of the Standing Senate Committee on Transport and Communications and he communicates something which is pertinent to a question posed by a member from this side. It therefore affects the question, the way in which we understand the answer, and whether the Leader of the Government in the Senate, who also comes from Nova Scotia and who must have known Mr. Stanfield for some time, was imbued by this Tory principle, if it is a Tory principle, that it is not really one's principles that matter but whether one wins or loses.

Senator MacDonald: Is His Honour directing me to answer the question as Chairman of the Standing Senate Committee on Transport and Communications?

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

Some Hon. Senators: No.

The Hon. the Speaker: It is out of order.

Senator Gigantès: I would like it to be noted on the record that honourable senators opposite do not want to get into a discussion of the value of principles in politics.

Hon. Duff Roblin: Honourable senators, I cannot let that aspersion go unremarked, because what has been done on this side of the house was merely to suggest that we adhere to the regular rules of parliamentary institutions like this one.

Senator Stewart: When did that start?

Senator Roblin: If it did not start sooner than now, then now is soon enough.

USE OF EXCESS REVENUES TO REDUCE THE NATIONAL DEBT

Hon. Douglas D. Everett: Honourable senators, to return for a moment to the point raised by Senator Buckwold in respect of the utilization of the excess revenues deriving from the GST, during the course of the debate on Senator Lawson's motion, I, like many others, was quite taken with the idea that the excess revenues could be used to reduce the debt. But if one looked at the equation that was involved, one had to come to the conclusion that if one used those excess revenues to reduce the debt all one would do would be to increase the deficit. Therefore, what became important was to have an

undertaking that the excess revenues from the GST would be used to reduce the deficit.

Honourable senators will recall that I received a letter at that time from the Minister of Finance which was tabled and printed as part of the proceedings of the Senate. That letter was to the effect that the excess revenues from the GST would be used either to lower taxes or reduce the deficit.

My question for the Leader of the Government in the Senate is: Does he feel that this initiative the Minister of Finance has taken in the current budget—the resolution—is an attempt by the Minister of Finance to live up to the undertaking he made in that letter which was tabled in the Senate?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes, honourable senators, the revenues would be used to service the debt, and the undertaking has to be read in conjunction with certain other undertakings that were given in the budget, notably those relating to a cap on program expenditures over the next five years in respect of which we will also be introducing legislation, and the inflation targets that I was discussing a few moments ago with Senator Olson.

THE ESTIMATES, 1990-91

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

The Senate proceeded to consideration of the Twenty-First Report of the Standing Senate Committee on National Finance (Supplementary Estimates (C) 1990-1991) presented in the Senate on March 25, 1991.

Hon. Roch Bolduc moved the adoption of the report.

He said: Honourable senators, Supplementary Estimates (C) are the third and final Supplementary Estimates for the 1990-91 fiscal year. Your committee held two meetings on March 7 and March 19, 1991 to review the Supplementary Estimates. Officials of the Treasury Board Secretariat appeared as witnesses at both meetings.

Because of large reductions in statutory expenditures, resulting mainly from lapses and legislated changes, total proposed expenditures in these Supplementary Estimates are actually negative in the amount of $2.253 billion. Consequently, these Supplementary Estimates reduce the Estimates tabled for the 1990-91 year—budgetary plus non-budgetary—from $153.273 billion at the time of Supplementary Estimates (B) to $151.020 billion.

[*Translation*]

The negative amount of $2.253 billion in these Estimates results from a $2.843 reduction in statutory expenditures, which were included as a point of information only, combined to a proposed $590.3 million appropriation to be voted by Parliament.

The total budgetary expenditures of $150.607 billion are under the $151.3 billion contained in the revised expenditure framework for the fiscal year 1990-1991 and announced in the recent budget.

This framework takes into account the economic conditions. These evolved since the Main Estimates for that period were tabled last year. A substantial increase in major statutory expenditures was also necessary on items such as Unemployment Insurance, the Canada Assistance Plan and national debt service.

The report provides further information on particular items that members of the Committee asked questions about during the thorough scrutiny Estimates usually undergo. Later on, the Treasury Board Secretariat will answer other questions in writing.

Honourable senators, I thank you for your attention.

[*English*]

Hon. John B. Stewart: Honourable senators, Bill C-99 is based on the final Supplementary Estimates for the current fiscal year. I want to refer now to that bill.

There are two items I want to bring to the attention of honourable senators. On page 5 of the Bill C-99, under "Department of Communications," there is a vote, vote 30c, which is for payments to the Canadian Broadcasting Corporation for operating expenditures in providing a broadcasting service to authorize the transfer of $28 million from communications vote 40 of Appropriation Act No. 2 for the current fiscal year for the purposes of this vote and to provide a further amount of $44.9 million.

The transfer and the provision of the new money were questioned in the committee, and the committee has reported to the Senate in its *Minutes of the Proceedings of the Senate* at page 2381 as follows:

• (1450)

> An appropriation of $44.9 million is being requested for the Canadian Broadcasting Corporation to help defray severance payments and other benefits for the 1,100 employees the CBC plans to lay off, pursuant to the closure of 11 television stations announced in December 1990. As well, there is an inter-vote transfer of capital to operating expenditures of $28.0 million to offset a shortfall in advertising revenues.

Given the intense criticism directed at the Canadian Broadcasting Corporation arising from its decision to terminate certain local and regional broadcasting, it seems to me that members of the Senate ought to realize that not only are those parts of the country losing the discontinued services, but that the Canadian taxpayer is being required to put up millions of dollars to pay for this downsizing. That is one point that I wanted to bring to the attention of the house.

The other vote that I want to bring to the attention of the house appears at page 13 of the bill. It is vote 1c under the Privy Council. The amount that the Senate is being asked to authorize is $17,960,000.

What is this for? It is for the so-called Spicer Commission. In the *Minutes of the Proceedings of the Senate* on March 25,

1991, we are informed by the Standing Senate Committee on National Finance that the Privy Council estimates include $18 million for the Citizens' Forum on Canada's Future. This forum was established under the Inquiries Act, which gives the Forum no authority to spend funds without the specific approval of Parliament.

By vote 1c the Senate will give its support to the Spicer Commission to spend those millions of dollars. We asked the officials from the Treasury Board if they could give assurance that would deflate the notion that some members of the commission are attracting very large payments for their services.

The representatives of the Treasury Board staff said that they were not able to do that, and that we would have to await the Public Accounts of Canada. Those accounts will be available some time late in the fall.

In the meantime, the Senate will be voting $18 million for the Citizens' Forum on Canada's Future in the fiscal year ending March 31, 1991, and questions with regard to per diem remuneration remain unanswered.

I think honourable senators should know what they are voting for when they vote for this bill.

The Hon. the Speaker: It is moved by the honourable Senator Bolduc, seconded by the honourable Senator Chaput-Rolland, that this report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

Senator Stewart: On division.

Report adopted, on division.

BORROWING AUTHORITY BILL, 1991-92

SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it is my intention at this time to ask permission of the Senate to bring forward Bill C-97, the borrowing authority bill. I understand that there is a general consensus among honourable senators that we at least introduce this bill for second reading at this time.

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

Hon. Senators: Agreed.

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-97, an act to provide borrowing authority.

He said: Honourable senators are aware that the Financial Administration Act requires that statutory borrowing authority be obtained from Parliament before the government may increase its outstanding debt. To be clear, this requirement refers to new borrowing and not to the refinancing of existing debt which is authorized under section 46 of the Financial Administration Act. Therefore, the rule is that with the exception of temporary short-term borrowing under section 47 of the act, all new borrowing by the government must be authorized by Parliament.

[Senator Stewart.]

Bill C-97 then comes before us at this time as part of the regular process by which the government carries on its financial business. The budget and Main Estimates for 1991-92 have been tabled. With the new fiscal year fast approaching, the request for borrowing authority for the same year is being made. Background to this legislation is provided in the Estimates and in the budget publications.

Bill C-97 itself requests borrowing authority in the amount of $26.4 billion for 1991-92. This is comprised of $23.4 billion to cover anticipated borrowing requirements, and the normal $3 billion reserve to manage foreign exchange transactions.

The borrowing requirements include the government's net anticipated financial requirements from the budget of $21.6 billion and $1.8 billion, an estimated exchange fund account earnings.

I should explain that the request for borrowing authority to cover exchange fund earnings reflects the fact that they give rise to additional Canadian dollar borrowing requirements. This is because although they are reported in the Public Accounts as budgetary revenues, they are, in fact, retained in the exchange fund account and are not available to finance the operations of the government. Hence, the $1.8 billion in borrowing to cover that account.

Bill C-97 provides, as usual, that all unused borrowing authority in excess of $3 billion will be cancelled on March 31, 1991. This preserves the government's non-lapsing reserve to be carried forward into the new fiscal year.

Finally, honourable senators, the bill provides that the $3 billion reserve granted as part of last year's borrowing authority legislation will be cancelled on March 31, 1991, or on the date Bill C-97 comes into force, whichever is later. This prevents the accumulation of non-lapsing reserves from previous years, but does so in a way which will not be disruptive.

In closing, I want to indicate that all borrowing authority granted for 1990-91 has now been used up. The government announced on March 21 that Treasury bills to be offered for sale on March 28 are to be sold under the authority granted by section 47 of the Financial Administration Act.

Honourable senators will appreciate that we are drawing close to the end of the financial year and that it is important to the smooth functioning of the government's program of borrowing that this legislation be in place as quickly as possible. If because of uncertainty or delay it is necessary to borrow only for short terms, the government cannot maintain the desired balance of short term and long-term debt and thereby maintain a prudent level of exposure to changes in interest rates. As well, the functioning of our borrowing program will be less smooth.

● (1500)

I thank honourable senators for letting this bill come forward as expeditiously as it has, and I would be most pleased to have it referred to the Standing Senate Committee on National Finance if it is the wish of the Senate so to do. Thank you, honourable senators.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wonder if the Deputy Leader would clarify one point in his statement? He said that all of the borrowing authority for 1990-91 had been exhausted. Does that include also the non-lapsing $3 billion? Has all of that been used up?

Senator Doody: That is my understanding, senator.

Senator MacEachen: In any event, both have been used. Honourable senators, I intend to make some comments tomorrow before we send the bill to committee and, therefore, I would like to adjourn the debate now.

On motion of Senator MacEachen, debate adjourned.

APPROPRIATION BILL NO. 1, 1991-92

SECOND READING

Hon. Noel A. Kinsella moved the second reading of Bill C-100, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1992.

[*Translation*]

—He said: Honourable senators, *Appropriation Act No. 1, 1991-92*, Bill C-100, grants Interim Supply for the first three months of the new fiscal year.

The 1991-92 Estimates were tabled in the Senate on February 28 this year, and immediately referred to the Standing Senate Committee on National Finance.

[*English*]

This appropriation bill contains $13,145,000 of voted items which are required to meet government expenditure requirements to the end of June, while the Main Estimates are being reviewed by the various committees. A second appropriation bill will be tabled prior to June 30, 1991, to secure release of the balance of the Estimates.

This present bill contains a general proportion of three-twelfths of all votes plus additional proportions for some 34 votes. The additional proportions are required mainly to meet payments of a seasonal nature in some programs, to meet payments in accordance with certain agreements, and to meet the need in other instances to make major payments before the end of June.

I should point out, honourable senators, that, as usual, in no case is Parliament being asked to pass the entire amount of a vote.

[*Translation*]

Honourable senators, in concluding, I would like to stress four points.

First, the proportions requested in the bill are designed to meet all essential requirements of the Government of Canada until June 30, 1991.

Second, the bill does not release the total amount of any item.

Third, the bill has the usual format of Interim Supply bills.

Finally, passage of this bill will not jeopardize the rights or privileges of members of Parliament, which include scrutiny of budget items when the Estimates are in committee for consideration, or in the course of subsequent debate in the House; the usual commitment is hereby made that those rights and privileges will be respected and will be neither abolished nor restricted in any way as a result of the passage of said bill.

[*English*]

Hon. John B. Stewart: Honourable senators, the honourable senator who has just spoken has described the bill accurately. I should like to ask about two of the votes. As the honourable senator has said, in most cases the government is asking Parliament to provide three-twelfths of the amounts sought in the Main Estimates, but there are some exceptions. One of the exceptions appears on page 5 of the bill. It is the famous vote 5 for the Treasury Board, the so-called contingencies vote, a wonderful vote that can be used by the government for any purpose. Let me read the language of the vote:

> Government contingencies—Subject to the approval of the Treasury Board, to supplement other votes for paylist and other requirements and to provide for miscellaneous minor and unforeseen expenses not otherwise provided for including awards under the *Public Servants Inventions Act* and authority to re-use any sums allotted for non-paylist requirements and repaid to this appropriation from other appropriations.

That is all very clear. The government, in the Main Estimates, is asking for $400 million of this unearmarked money, but it is now asking Parliament to vote three-quarters of that as interim supply. What is the explanation for that? What is the need for a large part of the vote to be provided to the government at this time? I assume that this is not a seasonable requirement. That is my first question.

While Senator Kinsella is turning up the answer to that, let me call attention to another vote. It is on page 13. In this case, it is the Privy Council vote no. 1, which reads:

> Privy Council—Program expenditures, including the operation of the Prime Minister's residence; the payment to each member of the Queen's Privy Council for Canada who is a Minister without Portfolio or a Minister of State who does not preside over a Ministry of State of a salary equal to the salary paid to Ministers of State who preside over Ministries of State under the *Salaries Act*, as adjusted pursuant to the *Parliament of Canada Act* and pro rata for any period less than a year; and the grant listed in the Estimates.

Now, the total amount in the Main Estimates is approximately $73 million. By the bill now before the Senate, the Senate is being asked to vote $24,334,666.67. This, as I said, is larger than three-twelfths. Again, I assume that there is not a seasonal explanation as to why the operation of the Prime Minister's residence is more expensive in April, May or June, or why the salaries of the Ministers without Portfolio who do not preside over a Ministry of State should be higher in this period. I wonder what the explanation is. Why is this four-

twelfths and not three-twelfths as in the case of most of the other votes?

There are other cases, honourable senators, where a larger percentage than the three-twelfths is being sought, but in most of those cases one can make at least a shrewd guess as to why the money is needed relatively early in the fiscal year. But in these two cases we ought to be given specific information, either now or at a later stage of the bill.

• (1510)

Senator Kinsella: Honourable senators, I would hesitate to make a shrewd guess at this time. I too had looked into your first reference, honourable senator, and I cannot find my note on that, but I will attempt to provide you with answers in some detail tomorrow.

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

Hon. Senators: Agreed.

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?

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

[*Translation*]

APPROPRIATION BILL NO. 4, 1990-91

SECOND READING

Hon. Roch Bolduc moved that an Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991, be read the third time.

Honourable senators, I want to take this opportunity to introduce Appropriation Bill No. 4, 1990-91, which concerns Supplementary Estimates (C) for 1990-91. This year's last Supplementary Estimates concern votes worth about $589 million. Statutory spending dropped by $2,843 billion, a net reduction of $2,253 billion. Total estimates for the year 1990-91 represent $151 billion. The Supplementary Estimates are about 2 per cent of this year's Main Estimates.

The Estimates were tabled in the Senate on March 5, 1991, and referred to the Standing Committee on National Finance on March 6. Representatives of Treasury Board appeared before the committee to answer questions on March 7 and March 19.

As was explained in committee, statutory items were changed for two main reasons, the first being the passage of two bills, one to amend the Unemployment Insurance Act (Bill C-21) and the second to implement various measures announced in the February 19,1990 Budget (Bill C-69). The second reason is the revised cost projections on which many statutory estimates are based, depending on changes in economic and demographic variables.

[Senator Stewart.]

[*English*]

Honourable senators, Parliament is being asked to approve $558 million in budgetary expenditures, which is within the government's previously announced expenditure framework. Major items include $154 million for Revenue Canada Customs and Excise to administer collection of the goods and services tax; $74 million for Public Works Canada for a variety of purposes including accommodation, real property projects and access requirements for disabled persons; $73 million for additional transfer payments to Indian and Inuit people and to the Territorial Governments; $45 million for the Canadian Broadcasting Corporation toward the one-time cost of restructuring; $33 million additional payments for provincial health payroll taxes (Treasury Board); $22 million as contributions in the operation of legal aid systems; $18 million for the Citizens' Forum on Canada's Future; and $18 million for the Fisheries Adjustment Program for Atlantic Canada.

There are some 39 $1.00 votes in these Supplementary Estimates. A listing of these votes, containing additional explanations for the five miscellaneous votes, has been provided to members of the committee. Honourable senators, should you require additional information, I will be pleased to try to provide it. Thank you.

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

Hon. Senators: Agreed.

Senator Stewart: On division.

Motion agreed to and bill read second time, on division.

THIRD READING

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

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

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

CONSIDERATION OF TWELFTH REPORT—DEBATE ADJOURNED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented in the Senate on March 25, 1991.

Hon. Dan Hays: Honourable senators, I should like to speak to this report. By way of explanation, what was tabled is an interim report. I wish it were a final and complete report, following a full set of public hearings on *Energy Options*, the report of the group chaired by Mr. Tom Kierans, who was one of our three witnesses, entitled *Energy and Canadians into the Twenty-first Century*.

Unfortunately, due to other activities in the fall and some uncertainty about when the house might prorogue, the committee did not proceed with hearings and, accordingly, you see before you now a partial report which is an attempt on the part

of the committee to highlight what it wanted to achieve in its hearings. Hopefully it will be something that will be used by the committee as it is formed after prorogation to conclude work on this important inquiry. The inquiry might change, but what was on our minds was a close look at what might be called the demand side of the energy equation—that is, energy efficiency and means of conserving energy.

I cannot let the occasion pass, honourable senators opposite will understand, without drawing attention to my own concerns about supply side issues relating to lack of specific objectives in the government's energy statements. Its policy is one of making laudable but abstract statements about what it intends to achieve for the Canadian energy future. The specifics are missing. I believe we covered that subject in our report on Petro-Canada. Petro-Canada probably should have been studied after *Energy Options*, but it was completed first and, if we had not done it then, it would not have been done at all. In any event, hopefully that will contribute to a better understanding of Petro-Canada and the concerns about supply side issues.

The other matter I would like to discuss at this time is what is happening in the United States, which, in many respects, is an equivalent of energy and Canadians into the twenty-first century. It is a series of reports encompassing an interim report on a national energy strategy for the United States and now a first edition of a national energy strategy. It related to our twelfth report because the same process that is ongoing in the U.S. is now ongoing in Canada. Your committee has played a role in this process in terms of assisting with policy direction and providing ideas on what should be Canada's energy future.

● (1520)

Increasingly Canada's energy future, as we have emphasized before, is not enough. It is North America's energy future and the world energy future with which we must be concerned. The committee, as it has done on three other occasions, visited Washington last week for two days. I was accompanied by Senator Buchanan and Senator Sylvain. The committee was served by its clerk, Nicole McMillan, and two researchers from the Library of Parliament, Dan Shaw and Lynn Myers.

I should like to take a moment to talk about what we learned. It is particularly timely and, I believe, important because it follows on the conclusion of the war in the Gulf; and it also follows closely on the signing of the Air Quality Accord on acid rain on March 13, 1991, between Canada and the United States. The committee met first with specialists from the Congressional Research Service. We were briefed extensively on the U.S. Clean Air Act. By way of specific reference, it is called TITLE 4: Acid Rain Legislation. The act is the primary American response to acid rain problems in the United States, and reinforces the U.S. commitment to Canada as it formalized the signing of the Air Quality Accord by our two countries.

Before I report to you on this act, an environmental preamble is in order. We have some 300,000 lakes in Canada that are vulnerable to acid rain. Approximately 150,000 are being damaged, and more than 14,000 are acidified. About 55 per cent of eastern Canada's forests, which generate $14 billion worth of forest products, are in areas where rainfall is acidic. More than 80 per cent of Canadians live in areas with high acid rain pollution levels.

Since 1985, Canada has attempted to control acid rain. Regulatory and program measures have since achieved a 40 per cent reduction in 1980 sulphur dioxide emissions, but, more importantly, the country has a goal to reduce annual sulphur dioxide emissions to 2.3 million tonnes in 1995.

In brief, I should observe that Canada is currently behind the United States in taking action. However, we are catching up quickly. As you know, because of significant transboundary flows emanating from the United States, Canadian efforts alone are not enough. In this regard, the U.S. Clean Air Act was signed into law in November 1990. TITLE 4 sets goals for January 1, 2000 of reducing sulphur dioxide emissions by 10 million tons and annual nitrous oxide emissions by 2 million tons from 1980 levels. Beginning in the year 2000 total utility sulphur dioxide emissions will be limited to 8.9 million tons. Total industrial sulphur dioxide emissions will be limited to 5.6 million tons and small sources will account for some 2.2 million tons.

TITLE 4 will be implemented through a two-phase process. Under Phase 1 owners and operators of 111 facilities listed in the law are required to reduced emissions by 3.5 million tons annually by January 1, 1995. These facilities include all those with capacities in excess of 100 megawatts and emit at a rate greater than 2 1/2 pounds of sulphur dioxide per million BTUs.

I am spending a bit of time on this matter because both Canada and the United States have to develop a means of achieving these objectives of limiting emissions. I believe that in this regard the U.S. is ahead of us in some areas. For example, it proposes to create allowances that will be traded commercially and will have value. Canada may perhaps find this precedent useful in implementing its own objectives for limiting sulphur dioxide emissions.

Under Phase 2 all utility facilities greater than 25 megawatts are affected by the bill. This phase lowers the threshold emissions rate of 2.5 pounds to 1.2 million pounds per million BTUs. For existing sources that emit at a rate of less than 1.2 pounds per million BTUs, their allowable emissions are kept at a specific emission rate times an historic average fuel consumption level. To maintain emissions reductions beyond the Phase 2 compliance date, the law essentially caps sulphur dioxide emissions and existing individual sources through a tonnage limitation. Sulphur dioxide emissions from plants commencing operations after enactment must be completely offset by initial reductions at existing facilities beginning after Phase 2 compliance.

The law also creates a comprehensive permit and emission allowance system to ease the industry's overall cost of compliance. An allowance is a limited authorization to emit a short ton of sulphur dioxide. Facilities receive allowances based on

specific formulas contained in the law. Allowance sales and auctions are to be held to improve liquidity and availability of allowances for utilities and independent power producers that need them.

It is envisaged that the allowances will trade on an exchange. I do not know what kind of exchange, but perhaps something like the Chicago Mercantile Exchange. The value will be determined at some point in the introduction of trading in the allowances. Anyone in the U.S. can buy the allowances. One of the possibilities might be that organizations like the Sierra Club and people who are anxious in buying down the overall rate at which emissions can be made into the atmosphere will buy them up, and they would be taken off the market. In other words, there is no requirement that the allowance be used.

The legislation is incomplete in that we have only seen the act as it was passed and signed, and a treaty has been entered into. However, someone observed that something like 10 per cent of what is required is in the act, and something like 90 per cent will have to come in the form of regulation. According to the U.S. deadlines, regulations are to be in place within 18 months. The speculation is that because of the short timeframe and the difficulty in actually describing what these allowances are, the legislation, at least at this point, says more about what they are not rather than what they are. However, they will be of enduring value and can be traded, bought and sold. There is also speculation that there will be an initial period of difficulty while matters get sorted out. However, all those we spoke to seemed to be supportive of the idea and were convinced that it would work.

One interesting question that came up from time to time was whether or not Canada should pursue the same approach, and, if we did, whether or not these allowances should be traded between the two countries. Interestingly enough, there was quite a bit of support for the idea of trading allowances between the two countries. For that to happen, we would have to have closely harmonized legislation. I am not sure whether Canadians would be interested in that approach. My initial reaction was that Canadians would want to be careful about selling allowances, if, in fact, we did harmonize our systems to the point where trade could occur, because it might limit Canada's ability to value add within our country.

● (1530)

Having addressed those issues and those kinds of concerns, it may well be that there is room for that kind of trade to occur between the two countries. In any event, if Canadians sold allowances and found themselves with very tight caps on emissions, they would simply have to address a means of producing goods without emitting sulphur dioxide or nitric oxide.

The Clean Air Act promises immediate environmental relief in Canada. Anyone living down-wind from a U.S. incinerator or power plant, or drinking from the Great Lakes contaminated by atmospheric pollution, can find something encouraging in this Clean Air Act. Estimates suggest that the annual transboundary flows of sulphur dioxide from the U.S. to Canada will decline by 5.1 million tonnes in 1970 to 1.9 million tonnes in the year 2000, or by 37.3 per cent. In return, Canada to U.S. annual sulphur dioxide flows will decline a total of 33 per cent from 1970 to the year 2000. It appears that the Americans are about to catch up to Canada in its efforts to restrain the trade of sulphur dioxide emissions.

[Senator Hays.]

The committee met a congressman and staff of one of the house sub-committees and it also met with senior officials of the Department of Energy. Clean air legislation is in place subject to the regulations being implemented within 18 months and, as I said, Canada and the United States have already used it.

I would now like to turn to that which is up in the air, namely, the development of, in my opinion, a much-needed comprehensive energy policy which is sensitive to both supply side and demand side concerns. Our interim report describes what is at issue in Canada and talks a little bit about what we have done. It highlights some of our concerns about what we should be doing. In the United States that initiative is prompted right now by the National Energy Strategy. I wish they had called it a national energy program and maybe they will by the time it is over, but in any event it is the first item on the American legislative agenda. I will refer to it as NES for short.

Apart from the many legislative problems that this draft bill, which has been produced by the administration, will receive and draw fire in Congress about, and the different form that the NES will ultimately take, it is clearly the U.S. administration's most well articulated attempt at setting an energy policy. In particular, the NES specifically addresses the country's security of supply matters, something our committee has been prompting the Canadian government to do.

In brief, the NES highlights that may be of interest to honourable senators are that it a proposal for a new national policy to increase energy supplies and reduce demand. If implemented as proposed, it is expected to result in reduction of oil demand of 3.4 million barrels per day over projected demand by the year 2010. In the same timeframe, domestic oil production will increase by 3.8 million barrels per day over projected levels if the plan is introduced. NES would also increase the electricity derived from renewable sources by 16 per cent. It introduces alternative transportation fuels such as compressed natural gas, ethanol and methanol to reduce a further 2 million barrels per day of oil consumption. The bill will reduce the demand for electricity by 10 per cent primarily by reducing the degree of regulation in this sector.

For Canada, the most controversial proposal is the opening up of the coastal plain of the Arctic National Wildlife Refuge in Alaska. This reserve borders on the Yukon Territory and forms an important part of the calving grounds for the Porcupine caribou herd. The Secretary of Energy has told a committee hearing before Congress that the President will be advised to veto any legislative package that does not include this provision, that is, the opening up of ANWR.

This issue will be hotly contested by environmental groups in the U.S. as well as by a number of members of Congress. The administration claims that its legislative package contains a considerable number of provisions which will govern ANWR development with a view to protecting the environment from damage. Proponents of drilling in ANWR believe that it has the potential to be the third largest producing region in the United States and it is being counted on to provide a large part of the projected increase in domestic production to which I referred earlier, that is, an increase of 3.8 million barrels per day in domestic production.

Many observers expected to see stricter Corporate Average Fuel Efficiency Standards, or CAFE. CAFE relates to requirements on automobile manufacturers for overall fleet efficiency standards.

In the NES this measure with respect to CAFE has been left out. In fact, the energy secretaries advised congress that the President will be advised to veto any legislation which includes them. Apparently there will be a very strong lobby against stricter CAFE standards, particularly by U.S. automakers.

The NES proposes a number of changes in the way that the Federal Energy Regulatory Commission, FERC, handles applications regarding natural gas pipelines and nuclear power plant construction. This is also important to Canadians because of our major gas exports into that country. Time required to obtain a pipeline construction permit would be reduced, but FERC would still have to be satisfied that state and federal environmental laws were not breached. Only FERC would be responsible for administration of National Environmental Policy Act matters with respect to gas pipelines. Proposed changes to FERC regulatory procedures are also aimed at speeding up the various approval processes. The NES further proposes to move FERC into the Department of Energy, but this initiative is not expected to succeed. That is a conclusion that may or may not be borne out, but it was based on discussions we had, that is, moving FERC from a independent agency which was not partisan—if anything, it is bipartisan because appointments of commissioners to FERC are approved by the Congress—into DOE where it would become partisan, that is, the administration would appoint the FERC body members. In any event, because of that, and because of the longstanding existence of FERC as an independent agency, it seemed to us unlikely, based on our discussions, that that would materialize.

Here we come into the wonderful world of division of powers in the United States. There are more than 80 individual bills before Congress dealing with energy, and in the aftermath of the NES publication more are expected to follow. In all there are now 38 bills before Congress which deal with energy conservation and renewable energy. About one-third of the measures contained in the NES will require legislation, and this has been introduced into both houses of Congress by the administration.

I am going to talk about two congressional initiatives, one in the Senate and one in the House. As you can imagine from the number of bills that have been introduced, there are many initiatives and it is very difficult to anticipate which ones will be most influential in determining the final shape of the legislation, but it is clear from discussions that we had that there is a fierce determination to have this process completed by the fall or certainly by the end of the year. So that as difficult as the United States is to govern, based on the division of powers and the two houses of Congress and the multitude of initiatives that can happen, particularly on the House side, they do make the unworkable work by actually having this determination to bring it to a head and a conclusion by a certain time.

In any event, the most important bill, next to the NES, that is, the administration's bill, is the Johnston-Wallop Bill introduced in the Senate by the chairman of the Energy Committee and the ranking minority member.

● (1540)

There are many similar provisions in their legislation to the NES including the drilling in ANWR, but it also has a number of key differences. For instance, the Johnson-Wallop Bill has more emphasis on conservation than does the NES. The Johnson-Wallop Bill also has more measures designed to promote the greater use of alternative energy sources. A second difference in this bill is the inclusion—and this is interesting to Canadians because it appears in both Senate and House bills—of a 9 per cent import fee to fund the Strategic Petroleum Reserve. This would probably contravene the Canada-U.S. Free Trade Agreement—not probably; I think it would contravene that agreement.

We did have discussions about that. The idea here is that because they do not have any new money to take out of their general revenue, they have to find ways in this legislation to fund initiatives that cost money. One of the initiatives that the United States feels is important is an enhancement of their Strategic Petroleum Reserve up to a billion barrels, which we have talked about before and to which I have referred in speeches briefly. It is important because the U.S. is on its way to 60 per cent dependence on imported oil. It is currently at 50 per cent. It will take time, even if all this goes through, to catch hold. Their Strategic Petroleum Reserve was designed to cover them at a time when they were importing roughly only 40 per cent. Therefore, they are way off side, and they want to do something about this; and what has been proposed is this import tax on all imported oil. Of course, that runs directly into the face of our access to their market. We had a similar tax called Superfund which was a tax on imported oil, the proceeds of which went to address environmental issues; and that recently has come off. In any event, we in our discussions made that point. I am optimistic, based on my understanding of what is happening, that in the end they would do something other than what is proposed.

When we were there we had a meeting with several representatives of energy efficiency groups. This was to give us some balance. We had meetings with the administration, with people on both sides of the Congress. We wanted to meet, as we have done in the past, with some people who are interested

in what was going on, to get their perspective. We chose to meet with people interested in energy efficiency and these groups identified their national priorities as environmental quality, economic competitiveness and energy security.

Of course, they were critical of the NES in particular, and we obtained a lot of information about their concerns. We were told that energy efficiency offers a practical means of achieving national goals. It protects the environment in the short run by reducing acid rain, and in the longer run by reducing the risk of global climate change. It strengthens energy security at a time when domestic oil production is declining and we are becoming excessively dependent on oil imports; that is, the U.S. Energy efficiency enhances the competitiveness of the U.S., and for that matter Canadian industries, in world markets by reducing the cost of production, and serves the consumer by cutting lighting, cooling and heating costs in homes and offices.

By way of example, these groups indicated to us that if the U.S. had a national goal of reducing energy intensity by 2.5 per cent per year, the country would likely realize the following:

(1) the U.S. would save between $1.3 and $2.2 trillion over the next 20 years in constant 1987 dollars. The total investment in conservation measures required to achieve this saving would be in the order of $300 to $500 billion;

(2) the nation would reduce the projected increase in oil imports by 2 to 3.6 million barrels per day or by $18 to $40 billion;

(3) on the same basis U.S. industries would improve their competitiveness through lower energy costs, deferring the need for investment in new power plants alone, and could free more than $100 billion for capital investment and other industries.

Finally, we received a report on the consequences of the Gulf War. We received this analysis of two likely scenarios for the world oil market in the wake of the Gulf crisis that has just concluded. Prior to the Iraqi invasion, Kuwait had been producing about 2 million barrels per day. However, Kuwaiti oil production facilities have suffered considerable damage, as we all know. The only Kuwaiti oil production that is expected to be available immediately is about 100,000 barrels per day from the offshore portion of the Neutral Zone. Based on currently available information, no other Kuwaiti production is expected to be on line for at least six to 12 months. Damage reports have estimated that over 500 wells are on fire or almost half of the total onshore wells in Kuwait, comprising 743 and, in the Neutral Zone, 453. Preliminary estimates indicate that it will take two years or longer to put out these fires and bring the wells under control.

Restoration of Iraqi and Kuwaiti production across the two scenarios leads to a production estimate of .42 to .4 million barrels per day in the fourth quarter of 1991 and rising to between 2.2 and 5.3 million barrels per day in the fourth quarter of 1992. However, at the present time there is a large amount of excess oil stock available worldwide. In order to reflect the uncertainty associated with the drawdown of these stocks, a range of assumptions was used. In the fast recovery case, it is assumed that the current excess stocks—about 200 million barrels over and above normal levels at the end of 1990—are utilized by the end of 1991. In the slow recovery case, the excess stocks are assumed to be utilized by the end of 1992.

[Senator Hays.]

In summary, this analysis suggests:

(1) world oil prices will likely range between $15 to $20 per barrel through 1992;

(2) if there is slow restoration of Iraqi and Kuwaiti production, prices could be sustained near the $20 range through 1992 even if other OPEC countries continue near current production levels; and

(3) production and demand for oil in the U.S. will not be greatly affected by this range of prices in 1991, but in 1992 with sustained lower prices, there will be a significant growth in oil demand and a decrease in domestic production.

The final item that we dealt with when we were in Washington meeting with officials of the Federal Energy Regulatory Commission who briefed us on a very important initiative that they have under way, is that they have just completed the first phase of a deliverability study. They found that they were unable to predict with much certainty or accuracy deliverability requirements in the United States. They have done a great deal of work to address that problem and will have in place information systems that will give them within a 2 per cent discrepancy what deliverability will be at any given point in time.

Weather is always unpredictable and uncertain. I could not figure out why they were so worried about that. It struck me that it might be a concern because of the fact that our gas markets are becoming shorter and shorter—that is, shorter-term contracts along the lines of an earlier energy committee recommendation about imposing core markets to ensure security of supply. I do not think that was the motivation, but, in any event, they will have better information on the deliverability than they ever had before as a result of that initiative. We were briefed on that. They had urged Canada to do the same, and one of the things that I have promised myself to do is to find out how accurate our deliverability predictions are.

Honourable senators, that is perhaps a longer than wanted summary of what it was that we discovered when we were on our fact-finding mission to Washington Thursday and Friday of last week. I think it is timely to make the report now and to relate it to the twelfth report of the committee which, as I said earlier, approaches the Canadian problem from basically the same perspective as the U.S., our entry into the problem being the 1988 Energy and Canadians into the 21st Century Report. I have gone on longer than I thought I would, and so I will conclude. I will not adjourn the debate in case someone else wants to continue at a later time.

• (1550)

Hon. Duff Roblin: Honourable senators, my honourable friend, Senator Hays, was well advised to bring to the notice of this chamber the findings of his visit to Washington, where he discussed the National Energy Strategy that has been developing in that country. I suppose an examination of that strategy indicates how difficult it is to devise an energy strategy which meets all the considerations that might be brought to mind, and particularly in that country the present strategy bears clear marks of the compromises that have been made from the original attempts to devise such a policy to the one that is before the American people now. I hazard the guess that there will be some substantial changes even yet before that becomes part of American law. But it is important for us, because what happens down there in that field of energy, whether or not it applies to us directly in all respects—which, of course, it does not—certainly does have an influence on the thinking in this country and also highlights aspects of the problem which perhaps we have to pay attention to though they may affect Americans more than they affect Canadians.

I particulary hope that the committee will from time to time take note of the implications of this new strategy for Canada. The question of our markets in the United States, and the energy trade in the United States, are part of the considerations that we should take into account with respect to this matter. The environmental aspect of the matter, particularly when one considers airborne pollution and the fact that environmental problems cannot be restricted by national boundaries, may also have an effect on our activities in this country. We need to examine that whole policy quite carefully to determine what aspects are important in respect of their implication or their application to our problems here in Canada.

However, I want to return to the report itself, because there are some things in there which I feel are well worth emphasis. The first is that the committee is now going to pay more attention to the question of demand for energy than it has in the past. I think that is a very good thing. When we look at the activities of the present government, we will see that a number of initiatives have been put in place so far that have a bearing on the demand side of the equation. There is an ongoing program on energy efficiency, and diversity initiative, I think it is called. It has been working for the past several years and the committee might be well advised to study it to see what progress has been made and just how suitable it is for the problems at hand. The government has been conducting a demonstration with respect to the use of natural gas in various kinds of automotive vehicles, such as buses. I myself would like to know how that is getting along. Then, of course, there is the program to promote natural gas and ethanol as more environment-friendly fuels than the ones we generally use, which has attracted quite a large financial endowment of some $28 million, and I would be interested to know how that is getting along.

I think the most interesting development recently in the demand side of the energy equation is the one that was announced the other day with respect to the agreement between the Government of Canada and Ontario Hydro about power saving. The Government of Canada and Ontario Hydro have come to an understanding as to how they should go about the business of finding out how to use less electricity. That is a very significant aspect of the problem. Estimates are that they will be able to reduce the use of power in federal government office buildings and structures in the province of Ontario by some 17 per cent with a 2.5 year pay-out. When one reflects upon it, that is quite an astonishing and hopeful conclusion. I am particularly encouraged by the fact that when the minister made the announcement with respect to this, he indicated that he intended to adopt the same policies, if he could, in the rest of Canada. That is a initiative on the demand side which I find gratifying. If one could reduce the use of electricity in Canada by 17 per cent all over, the consequences for the building of new power plants and many other things are quite remarkable.

When we were discussing the report on energy options, a Mr. Amory Lovins, who is an American expert on this matter, appeared before the committee. He gave us a pretty good and rather convincing presentation to the effect that, with respect to electricity, we could do much better than a reduction of 17 per cent if we really put our minds to it. The implications of that possibility for the energy system in Canada, and for the building of new hydroelectric plants, is indeed quite staggering. When he was able to show how it worked successfully in certain parts of the United States it convinced me that this was an avenue that should be very thoroughly explored. I am glad that the committee is going to take this matter under consideration in the near future. I think the initiative taken by the government and Ontario Hydro is a very hopeful indication of what might possibly be expected in respect to this matter.

I suggest to the house that the demand side of the energy problem is going to become the key to future policy. When one talks about a comprehensive energy policy in Canada, I think the question of demand supply has to be one of the most important and foremost factors that are considered in that respect.

The other thing the committee is going to do is take a look at the effect of the energy system on the environment. As we all know, and as Senator Hays has indicated very clearly in his comments this afternoon, these are also very important matters.

I remind the house that a couple of days ago the House of Commons committee on the environment produced an extensive report on this subject. I have had a quick look at some of the recommendations and they are numerous. They cover everything that I could think of with respect to environmental problems and energy and propose a very ambitious program which will tax the goodwill of the citizens of Canada to implement, because not only do they call upon the government to do certain things—which, of course, is to be expected—but the report also makes it quite clear that environmental protection starts at home. It starts with the number of trips one makes in one's car, that being the biggest contributor to environmental problems in many parts of the world. When one

considers what is involved in asking Canadians or anyone else to drive less to save the climate, one understands the problems that are involved, and they are not to be solved easily.

I hope that the Senate committee will take the report of the House of Commons under consideration, as I am sure it will, and if there is anything that we can usefully add that will either make the problem more apparent or make the solutions more palatable, then it would be something about which the Senate could well occupy its time.

My point in rising is merely to thank my friend for giving us the picture of the development of energy policy in the United States, to tell him that I think the committee is well advised to consider its pursuit of demand problems in the energy field, and that while the House of Commons may have preempted the bulk of the energy investigations that we might otherwise take into account, nevertheless there may be some things that we can usefully add to what they have already done; so I think the committee has lots of work to do.

On motion of Senator Molgat, debate adjourned.

THE HONOURABLE GUY CHARBONNEAU

MOTION OF CENSURE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Fairbairn:
>
> That the privileges of Honourable Senators having been constantly abused by the Speaker of the Senate, the Senate do advise the Prime Minister that Senator Guy Charbonneau is unfit to continue to be the Speaker of the Senate.—(*Honourable Senator Cools*).

Hon. Gildas L. Molgat: Honourable senators, Senator Cools has agreed to yield to me on this matter.

Honourable senators, it is with a heavy heart that I get involved in this particular debate on this motion. After almost 40 years in the parliamentary arena, a little more than 20 in this place, I suppose I have lost some of my zest for confrontation and argument of that nature. Yet, the issue is so serious that I feel compelled to participate.

● (1600)

Perhaps I would have, nevertheless, refrained from getting involved had it not been for the article that appeared in *The Idler* magazine of January-February 1991 in which our colleague, Senator Doyle, had an article entitled, "Red Chamber Hell", which I assume was meant to explain what had gone on in this place but which, to me, is a piece of fiction. I regret to say that, because I have always considered Senator Doyle to be a serious writer. Yet I can only categorize this piece as a rewriting of history/fiction insofar as what went on this chamber.

The issue before us is a very serious one. It goes to the fundamentals of British parliamentary practice and of a free, democratic society. Although I do not come from that tradition, not being of British stock, I am an admirer of the British

[Senator Roblin.]

parliamentary system. I think it provides the best when properly followed—the best in the systems of discussion, yield and decision-making in a free society. The essentials in that are that there be rules and that those rules be followed. If we cannot have that in this arena, then the system itself is at risk. What went on in this chamber from the period September to December put our system very much at risk. My concern is not so much to fight bygones as to ensure that this never happens again and that we establish, and re-establish, in this place a sensible, respectable method of operation.

Honourable senators, I do not in any way fault the new senators who are in this place. Most of the new senators have come here with little or no previous parliamentary practice. It is understandable that they would arrive here—and many of them came in the very heat of debate—not knowing the rules, not knowing the background, and, indeed, not knowing anything of the traditions of this place or of the parliamentary system. I do not blame them. How could they have known those things if they had not been part of them? It is understandable that they would not realize that this place is, indeed, very different from the House of Commons or from any provincial parliamentary system in Canada. It is not the same, and the fundamental difference is that the Speaker in this place is appointed by the Prime Minister—not simply this Prime Minister—and that is in the Constitution. It goes back to the origins of the Senate in 1867. For that very reason, when this Senate was formed it was formed on the basis of the British House of Lords. There are no hereditary peers, it is true, but the practices, forms, rules and structures of this place come essentially from the British House of Lords.

Here, for example, is what Abraham says in *Abraham & Hawtrey's Parliamentary Dictionary,* London, Butterworths, 1970. Honourable Senators, I will not read all of what he says, but he does say the following:

> The Speaker of the House of Lords has no authority beyond that of any other peer to determine questions of order. Such questions can be settled only by the House itself. He has no power to enforce the rules of the House or to maintain order in debate. He cannot adjourn the House or do anything else without the consent of the House, except put the question, collect the voices, and announce the decision.

You may say, honourable senators, that that, of course, is the House of Lords, that times have changed and that it no longer applies here. I will give you some more recent views on the subject. During a debate on the reform of the Senate rules, the Senate had gone through an in-depth study of its rules in 1969. Here is what was said by the Honourable Senator Jacques Flynn, who many of you will remember and who, indeed, I believe, was behind the scenes all through the fall session when we were involved in the GST debate. On February 26, 1969, Senator Flynn said:

> On a point of order, Mr. Speaker, may I suggest that there is an unwritten rule which may be of use to Senator Grosart, that the Honourable the Speaker will not intervene unless some senator objects.

Not too long after that another distinguished senator—and I am delighted that he is in the chamber this afternoon—the Honourable Senator Molson, who was then chairman of the rules committee, offered to the Senate his interpretation of the role of the Speaker. On December 10, 1970, Senator Molson said the following:

> . . . the Speaker is one of us who is called to the chair to preside over our meetings. In this sense I think the French term "le président" is much more apt than the term "Speaker". He is presiding without ruling, and he will rule only when a senator makes an appeal or a comment on a matter of order. In such instance the Speaker will then take up the task of maintaining order, as is set forth in his duties.

There is the role and position of the Speaker in this place. It is not to make decisions. It is certainly not to order the stopping of the ringing of the bells. It is certainly not to decide when a vote will be taken. The rules are clear.

Honourable senators, I do not intend to go through all of what Senator Stanbury has as the background of his motion, but I do want to deal with one specific item, and that is the matter of the ringing of the bells and what really began the uproar in this place last fall. It began when the Speaker took upon himself an authority which he did not have, does not have, has never had, and which has never been given to him by this chamber. That was a decision to stop the ringing of the bells and to call for a vote.

Honourable senators, some people might say that that is only reasonable, that, after all, the bells had been ringing at that point for an hour or an hour and a half. Let us say even that they had been ringing for two or three hours and that was not reasonable. What some honourable senators across the way have said is that, with a system like this, at some point you have to stop the ringing of the bells. To tell the truth, I agree with them. At some point the ringing of the bells has to be stopped.

● (1610)

Indeed, back in 1982, as chairman of the Rules Committee, I brought up that matter. It was subsequent to the events in the other place. As chairman of that committee, in the course of discussion, I said to my colleagues, "We do not have a rule in the Senate in that regard, and some day we may be faced with that problem." I remind honourable senators that at that time it was a Liberal majority in this place and a Conservative minority on the other side and that, traditionally, the ringing of the bells extends a benefit to the Opposition, not to the government.

Nevertheless, I thought that we should have a look at it. We did; we produced a substantial report on the subject of the ringing of the bells. It was order of business No. 4 of the Rules Committee which dealt with the procedure to follow when the bells ring indefinitely, as happened in the other place. We discussed the matter, and we obtained a good report. We had a look at the United Kingdom House of Commons and the House of Lords; we looked at the Australian Senate and the Australian House of Representatives, and we obtained copies of the procedures in Belgium, Sweden, Finland and India. In addition, we went to the provincial legislatures of British Columbia, Newfoundland, Prince Edward Island, New Brunswick, Quebec and Ontario. We had a good discussion on the subject.

We realized the situation before us, as to what had happened in the other place, and we stated in our report that the bells had rung from 4.20 in the afternoon on March 2, 1982, until 2.29 in the afternoon on March 17, 1982—15 days. I remind my honourable friends that this was the Conservative Opposition in the House of Commons which did this for 15 days. The question was on a motion that the "House do now adjourn." Madam Speaker waited for the return of both the Government and Opposition Whips before terminating the ringing of the division bells.

The bells had gone on for 15 days in the other place and Madam Speaker followed the rules and waited for the whips to enter. The bells in this place did not ring for four hours and action was taken by the Speaker.

The committee examined that matter carefully, and here is what I said to the committee in May of 1982:

> The clerk tells me that the only other matter on our agenda, which remains from our original agenda when we started meeting last week, is the procedure for the bells to summon senators to a recorded vote. I believe you have all now received a copy of the research that has been done in this regard. You will see that it appears that we are the longest bell-ringers in the world. It was two minutes in one place, extended to three minutes; it is six minutes somewhere else; and in another locale it is nine minutes.
>
> I think the most sensible rule of all is the one applying to the National Assembly of Quebec, which states:
>
> > When the President considers that sufficient time has elapsed after the call, he shall put the motion to the vote in accordance with Standing Order 109.

That is what I put forward to the committee, and this is what Senator Jack Flynn said: "We should certainly leave it alone for the time being. If you put that question to the Senate, I will have the bells ring for two days."

My honourable friends, that was only eight years ago. It was discussed by the senators. I had put forward to the Opposition the consideration that we should have a limit on the bells, and there is Senator Flynn's response—nothing doing. "No limit on the bells," he said. If it had not been discussed, if it was out of the blue, honourable senators opposite might tell me, "Of course, we could not foresee this kind of event." Honourable senators opposite had the opportunity, and they said, "No, we do not want any limit on the bells." How can senators opposite support a Speaker who did what he did? I am not talking to the new members. I understand them. I am talking to those who have sat in provincial legislatures, those who have sat in this house for a long time. How could you support what went on? How could Senator Doyle write in that magazine that it was all okay, that nothing was wrong, that it was perfectly

acceptable? That is rewriting history. It has nothing to do with what has gone on here. It has nothing to do with the traditions of this place or of the parliamentary system.

When we allow things like that to happen, my friends, we are undermining the whole of the system, not just what goes on in this chamber but the whole of our parliamentary practices.

As I have said, I will not go over all the things that Senator Stanbury put forth, but it was a succession of events, a succession of the breaking of the rules, a succession of the Speaker taking on responsibilities which are not the Speaker's rights. Each time that is done the system is weakened.

One of the most unfortunate events in this is that the Canadian media did not react. The only time that the Canadian media were here, and they were here in droves, was when there was a ruckus in this place. One could hardly get out the door. They were out there with their cameras. The guards had to place ropes to control them.

Senator Barootes: You invited them in, do you not remember? You ushered them in.

Senator Molgat: Yes, I did, and I am glad you brought it up.

Senator Barootes: Are you blameless in all this?

Senator Molgat: Senator Barootes, I hope that any time I have to make a speech you will be here, because you help me greatly. You remind me of things that I have forgotten in the course of my discourse.

Yes, Senator Barootes is right. I did stand at that door and I said to the press, "Come in. There are no rules in here."

Senator Barootes: That has nothing to do with the fellow who did it all, then. This is not a confessional booth.

Senator Molgat: I will be happy to continue, as soon as you are finished, Senator Barootes.

I have noticed that the media also liked to play that one. In fact, it played again last Saturday. They love that piece.

Senator Barootes, when did that happen? It happened when Mr. Speaker broke the rules. That is when it happened. It happened when Mr. Speaker decided on his own—

Senator Simard: That is not the case.

● (1620)

Senator Molgat: Senator Simard, you can shout all you want but the facts are very simple.

Senator Barootes: Stones have been known to move and trees to speak!

Senator Molgat: That is fine. You obviously do not like what I have to say, but it happens to be the truth. You had an opportunity, as I have just pointed out to you, to put some control on the bells. You Conservatives refused to do it. You Conservatives refused to put any control on the bells, and then you had Mr. Speaker break the rules to stop the bells. That is an absolute breach of the rules. Mr. Speaker decided that there were no rules in this place when he proceeded to break them.

The catastrophe is that in all this there was no media reaction. The only time the media came here was when there was an uproar.

Senator Simard: Blame everybody else!

Senator Molgat: When we started the debate on the substance of the bill, when we introduced amendments, there was not one single press person here—not one! You could look up in the galleries; they were as empty as they are right now—not one single person! That is a very unfortunate side to what went on in this place. Apparently, in the view of the press, the matter was trivial. I believe that it is important because this place is a fundamental part of the Canadian parliamentary system. I know that we do not enjoy good press coverage, but that has nothing to do with it. This is a fundamental part of the Canadian parliamentary system. Anything that goes wrong here is wrong for the system, and the media ought to be as reactive to anything being done wrong here as they ever could be and ever are in the House of Commons. Well, my honourable friends, I could continue.

Senator Doyle: Senator Frith did not complain about the media.

Senator Molgat: Senator Doyle has some more fiction for us, has he?

Senator Simard: No. He was quoting Senator Frith.

Senator Molgat: More of the rewriting of history such as he gave us in *The Idler*?

Senator Doyle: Senator Frith said that the media had been fair.

Senator Molgat: I am not interested in rewriting history but—

Senator Simard: You are trying hard!

Senator Molgat: —I am interested in protecting the rules, the traditions and the proper functioning of this place, because they are important.

Senator Barootes: The world according to Molgat!

Senator Molgat: Senator Barootes, it is not the world according to Molgat; it is the world according to the documents I have read—and I am going to read you some more! You might give this a little more importance and attach more value to it, Senator Barootes, because it was the leader of your party whom I am going to quote. It was not your immediate party leader; this is a few years back. It is already on the record, but I think it is worth rereading into the record. This is the Honourable George Drew speaking on June 4, 1956, in the House of Commons. It was at the time of the pipeline debate. Speaker René Beaudoin was under attack, and, let me tell you, what Speaker René Beaudoin did over there pales into insignificance by comparison to what Speaker Charbonneau did in this place. Speaker Beaudoin would virtually be absolved when one compares the two cases.

Senator MacEachen: It was a venial sin, a peccadillo.

Senator Molgat: With that background, here is what Mr. George Drew had to say. It is a little long, Senator Barootes, but given that it is a good Conservative source, I am sure you will want me to read it all. Mr. Drew said:

> The government cannot divorce itself from the tragic downfall of the Speaker on this occasion. He is the victim. He is a casualty of the government's overbearing conduct during this debate. We had done what we could do to prevent the government proceeding on the arrogant course which has produced this sorrowful result. That was our only recourse; that in fact was our only right.

Senator MacEachen: Rather self-serving.

Senator Molgat: To continue:

> It was the duty of the Speaker to protect our rights just as it was his duty to protect the rights of the government.

He continued:

> Whatever may be said of the ugly things that happened last week, I think it can be said with certainty that every hon. member is equally sorry that they ever happened. No hon. member of this house will want to see a repetition of the turmoil into which this house was thrown last Friday. Let it be admitted immediately that we all share some responsibility for that turmoil. We all took part in it. We can have no happy recollection at any time of that sad event. May I point out, however, that, confronted as we were with a rigid denial by the Speaker of our fundamental rights to be heard in regard to these issues, we had no course open to us but to register our anger in the way we did.

He continued:

> Were we quietly to submit in the face of this course that savoured in every way of the dreadful dictatorships that have grown up in Europe in these past few years? It was Junius who said that the subject who is truly loyal will neither advise nor submit to arbitrary measures. The subject who is loyal will neither submit nor advise. We were not prepared to submit to as arbitrary measures as ever denied to the sitting members of a legislative body the rights to which they were entitled by tradition, by the rules and by all the declared purposes of this parliament.

Later, Mr. Drew continued:

> I repeat again, however, that we used the only weapons that we had as free men and women to bring to the attention of this house and to the attention of the people of Canada the disgraceful denial of our rights which had taken place.
>
> We had no choice but to assert our rights as we did. We had no choice, moreover, but to bring this matter to a head by the motion that is now before us.
>
> Here we had no power of self-defence. We have none but to declare what we believe to be the rights of the people of Canada and their representatives here in this house. We shall not be subservient to false interpretation of the rules. We shall not be subservient to anything that savours of dictatorship here in this house. We shall not be subservient to the will of the majority expressed by the Speaker, as it has been in this case, in a manner which no longer seeks to define the right of the majority but establishes for the time being mob rule.

He continued:

> A partisan vote on the motion now before us will not relieve the unhappy situation in which we now find ourselves. Never before has this house been faced with so serious a situation. Never before were members of this house conscious as they now are that something good, decent, precious and valuable has been destroyed. There is only one way this situation can be relieved. I appeal with all the earnestness I possess to the Prime Minister as head of the government to follow the only course which will restore the dignity, honour and traditions of parliament.

That was Mr. George Drew speaking in the pipeline debate on the matter of Speaker Beaudoin. I recommend that course of action at this time.

Hon. Senators: Hear, hear!

Hon. Douglas D. Everett: Honourable senators, I wonder if I might take part in this debate? I had not intended to get involved, but I found myself very heavily involved in the process, not in terms of time but in terms of crossing the floor to sit, instead of as an Independent Liberal, as an Independent.

• (1630)

I found that a serious decision to make. I can understand the concern about the rules of Parliament and adherence to them. I have some knowledge of the role of the Speaker in this chamber and the fact that the conduct of business is in the hands of the individual senators. That is a fact. But what has made this chamber, which has existed since Confederation, work over the years has been a civility and an understanding of the other side's view. In my judgment, that broke down. What we were dealing with in this legislation was a government tax measure that goes to the very root of democracy—that is, the right of the elected Commons to determine the taxation and fiscal policies of the government.

Senator van Roggen: That is not the point.

Senator Stewart: You are rewriting the Constitution.

Senator Everett: I am not rewriting the Constitution. Hear me out. That legislation came here and was referred to the Standing Senate Committee on Banking, Trade and Commerce. Extensive hearings were held, and the report was issued—not a report to make a government budget and taxation measure operate better, although it was extensive in the sense that it dealt with every aspect of the GST legislation and pointed out in each case the particular shortcomings of the legislation.

At the end of the extensive report, the committee did not do as the Senate is required to do and by tradition does. It did not agree to make this amendment or that amendment. It decided to vote against the bill and terminate the government's taxation measure.

When this matter came before the house, honourable senators will recall that the government was at a numerical disadvantage. The government made an attempt to delay consideration of the report because the motion on the order paper was that the bill on the GST "be not now proceeded with." At that time I argued that there was no cause for delay and that we should move forward and deal with the legislation. Following the appointment of the 12 additional senators—

Senator Bonnell: Eight.

Senator Everett: Eight, I am sorry, the balance of power shifted. At that stage it was the Opposition that started the delay. Again I argued that there should be no unnecessary delay—not delay by virtue of honest debate, but delay by means of motions that did not seek any redress and were purely and simply there to delay altogether.

The avowed intent of the Opposition was that the GST should not pass. That was reiterated over and over again. In the first week, as I recall, there was a motion by Senator Frith to notice strangers, and, if I am correct, the bells started to ring. The bells rang throughout the entire weekend, and, at the end of that period, I believe on Tuesday, the motion was withdrawn. The following Thursday there was another motion put and the bells started to ring. As I understand it, and I believe there was sufficient evidence for that purpose, the clear intent was that the bells were to ring for another weekend. The avowed intent was that the tax would not pass.

It may be, as Senator Molgat said in his persuasive presentation, that the rules transcended the situation and that the Speaker had no right to do what he did; but it does not occur to me that a group in Parliament has the right to stop consideration of legitimate legislation forever. I recall Senator Kirby, in an appearance on the CTV morning program, saying that they were going to delay the legislation until it was withdrawn.

I took a position, and I am not sorry about it. In my judgment the Speaker did what he should have done.

Some Hon. Senators: Hear, hear!

Senator van Roggen: Why did they change the rules? Bring in a motion instead of abusing them!

An Hon. Senator: Order!

Senator Everett: Purely and simply, Senator van Roggen, because we did not operate on the basis of rules. I, for one, would like to return to a situation where there was give and take on the rules, where there was debate, where we dealt with legislation and where we tried to improve it. If we failed, then we went on to the next item. That is what is important to me. We should not make this chamber a carbon copy of the House of Commons with all sorts of rules. That is not what the Senate is about, any more than that is what the House of Lords is about. It is a system that operates on civility. Over the process of the GST debate the civility was lost.

I supported the Speaker's actions because I felt we were not dealing with a question of a loss of privileges of the parliamentary system; we were dealing with a system in which there was a determination on the part of the Opposition to see that an important, integral part of government legislation did not pass, by means that were never intended to be part of the parliamentary system. For my money, I believe the Speaker was right to intervene, and I showed that intent when I voted. I voted again in favour of the motion to deal with the issue. It so happens that I was in favour of the GST, but, had I not been, I would have had exactly the same attitude.

It was not a question of the issue. I understand what this motion says. I heard a lot of the rhetoric about the loss of the privileges of Parliament and the rights of democracy. It seemed to me at the time that the danger to democracy and to this operation was put in jeopardy far more by the actions of those who prevented debate and who determined that this legislation would not be dealt with and would not go ahead. It was for that reason that I crossed from that side to sit her as an independent. I have heard the senators on that side say how appalled they were with the Speaker's and the government's actions. I have to tell you that I was appalled by the actions on that side of the house to a sufficient extent to leave that side of the house and come over here.

• (1640)

Senator Stewart: That is not what happened.

Senator Everett: It is exactly what happened.

On motion of Senator Petten, for Senator Stollery, debate adjourned.

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: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 5507*)

POVERTY

NATIONAL COUNCIL OF WELFARE—RECOMMENDATIONS AND DOCUMENTS

March 19, 1991

FEDERAL GOVERNMENT SHOULD REVERSE POLICY ON CAP

The federal government should abandon its policy of cutting Canada Assistance Plan payments to Ontario, Alberta and British Columbia, the National Council of Welfare said in a report made public today.

"The need for welfare and social services is bound to increase during the current recession, and it is no time for cuts in our safety net of last resort," said the report, *The Canada Assistance Plan: No Time for Cuts*.

The last two federal budget speeches announced limits on federal CAP payments to Ontario, Alberta and British Columbia. Increases in federal payments are to be held to five percent a year through the end of the 1994-1995 fiscal year.

The federal government initially said it expected to save $75 million during 1990-1991 and $80 million during 1991-1992 because of the change, but these estimates were quickly outdated by rising welfare costs. The latest provincial estimates add up to losses of at least $865 million for the two fiscal years.

Ontario says it stands to lose $310 million this year and $510 million in 1991-1992. Alberta predicts no losses this year, but a significant loss in 1991-1992. British Columbia forecasts losses of $45 million this year and has no estimate for next year.

The National Council of Welfare has six specific concerns about the federal policy: four relating to the impact of the policy and two relating to the way the policy was developed.

1. The Canada Assistance Plan is one of the few national social programs in Canada that is intended specifically for low-income people. There have been numerous suggestions over the years to improve the Canada Assistance Plan, but no previous federal government ever suggested pulling back from its basic commitment to the needs of the poor.

2. The federal government is imposing limits on programs that were specifically designed to be open-ended. Because welfare is the safety net of last resort, the system has to be flexible enough to protect people with no other sources of income.

3. Federal restraints on CAP payments to Ontario, Alberta and British Columbia could deter long-overdue improvements in welfare elsewhere in Canada. It is hard to imagine poorer provinces making major improvements in benefits with the possibility of cuts in federal funding hanging over their heads.

4. Limits on federal funding to CAP will deter the development of social services that play a vital role in alleviating or preventing poverty. The Council is especially concerned about the impact of the CAP limit on child care.

5. The last two budgets marked further backward steps in federal-provincial relations. Plans to trim CAP and also funds for medicare and post-secondary education detract from the spirit of co-operation that is so essential in programs vital to the health and welfare of Canadians.

6. Major changes in social policy should not be announced in budget speeches. The parliamentary traditions surrounding budgets are incompatible with the open consultations that are essential to developing good public policy.

The federal policy is the subject of a court case now before the Supreme Court of Canada. British Columbia, with the support of Ontario, Alberta, Manitoba, the Native Council of Canada, and the United Native Nations of B.C., is challenging the federal government's right to make unilateral changes in the Canada Assistance Plan without provincial consent. A ruling from the high court is expected later this year.

The Canada Assistance Plan was set up in 1966 as a means of cost-sharing welfare and social services. Through its support of provincial and territorial welfare programs, CAP helps provide income to unemployed people who cannot find decent jobs, single parents and their children, people who are disabled or in poor health, and needy people who are not protected by other social pro-

grams. CAP also helps pay for a wide range of social services for welfare recipients and other Canadians who are not on the welfare rolls, but who have low or modest incomes.

The National Council of Welfare is a citizens' advisory body which advises the Minister of National Health and Welfare on matters pertaining to poverty and social policy.

COMPARISON OF POVERTY LINES FOR 1989

FAMILY SIZE	SENATE COMMITTEE POVERTY LINE 1989	STATISTICS CANADA POVERTY LINE 1989*	NATIONAL COUNCIL OF WELFARE POVERTY LINE 1989	CANADIAN COUNCIL ON SOCIAL DEVELOPMENT POVERTY LINE 1989
1	$ 11,900	$13,511 to $ 9,198	$ 13,511 to $ 9,198	$ 12,521
2	19,830	18,314 to 12,469	18,314 to 12,469	20,868
3	23,790	23,279 to 15,849	23,279 to 15,849	25,042
4	27,760	26,803 to 18,247	26,803 to 18,247	29,215
5	31,730	29,284 to 19,936	29,284 to 19,936	33,389
6	35,690	31,787 to 21,640	31,787 to 21,640	37,562
7	40,050	34,188 to 23,275	34,188 to 23,275	41,736

* Amounts vary with degree of urbanization

PRODUCED BY SENATOR DAVID A. CROLL
JANUARY 1991

COMPARISON OF POVERTY LINE ESTIMATES FOR 1989

FAMILY SIZE	SENATE COMMITTEE POVERTY LINE ESTIMATE 1990	STATISTICS CANADA POVERTY LINE ESTIMATE 1990*	NATIONAL COUNCIL OF WELFARE POVERTY LINE ESTIMATE 1990	CANADIAN COUNCIL ON SOCIAL DEVELOPMENT POVERTY LINE ESTIMATE 1990**
1	$ 12,800	$ 12,727 to $ 9,411	$ 14,146 to $ 9,630	$ 13,122
2	21,330	16,791 to 12,301	19,175 to 13,055	21,870
3	25,580	22,462 to 16,472	24,373 to 16,594	26,243
4	29,860	25,884 to 19,042	28,063 to 19,105	30,617
5	34,130	30,163 to 22,143	30,660 to 20,873	34,991
6	38,390	32,943 to 24,173	33,281 to 22,657	39,365
7	43,070	36,260 to 26,633	35,795 to 24,369	43,739

* Amounts vary with degree of urbanization

** Final revision date: December 15, 1991

PRODUCED BY SENATOR DAVID A. CROLL
JANUARY 1991

APPENDIX "B"

(*See p. 5508*)

SCRUTINY OF REGULATIONS

FOURTH REPORT OF JOINT COMMITTEE

TUESDAY March 26, 1991

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

FOURTH REPORT

(Report No. 46)

1. Pursuant to its permanent reference, section 19 of the *Statutory Instruments Act*, R.S.C. 1985, c. S-22, your Committee wishes to draw the attention of the Houses to the lack of legal authority for certain provisions of the *Narcotic Control Regulations*, C.R.C., c. 1041, and *Food and Drug Regulations*, C.R.C., c. 870 and to the failure of the Government to take corrective action within a reasonable time.

2. The regulations at issue are section 68 of the *Narcotic Control Regulations* and sections G.06.001 and J.01.033 of the *Food and Drug Regulations*. The first of these, enacted pursuant to section 20(c) of the *Narcotic Control Act*, R.S.C. 1985, c.N-1, grants the Minister of National Health and Welfare a discretion to authorize any person to possess or use narcotics where the Minister deems it to be in the public interest or in the interests of science. It further empowers the Minister to specify the purposes for which and conditions under which the narcotics may be possessed or used. Sections G.06.001 and J.01.033 of the *Food and Drug Regulations*, enacted pursuant to sections 45(1)(a) and 51(3), respectively, of the *Food and Drugs Act*, R.S.C. 1985, c.F-27, provide similar authority in respect of controlled drugs and restricted drugs (see Appendix A for the text of the relevant enactments). In the judgement of the Joint Committee these regulatory provisions are not authorized by the terms of the enabling legislation. Given the similarity between the regulations at issue and between the enabling clauses pursuant to which they were enacted, it is sufficient to explain the conclusion reached by your Committee by reference to section 68 of the *Narcotic Control Regulations*.

3. Section 20(c) of the *Narcotic Control Act* authorizes the Governor in Council to make regulations:

> (c) authorizing the sale or possession of or other dealing in narcotics and

> prescribing the circumstances and conditions under which, and the persons by whom, narcotics may be sold, had in possession or otherwise dealt in;

This provision reflects Parliament's intention that the lawful possession and use of narcotics be authorized by regulation of the Governor in Council. Parliament also ordered that the Governor in Council should have the responsibility of determining, by regulation, the circumstances in which possession of narcotics is lawful, the conditions under which possession of narcotics is lawful, and the persons who may have such possession.

4. In enacting section 68 of the *Narcotic Control Regulations* the Governor in Council did not exercise the powers vested in him by section 20(c) of the Act but subdelegated them to the Minister of National Health and Welfare. Section 68 does not authorize the possession and use of narcotics, but simply gives the Minister a discretion to do so. Neither can the regulation be seen to prescribe the circumstances in which possession and use are lawful for it merely provides for the exercise of the Minister's discretion in any circumstance the Minister deems to be "in the public interest" or "in the interests of science". The regulation also fails to prescribe the conditions under which, and the persons by whom, narcotics may be had in possession or used. It provides instead that the Minister may give his authorization to any person and subject to any conditions the Minister chooses to impose. In short, section 68 of the *Narcotic Control Regulations* delegates to the Minister of National Health and Welfare the exercise of the authority and powers which Parliament, in enacting section 20(c) of the Act, decided should be exercised by the Governor in Council.

On the basis of the well established principle that a person to whom legislative powers have been delegated by Parliament may not in turn delegate the exercise of those powers to another person, the Joint Committee had no difficulty concluding that section 68 of the *Narcotic Control Regulations* is an unauthorized subdelegation of power to the Minister of National Health and Welfare. The Joint Committee reached the same conclusion regarding sections G.06.001 and J.01.033 of the *Food and Drug Regulations* which confer a similar discretionary authority on the Minister with respect to controlled and restricted drugs.

5. The Joint Committee's objection to section 68 of the *Narcotic Control Regulations* was made known to the Department of National Health and Welfare in February of 1975. In the Spring of 1977, the Department was advised that the Committee's objection applied equally to sections G.06.001 and J.01.033 of the *Food and Drug Regulations*.

Where a department accepts your Committee's view that a particular regulation is invalid, the Committee expects that department to undertake to revoke the regulation and replace it with a regulation that conforms to the authority granted in the enabling statute. In a case where the responsible department considers it essential that the regulation continue in force, the Committee may not insist on its immediate revocation provided the department undertakes to seek the necessary legislative authority for the regulation at an early date. In the case of section 68 of the *Narcotic Control Regulations* and sections G.06.001

and J.01.033 of the *Food and Drug Regulations*, the Department of National Health and Welfare chose the latter course of action. In April of 1975, the Joint Committee was informed that "steps are being taken to remove any doubt" as to the legality of section 68 of the *Narcotic Control Regulations*. In October of 1980, it was advised that its position with regard to sections G.06.011 and J.01.033 of the *Food and Drug Regulations* "seems quite valid" and that the matter would be resolved by amending the *Food and Drugs Act*. These amendments to the *Narcotic Control Act* and *Food and Drugs Act* were never adopted by Parliament. In an October 7, 1986 letter to the Chairmen of your Committee, the Minister of National Health and Welfare, while acknowledging the invalidity of the regulations under report, referred to the preparation of a bill consolidating all federal legislation relating to the control of psychoactive drugs. The Minister indicated that authority for the present regulations would be provided for in the proposed legislation, known as the Psychoactive Substance Control Bill. This bill, the introduction of which has repeatedly been said to be forthcoming, has yet to be presented to Parliament. A summary of the correspondence exchanged between the Department and your Committee on the regulations under report, and of the various undertakings given to the Committee, is set out in Appendix B to this Report.

6. Your Committee is sensitive to the significance of the programs administered on the basis of the regulatory provisions dealt with in this Report. Section 68 of the *Narcotic Control Regulations* and sections G.06.001 and J.01.033 the *Food and Drug Regulations* permit the Minister to authorize, on an individual basis,

(1) trainers of drug interdiction dogs to obtain and possess narcotics for this purpose (approximately 10 authorizations per month);

(2) research scientists to obtain and possess narcotics, controlled and restricted drugs for the purpose of basic and clinical research (approximately 90 authorizations per month); and

(3) physicians to prescribe and supply methadone to patients for treatment of opiate dependence (approximately 1200 patients).

A previous Minister described the discretionary authority conferred by the present regulations as being "vital in ensuring that narcotics, controlled and restricted drugs are not diverted to illicit purposes and remain available for legitimate medical and scientific uses." While your Committee recognizes the importance attached to the programs in question, it cannot ignore the fact that they operate on the basis of regulatory provisions that were never authorized by Parliament. The failure of successive Ministers to seek legislative authority for those provisions eventually led your Committee to request their immediate revocation unless the responsible Minister could furnish the Committee with a firm and definite commitment as to the timing of the introduction of the promised legislation.

No such commitment has been given and in a letter dated March 12, 1990, the Minister of National Health and Welfare stated that: "In view of the nature and extent of the programs operated under these provisions, I would like to emphasize to the Committee that repeal of these provisions is not an

option consistent with the fulfillment of the health protection mandate of my Department." This is tantamount to stating that the fulfillment of the Department's "health protection mandate" can justify the Minister's continued reliance on illegal regulations. Your Committee categorically rejects the suggestion that a Minister may choose to pursue a course of action not authorized by law so long as the pursuit of that course of action is consistent with the fulfillment of departmental objectives. Such an approach is entirely at odds with the requirements of the rule of law. Constitutional government requires ministers and public officials to administer the law as it is made by Parliament, not as they wish it to be. If legislation is thought inadequate, the Government can propose changes to that legislation, but until Parliament approves any such proposal, it is the duty of Ministers and public servants to administer departmental programs in accordance with existing legislation.

7. In enacting the *Narcotic Control Act* and the *Food and Drugs Act*, Parliament decided that any exception to the statutory prohibitions against the possession and use of narcotics, controlled drugs and restricted drugs should be granted by the Governor in Council by means of regulations. Contrary to these statutes, programs have been established under which the Minister purports to exercice a discretionary authority to grant such exceptions; the regulatory provisions supporting these programs are invalid and are recognized as being invalid by the Government.

Some sixteen years after this problem was drawn to the attention of the Department of National Health and Welfare, and notwithstanding repeated promises to do so, the responsible Minister has yet to seek parliamentary approval for legislation authorizing these regulations. It must be emphasized that the Government's decision to proceed by way of legislative amendments is largely responsible for the fact that the problem discussed in this Report stands unresolved so many years after it was raised by the Committee. It should be clear that successive Ministers have also had the option of adopting new regulations that conform to the powers conferred by the *Narcotic Control Act* and the *Food and Drugs Act*. The adoption of such regulations would not mean that the objectives of the programs described in the preceding paragraph could not be met, it would simply require that they be administered on the basis of prescribed rules rather than on the basis of the unfettered discretion of the Minister.

8. Given the requirements of the rule of law and taking into account the Government's failure to promptly seek legislative authority for the regulations under report, your Committee if of the view that pending the enactment of new legislation, these regulations should be revoked and replaced by regulations that conform to section 20(c) of the *Narcotic Control Act* and sections 45(1)(a) and 51(3) of the *Food and Drugs Act*.

Respectfully submitted,

MICHEL COGGER

Joint Chairman

APPENDIX "A"

1. Narcotic Control Act

20. The Governor in Council may make regulations

...

(c) authorizing the sale or possession of or other dealing in narcotics and prescribing the circumstances and conditions under which, and the persons by whom, narcotics may be sold, had in possession or otherwise dealt in;

Narcotic Control Regulations

68. *(1)* Where he deems it to be in the public interest, or in the interests of science, the Minister may in writing authorize

(a) any person to possess a narcotic,

(b) any person to administer a narcotic to an animal,

(c) notwithstanding section 53, any practitioner of medicine to administer, give, furnish, distribute or deliver a narcotic to any person authorize pursuant to paragraph *(a)* to possess a narcotic, and

(d) any practitioner to administer, prescribe, give, sell or furnish methadone to a person or animal who is a patient under his professional treatment,

for the purposes and subject to the conditions in writing set out or referred to in the authorization.

(2) The Minister may, at any time, revoke the authorization referred to in subsection *(1)* and require any person in possession of a narcotic pursuant to that authorization to deliver the narcotic to the Minister or his agent.

(...)

2. Food and Drugs Act

45. *(1)* The Governor in Council may make regulations for carrying out the purposes and provisions of this Part, and, in particular, but without restricting the generality of the foregoing, may make regulations

(a) authorizing the manufacture, sale, importation, transportation, delivery or other dealing in controlled drugs and prescribing the circumstances and conditions under which, and the persons by whom, controlled drugs may be manufactured, sold, imported, transported, delivered or otherwise dealt in;

51. (...)

(3) In addition to the regulations provided for by subsection *(1)*, the Governor in Council may make regulations authorizing the possession or export of restricted drugs and prescribing the circumstances and conditions under which, and the persons by whom, restricted drugs may be had in possession or exported.

Food and Drug Regulations

G.06.001. *(1)* Where the Minister deems it to be in the public interest or the interest of science, he may, for the purposes, and subject to the conditions, set out in the authorization, authorize in writing

(a) any person to administer a controlled drug to an animal;

(b) any practitioner of medicine to prescribe, administer, give, sell, furnish, distribute, or deliver a controlled drug to any person;

(c) any practitioner of medicine and any agent of a practitioner of medicine to receive a controlled drug; or

(d) any person to receive a controlled drug from a practitioner of medicine.

(2) The Minister may, at any time, revoke the authorization referred to in subsection *(1)* and the person whose authorization is so revoked shall retain possession of the controlled drug or deliver it to the Minister or his agent.

(...)

J.01.033. *(1)* Where he deems it to be in the public interest and the interests of science, the Minister may authorize in writing

(a) any person to possess a restricted drug,

(b) any person to administer a restricted drug to an animal, and

(c) any practitioner of medicine to administer, give, furnish, distribute or deliver a restricted drug to any person authorized pursuant to paragraph *(a)* to possess a restricted drug

for the purposes and subject to the conditions set out or referred to in the authorization.

(2) The Minister may, at any time, revoke the authorization referred to in subsection *(1)* and require any person in possession of a restricted drug pursuant to that authorization to deliver the restricted drug to the Minister or his agent.

(...)

APPENDIX "B"

- *February 10, 1975*: Committee's objection to the legality of section 68 of the Narcotic Control Regulations is conveyed to the Department.

- *April 3, 1975*: Committee is advised that "steps are being taken to remove any doubt" as to the legality of the provision.

- *May 25, 1976 and February 28, 1977*: Department is asked to advise as to progress.

- *April 13, 1977*: Department is advised that objection to section 68 of the Narcotic Control Regulations extends to sections G.06.001 and J.01.033 of the Food and Drug Regulations.

- *May 18, 1977*: Committee referred to Bill S-19 which did not pass in the 1974-75-76 Session. This Bill would have amended the Narcotic Control Act. Committee advised that Bill may be reintroduced in the 1976-77 Session.

- *July 12, 1977*: Committee advised that objections to Food and Drug Regulations are "under review".

- *November 17, 1978*: Committee advised that former Bill S-19 will not be reintroduced but that the Department is "discussing a new Bill to consolidate Parts III and IV of the Food and Drugs and the Narcotic Control Act." It is intended to introduce a new Bill in the "next Session".

- *August 28, 1980*: Department queried as to progress.

- *September 22, 1980*: Committee advised that legal adviser to Department cannot confirm that Committee's position on Food and Drug Regulations "is either demonstrably wrong or demonstrably right". Department awaiting further advice from their Legal Services.

- *September 23, 1980*: Previous consolidation project has been abandoned and the Department state their "expectation that the Narcotic Control Act will soon be re-opened with respect to cannabis control". Necessary legislative amendment will then be made.

- *October 15, 1980*: On sections G.06.001 and J.01.033 of Food and Drug Regulations, Committee advised that its position "seems quite valid". Issue will be resolved by amending the Food and Drugs Act.

- *October 28, 1980*: Inquiry from counsel as to whether the Department "will promote the necessary amendment to the Food and Drugs Act".

- *December 1, 1980*: Counsel is advised by the Department that "it would be highly improper for me to indicate to you what I might think our Minister's intentions are before she has made them known to the Members in the House of Commons in the appropriate way".

- *July 12, 1982*: Counsel, on Committee's instructions, further inquires as to introduction of legislation.

- *August 20, 1982*: Department advises that "the decision to introduce legislation rests with the Cabinet. I am unable to give you

any commitments as to when the action you refer to will be taken".

- *November 3, 1982*: the Chairmen write to the Minister in relation to the Committee's objections to the Food and Drug Regulations.

- *December 22, 1982*: The Minister replies that her officials are "consulting with the Department of Justice as to how the question of sub-delegation of a rule-making power may best be resolved".

- *June 16, 1983*: The Chairmen inquire as to the progress of legislation to amend the Food and Drugs Act.

- *July 25, 1983*: The Chairmen write to the Minister concerning section 68 of the Narcotic Control Regulations and ask when remedial legislation is to be introduced.

- *August 11 and November 1, 1983*: In two letters, the Minister advises that in one case, discussions between her officials and the Department of Justice are "continuing" while in the other, the issue is "under investigation by officials of the Department".

- *April 19, 1984*: Minister advises, in relation to the Narcotic Control Regulations, that her officials "are not entirely in agreement with the Committee's view that section 68 is an unauthorized sub-delegation of a rule-making power". Minister states her Department's Legal Services have been requested to conduct "a more extensive review".

- *July 4, 1984*: Chairmen write to Minister to restate objection, and reasons therefor, to section 68 of the Narcotic Control Regulations.

- *December 19, 1984*: Reply is requested by Chairmen.

- *March 4, 1985*: Minister writes to the Chairmen on section 68 of the Narcotic Control Regulations and sections J.01.033 and G.06.001 of the Food and Drug Regulations. The Minister indicates that these provisions have been under extensive review and that the "options indentified as being available to this Department are under active consideration".

- *December 20, 1985*: In a new letter, the Minister again assures the Chairmen "of the active consideration of the options available to my Department in relation to this matter".

- *February 26, 1986*: Chairmen write to the Minister expressing the Committee's view that his Department "has had ample time in which to correct the situation" and requesting "a definitive response for submission to the Joint Committee". Minister informed that Committee may consider reporting to the Houses.

- *October 7, 1986*: Minister replies that "the Department of Justice has confirmed to my Department that the provisions [of the Narcotic Control Regulations and Food and Drug Regulations] could be a sub-delegation of the regulation-making authority provided in the Food and Drugs Act and the Narcotic Control Act." Minister refers to project "to consolidate all pertinent federal legislation" and states that possibility of amending current legislation through a Miscellaneous Statute Law Amendment Bill will be considered as well. Minister assures Committee that "every effort is being made to address the problems of concern to the Committee in as timely a fashion as possible".

- *December 18, 1986*: In light of previous delays encountered in settling the issue, Committee invites the Minister to appear before the Committee on February 19, 1987.

- *February 4, 1987*: Minister writes that drafting of the proposed Psychoactive Substance Control Act has begun and that discussions are underway as to the possibility of amendments through a Miscellaneous Statute Law Amendment Bill.

- *July 15, 1987*: Chairmen refer to previous letter from Minister and seek his advice as to the progress of the proposed Psychoactive Substance Control Act, the drafting of which the Minister anticipated would be completed "early in the Spring of 1987".

- *October 28, 1987*: Minister replies he intends "to have this Bill ready for tabling in the House of Commons at the pleasure of the Deputy Prime Minister, late in the fall of 1987".

- *May 9, 1988*: Chairmen ask the Minister whether it remains his intention to introduce the Bill in the current Session.

- *June 14, 1988*: Minister advises the Committee that "substantial progress has been made leading to introduction of the Bill" and that it is his intention "to see this Bill go forward at the earliest possible opportunity".

- *June 27, 1989*: Chairmen inquire as to progress.

- *September 25, 1989*: Minister replies that he hopes "to offer the Bill for introduction this fall.

- *December 21, 1989*: Chairmen write to Minister noting that Bill has yet to be introduced and stating that in light of repeated previous assurances that the Bill would shortly be introduced "the Committee cannot continue to defer this matter indefinitely on the basis of such assurances". Committee requests revocation of illegal regulations unless the Minister can give "a firm and definite commitment as to the timing of the introduction" of the Bill.

- *March 12, 1990*: Minister replies that revocation of regulations "is not an option consistent with the fulfillment of the health protection mandate of my Department". Minister acknowledges that "The long history of this matter is disturbing" and states his intention to "immediately propose the tabling of (the) long overdue (Psychoactive Substance Control Bill) following conclusion of the required consultations."

- *June 19, 1990*: Chairmen write to the Minister of State for Regulatory Affairs and state that "the Committee's position at this time is that unless a firm commitment can be given on the timing of a legislative solution, the sections queried by the Committee should be revoked or amended to conform to existing statutory authority. It is the intention of the Joint Committee to report to both houses in the Fall, unless action is taken before then." A copy of this letter is sent to the Minister of National Health and Welfare.

- *July 30, 1990*: Minister of State for Regulatory Affairs writes that he agrees that "resolution of these issues is long overdue" and that "it is unreasonable that such important regulations should continue to be relied upon without legal authority." The Minister requests the Joint Committee to "continue to be patient" until the proposed legislation is introduced.

- *October 24, 1990*: Minister of National Health and Welfare is informed of Committee's intention to report to the Houses.

CONTENTS

(Daily index of proceedings appears at back of this issue.)

CORRIGENDUM

Debates of the Senate, Tuesday, March 26, 1991. This table should follow table on page 5529.

ESTIMATED WELFARE INCOMES FOR SINGLE EMPLOYABLES IN 1989

	BASIC SOCIAL ASSISTANCE	TOTAL WELFARE INCOME	TOTAL WELFARE INCOME AS % OF POVERTY LINE *(1986 BASE)
NEW BRUNSWICK	2,812	2,882	24
NEWFOUNDLAND	3,726	3,796	32
QUEBEC	4,085	4,155	31
ALBERTA	4,803	4,873	36
SASKATCHEWAN	4,860	4,930	42
MANITOBA	5,320	5,402	40
BRITISH COLUMBIA	5,388	5,486	41
NOVA SCOTIA	5,880	5,950	50
ONTARIO	5,892	6,345	47
YUKON	6,926	7,151	-
PRINCE EDWARD ISLAND	6,942	7,012	66

*Total welfare income includes the $70 federal sales tax credit and any other additional welfare benefits (e.g. Christmas allowances and winter clothing allowances).

SOURCE: National Council of Welfare, Welfare Incomes 1989.

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THE SENATE

Wednesday, March 27, 1991

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

Prayers.

CENTENNIAL FLAME RESEARCH AWARD BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-258, respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities, and acquainting the Senate that they had passed the bill without amendment.

DISTINGUISHED VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in our gallery of the Deputy Prime Minister of Czechoslovakia, the Chief of the Supreme Court, the Attorney General and members of their delegation. I have been privileged to greet them at lunch on your behalf.

Hon. Senators: Hear, hear!

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

REPORT OF AUDITOR GENERAL TABLED

Hon. Roméo LeBlanc: Honourable senators, on behalf of the Internal Economy Committee, I have the honour to table the comprehensive audit undertaken by the Auditor General of Canada in November 1989 and forwarded to our committee a few days ago.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—ELEVENTH REPORT OF COMMITTEE PRESENTED

Hon. John B. Stewart, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Wednesday, March 27, 1991

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

ELEVENTH REPORT

Your Committee to which was referred Bill C-93, An Act to amend the Bretton Woods and Related Agreements Act, has, in obedience to its Order of Reference of Thursday, March 7, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN B. STEWART
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.

ADJOURNMENT

On Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, we usually put the adjournment motion at this time. However, I now ask for leave to revert to the adjournment motion later this day.

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

Hon. Senators: Agreed.

QUESTION PERIOD

THE CONSTITUTION

REPORT OF BÉLANGER-CAMPEAU COMMISSION—GOVERNMENT RESPONSE

Hon. H.A. Olson: Honourable senators, I have a question for the Minister of State for Federal-Provincial Relations. Could he advise the chamber as to what structural arrangements will be made or have been made to respond to the Bélanger-Campeau Report, which calls on the rest of Canada to make an offer to Quebec to see if they want to stay in Canada or if they will be having a referendum on sovereignty in about 18 months? My curiosity is with respect to this offer from the commission, because some arrangement or process will have to be put together to find out what, if anything, the rest of Canada wants to offer to Quebec.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there are several points that should be underlined. First, the Government and the Parliament of Canada do not

speak for "the rest of Canada." They speak for the entire country and their responsibility is to represent the interests of the entire country.

Second, we must take this one step at a time. The only good news from the Bélanger-Campeau Report is that there is still an opportunity for Canada in the coming months to concentrate all our minds on the need to strengthen this country and to reinforce—indeed, to renew—the consensus in this country which must underline our common citizenship and on the basis of which any constitutional reform would go forward.

We have already appointed the Citizens' Forum on Canada's Future with a view to giving as many Canadians as possible an opportunity to express themselves with regard to the values that unite us and the things that divide us as Canadians. We have asked that commission to report by July 1.

This Parliament has also appointed a joint committee of the Senate and the House of Commons, the Beaudoin-Edwards Committee, to study the amending process, it being obvious that, even if we reach agreement on substance, we need a process that will help ensure that we can implement any agreement in substance that is reached. That joint committee will also be reporting by July 1.

After that, there will be an opportunity for the government and for members of this place and the other place to reflect. We will want to consult Parliament. We will want to have consultations with the premiers and with the population of Canada, and we will go forward from there.

The honourable senator has asked what structure has been put in place. Those decisions have not been made and will not be made for some time yet.

STATUS OF CITIZENS' FORUM ON CANADA'S FUTURE

Hon. H.A. Olson: Well, honourable senators, I thank the honourable minister for that answer, such as it was. I am not being critical when I say it is incomplete, because, obviously, the report only came out today. However, I was worried about one thing that was mentioned by the minister, which is that perhaps the so-called Citizens' Forum is going to be one of the important structures to respond to the recommendations of the Bélanger-Campeau Commission. I would have to say that to date I am not favourably impressed with this commission, not only because of its mismanagement of budget considerations, to which criticism apparently it does not seem to think it has to reply, but also because some of the comments that have been made by the chairman are rather offensive to me. I would hope that there would be some other mechanism, or other parts of the structure, that will be called into play to respond, if that is what the government is going to do, to the report of the Bélanger-Campeau Commission.

● (1410)

I do not expect the minister to agree with me, but I hope there will be more to it than what he has just described; and, what is more, I hope that it will take some time after the commission has closed its doors on July 1 before a complete response is made to whatever offer is expected from this recommendation of the Bélanger-Campeau Commission.

[Senator Murray.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the honourable senator's question gives me the opportunity to point out that the Citizen's Forum on Canada's Future was not set up to provide a response to the Bélanger-Campeau commission, or any other commission, but, rather, to encourage a dialogue among Canadians as to the values that unite us and the challenges that lie ahead of us. As I have said on previous occasions in the Senate, I do not expect a list of recommendations for amending the Constitution from the Citizen's Forum. I expect findings as to the views heard from Canadians across the country and some conclusions from the commission's discussions.

The honourable senator's question also gives me the opportunity to point out that, in a number of provinces, parliamentary and other committees have been struck and are going about the work of considering the future of the country and, in particular, the role of certain provinces and regions in that future. We will receive the information from those committees as well as from the Citizen's Forum and the Beaudoin-Edwards Committee by this summer. As I have said, at that time we will have an opportunity to consult among ourselves as parliamentarians and with Canadian citizens generally to decide what the next step should be.

[*Translation*]

BÉLANGER-CAMPEAU COMMISSION—GOVERNMENT POSITION

Hon. L. Norbert Thériault: Honourable senators, I have a question for the Leader of the Government in the Senate regarding the Bélanger-Campeau Commission. Honourable senators, I must say this intrigues me. It has been a long time since we heard a representative of the Government of Canada speak for Canada in Quebec.

Hon. Jean-Maurice Simard: That's what you say!

Senator Thériault: Honourable senators, during the hearings of the Bélanger-Campeau Commission, I was pleasantly surprised to see that at least this time, the Canadian government's representative, Mr. Hogue, had spoken for Canada. I was delighted. I thought that all of a sudden the government had decided the commission was going to talk about Canada.

My question is this: Can the Leader of the Government inform this House why the government's representative on the Bélanger-Campeau Commission abstained from voting on the report?

Hon. Lowell Murray (Leader of the Government in the Senate and Minister of State (Federal-Provincial Relations)): Honourable senators, Senator Thériault claims it has been a long time since a federal spokesman spoke out in favour of Canada in Quebec. I want to say, first of all, that this is absolutely untrue. I must reject this out of hand.

Second, Senator Thériault mentioned the case of Mr. Jean-Pierre Hogue, a member of Parliament who represented the Progressive Conservative party on the Bélanger-Campeau Commission. I would like to point out that Mr. Hogue did vote

on a number of important questions before this commission, including the sovereigntist option, when he voted against the option. At the end of the day, there was a question on the commission's final report, which constituted Quebec's position in future negotiations.

Mr. Hogue felt that, in the circumstances, it was better to abstain, since he was a member of the government party in Ottawa and did not want to comment on Quebec's position in future negotiations.

DEADLINE FOR A REFERENDUM

Senator Thériault: Honourable senators, I will let the people of Canada judge who speaks for Canada. I will leave it at that, for the time being.

Yesterday, however, we did not hear Quebec's position. We heard the position of a commission formed by the Government of Quebec. It was not necessarily the position of the government of Quebec.

The commission's position bothers me as it does other Canadians because of the very short timeframe provided in the commission's recommendations. A referendum must be held within . . . I won't get into the details. It says a period of 18 months. I hope with all my heart that Canada, Canadians, the governments of Canada, Canada's representatives and the representatives of all the provinces will have enough time during these 18 months to make proposals that will be acceptable to Quebec. However, if this took more than 18 months . . . the Quebec Premier signed the report. I was told this morning that the Premier and Mr. Ryan signed the report. That was not the case till yesterday. I understand that Mr. Hogue is a member of the Conservative party. Could the Leader of the Government in the Senate tell us how a representative of the Canadian government could finally decide to abstain, without ever having contacted anyone in the federal Conservative government?

Senator Murray: Honourable senators, since Mr. Hogue represented the Progressive Conservative Party on this commission, I am sure he consulted his colleagues in our party before announcing his decision to abstain on the final vote.

Senator Thériault: Including the boss?

Senator Murray: Honourable senators, I must admit that I am not aware of all the circumstances of these consultations.

Hon. Azellus Denis: Honourable senators, doesn't the fact that he abstained, as a Conservative and representing the Conservative party, lead one to conclude that the present Conservative Party, including the Prime Minister, Mr. Mulroney, is either not very federalist or slightly separatist?

Senator Murray: Honourable senators, perhaps Senator Denis was on extended leave when the Prime Minister of Canada made his latest speech on the subject in Quebec a few weeks ago.

The commitment of the Prime Minister of Canada, the Conservative Party and the federal government to the future of this country is crystal clear. A senator who is on the same side as those who tried to sabotage Meech Lake is hardly in a position to give lessons to anyone on this matter.

Senator Denis: Honourable senators, would you agree that it was the abstentions and silence of most Anglophone ministers in the Conservative Party, those who kept quiet and failed to help Prime Minister Mulroney pass Meech Lake?

[*English*]

FARM INCOME PROTECTION

STATUS OF BILL C-98

Hon. H.A. Olson: Honourable senators, I should like to ask a question on another subject that is vitally important to some of the people in my part of Canada, namely, the disposition of Bill C-98, the Farm Income Protection Bill. We expected to receive it yesterday because it passed through the report stage in the House of Commons the night before. I understand that the New Democratic Party is holding it up in a form of blackmail—that is, if the government does not back away from its recommendations for some rule changes in the House of Commons, the New Democrats will not let Bill C-98 get through. They are holding one against the other. I intend to make sure that the farmers in western Canada know what they are up to.

Could the minister give us an indication of when we might expect this bill? Imperfect as it is, at least it will provide some stability to farm income for late 1991 and thereafter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): As the honourable senator knows, being an experienced parliamentarian, it is the government that proposes and the opposition that disposes. I would not want to apportion blame between the New Democratic Party and the Liberal Party in the other place with regard to this matter. I would leave that to the honourable senator.

Having said that, the House of Commons will not adjourn until later today. Perhaps my friend's information is more up to date than mine, but I have not entirely abandoned hope that they might pass that bill today. If not, it would be very high on the government's priority list when the House of Commons returns on the 8th of April.

Senator Olson: Well I hope you are right. We could pass it later today or work on it later today anyway.

HONOURABLE JACQUES FLYNN, P.C.

PAYMENT FOR SERVICES TO GOVERNMENT DURING GST DEBATE

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Leader of the Government. I have been waiting for some time for the answer to my perennial question about Jacques Flynn's bill for services performed during the GST debate. The last time I raised it the leader said he had inadvertently misinformed me the last day I brought it up and suggested that I submit a written question.

Senator Barootes: Have you?

Senator Corbin: I have, and he said he would reply with all the details I was looking for. The question has been filed with the table for some time. I think it has been published on two consecutive Mondays, certainly once, and I still have not received an answer. I am a little worried that we may be going into a new session, at which time the present leader may not be in his present position and I may never get an answer to my question. I am very anxious. This is an expenditure of public moneys and I would like to have an answer.

Senator Barootes, what is your question? I would like to reply to it.

Senator Barootes: I am wondering about the leadership matter you raised. Were you speaking on behalf of the problems of the Liberal opposition or the Conservative Government side?

Senator Corbin: I think you may be misinformed or you may not have heard or seen correctly. I never raised the question of leadership. I do not question my leadership. I am quite happy with it.

● (1420)

AGRICULTURE

PRINCE EDWARD ISLAND AND NEW BRUNSWICK POTATO FARMERS—ERADICATION OF VIRUS—FINANCIAL SUPPORT—GOVERNMENT POLICY

Hon. M. Lorne Bonnell: Honourable senators, can the Leader of the Government tell us what financial support will go to pay the farmers of Prince Edward Island and New Brunswick as a result of the problem they are having with the potato virus? Could he also table for me a report from the department on what steps must be taken to eradicate this virus?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I understand that on March 13 a meeting was held between the federal Department of Agriculture and representatives of the Prince Edward Island and New Brunswick Marketing Boards, in which details of the eradication program were finalized and made public. I do not have those details in front of me. As to the compensation plan, I can only tell the honourable senator that we are still working on it.

[*Translation*]

NEW BRUNSWICK

ELECTORAL CONSIDERATIONS—GOVERNMENT RESPONSE

Hon. Jean-Maurice Simard: Honourable senators, I have a question for the Leader of the Government in the Senate. Last week, following an exchange with Mr. Porford or an invitation from the Leader of the Confederation Party in New Brunswick, the New Brunswick Premier announced that the forthcoming provincial election campaign would deal with such essential issues as the economy, the environment, the creation of jobs, without any reference to the linguistic debate or the entrenchment of Bill 88, as though this legislation was not really fundamental, even if it deals with equality, the collective rights of citizens, distinct institutions, etc., for both official linguistic communities.

Last week, also, in response to the Hon. Bernard Valcourt, our federal minister, who was urging the New Brunswick government to introduce in the Legislature of that province a resolution asking the federal government to proceed with the entrenchment of Bill 88. Mr. McKenna told us that what he really wanted was to discuss this issue with the Prime Minister of Canada, without wasting his time with Minister Valcourt.

Senator Thériault: That's good!

Senator Simard: Honourable senators, my question is this: Do you feel that the letter from the provincial government which you have probably read, according to Mr. McKenna, and which was addressed last Fall to the federal government is enough to convince the latter to follow-up with this formal request and which would result on the full entrenchment of Bill 88, and not only of a vague principle or a notion of equality, something Mr. McKenna would be satisfied with?

Senator Murray: Honourable senators, my honourable colleague will remember that during the Meech Lake Accord negotiations, two amendments to the Canadian Constitution dealing with New Brunswick linguistic communities were considered. An amendment would have required the consent of the federal Parliament and all the provinces, being a change to the amending formula.

The other amendment could have resulted from a bilateral agreement between the federal Parliament and the New Brunswick Legislative Assembly. Following the failure of the Meech Lake Accord, these two initiatives died.

In his letter to Premier McKenna, Prime Minister Mulroney agreed to sit down with him in the near future to discuss the whole issue of the entrenchment of the two linguistic communities as mentioned in New Brunswick Bill 88 as well as in the Canadian Constitution.

I will not say more today. I am looking forward to renewed discussions between Prime Minister Mulroney and his New Brunswick counterpart.

Senator Simard: Honourable senators, I accept this reply from the Leader of the Government in the Senate. I would not want to pursue the debate, for fear of being accused of abusing the time of the Senate, something Senator Olson does often, as he has every right to do.

I might add that I am pleased to hear the Senate government leader tell us that both sides are prepared to debate the issues. I hope they will be aired publicly but not, as suggested by Premier McKenna who, having sent that letter, would seem to want the debate to be held behind closed doors. Let me recall that the people on the other side blamed us and blamed last year's constitutional process because they said it was held in camera.

Keeping in mind the fact that at least three resolutions were passed during regional meetings held recently in New Brunswick following their presentation by Acadians from northwest, southeast and northeast regions, and that they were endorsed

by anglophone delegates urging the governments to come to agreement on that question, I hope the governments will indeed act on that. Whether Mr. McKenna likes it or not, I hope that in the coming months that debate will be the highlight of political activities in New Brunswick. We should not be afraid to tackle the issue.

I would remind my colleagues that we were in office in 1982 or 1981 and that at times we had a majority of only half a seat, yet we did pass that legislation. If Mr. McKenna with his 58 seats cannot find the courage to debate the issue and cannot convince the people of New Brunswick of the soundness of that legislation, of the benefits of the linguistic experience for New Brunswick, and of the need to enshrine that law, I believe that the electors of New Brunswick ought to be concerned about the situation. Still, Senator Murray, I find your remarks encouraging.

Senator Denis: Honourable senators, I have a question for the Leader of the Government in the Senate. May I suggest that the government leader ask Senator Simard to send the Premier a copy of his statement or of his recommendations, for they are very important. If he would rather not send a copy of his statement, could the Leader of the Government in the Senate promise that he will speak to the Prime Minister about the intervention of the Premier?

Senator Murray: Honourable senators, I can assure Senator Denis that the Prime Minister of Canada follows very closely what goes on in this House and reads the *Debates of the Senate*, especially what our friend Senator Simard says!

I have every reason to believe and I am confident that a non-partisan spirit of cooperation, such as that which existed under Mr. Hatfield and Mr. Trudeau, will continue to exist between New Brunswick and Ottawa on linguistic issues, for the benefit of the Acadian and English-speaking people of that province.

Senator Denis: Honourable senators, in response to the honourable leader of the government in the Senate, I want to say that I hope he did not think I was being partisan when I suggested that we send the Prime Minister copy of the declaration made by our colleague Senator Simard.

You cannot find more purely Conservative and purely Liberal than those two!

Senator Thériault: Honourable senators, I wish to thank sincerely the leader of the government in the Senate for the stand he just took.

I reiterate that, as an Acadian from New Brunswick, I am happy with the negociations between the first ministers of Canada, and the main thing I respect Mr. Mulroney for, as Prime Minister of Canada, is the attention he always paid to francophones outside Quebec.

Again, I thank the leader of the government in the Senate for the stand he took concerning Mr. McKenna.

I do not always agree with Mr. McKenna's policies and I let him know when that is the case. On this issue which is very sensitive in New Brunswick at this time, the Premier wants to prevent the head of the CORE, who seems to have the same thing in mind as my colleague Senator Simard, from making bilingualism the sole focus of the next provincial elections.

I am convinced that the leader of the government in the Senate and the Prime Minister of Canada realize that Mr. McKenna's popularity in the polls is 66 per cent overall in New Brunswick, 52 per cent in anglophone areas and 80 per cent in francophone areas. So, I would say that he represents the people of New Brunswick very well indeed.

• (1430)

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to three questions that I would ask be printed as part of today's proceedings.

AGRICULTURE

GROSS REVENUE INSURANCE PLAN—NET INCOME STABILIZATION ACCOUNT—AMOUNT OF PRODUCERS' INSURANCE PREMIUMS—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): I have a delayed answer to a question raised in the Senate on February 26, 1991, by the Honourable H.A. Olson regarding GRIP and NISA.

(*The answer follows:*)

At the federal-provincial Agriculture Ministers' meeting in Regina on March 1 and 2, agreement was reached on a methodology for calculating premium rates. Premium rates and indexed moving average prices will be announced once the provinces have completed the rate calculations and submitted them to the federal government for approval. Approval must be forwarded to the provinces within 24 hours. Saskatchewan, Alberta, Manitoba and Ontario have announced premium rates to date. Other provinces are expected to follow shortly.

Agriculture Canada staff are working closely with provincial governments and farm leaders to ensure that information is available to farmers as soon as possible.

GRIP goes a step beyond conventional crop insurance by offering price support in addition to yield protection. It will guarantee revenue per acre rather than simply guaranteeing prices or yields.

Under the program, a target revenue is calculated for each crop on the basis of probable yield, seeded acres and a support price. The support price is based on 15-year average prices indexed for inflation.

Here is an example of how GRIP would work. If we assume the long-term average price is $4 a bushel, and a farmer's probable yield is 30 bushels per acre, the target revenue under GRIP would be $120 an acre. This would be the minimum the farmer could expect to receive for that crop.

This is bankable information that a farmer will be able to take to his lender. As Allan Taylor, Chairman of the Royal Bank of Canada, said recently, "From a lender's standpoint, it's a very positive move . . . When your clients have that sort of protection against a crop—a guaranteed price—you've got something much better to work with than the risk-taking that goes without that sort of protection."

If, after harvest, the market price is $3.45 a bushel and the yield is 22 bushels an acre, the farmer's market revenue would be $75.90 an acre. The GRIP program would pay out $44.10 an acre to bring the farmer's revenue per acre up to the target level.

It is important to note that the support provided by GRIP is on the revenue per acre. If, in this example, the price is the same, but the yield is above average at 38 bushels an acre, the farmer would earn $131.10 an acre on the market, so there would be no GRIP payout.

GRIP will be delivered through two components, crop insurance and the new revenue insurance component. Crop insurance premiums will continue to be shared as in the past: producer—50 per cent, provincial government—25 per cent and federal government—25 per cent. The revenue insurance component will be shared 33 and one-third per cent by the producer, 25 per cent by the provinces and 42 and two-thirds per cent by the federal government.

Under NISA, each farmer will have an individual account consisting of two parts. Part A is made up of producer contributions, while government contributions and accrued interest go into Part B.

Producers will contribute 2 per cent of their eligible net sales, which are sales minus purchases of agricultural commodities, into the account. The federal and provincial governments will share equally the cost of matching the farmer's contribution.

A farmer who had sales of $100,000, who bought $20,000 of seed, would have eligible net sales of $80,000. This producer's NISA contribution would be 1,600, and another $1,600 would be contributed by governments.

Producers will also be able to contribute up to an additional 20 per cent of eligible net sales, but these additional amounts will not be matched by governments. Producer contributions will be made after tax, so they will not be taxable when withdrawn. Government contributions and accrued interest will be taxable on withdrawal.

Withdrawals will be triggered in two ways: first, when the farm's gross margin falls below the previous five-year average, and, second, when taxable income falls below $10,000.

In the first case a farmer with eligible sales of $80,000 and eligible cash costs of $60,000 would have a gross margin of $20,000. If the average margin for the previous five years was $30,000, the NISA withdrawal would be $10,000.

[Senator Doody.]

In the second case, a farmer with taxable income of $6,000 would be allowed a NISA withdrawal of $4,000 plus his contributions to the account for that year.

NISA withdrawals will not be taken from the farmer's contributions until Part B of the account is exhausted.

IRAQ

POST-WAR RECONSTRUCTION—LIST OF ASSETS ELIGIBLE FOR CANADIAN 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 March 5, 1991, by the Honourable John B. Stewart regarding Iraq—List of Assets Eligible for Canadian Assistance.

(*The answer follows:*)

There is no list of Iraqi assets in Canada. Such assets can be divided into those owned and controlled by Iraqi nationals and those owned and controlled by the Government of Iraq.

Iraqi Government assets in Canada can be divided into funds held in financial institutions and other assets.

There are no means currently available to obtain a list of non-financial assets.

Iraqi Government assets held in Canadian financial institutions are presently frozen pursuant to the United National Iraq Regulations made under the United Nations Act.

It appears that regulatory or legislative action would be required to compel financial institutions to produce a list of Iraqi Government assets.

ROYAL CANADIAN MOUNTED POLICE

CONTRACT POLICING TO PROVINCES AND TERRITORIES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on March 25, 1991 by the Honourable Gildas L. Molgat regarding RCMP—Contract Policing to Provinces and Territories.

(*The answer follows:*)

Contract policing represents slightly less than half of the RCMP Program, as measured in human and gross fiscal expenditures. The net cost to the federal government in 1990-91 is expected to be approximately $251.7 million.

As promised, you will find below a table providing the total provincial and federal per capita cost of RCMP policing to provinces and territories.

	Total Per Capita cost-Independent Police Forces	Total Per Capita cost-RCMP Contract Forces (100%)	Per Capita RCMP cost to province (68%)
B.C.		$200.39	$136.26
Alberta		173.49	117.97
Saskatchewan		170.24	115.76
Manitoba		189.42	128.81
Ontario	$245.16		
Québec	247.04		
N.B.		105.41	72.12
N.S.		89.24	60.68
P.E.I.		85.11	57.87
Nfld.	104.57	117.03	79.58
Yukon		445.10	302.65
N.W.T.		580.19	394.53
Canada-Wide Averages	$198.92	$215.56	$146.62

APPROPRIATION BILL NO. 1, 1991-92

THIRD READING

Hon. Noel A. Kinsella moved the third reading of Bill C-100, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1992.

He said: Honourable senators, in moving third reading of Bill C-100 I should like to make a few comments in reference to the questions and observations made by our honourable colleague, Senator John Stewart. With reference to the first matter, the Treasury Board vote 5, nine-twelfths or $300 million of the $400 million is being sought by Bill C-100. The explanation is that the additional six-twelfths or $200 million is required to provide for unforeseen expenditures that may arise during the interim supply period. I am advised that this additional proportion is entirely consistent with previous interim supply bills. Apparently this has been the practice. It represents prudent financial management practices to cover situations in which the supplementary cash requirements in excess of the three-twelfths might be required before introduction of supplementary estimates. While this provision may appear large as a proportion of this particular vote in question, it is not excessive in the context of all government expenditures during this period. Any such funding requirements from this vote would represent temporary allocations which would be reimbursed with passage of a supplementary bill. I understand that included in this vote 5, which covers the entire expenditures of the Government of Canada, will be paylist shortfalls and, perhaps more importantly, the temporary allocations which would be made awaiting the supplements.

With reference to Privy Council vote 1, where we have four-twelfths or $24 million out of $73 million, the additional one-twelfth, as it were, above the one-third—representing $6 million in this instance—is required to cover operating costs of the Citizen's Forum on Canada's Future pending approval of the first regular Supplementary Estimates for 1991-92. The forum's mandate is to the end in June, 1991 and these operating costs are treated as program expenditures under the Privy Council department. The Main Estimates show commissions of inquiry and task forces as a distinct activity within the Privy Council program. All 1991-92 expenses of the Citizen's Forum are expected to be incurred in this year's first quarter.

Honourable senators, that concludes the information I would like to bring forward.

Hon. John B. Stewart: I would thank the honourable senator for his thorough response.

Yesterday I drew the attention of the Senate to the fact that the final Supplementary Estimates for the year ending March, 31, 1991, include approximately $18 million for the Spicer Commission. The honourable senator just now has told us that there is provision under the Privy Council vote for additional payments on behalf of the Spicer Commission in the 1991-92 fiscal year. Would it be fair to ask the senator for an assurance that money from the contingency vote, Treasury vote 5, will not be used to supplement the moneys being provided for the Spicer Commission under vote 1c of Privy Council, or is that beyond his powers of prophesy?

Senator Kinsella: Honourable senators, the ultimate safeguard that is in place is the need, the necessity and the obligation that these expenditures will come before the house for our scrutiny. These moneys are for contingencies. They are identified in this particular vote in part for this foreseen expenditure and, because it is by definition a contingency, it would be difficult to provide, from this position, any more specificity than I have.

• (1440)

Hon. H. A. Olson: Honourable senators, I shall be brief. I should like to make one or two comments about Privy Council votes 1 and 1c regarding money to pay the expenses of the Citizens' Forum on Canada's Future, or the Spicer Commission as it is called.

As I said earlier during Question Period, I am not favourably impressed with what that commission is doing. I do not know the details—and apparently there has been some attempt to find out what happened about the financial mismanagement, if that is the right word—pertaining to certain commissioners putting in requests for as much as $18,000 a month for remuneration in one form or another. However, I guess that can be sorted out. Hopefully they will not be given authority to do that sort of thing.

The other matter that seriously troubles me about the commission is some of the comments that are made by the chairman from time to time. For example, I heard him say on television—so this is not a misquote—that there is great uneasiness among the rank and file because of the way parliamentarians are acting; and he voiced his perception of what people think parliamentarians are doing in giving themselves one raise after another. The $153 per day figure was mentioned in this regard—the $153 that no one ever received, although we were accused of receiving it two or three times.

He has also said that we played kazoos in the chamber. There was never a kazoo played in this chamber at all—and I know, because I was here every day, although not every hour

of every day. That, too, was a false statement by whoever it was in the press who first reported it. It was perpetuated as if it were a fact, when it was never a fact.

I grant you, honourable senators, that there was some noise in here, and for very good reason. It was to stop the Speaker from breaking the rules. That is what it was all about. To say there was kazoo playing, and that sort of thing, indicates to me the man does not know what he is talking about. It indicates that he is very badly informed, even under-informed. To have that same person enjoy the confidence of Canadians, and to try to gather a consensus of citizens, creates a very tenuous confidence. I have to say that there is even stronger language to describe that kind of activity, but I am not about to use it.

We should examine what the man does. The kind of comments he makes displays his ignorance of what goes on here. I do not think he is fit to head a commission to look at anything that has to do with public policy if that is the level of his information. The application of his intelligence in making public statements about such matters is, in my view, disgraceful.

There is no mistake. I heard him say those things—not directly, face-to-face, but on television.

I want to put these points on the record because I hope that somehow he will get a copy of them. It would let him know that there are some people here who take this matter seriously.

Senator MacEachen: The Prime Minister will send him a copy.

Senator Olson: I hope he does.

We expect people in positions of trust to act with a certain amount of intelligence based on good information. What he has displayed is a complete lack of both.

Motion agreed to and bill read third time and passed.

[*Translation*]

APPROPRIATION BILL NO. 4, 1990-91

THIRD READING

Hon. Roch Bolduc moved that an Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991, be read the third time.

Motion agreed to and bill read third time and passed.

[*English*]

ROYAL ASSENT

NOTICE

The Hon. the Acting Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

27 March 1991

Sir,

I have the honour to inform you that the Honourable Beverley M. McLachlin, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 27th day of March, 1991, at 4:00 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Anthony P. Smyth
Deputy Secretary, Policy.

The Honourable
The Speaker of the Senate
Ottawa

BORROWING AUTHORITY BILL, 1991-92

SECOND READING

On the order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator DeWare, for the second reading of Bill C-97, An Act to provide borrowing authority.—(*Honourable Senator MacEachen*)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, when the honourable Barbara McDougall opened the debate on Bill C-97 in the other place, she said:

> it is important to set this bill in the right context, that is, in the context of the economic policies of the government as they were set out last week in the budget speech of the Minister of Finance.

I agree with that statement. The bill cannot be examined in a vacuum. It has to be examined in the context of the policies which surround the bill. However, before dealing with that wider view, it is important to appreciate fully what we are being asked to do in approving Bill C-97.

• (1450)

The government is asking authority from Parliament to borrow $26.4 billion in the 1991-92 fiscal year. That is $900 million more than last year's $25.5 billion, which, in turn, was $700 million more than the $24.8 billion in borrowing authority obtained for the 1989-90 fiscal year. Such has been the government's success in attempting to live within its means.

As Senator Doody pointed out yesterday, the $26.4 billion being sought for the 1991-92 fiscal year is made up of three components: financial requirements of $21.6 billion, exchange-fund earnings of $1.8 billion, and a non-lapsing reserve to cover contingencies of $3 billion. The figure of $21.6 billion for financial requirements is a key number, as important in evaluating Canada's fiscal health as is the deficit.

When I spoke in this chamber on the borrowing authority bill for 1989-90 I drew attention to a tendency on the part of the Minister of Finance to cast the picture in terms not of the

budgetary deficit but of financial requirements. I noted that in the 1989-90 fiscal plan the Minister of Finance stated that:

> Financial requirements represent the extent to which the government has to borrow in capital markets. This more closely parallels the definition of deficits used in both the United States and the United Kingdom.

Certainly in that year the reason for this preference was pretty obvious. The deficit for 1989-90 was estimated in the 1989 budget to be $30.5 billion, and the financial requirements for the same year to be $20.5 billion. That is $10 billion less. For a Minister of Finance anxious to demonstrate that he was successfully moving towards balancing the books, the lower figure had a lot of attraction. Nor was 1989-90 an unusual year. I traced financial requirements, excluding foreign-exchange transactions, from 1984-85 to this current fiscal year and compared them with actual budgetary deficits. Financial requirements were always lower by an amount ranging from about $7 billion to $10 billion, except in 1985-86 when financial requirements were lower by only $4 billion.

There is nothing surprising about this trend since financial requirements reflect both budgetary and non-budgetary transactions, and the non-budgetary transactions generally show a surplus. For instance, the surplus on non-budgetary transactions for 1989-90, 1990-91, 1991-92, and 1992-93 is estimated at $8.5 billion, $6.7 billion, $8.9 billion, and $10.2 billion respectively. With this positive item on his balance sheet, Mr. Wilson clearly hoped that financial requirements would move towards balance much faster than budgetary deficits. For example, financial requirements were estimated in the February 1986 budget to decline to $10.8 billion in 1990-91.

May I point out, of course, that Mr. Wilson was grossly mistaken. The borrowing requirements for 1991-92, excluding foreign-exchange transactions and exchange-fund earnings, are $21.6 billion. That is about $10 billion more than Mr. Wilson was predicting for last year. The truth of the matter is that since 1986 the Minister of Finance has been on the same treadmill with respect to financial requirements as for budgetary deficits, and his forecasts have hardly been reliable.

Financial requirements since 1986 have fluctuated between $18.1 billion and $23.8 billion. As a matter of fact, they have been steadily increasing since 1987. However, despite this track record, Mr. Wilson still persists in projecting a rosy picture for the future. Having found that a good many of the key projections for the past have been in error, the usual practice is to present a further, better, rosy picture for the future. So we are not surprised, really, to find that in the 1991 budget there is a confident prediction that financial requirements will have dropped to $5.3 billion in 1993-94, and that from 1994-95 on a surplus will be achieved to pay off government indebtedness.

Well, that is a very dubious possibility, judging from past trends and past predictions by the minister. Of course, faced with his failure to decrease financial requirements and the deficit, and when this becomes apparent to the public, the Minister of Finance responds with what is now a familiar pattern: he presents another plan. In fact, he has been reminiscent of the Soviet Union in its heyday in his ability to present new plans. His first budget was a clear and realistic plan, a five-year plan. When that was proved to have exhausted itself, he produced a medium-term plan; and now there is a new plan in his 1991 budget entitled "The Plan for Economic Recovery". One wonders why there is this obsession or this preference—this preoccupation—with producing plans when each of the previous plans proved to be so defective. One would have thought that the minister would have protected himself from future criticism.

In any event, there is, in the 1991 budget, the Plan for Economic Recovery. Of course, a key feature of this plan is another plan which was the centrepiece of last year's budget. For those who may be confused by the great abundance of Wilson plans, let me point out that I am referring to the 1990 Expenditure Control Plan. The 1990 Expenditure Control Plan was to have a two-year duration, terminating in 1991-92. Under the 1991 Plan for Economic Recovery, this duration is now extended to 1995-96, although some of his features do lapse in 1994-95.

I have no intention, honourable senators, particularly at this time, and in view of the nearness of Royal Assent, of reviewing all of the elements of this plan, although I think it does deserve analysis in its entirety. I simply note in passing that, since the Expenditure Control Plan was launched last year, program spending increased from $103.5 billion in 1989-90 to $108.3 billion in 1990-91. Thus, there was an increase of about $5 billion. I should point out that, on this score, the program spending forecast contained in last year's budget was $106.6 billion for 1990-91, an increase of about $2 billion from planned to actual program expenditure, which is surely a disappointing result for the first year of Mr. Wilson's Expenditure Control Plan. That reinforces my continuing question: Why all these plans?

● (1500)

We do have the 1991 Expenditure Control Plan, the main features of which are the new limitations on growth rates of the Canada Assistance Plan and Official Development Assistance, a freeze on per capita entitlements under Established Programs Financing and payments to Telefilm Canada, the Export Development Corporation and under the Public Utilities Income Tax Transfer Act. Important cuts will be made to funding for the Canada Mortgage and Housing Corporation, the Canadian Jobs Strategy and the Green Plan, and ceilings are being placed on federal public sector wage settlements.

My main concern, however, is with the effects of the Expenditure Control Plan on the balance between federal and provincial governments and on the quality of federal-provincial relations. The most significant feature of the 1990 expenditure control plan was the reduction of major transfer payments or programs to provinces. Per capita entitlement under the Established Programs Financing, which is the largest single form of assistance to provinces and which has grown since 1984-85 at an annual rate of more than 6 per cent to $20 billion in 1989-90, was frozen for two years. Of course, the 1991 budget

extends this freeze to 1994-95. This allows total EPF entitlement to grow in keeping with population increases in each province. However, in 1995-96, entitlement will not grow more than the GNP growth rate less 3 percentage points.

The growth of transfer payments under the Canada Assistance Plan to provinces other than those receiving equalization payments was limited last year to 5 per cent for two years—a ceiling extended by the 1991 budget. These programs are primarily used to finance social assistance, health care and secondary education. The government has not touched the equalization transfers that flow to the poorest provinces, but it announced in its 1990 budget a new policy of eliminating grants and subsidies to business and of seeking reimbursement of financial assistance to business on rigorous terms. Whatever the motivation—this new policy may have been related to the eventual subsidy negotiations with the United States—the result will be negative to the operations of the Atlantic Canada Opportunities Agency, the Western Diversification Fund and other regional development initiatives.

The Expenditure Control Plan is designed to constrain federal transfers to the provinces. No one will question the need to constrain federal expenditures, but one wonders about the timing. Was it appropriate timing for the Minister of Finance to decree unilaterally a reduction in the rate of federal transfers when the country is going through a painful appraisal of national unity and federalism?

I think we must be concerned at the combined effect of the accumulation of the massive public debt and the disengagement of the federal government from senior federal responsibilities. There is ample resonance of this phenomenon contained in the Allaire Report. One wonders whether the report is about federalism or dissatisfaction with Canadian policy, particularly monetary and fiscal policy, and the disengagement of the federal government from its responsibilities.

We have seen the government financially disengage itself from unemployment insurance, put certain crown corporations on the auction block which were relevant to national unity, and now move away from transfer programs equally relevant to equitable standards of national welfare, health and education. We have also heard the loud and legitimate discontent of provincial representatives when meeting with the Minister of Finance. That is creating additional strain when Canada can least afford it.

Honourable senators, there is another aspect of the current budget that I wish to mention briefly in view of the prolonged discussions we had in this chamber not so long ago on the Unemployment Insurance Act. There seems to be a gap between the reassuring words issued by representatives of the government and the harsh reality of the economic world at the present time. That is well illustrated by the blow delivered by the Minister of Finance to the unemployed workers of Canada and to those who fear they will soon join the ranks of the unemployed.

When the Senate was asked to pass Bill C-21, the unemployment insurance legislation, it was assured by the government that, though direct contributions would cease, the government would nevertheless be there to help finance the program in difficult times. When the changes implemented by Bill C-21 were announced in the 1989 budget, Mr. Wilson wrote in his budget papers, and I quote:

> The government will continue to contribute to the financing of the program in difficult economic times when it is inappropriate to raise premiums and prudent to allow deficits to build in the unemployment insurance account . . .
>
> To provide for stability in the future and cushion the impact of the change in financing, the premium rate for employees will be set at $2.25 per $100 of insurable earnings for 1990, 1991 and 1992. This rate is lower than the rate that would be required initially to reflect fully the fact that all unemployment insurance expenditures will now be financed by premiums.

That is the end of the minister's quotation. Five months ago, on October 22, 1990, Senator Simard assured this chamber, and I quote:

> Mr. Michael Wilson told us that, during a lengthy crisis, money will be made available to supplement the UI account so that the premiums paid by the employers and the employees are not unduly high.

Last month the Minister of Finance announced that UI premiums were being increased 24 per cent to $2.80 per $100 of insurable earnings for workers and to $3.92 for employers, which are the highest levels in the history of the program.

• (1510)

It is interesting to recall, honourable senators, that when the Minister of Finance refused in his 1985 budget to increase the rate to $2.60 per $100 of insurable earnings for employees and $3.64 for employers, he explained his decision in the following words:

> This would represent an increase of 11 per cent over current rates and result in additional premium payments of about $1 billion in 1986. The government is concerned . . . that an increase of this magnitude would impose an additional burden on the private sector, especially on small businesses, that would hinder job creation and economic recovery.

In this budget the minister increased them not by 11 per cent but by 24 per cent. Additional payments will amount not to $1 billion, which he found unduly onerous, but to more than $2 billion. One must ask the question: If, in 1985, when the economy was in strong recovery, an increase in rates of 11 per cent was unacceptable because it would "hinder job creation and economic recovery," why is an increase of 24 per cent in the middle of a recession acceptable? Will this increase stimulate economic recovery and job creation? It certainly undermines the credibility of the minister that he would establish such a strong foundation against increases of this magnitude for economic reasons, provide assurances to the country when changes were made to the UI account, and then, because of the need for additional general revenues, he soaks the employ-

ers and employees an additional $2 billion. This increase in premiums is equivalent to a tax increase.

One wonders as well why the budget is totally oblivious to the fact that more than one and a half million Canadians are unemployed. I do not know of any budget in a period of recession in the history of this country like this one, because it has overlooked entirely the needs of the unemployed and has established no policies to either create jobs or to stimulate the economy. I think it is unique in that sense.

One might say that that is the conclusion of a partisan Liberal, but the Toronto Dominion Bank, in its budget analysis, stated:

> There is nothing in this budget that addresses the high unemployment rates in Canada except that 2,000 public servants will be added to the unemployment rolls.

I take honourable senators minds back to November 1984 when Mr. Wilson, in the first flush of victory, faced the country and presented his economic statement. Perhaps you ought to go back and read it, because it is very instructive. He lamented that if his government maintained the status quo inherited from the Liberal Government and took no initiatives, the results would be dismal:

> the unemployment rate is expected to decline only gradually to just over 7 per cent in 1990, averaging about 9 per cent over the medium term . . . Clearly this is not an acceptable economic outlook for Canadians.

That is a quotation from the publication, *A New Direction for Canada*, page 7. Well, 7 per cent unemployment was unacceptable to the Minister of Finance if it were the result of the maintenance of Liberal economic policies that he had inherited, but 10.2 per cent unemployment in present circumstances, apparently the result of Conservative policies, is acceptable, because no action has been taken to address this high level of unemployment.

Senator Simard: No short fix, but they are good sound policies. They are worth it, and you know that.

Senator MacEachen: We have heard that. In addition to the production of plans, the recurring theme of the Minister of Finance in every budget is "our policies are working," but the working of the policy has resulted in a deficit which has remained stationary for a period of five to six years. The Minister of Finance is running the same budgetary deficit that he ran five years ago, even though he is constantly telling us that his policies are working.

Not only did the Minister of Finance take no action to address the plight of the unemployed—and for the unemployed the short term is very important—but he reduced funding for the Canada Jobs Strategy Program in the amount of $100 million. Those of us who strenuously oppose Bill C-21 take no comfort in having our fears confirmed in this budget. The additional burden placed upon the unemployed and the working people of Canada is really quite offensive.

These are only one or two aspects of the economic policies that ought to be examined in the context of the financial requirements of the government. I have touched only on expenditure control, the unemployment insurance situation, and the employment and unemployment situation in Canada at the present time. There is still the larger question of the state of the economy and its future prospects. That is a very large question indeed. I would like to save that matter for a later date, perhaps on third reading of the bill, which now, I understand, is to be dealt with when we come back on April 8 or April 9.

I would like to say a word on the process of the borrowing bill. My remarks will be milder than they would have been had the situation prevailed as we expected; namely, that we would be expected to deal with the bill as originally planned, and as we were prepared to do, give it second reading today, send it to committee and complete it tomorrow. We were prepared to do that, but that is no longer necessary for reasons that have been imposed upon us, not by the Senate but by the House of Commons.

• (1520)

I wonder why it is. Maybe Senator Doody is asking—and if he is not he should be—why it is that the management of the government is so bad that it puts itself in the position that it cannot get its borrowing bill through Parliament in a timely way. It is a damn good question. If I were the Prime Minister I would be asking Mr. Andre and the Minister of Finance, "Why is it that at the end of March 1991 you are totally out of borrowing authority, that you have used up not only the $21 billion, or whatever it was, plus $3 billion of nonlapsing reserve authority, and now you have to use section 47 of the Financial Administration Act to borrow on short term, and you have not got your bill?"

Senator Barootes: I guess we must need that prestudy mechanism.

Senator MacEachen: I do not think it would help at all. I think the suggestion made by the Minister of Employment and Immigration is much more relevant than the suggestion made by Senator Barootes. When she introduced the bill for second reading she said:

> I want to remind honourable members that this bill provides borrowing authority which the government needs to meet its requirements for 1991-92. It is important that it should be considered in a timely manner.

That was on March 5 at the second reading stage of the bill, and I think the bill was in the Commons for some considerable time before it was brought forward for second reading. The minister said that it is important that it should be considered in a timely manner, and I could not agree more.

The borrowing bill was introduced in the other place on February 27, 1991. It received second reading on March 7 and was passed on March 20. The same bill was introduced here on Monday, March 25. We are not going to deal with the bill because we cannot, and, if we did deal with it in a timely way, as recommended by the Minister of Employment and Immigration, the House of Commons would not cooperate in providing Royal Assent tomorrow. I find that interesting.

I find it even more interesting when I realize that the borrowing bill of last year received Royal Assent on June 12, 1990. This bill is here on March 27, 1991. There is a reason why there was a relaxed attitude last year and there is a panicky attitude within the last few days. If that panic had started in February, when it ought to have started, we would not be in this mess at the present time.

Why has the government run out of its borrowing authority? Why has it failed to forecast its requirements and had to use the $3 billion of nonlapsing authority before the end of the year? Well, the government's estimate of borrowing requirements for 1990-91 was wrong by several billion dollars. Last year the government sought borrowing authority for $25.5 billion including $21 billion for financial requirements, $1.5 billion for exchange fund earnings and $3 billion for contingencies, for a total of $25.5 billion. Financial requirements in 1990-91 were bigger than expected, largely due to an unforeseen $1.8 billion increase in public debt charges and to other unforeseen increases in requirements arising from foreign exchange transactions.

The result of all that is that the entire 1990-91 borrowing authority has been consumed. As I stated, the government has already used up the $3 billion nonlapsing borrowing authority which is usually put in there to tide it over into the next fiscal year. Last year the government was able to get along until the end of June, when it had its bill passed for borrowing. As I said, the government is already making use of authority under Section 47 to borrow on the market.

We understand clearly. I stated on Monday to Senator Doody that if urgency could be demonstrated we would facilitate the bill. We listened to the arguments that were made and we said that a case has been made because the government is out of money and it may cause difficulties for those who are managing the public debt. It may cause the government to borrow more short term rather than an appropriate mix of short-term and long-term bonds. So we said we will accommodate in order to avoid an embarrassment to the taxpayer or an increase in interest rates or whatever.

I do not intend to develop that theme very much, but I do think it is legitimate to ask why it was not foreseeable early in the year that a difficulty was looming, and why was that bill not produced somewhat earlier and pushed through the Commons somewhat more quickly in order to get it here so that we could deal with it. We can do it, but the Commons is not to be here tomorrow.

Anyway, I think I have said enough to indicate that it is rather unpleasant for the Minister of Finance and his associates to find themselves in this situation at a time when they ought to be doing everything to bolster their credibility rather than undermining it by this type of mismanagement. We are prepared to give the bill second reading today and we are prepared to give it "timely" passage, in the words of the minister, when we return on April 9.

[Senator MacEachen.]

The Hon. the Acting Speaker: I wish to inform honourable senators that if Senator Doody speaks now his speech will have the effect of closing the debate.

Hon. John B. Stewart: Honourable senators, before Senator Doody speaks I would like to ask him to take this opportunity to explain the situation. Senator MacEachen has told the Senate that although we received the bill only on Monday, it was anticipated that it would go through all stages and receive Royal Assent this week. As I understand it, there was to be second reading this afternoon, the National Finance Committee would meet tonight or, if no minister was available tonight, early tomorrow morning, and the bill could become law later this week.

We must realize that this is not a mere slip. As I understand it, the implication of this bill not becoming law until the House of Commons has come back from its holiday will be that the entire borrowing program for the next two months will be badly disrupted. Several hundreds of billions of dollars will have been borrowed in short-term instruments and the mix, as Senator MacEachen has said, of the government debt will be seriously disturbed. That disturbance will be perpetuated in the debt stream for months and, indeed, years. There may also be an element of cost, because the government has not been able to go to the market in a predictable way.

• (1530)

Given this situation, will Senator Doody explain to us why the government's financial management plan is being so badly disrupted by the government or by the government leadership in the other place, and why this additional financial burden—perhaps millions of dollars—is to be imposed upon the Canadian taxpayer? We deserve an explanation from the Deputy Leader of the Government or perhaps even from the Leader of the Government in the Senate, who is influential with his ministerial colleagues.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I am advised by my leader that I should accept these reproaches in the spirit of the Lenten season in which we now find ourselves.

Hon. Douglas D. Everett: Senator Doody, since you will close the debate upon speaking, I wish to say something to Senator Stewart. I do not know the reason for the delay and I am not taking any position in respect of that, but the disruption of the government's financing program under previous circumstances would likely have been a matter of concern because the yield current was at that time reversed. In other words, short-term obligations were more expensive than long-term obligations. The senator will know that that situation has again reversed itself in Canada. While the difference is not great, short-term obligations now are below the cost of long-term obligations. Perhaps the government has been taken off the hook by a lucky concatenation of events. Nevertheless, from a fiscal management point of view the need to borrow in the short-term market during this hiatus should not be costly to the government.

Senator Stewart: I thank the Honourable Senator Everett for his reassurance. Since short-term paper is less costly than long-term paper, the conclusion we must draw is that there is no need to push forward with the bill at all. That, I assure the honourable senator, is quite the opposite of what I was told by authoritative spokesmen from the government earlier this week. The honourable senator is just talking off his cuff.

Hon. Efstathios William Barootes: It is great foresight; that is what it is.

Senator Everett: You are saying that I am talking off the cuff in respect of what?

Senator Stewart: I am referring to the total cost implications.

Senator Everett: I assure you that I am not. The yield curve has gone the other way. I can assure you that the cost of short-term financing will now be below the cost of long-term financing, which was not the case some month or two months ago. I may be talking extemporaneously, but I am not talking hot air in that respect.

Senator Stewart: I am not talking specifically about interest rates; I am talking about the costs—that is, both the initial costs and the long-term costs of a disruption of the financial management program.

Senator Roblin: You are talking off the cuff, too.

Senator Stewart: That is not true, Senator Roblin. You are just talking.

Senator Doody: Honourable senators will forgive me if I thank honourable senators opposite for their cooperation on this matter. Senator Stewart is absolutely correct. I did assure him that the government wanted this bill as quickly as possible. A meeting was arranged for him with members of the Department of Finance, who explained the urgency of the bill. For some reason—which I cannot explain and I do not understand—the government or the leadership in the other place did not make arrangements for the House of Commons to be present for Royal Assent tomorrow. Unfortunately, the best laid plans and the efforts of all of us in this place to facilitate the requests were to no avail and were pointless. They will have to wait until we come back to get third reading of the bill.

What I would suggest now is that at the appropriate time I will refer the bill to the Standing Senate Committee on National Finance and it can be studied when we return, or tonight, or tomorrow if there is a minister available. I will leave it entirely up to the committee to decide; it is their prerogative. Once again, I thank you for your efforts.

Again, I want to assure Senator Everett that I did not arrange the differences in the short-term and long-term rates at this point to get me off the hook. I was well and truly on it before that.

Senator Everett: On a matter of clarification for Senator Stewart, I was not arguing with him about the lack of management on the government's part. That is a case that is well made and well taken. I am saying that it is fortuitous that this—

Senator Doody: It is better to be lucky than smart.

Senator Everett: —will be accepted in here.

Senator Stewart: Thank you.

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 National Finance.

[*Translation*]

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—SECOND READING—DEBATE SUSPENDED

Hon. Jean-Maurice Simard moved the second reading of Bill C-91, to amend the Financial Administration Act and other acts in consequence thereof.

He said: Honourable senators, allow me to speak briefly to Bill C-91, an Act to amend the Financial Administration Act and other acts in consequence thereof.

We are getting close to four o'clock and, if I have not finished my remarks, I know the Speaker will draw my attention to the fact that Mr. Justice is about to enter the chamber. I will continue after the Royal Assent ceremony and conclude my speech.

Before dealing with the subject matter I cannot resist the temptation to say a few words about the speech of Senator MacEachen. I feel all the more at ease because the issues he dealt with, that is his criticism of the budget, the bad administration of the government and its delays in tabling estimates and borrowing requirements can be linked to other measures contained in Bill C-91 because it really has to do with setting some order in public finance.

[*English*]

I will make a few remarks. Senator MacEachen never fails to amaze me.

Senator MacEachen: I hope to continue to do so.

Senator Simard: He is a good magician, as he has always been.

Senator Barootes: He amazes himself!

Senator Simard: He is a master of the illusion.

Senator MacEachen: I thought Mr. Wilson was that!

• (1540)

Senator Simard: It was enlightening to a certain extent. Not that he proposed many new Liberal Party initiatives, but he was content to criticize. He referred to the National Energy Program and the government's reform of UI. I think at one time he even talked about FIRA.

Senator MacEachen: No.

Senator Simard: I think you touched on the edges of that.

Senator MacEachen: No.

Senator Simard: However, there was certainly one element that transcends your whole speech, that this government did not know what it was doing, contrary to the government that you worked with for so many years with Mr. Lalonde and Turner, as if they were all the great years.

Senator MacEachen: They were.

Senator Simard: You did not back us on structural changes that prevent government from moving ahead much as it should. You did create, Senator MacEachen, you and your colleagues, major structural problems that we had to correct. I could talk about the doing away with the National Energy Program and the reform of UI. You found courage to start some changes, but we went a little further and we were criticized for that. You had great ideas.

However, you say that Mr. Wilson's five year plan of 1984 was no good. Now he is coming with a new plan.

Senator MacEachen: Yes.

Senator Simard: You spoke about the present high unemployment period that we are experiencing. It is true; there are certainly too many Canadians unemployed.

Senator MacEachen: Unacceptable.

Senator Simard: I say to you, Senator MacEachen, that perhaps Mr. Wilson's plan should be adjusted periodically.

Senator MacEachen: A new plan ever year. Once the previous one failed, there was a new one.

Senator Simard: You know, Senator MacEachen, you are obviously ill at ease here.

Senator MacEachen: No, I never felt more comfortable.

Senator Simard: You remind me of your previous leader, Mr. Trudeau—

Senator MacEachen: That is a compliment.

Senator Simard: —who said, in 1984, that a constitution should last for a thousand years. Well, a constitution does not last and should not last for a thousand years. The same thing with a five year plan. It needs to be adjusted to perhaps aim at new targets, keeping in mind the changing situation both nationally and internationally.

Senator MacEachen: Smile when you say that.

Senator Simard: However, we have to wait, because on the Orders of the Day there is Order No. 31. It follows your intention that you made known on June 13, 1989, that you would draw the attention of the Senate to the 1989 budget speech. Why did you wait 22 months to criticize and make suggestions? Why did we have to wait 22 months to hear your great knowledge? Why did you wait until today to tell us that what was presented in 1984 or 1990 did not work?

Senator MacEachen: I have given you many speeches.

Senator Simard: Why did we have to wait?

[Senator MacEachen.]

Senator MacEachen: I have given a number of speeches in that period. I will give you a list.

[*Translation*]

I understand that the judge is at the door and about to enter. I shall resume my remarks in a little while. Thank you. That was my introduction.

[*English*]

Senator MacEachen: Well, you won't have a big audience after Royal Assent. I can tell you that.

Senator Simard: As long as I help you, senator, that is okay.

On motion of Senator Simard, debate suspended.

The Senate adjourned during pleasure.

• (1550)

ROYAL ASSENT

The Honourable Beverley M. McLachlin, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Beverley M. McLachlin, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in his Excellency's name all acts on her part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk of the Senate.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof (*Bill C-34, Chapter 16, 1991*)

An Act respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities (*Bill C-258, Chapter 17, 1991*)

The Honourable Steve Paproski, P.C., 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 certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bills:

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1992 (*Bill C-100, Chapter 18, 1991*)

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1991 (*Bill C-99, Chapter 19, 1991*)

To which I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bills.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

[*Translation*]

The sitting of the Senate was resumed.

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jean-Maurice Simard: Honourable senators, unless I am mistaken, some honourable senators would like us to move on, they may have travel plans, etc.

If that is so, with leave of the Senate, I move the adjournment of the debate on this Bill, as long as the motion stands in my name.

On motion of Senator Simard, debate adjourned.

• (1600)

[*English*]

ADJOURNMENT

Leave having been given to revert to Motions:

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, April 9, 1991, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if it is agreeable, I would move that all remaining orders, inquiries and motions stand.

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

Hon. Senators: Agreed.

The Senate adjourned until Tuesday, April 9, 1991, at 2 p.m.

THE SENATE

Tuesday, April 9, 1991

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

Prayers.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—CONCURRENCE BY COMMONS IN SENATE AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed to the amendments made by the Senate to Bill C-79, to amend the Parliament of Canada Act.

FARM INCOME PROTECTION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-98, to authorize agreements between the Government of Canada and the provinces to provide for protection for the income of producers of agricultural products and to enable the Government of Canada to take additional measures for that purpose.

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): Honourable senators, I understand there have been discussions between Senators Barootes and Olson on this bill. I am not privy to the outcome of those discussions, but I do know that a concern has been expressed that we should try to deal with this bill as quickly as possible. If we give the normal two days' notice, we will not be able to start second reading until Thursday. If that is the wish of the Senate then, of course, that is the route we will take, but if senators wish to move the bill along we could try to start second reading today and refer the bill to committee. Obviously, I am at the disposal of the Senate.

Hon. Allan J. MacEachen (Leader of the Opposition): Would it not be good enough to proceed to second reading tomorrow?

Senator Doody: I have no problem with starting second reading today, tomorrow or Thursday; it is up to the Senate. I cannot make a motion or ask for leave until I know the wishes of honourable senators.

Senator MacEachen: We can do it today.

Senator Doody: Then I take it we will proceed to second reading today.

Senator MacEachen: Your silence convinced me.

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.

HIS EXCELLENCY CARLOS SALINAS DE GORTARI, PRESIDENT OF MEXICO

ADDRESS TO MEMBERS OF THE SENATE AND OF THE HOUSE OF COMMONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I would ask that the address of His Excellency Carlos Salinas de Gortari, President of the United Mexican States, delivered before the members of the Senate and House of Commons on Monday, April 8, 1991, 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.

(*For text of address and introductory speeches, see appendix p. 5578.*)

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Jacques Hébert: Honourable senators, I have the honour to present a series of petitions signed by approximately 1,262 people from different regions of the province of Quebec including the Abitibi, the region of Lac-Saint-Jean; there are a great many from Saint-Léonard, a municipality of the province of Quebec.

These 1,225 petitions are opposed to the GST and they urge the Senate to do everything possible to counter it. They request also that elections be held as soon as possible.

Thank you, honourable senators.

[*English*]

Hon. Peter Bosa: Honourable senators, I have the honour to present, on behalf of Senator Frith, five petitions comprising 120 names asking members of the Senate and members of the House of Commons to do everything possible to abolish the new goods and services tax and to demand that a general election be held immediately.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, April 9, 1991

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

SEVENTY-FIFTH REPORT

Your Committee notes that certain anomalies have existed in the terms and conditions of employment of Senators' secretaries between those hired on or prior to December 31, 1984 and those hired on or after January 1, 1985.

The most distinct variation is the tenure of appointment. Those hired prior to 1985 are transferred to a lower paying position whereas those hired in 1985 and thereafter are terminated on a minimum of two (2) weeks' notice.

Considering the disadvantages of such a system for both the Senate and the Senators' secretaries, your Committee recommends:

1. That there be no change to the staffing method;
2. That Senators' secretaries who have a minimum of one year of continuous employment and whose services are no longer required be offered the following options:

Senators' secretaries hired on or prior to December 31, 1984

a) Acceptance of a transfer to a position of support secretary and entitlement to "staffing priority" for a period of one (1) year commencing from the effective date of the transfer

or

b) i) Upon request, their employment be terminated on six (6) months' notice commencing on the date their services are no longer required;

ii) During the notice period, the employee be extended staffing priority rights;

iii) The employee be offered counselling services with respect to alternatives, benefits, etc.;

iv) The employee be given a lump sum payment equivalent to one week's salary for each completed two (2) years of employment in a Senator's office up to a maximum of thirteen weeks, in addition to the normal severance pay benefits of one week for every completed year of continuous employment;

v) The employee who accepts the termination lump sum be permitted to again seek employment with the Senate after a period equivalent to the number of weeks for which they have received the lump sum payment.

Senators' secretaries hired on or after January 1, 1985

The employment of Senators' secretaries whose services are no longer required and who have one or more year of continuous employment, be terminated in accordance with paragraph 2(b) above.

Respectfully submitted,

C. WILLIAM DOODY
Deputy Chairman

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

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

QUESTION PERIOD

THE ECONOMY

RELATION OF INFLATION RATE TO INTEREST RATES—GOVERNMENT POLICY

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government in the Senate to explain what the Minister of Finance meant when he said there was more room for interest rates to decline and that it would be good for the economy if they did. I do not understand why he does not act upon that statement instead of just saying that there is room for it to happen.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Minister of Finance, in the statement that my friend has alluded to, was saying nothing that he has not said on numerous previous occasions. As we win the battle against inflation, interest rates are bound to come down, with the resulting beneficial effect on the Canadian economy.

Senator Olson: But there is more to it than that. He says too:

> We have had a lot of success in reducing the inflation rate and that's why you see that there has been a reduction in interest rates by four percentage points since—

• (1410)

Are we going to continue to see this success that the Minister of Finance talks about, which is almost devastating the Canadian economy? Is that what he calls success?

Senator Murray: Honourable senators, the budget that the Minister of Finance brought down some weeks ago provides for a cap on increases in government program spending over the next five years. We are bringing in legislation to that effect, bold programs limiting spending increases to 3 per cent

annually. There are to be inflation targets in which the government and the central bank are cooperating, as the honourable senator knows. There is a provision in that budget, which will be followed up with legislation, to provide for a debt reduction servicing fund to which proceeds from privatization and the goods and services tax will be applied.

All these can be seen as policies which are intended to help bring down inflation and restore an acceptable rate of non-inflationary growth in the Canadian economy. So, yes, we anticipate further success with our economic policy—

Senator Olson: Raising unemployment levels.

Senator Murray: —and, yes, the result of that will undoubtedly be continued decreases in interest rates and renewed non-inflationary economic growth including a lower unemployment rate, a lower inflation rate and a more acceptable rate of economic growth.

Senator Olson: Honourable senators, that is a new definition of success in lowering unemployment rates, when last week they hit an all time high for six years. I believe 10.5 was the rate. If we are going to understand what the minister has to say, we will have to have a revised dictionary for certain words.

Another important point I wanted to make is that I believe there was an 11 point reduction in the bank rate last Thursday, but in the prior week it did not, in fact, move at all, and, indeed, in the week before that it went up. It was a very small amount, but it actually rose. Is there now a conflict between the opinion of the Minister of Finance and the governor of the bank with the minister saying that there is room and that there ought to be a reduction in interest rates, because we have so wrecked the economy that we are now faced with the current inflationary pressure? At the same time the Bank of Canada does not, in fact, continue to lower interest rates as rapidly as these other economic factors take place.

Senator Murray: The honourable senators should not become fixated on one week's—

Senator Olson: I gave you the results from four—

Senator Murray: The honourable senator should look at the trend lines. The trend line of interest rates for many, many weeks has been downward. We are determined not to make the same mistake that our predecessors made in following policies that have the effect of refueling inflation, thus triggering another upward spiral in special rates with the resulting recessionary impact on the economy.

We expect there will be a renewal of economic growth this summer, by which time we will be out of the current recession.

We have been following policies which will make that possible. Following the kind of policies that the honourable senator espouses would ensure a renewal of inflation and a renewal of an upward spiral in interest rates.

Senator Olson: I certainly hope that the honourable minister is not accusing the previous administration for the run-up in interest rates that has taken place since 1986. That is the clear implication he wants to leave—

[Senator Murray.]

Senator Murray: No; I am talking about your record between 1980 and 1984.

Senator Olson: The people of Canada want to know what will happen in 1991 and 1992. All these old ghosts that you have hauled back from 10 or 12 years ago were interesting 10 or 12 years ago. They are of no interest to Canadians now. They want to know from the government what it is going to do now.

If the Minister of Finance believes that there should be further substantial reductions in interest rates, why does the government not do that, instead of hiding and saying, "Well, there is some kind of trend line here, but we have stopped lowering them"?

The point is that we are still 400 basis points higher than the competitive rates in the United States. The Americans are our competitors in a whole lot of economic activity, including competitive factors.

Senator Murray: Honourable senators, I refer to what happened between 1980 and 1984, when interest rates were in the 20 per cent range. That was the worst recession in the history of the country.

Senator Olson: Except for now.

Senator Murray: I refer to that time not to make the honourable senator feel bad or to add to his guilt complex about these matters, but simply to state that we have learned something from the experience of our predecessors. We are determined not to repeat those mistakes. Because we have held to the course of our economic policy, we will be coming out of this short-lived recession this summer.

Senator Olson: Honourable senators, that is the kind of rhetoric and double-talk we keep getting from this minister. We now have the highest rate of bankruptcy in Canada ever. We have never had the levels of bankruptcy that we see for January and February. We do not yet have the statistics for March, but they are likely to break all the records. If that is the only way the government knows how to manage the economy, then it is pretty sad.

The minister brings up something that happened 10 or 12 years ago that was similar. He says that the government is not going to repeat it. It has repeated it already in 1986 and 1987 when interest rates went up by about 50 per cent.

The question I am asking—and I do not see why the minister does not get around to answering it—is this. Is the Minister of Finance in charge, or will the government lower these rates so that we get more in line with the competitive factors that make for long-time reliable employment in Canada? Will the minister simply continue to raise ghosts and spout rhetoric about what happened 10 or 12 years ago, which is a completely inadequate and irrelevant answer as far as the Canadian people are concerned?

Senator Murray: Honourable senators, as the economy emerges from the recession on to a path of sustained, non-inflationary growth, as it surely will this summer, I hope the honourable senator will be as quick to give credit where credit

is due and to attribute the renewal of economic growth to the steady policies of this government.

Senator Olson: If that happens, I will guarantee the minister that I will be quick to compliment the government. But there is no indication that that it is happening yet.

• (1420)

THE BUDGET, 1991

CUTS TO GRANTS AND CONTRIBUTIONS—PROGRESS OF REVIEW COMMITTEE

Hon. Lorna Marsden: Honourable Senators, I should like to ask the Leader of the Government if he has any further information regarding a question I asked on March 7 last about the committee established under the Chair of the Honourable Harvey Andre concerning cuts in grants and contributions of the federal government.

In his rely to my question at that time, the Leader of the Government said he anticipated that the committee would report in about six weeks, which would be next week. I wonder if that is still the case.

As the leader will appreciate, there are many voluntary associations that are making plans and are very concerned about such things as the review of the Employment Equity Act, and they wish to know what their situation will be with respect to funding as they prepare for that very useful activity in terms of public policy development.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know whether that report will be made by Mr. Andre next week. I shall inquire as to progress.

My recollection of the mandate of the committee is that it was to find a certain amount of savings in the present fiscal year, but rather greater amounts in future fiscal years. In that respect, I am sure everything possible will be done to minimize disruption to organizations that are now carrying on activities on the basis of government funding.

Senator Marsden: Honourable Senators, I thank the Leader of the Government for that information and would ask that he report as quickly as possible on the date on which we can anticipate seeing that report.

FOREIGN AFFAIRS

SRI LANKA—CANADIAN AID TO VICTIMS OF CIVIL WAR

Hon. Lorna Marsden: Honourable Senators, I have another question for the Leader of the Government in the Senate, which he may wish to take as notice. The country of Sri Lanka is gripped in a terrible civil war, as everyone knows, and every night death squads are operating and young men and women are disappearing. A group of women has recently established a Mother's Front, comparable to that which existed in Argentina a few years ago, which is led by Dr. Manorani Saravanamutu, a physician, who is trying to do what she and her colleagues can to help those woman whose husbands and sons have been killed and who have no means of economic subsistence.

Could the Leader of the Government look into whatever aid the Government of Canada is officially giving those women who are in such terrible circumstances under the conditions presently existing in Sri Lanka?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask the Secretary of State for External Affairs for an early report, which I shall bring to the Senate.

THE ENVIRONMENT

ELIMINATION OF TOXIC WASTE—REQUEST FOR UPDATE

Hon. Colin Kenny: Honourable Senators, five weeks ago I asked the Leader of the Government when, if at all, the government was going to place a second transportable incinerator to clean up PCBs and toxic waste. Honourable senators will recall that I have been asking this question for two years now.

On February 28 the Leader of the Government said that he did not have the information at his fingertips; but I wonder if he has managed to obtain it in the past five weeks?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am still awaiting a report from my colleague, the Minister of the Environment, on this matter.

Senator Kenny: In the same vein, would the Leader of the Government be kind enough to inquire about questions 56 and 58 on the Order Paper?

In the case of question No. 56, I have been waiting since September 27. In the case of question No. 58, I have been waiting since October 4, 1990.

Senator Murray: Honourable senators, question No. 56, to which the honourable senator has referred, takes up five pages in the *Minutes of the Proceedings* and actually consists of 28 questions, most of which are subdivided into further questions. It is a very detailed question, and I assure the honourable senator that we are working on it and that we will bring in a reply as soon as we can.

While I am on my feet I should say a word about our record in dealing with questions in this place. Since September 25 we have brought in 154 delayed answers to questions asked during the Oral Question Period. There are three outstanding questions as of this date and one delayed answer that will be replied to today by Senator Doody.

Senator Kenny: I appreciate the response of the Leader of the Government in the Senate, but it seems unfair, on the one hand, to suggest that my question No. 56 is composed of 28 questions and then, on the other hand, to say that only three questions await reply. Perhaps there are 28 questions to which we await replies, in which case the honourable senator's batting average has just dropped significantly.

Senator Murray: I was referring to oral questions.

AGRICULTURE

PRINCE EDWARD ISLAND AND NEW BRUNSWICK POTATO FARMERS—ERADICATION OF VIRUS—FINANCIAL SUPPORT—GOVERNMENT POLICY

Hon. M. Lorne Bonnell: Honourable senators, the other day asked the Leader of the Government if he could make available the plan for eradicating the PVYN virus in Prince Edward Island potatoes. While awaiting an answer from the minister I read in a newspaper from Prince Edward Island that the federal government had made available $7.9 million toward that plan. The opposition in Prince Edward Island—which is, of course, from the same party as the federal government—and the government of Prince Edward Island, which does not necessarily support the federal government in all things, passed a unanimuous resolution stating that it was not enough money, and that it would not help to eradicate the virus. In fact, the federal government has asked the farmers of Prince Edward Island to use the virus-infected potatoes for table stock, whereas the Government of Prince Edward Island is of the opinion that the potatoes should be destroyed to try to clear the whole province of the virus in one year.

Can the minister tell us if any progress has been made between the Minister of Agriculture of Prince Edward Island, the Minister of Agriculture for Canada, and the Premier of Prince Edward Island with regard to further financial aid for the hard-stricken farmers of Prince Edward Island, who will lose about $50 million as a result of the virus?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, frankly, I was not aware, although I am not surprised, that there is a difference of opinion between the two governments as to the amount of money that one side or the other would consider adequate for a program of this kind.

● (1430)

I will ask Mr. Mazankowski, the Minister of Agriculture, to provide me with a report on this matter, which I will bring to the Senate in due course. Meanwhile, I should draw Senator Bonnell's attention to the Speech from the Throne at the opening of the Prince Edward Legislature a short time ago in which the government of that province spoke favourably of the cooperation it had received from the federal government in addressing this serious problem.

Senator Bonnell: Honourable senators, cooperation is fine if dollars are attached to it. That would help the farmers of Prince Edward Island because, as you know, the province's economy has been almost completely destroyed in the last five years. Our potato industry has been destroyed by the virus, our hogs and cattle are getting pneumonia, and our lobsters have listeria. We can no longer sell our lobster to the United States because of their size. So our fish market is gone, our agriculture market is gone, and, because of the GST, our tourist market is almost gone. In Prince Edward Island all we have is agriculture, the sea and our tourism. In each case the Government of Canada is doing little to support the province, perhaps because the province did not send too many federal members to Ottawa to support the government in the last election. If that is the case, I am sure fewer MPs will be re-elected next time, because Canada sympathizes with the needs of Atlantic Canada.

I would ask the minister to talk to his Minister of Agriculture and Minister of Finance and put in a strong word in support of the farmers of Prince Edward Island to getting more money to help eradicate this virus so that their market to the United States will return to normal by next year. I hope Senator Murray will tell me that he will do that, because he comes from an area close to Cape Breton and he must have a soft spot in his heart for Prince Edward Island. I know the premier always speaks well of him, so I hope he will speak well of the premier and will do that for him.

Senator Murray: Honourable senators, in launching a partisan attack against the federal government, my honourable friend did a disservice to his own province by saying that agriculture is a disaster area and that the fishery and the tourism industries are finished. We recognize that there are problems, and we are working cooperatively with the Government of Prince Edward Island and the private sector to resolve them. One has only to read the Speech from the Throne at the recent opening of the Prince Edward Island legislature, and other declarations emanating from that government, to know that while there are problems the Government of Prince Edward Island attaches a great deal of importance to a continuation of the cooperative effort that has existed between the Government of Canada and the Government of Prince Edward Island for some years now. I much prefer the more constructive and forward-looking approach of the Premier of Prince Edward Island to the very pessimistic and, indeed, partisan attitude of my honourable friend.

Senator Bonnell: If you do, then will you ask the Minister of Finance and the Minister of Agriculture to provide more funds to the farmers of Prince Edward Island? We can then ensure that the cooperation from the Prime Minister and his cabinet, which was supposed to have been in the Speech from the Throne of Prince Edward Island, does not change in the future. Do not let down the farmers of Prince Edward Island when their finances are in bad straits. Many of them will not be able to put in their crops and many will go bankrupt.

Senator Simard: And in the meantime you will continue to be partisan.

Senator Bonnell: I think we should all be a bit partisan to see if we cannot get a little better leadership from the Government of Canada.

[*Translation*]

NEW BRUNSWICK

EFFECTS OF ECONOMIC CRISIS IN BORDER AREAS

Hon. Jean-Maurice Simard: Honourable senators, I would have two questions for the Leader of the Government in the Senate. My first question concerns what I consider can only be described as a crisis in New Brunswick, especially in three regions: in the northwest, a little less in the Campbellton area,

in Chaleurs Bay and certainly in the St. Stephen-Milltown region. It is the crisis in the border areas. Hundreds of jobs are affected in these regions because Canadians shop more and more in the United States.

Given the government's enviable record, I think, in showing its great sensitivity on many occasions as new problems arise, I hope that the government is well aware of the situation and that an overall approach has already been considered.

Some of our opponents and other people who no doubt are quite ignorant of the real causes of this crisis attribute this new surge of Canadian shoppers to the United States to the Goods and Services Tax or the Free Trade Agreement. Others, and I am one of them, believe that a third factor, equally important, is the present recession. I suppose that with the recession, people want to save as much as possible to make ends meet.

Therefore my question for Senator Murray is: Has the government studied this problem or is it planning to do so in order to investigate the situation and find what solutions might be applied?

Hon. Lowell Murray (Leader of the Government in the Senate and Minister of State (Federal-Provincial Relations)): Honourable senators, I wish to thank Senator Simard for his question. I took careful note of his representations.

I will ask my colleague, the Minister of Finance, for a report as soon as possible.

Senator Simard: Thank you, Senator Murray.

I might add that the Government of New Brunswick, led by Mr. McKenna, has already hired a firm to study this problem.

It might be appropriate, in a spirit of co-operation, to join them or to contribute to this study. This is a very acute problem.

NEW BRUNSWICK

ENTRENCHMENT OF BILL 88—REQUEST FOR PRODUCTION OF PAPERS

Hon. Jean-Maurice Simard: I have a second question, further to a series of questions I raised on March 27 concerning the need to entrench the provincial legislation recognizing the two official communities in New Brunswick, commonly known as Bill 88.

I learned last weekend in New Brunswick that there had been an exchange of documents between the federal and provincial governments. If there was an exchange, it means that there was a reply to a letter from Mr. McKenna to the Prime Minister of Canada in March. Neither the reply nor Mr. McKenna's letter were made public.

Senator Murray, could you do everything in your power to make public this exchange of letters on such an important subject as soon as possible? I think that we could thus help advance the debate on Canadian unity and possibly let Canadians and especially New Brunswickers know where the federal government stands on the subject.

Hon. Lowell Murray (Leader of the Government in the Senate and Minister of State (Federal-Provincial Relations)): Honourable senators, parliamentary tradition requires that we obtain the consent of the other government involved before tabling such papers.

If the Government of New Brunswick agrees, I will be pleased to table the letters from the Prime Minister of Canada and the Premier of New Brunswick on this subject.

Senator Simard: Thank you, Senator Murray.

• (1440)

[*English*]

Hon. Sidney L. Buckwold: Honourable senators, the first question posed by Senator Simard raised a very interesting point. He referred to the very significant and serious impact on the Canadian economy of cross-border shopping. In his remarks he said that there were three reasons for this. The first, he said, was the Free Trade Agreement.

Senator Simard, do not shake your head, because it is on the record and I made a note.

The second reason he gave was the GST—

Senator Simard: On a point of order, please allow me to respond. I will not take much time. I am on the record as saying—and I know these people are doing their job, contrary to what you people say—that certain people invoke two reasons: One is the GST and the other is free trade. The record will show that I added one other reason: that it is mostly because of the current recession. So please don't put words in my mouth.

Senator Buckwold: I seem to have touched a very sensitive nerve. Senator Simard outlined two reasons and then said there was a third reason. In other words, accepting the fact that there are two very significant reasons, his third reason was the recession which, in fact, has partially been caused by the first two reasons.

The fact is that the opposition to the GST raised the point that not only was it poor legislation but that probably the worst part of it was that the timing was wrong. We outlined all the various reasons why this was not the time to introduce it. It was even the subject of an amendment.

Senator Simard: What is your question?

Senator Murray: When would have been a good time?

Senator Buckwold: We now have agreement by an important member of the committee that, yes, this has created serious problems because, honourable senators, cross-border shopping is a serious problem.

My question to the Leader of the Government is: Does he agree with his colleague, Senator Simard, that a good part of the problem facing Canadian industry, and especially the retail trade—which has resulted in the worst unemployment record we have seen in many years—is, in fact, a result of free trade and the GST?

Senator Murray: The honourable senator is against free trade with the United States; he is against free trade with the

United States, Canada and Mexico; he is against the GST, and he is against any of the economic policies which would have the effect of bringing Canada into the 21st Century and making it competitive in the 21st Century. None of that is surprising. I reject his statement that Senator Simard agrees with the position taken by the opposition on that matter. Senator Simard very carefully attributed those statements to commentators and other people of the general public who have been writing or speculating about these matters.

As for the GST, I think it is only fair to remind the honourable senator that it has been in place now for four months and it is rather premature, to put it mildly, of the honourable senator to attribute any economic impact to the imposition of that tax.

Senator Buckwold: I have a supplementary question for the Leader of the Government, who indicates that these economic policies are going to lead Canada into the 21st Century. My concern is that we may not make the 21st Century if the policies of the government continue, as they have done, to wreck the economy of this country. That is not only my opinion, it is even the opinion of those who supported free trade. It is even the opinion of those who supported the GST. It is their opinion that the results of all these policies have been an absolute tragedy for the Canadian economy and opportunities for employment.

Does the Leader of the Government really and sincerely believe—and I have every admiration for his sincerity—that because we have had only four months to look at the effects—and I am sure he has read the report of Statistics Canada indicating the quite serious economic effect on the price index, much more than was anticipated by the government in last week's news—there has been no significant impact? Does he really believe that all these marvellous things, such as more employment and lower prices, will happen when in the last four months the retail trade has been devastated and a province like Saskatchewan suddenly finds there is a way of getting a little money and moving in as Quebec did and as other provinces may be? What can he expect to happen without properly recompensing those low-income people who are suffering from the regressive nature of this tax? Surely there must be some feeling in his heart that this has been a contributing factor to the terrible economic crisis that this country is going through.

Senator Murray: The honourable senator, together with Maude Barlow, Shirley Carr and other critics of the Free Trade Agreement, are wont to contribute to the Free Trade Agreement layoffs in industries that are not even covered or affected by the Free Trade Agreement.

The honourable senator also knows that the country has been in an economic recession, although I believe it will turn out to be a short-lived one because we expect we will be out of it by the summer. He should not, therefore, attribute layoffs, and other phenomena of this kind that are caused by the recession, to the Free Trade Agreement or to the GST.

[Senator Murray.]

It is too early to draw the kind of negative conclusions that the honourable senator is drawing from the operation of the GST. We will have to wait many months yet to draw proper and accurate conclusions as to the impact of the GST on the Canadian economy.

We continue to believe, as the weight of evidence from all the economic experts indicates, that the overall impact of the GST on the Canadian economy will be positive. Indeed, we believe that it will result, by itself, in a very considerable increase in economic growth in the country.

NATIONAL DEFENCE

CLOSURE OF CFB SUMMERSIDE, P.E.I.—STATUS OF SEARCH-AND-RESCUE OPERATION

Hon. M. Lorne Bonnell: Honourable senators, on another question, I noticed in an article in a daily newspaper in my province that the Department of National Defence is still transferring servicemen to Summerside. I also noticed, some days ago, an independent survey which showed that to move 413 Squadron of search-and-rescue from Summerside to Nova Scotia would cost the Government of Canada many more millions of dollars than if it were to leave it where it is.

In view of the fact that more personnel are being transferred to Summerside, and the fact that new information indicates that it will cost many more millions of dollars to move, would the Leader of the Government advise me if the Department of National Defence is considering leaving 413 Squadron search-and-rescue in Summerside rather than move it at a cost to the taxpayers?

● (1450)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no reason to believe that that is the plan of the Department of National Defence, nor do I have any reason to accept the premise of the honourable senator's question. I shall ask my colleague, Mr. McKnight, for a report and will bring it in as soon as possible.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

STAVENGER, NORWAY

OFFSHORE NORTHERN SEAS PETROLEUM EXHIBITION

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 52 on the order paper—by Senator Marshall.

PROTECTION OF THE ENVIRONMENT

PREVENTION OF MARINE POLLUTION—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government) tabled the answer to Question No. 57 on the order paper—by Senator Kenny.

Hon. Eymard G. Corbin: May I ask the Deputy Leader of the Government when I may expect an answer to my written

Question No. 73? I was promised a speedy answer on a number of occasions.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Is that the question concerning Mr. Flynn?

Senator Corbin: Yes.

Senator Murray: I believe there is a draft reply, if not on my desk, headed for my desk imminently, and I will try to bring in the reply this week. If the draft is satisfactory to me, then I am sure it will be satisfactory to my friend, and I will bring it in this week.

Senator Corbin: Just do not change the amount.

Senator Murray: Come on now!

Senator Corbin: It was a simple question and it requires a simple answer.

OFFICIAL REPORT

CORRECTION

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, before the Orders of the Day are called, on behalf of Senator Frith I should like to make a correction to the record of *Senate Debates* of December 11, 1990. In that speech Senator Frith was referring to former House of Commons Speaker Louis René Beaudoin and not to our colleague, Senator Gérald Beaudoin.

On page 4849 of *Senate Debates*, December 11, 1990, at the bottom of the first column the word "Speakers" should be inserted before the names of Beaudoin and Charbonneau. In the French version the word "Senators" should be deleted and the word "Speakers" be inserted there.

This correction arises from discussions between Senator Frith and Senator Beaudoin.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government) moved the third reading of Bill C-93, to amend the Bretton Woods and related Agreements Act.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, before the bill is given third reading, I wish to continue the discussion that we had on second reading and draw, to some extent, on the evidence that we heard in the Foreign Affairs Committee when the bill was considered there. I also wish to make some comments on Canadian indebtedness, which subject was referred to by one of the ministers in introducing the bill in the House of Commons or by the spokesman in the Senate.

As honourable senators know, the main purpose of Bill C-93 is to increase Canada's subscription to the International Monetary Fund on the occasion of IMF quota increases approved under the Ninth General Review. We support the bill. The IMF is a needed institution. It helps maintain the balance of order in the world's monetary and financial system. The danger is that it may become marginalized because of the large financial flows that continuously move across the globe. Certainly the IMF should not fail or should not be jeopardized because of inadequate resources. The proposed 50 per cent quota increase will help it respond to a number of challenges that it will face during the next five years.

I also welcomed Bill C-93 on second reading because it gave us an opportunity to update our consideration of the utility of the IMF and other international financial institutions and to consider the debt problems of developing countries. I mentioned that the Standing Senate Committee on Foreign Affairs had produced a most helpful report on these subjects in 1987 and that the examination of Bill C-93 in the committee would permit us to look back to what we had done under the chairmanship of Senator van Roggen, to see whether any progress had been made in the intervening years in the resolution of the debt crisis.

The world debt problem is far too large a subject to be dealt with in the remarks that I intend to make today. Therefore, I should like to highlight a number of developments that seem to have taken place since the publication of the Senate committee report. These developments provide a fair indication of progress achieved and the major challenges still to be met not only by the IMF but also by the world community.

To begin with, public awareness of the debt problems of developing countries has grown not only among the general public in industrialized countries but also among their governments and private lending institutions. At the beginning of the 1980s, the typical response to the rapidly rising debt burden of developing countries was debt rollover. It was not until the mid-eighties that means of reducing the stock of international indebtedness for the benefit of heavily indebted countries began to receive serious consideration. Since then, we have seen the development of new programs and procedures by the World Bank and the IMF to bring some relief to the heavily indebted countries. We have also witnessed the elaboration of a number of plans and mechanisms designed not only to help reschedule debts and alleviate the strain of structural adjustment but also to reduce the stock of debt itself. We cannot measure the contribution made by the Senate committee report to greater sensitivity to the pressing need for debt relief, but it was a step in the right direction.

• (1500)

This increased sensitivity did result in some achievements. The rise in the debts of developing countries reached a plateau of about 1.2 trillion in 1987, 1988 and 1989. However the stock of debts began to rise again in 1990 to 1.3 trillion.

Another important development since we looked at the situation in 1987 has been the reduction of the commercial banking sector's vulnerability. Provisioning policies, restructuring and debt conversions have reduced the exposure risks of private banks. The virtual suspension of net private loans in

1987, and their feeble recovery since, have also contributed to reduce private banks' involvement. Public involvement, however, has grown, particularly with the increase of net official loans since 1989 and the cancellation of some public debt. I certainly welcome this development because one of the thrusts of the Senate report was that governments ought to play a greater role by initiating a number of measures to help developing countries.

My third observation is that the experience of the past few years has confirmed the relevance of the case by case approach. The ability of the creditor community to negotiate tailor-made packages for individual countries largely accounts for success stories such as the deals with Mexico, Chile and Costa Rica. It might be added here that in the committee it was difficult to cite a large number of success stories in addition to those three. One might mention Columbia, which has maintained a stable situation, and possibly Venezuela.

I think it is true to say that success stories are still too few and far between. The last three years have demonstrated that many debt-ridden countries are unable to carry out the restructuring and adjustment policies expected of them, and this is particularly true of the severely indebted, low income countries concentrated in Sub-Saharan Africa.

How could adjustment policies be made to work in countries which, in the words of the World Bank:

> suffer from structural weaknesses such as undiversified, primary commodity exports, rapid population growth, and poorly developed education and health systems.

Clearly this group of countries will not be able to manage scheduled debt service without recourse to further arrears and rescheduling for the foreseeable future.

That brings me to another new and disturbing feature of the world debt scene, namely, growing arrears. The stock of arrears and its rate of growth is, in a sense, a crude measure of the failure of existing remedial measures to deal with world debt problems. The growth of arrears was particularly rapid between 1985 and 1987, but has continued since. At the end of 1989 interest arrears stood at US $35 billion and principal arrears at US $44 billion for a total of US $79 billion, or 6.4 per cent of developing countries debt. Arrears are estimated to have grown to US $86 billion in 1990. This compares with the debt of US $64 billion for Argentina and US $95 billion for Mexico, which are among the world's largest debtors.

The solution is certainly not to deprive countries in arrears of their voting rights in the IMF. This might be of some use to deter irresponsible governments, but the list of countries with arrears include Argentina, Brazil, Ecuador, Egypt, Nicaragua, Panama, Peru and Zambia. The World Bank has flagged with concern the dramatic growth of arrears during the past five years, noting that it has:

> disturbed creditor/debtor relations, reduced the access of countries running arrears to vital trade credits and foreign investment and complicated foreign trade financing.

Clearly there is a policy gap waiting to be filled.

[Senator MacEachen.]

The Brady initiative was geared to the problems of severely indebted middle-income countries with high levels of commercial bank debts. The current strategy is built on access to debt reduction facilities with the support of international financial institutions for countries with sound adjustment programs. This strategy falls short when applied to countries unable to support the cost of such adjustment. It does not deal effectively with the problem of arrears. With the stock of developing countries debt growing again, my view is that we should not look complacently at progress made since 1989, but rather agree with the World Bank that "despite hopeful signs, the debt crisis is far from over."

Those are some of the comments that seem to have come out of the discussion in the committee. I do not intend today to deal with Canada's policies towards developing country debt issues, but I want to take the opportunity to cover one particular aspect of Canada's involvement with foreign indebtedness, which is Canada's own external debt. I do that because I raised the question about two years ago in this chamber, specifically on June 21, 1989, in relation to the Borrowing Authority Bill 1989-1990. At that time I expressed some concern over our growing foreign indebtedness, and my concern was aroused by two statements which appeared in documents issued by the Department of Finance and which I had looked at.

The first statement, contained in a 1989 publication entitled "Canada's economic prospects for the 1990s", indicated that by 1988 Canada's international indebtedness was estimated to have risen to just over 38 per cent of GDP from 35 per cent in 1985. It had not been in this range since the mid-1960s. That is one statement that caught my attention.

• (1510)

The second statement, contained in the 1989 Fiscal Plan, acknowledged that approximately 19 per cent, or about $50 billion of the outstanding government of Canada debt, was held by non-residents. I think that is a matter we ought to look at and be aware of.

As I pointed out on that occasion—and it is a point which is still valid—using capital from abroad to finance economic investment in Canada was a feature of Canadian history, but it was a different matter when foreign savings were used to finance consumption and the deficit. I was less concerned by the figures than by the trend when I said, "If this trend continues, I think it will be a worrying factor."

There are a number of ways of measuring the degree of Canada's dependence on foreign savings. I have looked at a number of them for the purposes of identifying trends and of getting some points of reference to compare Canada's foreign indebtedness with that of other countries. I certainly have not done everything that should be done to have a comprehensive picture. However, I do have some comments that may at least introduce the subject for discussion.

Let me take a look at the current account deficit. A first indicator of Canada's dependence on foreign savings is to be found in the balance of payments flows on the current account

and the capital account. These flows provide a clear measurement of foreign capital movements as they affect Canada, and measure changes in Canada's foreign indebtedness. In simple terms, the current account includes merchandise import and export trade, non-merchandise trade, service transactions, investment income and monetary transfers.

The current account deficit climbed from $9 billion in 1987 to $10 billion in 1988, and to $16.6 billion in 1989. In 1990 it was $16 billion.

When I addressed this subject in June 1989 I was concerned about a current account deficit running at a yearly rate of about $10 billion for the previous three years. We now know that it has been running at the much higher rate of about $16 billion over the last two years. Thus, the upward trend has been accelerating.

I should flag also at this point that the deficit on foreign investment income, which stood at $16 billion in 1987, was $24.2 billion in 199O. With this $8.2 billion increase, which largely reflects higher borrowing from abroad, the deficit on foreign investment income for 1990 is an all-time record.

I would now like to deal with the capital account, which records outward and inward flows of direct and portfolio investment, of foreign and Canadian bonds, changes in Canada's official reserves and Canadian banks' net foreign currency transactions with non-residents.

The capital account makes equally interesting reading. Net capital movements, including so-called statistical discrepancies, increased from an inflow of $12.2 billion in 1987 and $14.2 billion in 1988 to an inflow of $22 billion in 1989 and $21 billion in 1990. The increase of Canada's foreign indebtedness in 1987 represented 2.2 per cent of the GDP. The increase in 1990 accounted for 3 per cent of the GDP. Thus, the trend revealed by balance of payments figures over the past four years is unmistakable. There has been a significant acceleration of Canada's foreign indebtedness.

As I said a moment ago, this trend in itself is not necessarily distressing inasmuch as foreign savings are used to finance investment and sound development in Canada. In order to get a deeper view I also looked at the stock of foreign investment in Canada, using Investment Canada's report of January 1991, entitled "International Investments: Canadian developments in a global context".

My first observation is that Canada's share of the world stock of inward direct investment has been declining. In 1967 Canada accounted for about 18 per cent of the world's direct foreign investment. In 1987 this share had dropped to 8.5 per cent.

It will be of interest to note that in 1967 the United States accounted for 9.4 per cent of the world stock of inward direct foreign investment. In 1987 it accounted for over 25 per cent of the stock.

Thus, while our foreign indebtedness is increasing, our share of the world's stock of direct investment is declining. Concomitantly, foreign portfolio investment in Canada has been increasing faster than direct investment over nearly a decade.

Honourable senators can draw their own conclusions concerning all of this. It makes food for thought.

Another important feature is the relative importance of foreign acquisitions versus new businesses and expansions. In the early 1980s acquisitions accounted for about 7 per cent of gross inflows of foreign direct investment. During the past two years they accounted for more than 50 per cent of the total. These trends are important for the insight they provide into the use of foreign savings for investment and developmental purposes.

Direct foreign investments in productive capacity is generally regarded as the most desirable form of investment for development purposes because of their effects on transfers of technology, opening up natural resources, job creation, diversification, increased competition, and linkage between profitability and exported earnings. Somewhat similar benefits can be derived from reinvested earnings.

It is worth noting on this score that while reinvested earnings accounted for 73.8 per cent of the growth in the stock of direct foreign investment in the period 1983-89, this percentage has declined to 56.3 per cent in the 1986-89 period.

To sum up, Canada's liabilities abroad have not only been rising more sharply, particularly over the past two years, but their composition has also been changing. Foreign direct investment has declined relative to portfolio investment. Reinvested earnings have declined relative to new direct investment. New business and expansions have declined relative to foreign acquisitions, particularly over the last two years, when the latter accounted for more than 50 per cent of foreign direct investment.

While this last feature reflects large transactions such as the sale of Texaco Canada and of Consolidated Bathurst, they evidence the strength of foreign-based merger and acquisition activity in Canada. Recent large increases in foreign portfolio investment also suggest their responsiveness to interest rate differentials. If, indeed, divestitures, acquisitions and interest rates have become such large factors in moving inward flows of foreign savings into Canada, the quality and ultimate use of these flows is moving away for more traditional flows of foreign savings, which were directed into productive investment and contributed so much to the development of the country.

• (1520)

Honourable senators, I am not suggesting, nor do I want to leave the impression, that these trends are alarming, but they should, in my judgment, be matters of continuing concern, particularly since a large portion of the inflow of foreign savings is now consumed by the government sector. This is a new trend. I mentioned this fact in 1989 and the trend has accelerated.

The 1990 Budget and the 1991 Budget papers contained two charts on sources and uses of savings, showing the relative importance of foreign and private domestic savings available to offset the total government sector deficit. In 1984 this deficit stood at 6.5 per cent of GDP. Domestic savings amounted to

7.1 per cent of GDP and foreign savings at -0.6 per cent of GDP. This negative figure means that in 1984 Canada was actually reimbursing government-held foreign indebtedness. Four years later, in 1988, foreign savings, 1.7 per cent of GDP, had become a more important source to offset the government sector deficit than domestic savings. The situation deteriorated further in 1989 with foreign savings accounting for 2.9 per cent of GDP against domestic savings of 0.7 per cent of GDP. In 1990, with the recession, domestic savings to offset the government sector deficit did rise to 1.3 per cent of GDP, while foreign savings remained fairly stable at 2.4 per cent of GDP. However, at that level, foreign savings were almost twice as large as domestic savings to finance the government sector deficit and continued to register a serious deterioration from the situation which prevailed up to the mid-1980s. That is a startling fact that has to be considered by all of us.

As is to be expected, the 1991 Budget takes a rosy view of the future. A dramatic change is expected in 1991 as the projected trend is reversed and domestic savings become again a more important source than foreign savings in offsetting the deficit. By 1993-96 the 1991 budget predicts the total elimination of the foreign source of savings, a development I certainly would welcome, since it would put us back, after more than ten years, into the healthy situation which prevailed in the early '80s. The unfortunate practice of financing our government sector deficit by borrowing abroad would come to an end. However, these happy prospects tie in with Mr. Wilson's budget deficit reduction plans, which I intend to review on another occasion, and even if those plans have more success in the future than in the past, Canadians will still be left with the job of reimbursing what will be, by then, a huge government-held foreign debt.

In looking further at government-held foreign debt, I have tried to identify trends in federal government liabilities to non-residents. Figures are made available by the Bank of Canada in the Bank of Canada Review and in the Statistics Canada Report of Security Transactions with non-residents. Based on these figures, the increase in federal government liabilities in 1988 was $12.8 billion. In 1989 the increase was $8.8 billion. In 1990 the increase was another $9.9 billion.

The result of these calculations is somewhat startling. In 1988 the increase in government liabilities to non-residents amounted to 35 per cent of the inflow of foreign capital. In 1989 it amounted to 26 per cent of the inflow. In 1990 it amounted to 32 per cent of this inflow. These figures provide an insight into how much of our foreign capital import flows has been consumed by the federal government. In should also be noted that the increase in federal government liabilities abroad has accounted, for the last few years, for about 40 per cent of the government's cash requirements. The government has gone abroad to borrow 40 per cent of its cash requirements. Thus we have ample evidence that the rapid build-up of Canada's foreign indebtedness is, in a very significant way, the result of never-ending federal budget deficits and of the resulting borrowing needs of the Canadian government.

[Senator MacEachen.]

I think the reality is plain enough, that we are in a new phase when we begin to finance our current consumption by foreign savings that have amounted to approximately 40 per cent of the cash requirements of the government in recent years. That is the trend that I talked about two years ago—a trend that has accelerated.

I would like to say a word, in conclusion, on Canada's growing international indebtedness, with a few observations on the stock of debt rather than flows which I have just discussed at some length.

With large continuing net inflows of foreign savings, Canada's foreign debt and federal government liabilities abroad have grown accordingly. The evaluation of the stock of direct foreign investment and portfolio investment in Canada is a very complex exercise. I am aware that Statistics Canada is shortly to release some figures on Canada's foreign indebtedness and I am therefore putting forward the last available figure on stock of Canada's total net liability to foreigners as an order of magnitude. The estimated net figure for 1989 is $229 billion.

With a net inflow of about $21 billion in 1990, the current Canadian indebtedness abroad would now be in the order of $250 billion.

Senator Buckwold: Is that only federal?

Senator MacEachen: No, that is total indebtedness.

The estimated gross figure for 1990 is $409 billion. If these figures are valid, as I trust they are, they enable us to draw a few conclusions.

First, the federal Government of Canada, with $75 billion of foreign liability, accounts for about 30 per cent of this stock of $250 billion of foreign indebtedness.

• (1530)

Honourable senators will remember the statement contained in the 1889 Fiscal Plan, to which I referred a moment ago, stating that approximately 19 per cent, or about $50 billion of outstanding Government of Canada debt was held by non-residents. Clearly we have no reason to rejoice. Two years later the proportion has gone up to 30 per cent and the stock of the Canadian government foreign debt has gone up by 50 per cent. Contrary to most forms of foreign indebtedness, that of the Government of Canada's is sterile and has to be serviced and redeemed by all Canadians. With its present order of magnitude, its service is a significant drain on our balance of payments. That is my first conclusion, and probably it is the most important one and the one that is most significant in a discussion of Canadian indebtedness and the state of the Canadian government.

The second conclusion is that—I do not know how to put this in order to be as accurate as I want to be, but let me put it this way: Canada has now joined the ranks of the world's most severely indebted countries. There are many of them, developing countries and developed countries, and Canada is a member. So I think we should bear in mind the difference between a developed country and a developing country. Let us take a look at some of the countries. The total foreign debt

stock, both public and private, measured in U.S. dollars, of Argentina is $64 billion; Brazil is $111 billion; Egypt, $48 billion; Mexico, $95 billion, Poland, $43 billion; and Venezuela, $33 billion. All of these are dwarfed by Canada's foreign debt, which, on a comparable basis for calculation, was about Canadian $210 billion for 1989. The situation is, of course, much worse if expressed in per capita terms. Honourable senators will also remember the Minister of Finance's admission in the 1989 publication I mentioned earlier that Canada's international indebtedness by 1988 was estimated to have risen to just over 38 per cent of GDP from 35 per cent in 1985. Last year the figure had risen further to 47 per cent. Thus, the trend has not only continued but accelerated.

The third conclusion, and it is brief, that has struck me is how silent the government has been about these important developments in the financial position of Canada in the world. I think we are entitled to ask whether the government is satisfied with the current trends and, if so, what is the source of its satisfaction. It would be reassuring if there were a convincing reason why we should regard this as a satisfactory development, particularly the changes in the composition of our indebtedness and the considerable proportion of that indebtedness that is federal government debt, sterile debt. If our anxiety or our concern can be assuaged, that would be okay. If, on the other hand, the government shares in the concern I have expressed today, it would be useful to know why these concerns are not reflected in any of its policies and plans, given the fact that increasing foreign indebtedness on the current scale of magnitude will inevitably place new constraints on the management of Canada's public finances.

Thank you, honourable senators, for staying with me through that analysis.

Hon. Sidney L. Buckwold: May I ask a question of Senator MacEachen? It seems that the next step that the honourable senator would have gone into, had he wanted to inform us, is the net result of this very startling, almost horrendous group of figures that he has given us, something about which I think every Canadian has to be concerned. Given the impact on the foreign exchange value of the Canadian dollar and the impact on interest rates of the information and statistics the honourable senator has given us, can we realistically look for a cheaper Canadian dollar vis-a-vis the American dollar or significant lower interest rates in comparison with the United States?

Senator van Roggen: The answer is no.

Senator MacEachen: I think I will save the answer for another day, because I do not think it is an answer that I would like to give off-the-cuff, to say that what I have said would have the impact of affecting decisively the trends in foreign exchange or affecting interest rates. Obviously there are interrelationships. I think the government has made it clear from time to time in its own documents that the inflow of capital into Canada has been influenced by the interest rate policy of the government or of the Bank of Canada. That is obvious. It is also reasonably obvious that the value of the Canadian dollar on the financial markets is influenced by the demand and supply of the Canadian dollar. Certainly the inflows of capital have a considerable impact on that demand.

So I think the question is clear and sound and that the interrelationships are clear, but to draw a definitive conclusion off-the-cuff in answer to the honourable senator would be somewhat daring.

Motion agreed to and bill read third time and passed.

[*Translation*]

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator David, for the second reading of Bill C-91, An Act to amend the Financial Administration Act and other Acts in consequence thereof.—(*Honourable Senator Simard*).

Hon. Jean-Maurice Simard: Honourable senators, I would like to pick up this debate where I left off on March 27, 1991. I urge you to listen first to the arguments that I will submit to you, arguments which, I think, will be quite convincing, and to examine them more thoroughly as quickly as possible so that Bill C-91 can be referred to a committee this week and perhaps even today.

Let's get into the heart of the subject-matter of Bill C-91, An Act to amend the Financial Administration Act and other Acts in consequence thereof.

As some of you surely know, the Financial Administration Act, which came into effect in 1951, sets out the principles and practices underlying financial management within the federal government. However, these principles go back to Confederation and even before that, and they have remained relatively stable since that time.

Although the amendments contained in this bill are essentially of a technical nature, they are an integral part of the government's management strategy.

Their purpose is, first, to make the financial management process more efficient; secondly, to modernize certain procedures that have become outdated and cumbersome over the years; and, thirdly, to correct errors in the wording of the act in French or in English.

As well, the utimate objective remains unchanged since it is still to adapt the financial management within the federal administration to the reality of the 1990s and beyond.

Even though the amendments tabled today have been designed, as I have said earlier, to bring the financial management into line with business practices of the present decade, they still preserve carefully the fundamental precepts of the parliamentary control to which I have referred a moment ago.

• (1540)

[*English*]

Honourable colleagues, by permitting the use of modern electronic technology, these amendments would assist departments in meeting increasing demands with limited resources

for the benefit of all Canadians. More specifically, they would improve the management of the federal government's cash inflows and outflows, increase the efficiency with which government programs and services are administered, and streamline certain internal initiative processes that are not reflective of modern business practices. Also, the legislation will clarify certain roles, responsibilities and authorities. It will also strengthen the management of accounts receivable and provide enhanced tools to better manage the public debt and more flexibility in funding the delivery of services, thereby providing better service to the public. I therefore urge my colleagues to endorse and enthusiastically pass these amendments which I will now briefly summarize.

[*Translation*]

Firstly, the bill includes some organizational provisions designed to officialize the Treasury Board's role with regard to planning and managing capital assets. Those provisions will allow the Treasury Board to continue implementing an administrative framework for capital assets which focuses on long term investments in the name of Canadian taxpayers. Another organizational provision will identify the role played by the Treasury Board and the Governor in Council in the approval of the plans and budgets of Crown corporations.

Secondly, the few minor changes set forth will enhance the legal provisions dealing with cost recovery. Honourable senators, you will certainly agree with me that it is only fair and reasonable that costs of services, fees and advantages provided by the government to private users or classes of users be paid by those very users. These changes will also guarantee Canadians a better control over policy implementation because they will clarify the wording of the act so as to minimize interpretation errors.

They also confirm the secondary role of the Financial Administration Act by specifying that costs incurred under the act will be subject to the provisions of all other legislation.

The changes included in the bill will guarantee further that users or classes of users concerned will be consulted and that their comments will be considered before costs are incurred.

The changes also postulate that the ajustment of initially established costs and prices must be done through the regulatory process and, consequently, that users and classes of users concerned will be able to have their say.

Finally, the changes guarantee all classes of users that they will not have to pay higher costs than those for which they receive services and benefits. In other words, there will be no cross-subsidization between users or classes of users.

[*English*]

Honourable senators, these changes will be comforting to Canadians. The same is true of the other amendments. However, lest there be some misconceptions, I should note that the cost recovery changes do not apply to the setting of fees and charges by crown corporations. Crown corporations operate at an arm's-length relationship from the government and do not use the Financial Administration Act as the basis for charging for the goods and services they provide through their normal activities.

Thirdly, there are several amendments designed to improve cash management and modernize the government's payment practices. Among these are provisions to make collection agency fees statutory disincentive, thereby eliminating the current budgetary restrictions faced by departments when using them. The legislation also includes a provision to charge interest on overdue accounts, which total hundreds of millions of dollars, and to impose an administrative fee for NSF cheques. Of course, this would not apply to those Canadians who pay their accounts on time, and there are built-in provisions to waive or reduce interest charges where warranted—for example, for humanitarian reasons or where delays in recording a payment caused interest charges to accrue.

Honourable senators, on the other side, expansion of debt forgiveness authorities will provide the means to forgive any debt when it is in the public interest to do so or when collecting a debt or enforcing the repayment of an overpayment would be unreasonable or unjust. This provision also addresses a recommendation by the Standing Senate Committee on National Finance included in its fourteenth report of March 19, 1986.

Honourable colleagues, other provisions in the bill will be of particular benefit to the government's suppliers.

• (1550)

By streamlining the payment process and permitting the government to take full advantage of electronic payment techniques with electronic transmission, arrangements can be made to ensure that payments are not just issued but are actually in the suppliers' hands by the due date.

This measure and this whole bill can be called a "good news" measure or "good news" legislation. It provides for fair and equitable treatment and puts an end to good taxpayers actually subsidizing bad or late-paying taxpayers. When the Minister of Finance made his intention public a couple of months ago a number of taxpayers said that it was about time the government collected the money due to it and charged interest on overdue accounts. Of course, there are provisions in the Income Tax Act to charge interest on late income tax payments, but there are many other situations where interest could not be collected.

[*Translation*]

Also included in the other improvements made to the financial administration process are: the simplification of the approval process for the remission of taxes, the clarification of requirements related to the recording and discharge of debts at the end of the fiscal year, and, if need be, the use of forecasting and expenditure limits to eliminate unjustified overhead.

With the improvements made to the planning and budgetary processes, the financially viable Crown corporations of a commercial nature named in Part II of Schedule III will have to take into account the payment of dividends in their annual corporate plans.

I am sure that this matter will be of interest to my honourable colleagues when this bill will be studied in committee.

I, for my part, have some questions on the subject, that I consider to be very relevant.

[*English*]

In summary, honourable senators, a number of the amendments contained in this bill are designed to bring financial management practices in the government into the modern age and to increase productivity without sacrificing or diluting the fundamental principles of parliamentary control of expenditures. This bill will benefit Canadians and I urge that you give it rapid consideration and speedy passage, at the end of the month for example.

Senator MacEachen: When?

Senator Simard: Maybe at the end of the month. I was pleased to learn earlier today that the chairman of our committee is prepared to sit tomorrow. I told our deputy leader that I hope the committee will see fit to sit not only this Thursday but possibly Friday or Monday or next Tuesday so that within the next ten days we can wrap it up, having heard all the complaints and suggestions. I am sure that the opposition, including Senator John Stewart, will want to know what this bill is all about. I know that when public servants come up with what they call housecleaning initiatives, we are always concerned; so the onus will be on the public servants to tell us that it is not just routine and that all the implications are understood.

Yes, Senator Stewart, you have a friend on our side and we will make sure that not too many things are hidden in the bushes and that people do not spring surprises on us. I am all for that. At the same time, some of us have pet projects that we would have loved to have included in the bill. I know that Senator Stewart may have a couple of concerns that he would have liked to have the bill correct, but, in my humble opinion, they would not be sufficient to warrant delaying this bill or voting against the bill altogether. There will be other bills in the fall or next year which can deal with these other subjects in which we have an interest. We are prepared to have the committee sit even if the Senate is not sitting and I am sure that in the next two or three weeks we can report the bill, perhaps with some recommendations for the government to consider.

Senator MacEachen: Amendments? Would you take amendments?

Senator Simard: I am talking about recommendations at this time.

Senator MacEachen: Amendments?

Senator Simard: The committee has done quite a good job with the bill. It has suggested measures that have been asked for by Canadian businessmen and by the average taxpayer. So I would hope that the Opposition, Senator MacEachen included, would tell us whether they want these amendments next year. The government will listen, as it has done on many occasions.

As Jeffrey Simpson was saying last week, Mr. Chrétien—and, God willing, Senator MacEachen—will be with us for many more months as leader of this party and will want to contribute to debate and offer suggestions. Jeffrey Simpson was saying that the time has come to forget the past a bit, to forget those good years when the government could throw money at every problem, and to offer more financially sound suggestions. That is what this bill is all about, among other things. It starts by putting some more sanity in the administration.

Senator MacEachen: Thatcherism; look what happened to Thatcherism.

Senator Simard: God willing, and Mr. Chrétien listening, I hope that Senator MacEachen will want to join us in trying to improve this area of government management. I am looking forward to suggestions and I invite Senator Stewart, among others, to give us the benefit of his wisdom and great experience; but I hope he does it in his usual swift manner.

Hon. John B. Stewart: Honourable senators, I will try to be brief. I must say that I am very much encouraged by what Senator Simard has just said. We have here a bill to amend the Financial Administration Act. The implications of the bill now before the Senate really cannot be understood without a very careful reading, not only of the bill but of the Financial Administration Act. You have to work one into the other to really see what is going on here, and that is going to take some time. Senators are going to have to do their own preparatory work and then, of course, as Senator Simard so wisely says, we are going to have to have frank and disclosing answers from the public servants. It may well be that we will be able to make the deadline of the end of the month that Senator Simard mentions.

When the bill was being discussed in a legislative committee in the other place, that committee was told, in a statement prepared by the Treasury Board—and, honourable senators, the name is not the name of a specific minister but of the board as a whole—that the amendments are "basically either housekeeping or technical in nature and do not make any fundamental changes in principles." I think that is enough to tell honourable senators that the proposed amendments ought to be examined with great care.

● (1600)

This is a bill to amend the Financial Administration Act. The Financial Administration Act is an act of central importance. Let me read the words of the Deputy Comptroller General spoken in the legislative committee of the other place on December 13, 1990. He described the Financial Administration Act as follows: "That act governs the control by Parliament of the public purse." He said that the Financial Administration Act governs the control by Parliament of the public purse. I hope he means the control by Parliament of the public purse rather than meaning that the Financial Administration Act controls Parliament. It seems to me that either interpretation could be defended on the basis of recent experience.

An analysis of the main provisions reveal the importance of the bill. One aspect of the bill deals with roles and responsibili-

ties in financial management; another aspect deals with cash management and revenue generation; another deals with debt forgiveness, another with public debt management, another with financial management improvement, and yet another with the relationship of the Treasury Board and crown corporations in financial matters.

There is also a provision with regard to control by Treasury Board. Honourable senators, let me read from the statement that was made. It states: "The bill will fill a gap in the assignment of responsibility for setting terms and conditions of employment for a small number of Governor in Council appointees." The implication is that there is looseness in the present regime with regard to setting terms and conditions of employment for certain Governor in Council appointees. I do not know whether or not that refers to the Spicer Commission, but we can certainly discuss that in committee.

One aspect of the bill that I am sure will be thoroughly canvassed in committee is the one that relates to encouraging cost recovery and revenue generation. The bill provides for a new section 19 in the act. Clause 6 of the act states:

> **19.1** The Governor in Council may, on the recommendation of the Treasury Board,
>
> (*a*) by regulation prescribe the fees or charges to be paid for a right or privilege conferred by or on behalf of Her Majesty in right of Canada, by means of a licence, permit or other authorization, by the persons or classes of persons on whom the right or privilege is conferred; or
>
> (*b*) authorize the appropriate Minister to prescribe by order those fees or charges, subject to such terms and conditions as may be specified by the Governor in Council.

When the Assistant Secretary, Expenditure Coordination Directorate, Program Branch of the Treasury Board appeared before the committee in the other place, he was asked if this amendment would allow the government to charge service fees for crown corporations or departmental corporations which cannot now be charged, and the answer was in the affirmative. The witness was then asked if he would agree that the definition of "users" had been extended to include provincial governments, and the answer again was in the affirmative. The witness was further asked if he would agree that the amendment would allow user fees to be charged for rights or privileges conferred by the crown by means of a licence, permit or other document, which could not be done before, and again the answer was in the affirmative. A member of the house then asked if he would agree that it provides that regulations may allow for automatic increases of fees which would not be possible under the existing law, and again the answer was in the affirmative. The witness from the Treasury Board was then asked if it were not true that the passage of the bill would allow the government to charge for government services or facilities even though the service or facility must be provided by an act of Parliament. Again, the answer was in the affirmative.

[Senator Stewart.]

Honourable senators, it is not at all surprising that some of those who make use of services or facilities are uneasy about the impact of these fees and charges and the possible increases of fees and charges that could take place if this particular clause of the bill carries and stands as part of the bill.

There is also the question of how far Parliament will be going if it enacts this clause toward conferring upon the government a virtually undefined right to impose taxation by order in council. We will have to look at that in committee.

Honourable senators, under the misleading expression "Transitional" we have at page 27 of the bill clause 52.

• (1610)

> Orders of the Governor in Council and of the appropriate minister made under paragraph 19(b) of the *Financial Administration Act* before the day on which this Act is assented to
>
> (a) are not inconsistent with paragraph 19(1)(b) of the said Act, as enacted by section 6 of this Act, by reason only that they apply notwithstanding the provisions of any Act relating to a service or the use of a facility; and
>
> (b) continue to apply notwithstanding those provisions.

In other words, Orders in Council made under the provisions of the present bill will have force to overrule explicit provisions in acts of Parliament with regard to fees and charges. That is a matter into which the committee will have to inquire.

Senator Simard spoke about hobby horses. I think he confessed that he, too, had his hobby horses. I think he intended to imply that I have a hobby horse. If that is what he wants to call it, then so be it.

I am disappointed to notice that the bill does not make any provision with regard to clarification of the Financial Administration Act with regard to Governor General special warrants. The fact that the bill is defective in this respect was noted in the other place. The witness from the Treasury Board was asked explicit questions on this point.

For the benefit of new members of the Senate, I should mention that we had an incident in the spring of 1989 that involved Governor General special warrants. The government, first, was to have Parliament adjourned—that is, both houses were to adjourn in December of 1988 even though the government knew that it needed supply. It then had Parliament prorogued, although the government knew that it needed supply. It proceeded to use special warrants to take the billions of dollars that it needed from the Consolidated Revenue Fund. We were told by the president of the Treasury Board that there was no limit on the amount of money the government could take, nor was it necessary for the government to meet Parliament for financial reasons even one day a year so long as money could be withdrawn from the Consolidated Revenue Fund as provided by the Financial Administration Act, according to the legal interpretation on which the government relied.

I was hoping that in 1991, with the dust settling and the heat gone, the government would have seen fit to make the Financial Administration Act consistent with the constitution-

al principles on which this country is founded—constitutional principles deeply rooted in history, as Senator Molson would say. But the government has paid no attention to this matter. The bill before us is empty and silent with regard to special warrants. The evidence given in the other place with regard to this question is most enlightening. One must listen carefully to the answer given. The witness was asked, "Why is there no provision?" Mr. Lacombe replied:

> My understanding is that the use of special Governor General warrants have always been in compliance with the law and therefore there was no need to amend the warrants.

The implication is that you amend a bill only if the government has been breaking the existing law. That is, you amend the law to conform to what the government has been doing in violation of the previous act. Again Mr. Lacombe said:

> I can tell you that no consideration was given to changing any clauses with regard to special Governor General warrants because they were used in compliance with the Financial Administration Act at the time they were used.

Again, Mr. Lacombe states:

> What I can say is that in terms of the current provisions for special Governor General warrants, as I indicated there was a view that there was no need to change the law. I am not an expert in this area but I understand there were circumstances in Australia where they did not have provisions similar to ours and the result was an election.

Think of it, honourable senators. The poor people in Australia do not have a provision comparable to section 30 of the Financial Administration Act. Consequently it was possible for members of the Parliament of Australia to precipitate an election. Think of it. How benighted they are. I am told that the same prevails in the United Kingdom and in New Zealand. They do not have this enlightened provision that we have in the Financial Administration Act. Consequently it is possible for Parliament to precipitate an election. Think of the trouble that causes to ministers, to their staff and to the top public servants. We certainly do not want that to happen here. That is the implication of the answer given by the Treasury Board.

The answer given on behalf of the Treasury Board is precisely the reason why section 30 of the Financial Administration Act should be amended by the bill that is now before the Senate. If that is what Senator Simard calls a hobby horse, then I am prepared to ride it, because it is a hobby horse that people who believe in constitutional government and who believe that there are constitutional principles—again, quoting Senator Molson—that are deeply rooted in history, have ridden for centuries and should continue to be ridden as long as public servants take the attitude that the government of the day, regardless of its politics, ought to have access to the Consolidated Revenue Fund, even if the money has not been voted by Parliament.

This is a matter that the committee has to look into and get a better answer than the one that has already been given, if a better answer is available.

• (1620)

Therefore, honourable senators, there is important, intensive work to be done by the committee to which this bill goes before the bill can be considered for third reading. I would hope, Senator Simard, that with intense effort it could be completed, as you say, before the end of the month. Thank you, honourable senators.

The Hon. the Acting Speaker: Honourable senators, I wish to inform honourable senators that if Senator Simard speaks now it will have the effect of closing the debate on second reading.

Senator Simard: Before I move that the bill be sent to the National Finance Committee, I would like to say that I never thought that I would touch such a sensitive nerve, Senator Stewart.

Senator Stewart: I regard these matters as important.

Senator Simard: Surely your preoccupation and concern can be debated over there. We all wish that we could make present legislation as ideal as possible, but obviously this bill does not go far enough to accommodate Senator Stewart. However, I believe it is an improvement.

When I alluded to the possibility of completing the study before the end of the month, that was expressing a wish that if we could not complete the business this week, or even next week, that we not let a couple of weeks go by before we reconvene and hopefully terminate our work. Therefore the end of the month is as far as I could project. If the work could be completed before that, I am sure our colleagues would appreciate it, because it is important for Canadians, never mind the government. One never knows; we hear all kinds of rumours on the Hill that the House might be proroged. It would be unfortunate that at the taxpayers expense we had to start all over again in the House and in the Senate. I am sure we all want to save government money while doing the best work we can.

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 Simard, bill referred to the Standing Senate Committee on National Finance.

PRIVATE BILL

UNIVERSITY OF EMMANUEL COLLEGE—BILL TO AMEND—SECOND READING

Hon. Sidney L. Buckwold moved the second reading of Bill S-20, to amend the Act of incorporation of the University of Emmanuel College.

He said: Honourable senators, it is my privilege, as sponsor of this bill on behalf of the University of Emmanuel College, to speak on second reading to explain the bill and give you a

little history of the college, which is located in Saskatoon and is an affiliate of the University of Saskatchewan.

Emmanuel College was founded in Prince Albert in 1879 and in 1883 was established and incorporated by an act of Parliament of the Dominion of Parliament as the University of Saskatchewan. It had nothing to do with the official provincial university known as the University of Saskatchewan at that time. When the provincial university was established in Saskatoon in 1909, Emmanuel College moved to that city. While retaining its university status, it relinquished its title in favour of the new university. St. Chad's College was established in Regina in 1907 and continued to work there until 1964 when it amalgamated with Emmanuel College to form the College of Emmanuel and St. Chad still affilitated with the University of Saskatchewan.

By resolution of the provincial Senate in May 1967, the College of Emmanuel and St. Chad was recognized as the theological college for the Province of Rupert's Land, but the student body includes postulants from the diocese beyond the eccelesiastic province.

I might say, to those who are not familiar with the situation, that the purpose of the college is to prepare candidates to receive ordination in the Anglican community, especially in the Anglican Church of Canada.

As noted earlier, the institution was granted a charter as a university in 1883 by the Parliament of Canada at a time when, in fact, Saskatchewan was a great area which included presently Saskatchewan, Alberta, parts of the Northwest Territories and, indeed, part of the Yukon. The population at the time was 56,000 and, I would guess, mostly native. Our Anglican friends were anxious to ensure the proper education of those who would be involved with the church and had an act passed by the Government of Canada in that year.

The charter is still in effect although the name was changed in 1909 from the University of Saskatchewan to the University of Emmanuel College. Although, in its original charter, provision was made for the addition of several colleges, this university has existed throughout history with only one college. That college is presently known as Emmanuel and St. Chad. The University of Emmanuel College is governed by a Senate composed of 13 members plus the chancellor and vice-chancellor.

Bill S-20 updates the legislation which had been previously amended but which was originally passed by the Government of Canada in 1879.

Let me briefly go through the changes. I think that probably it is easier to read from the act, because it quite self-explanatory. The preamble indicates the history which I have already given you.

● (1630)

Moving into the legislative changes that are required, the bill prays that Her Majesty by and with the advice and consent of the Senate and House of Commons enact the legislation as follows. Clause 1 would provide the University of Emmanuel College with a French name by amending the long title of the French version of the 1914 amending act. It would also restore in that long title the original French name of the University of Saskatchewan. This is but a housekeeping measure to indicate properly the name in both languages.

The second clause is an amendment which is consequential on the amendment proposed in clause 1.

Clause 3 would amend the university's charter to provide that the principal of the college affiliated with the university be *ex officio* Vice-Chancellor of the university.

The amendment proposed in clause 4 would update section 12 of the university's charter by providing that the Senate of the university be composed of certain designated office holders or persons with qualifications described in the new provision.

Finally, the notes concerning clause 5 indicate that section 14 of the university's charter requires that a formal procedure be followed in the making of a statute, by-law or regulation by the university pursuant to the statutory authority to do so given to it by its charter.

At this time it cannot be determined with certainty from the records of the university whether the formalities were always complied with in the past when any statutes, by-laws or regulations were made. This amendment would remedy any such irregularity, if any irregularity did, in fact, occur.

Honourable senators, that basically is the intent of Bill S-20. Before I ask for the support of the house in passing this important legislation to the college, let me say that Emmanuel College and the University of Emmanuel and Saint Chad has played an important role in the life of the University of Saskatchewan in Saskatoon and the community in which I live. Certainly it has earned the respect of the entire city and area. It has produced members of the clergy of the Anglican persuasion who have been a credit to that church and who have been most influential in the development of the province.

Having said that, it would be my hope that honourable senators see fit to support Bill S-20.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, we have no quarrel with the bill. It appears on the surface to be a reasonable and sensible piece of legislation. I suggest that it go to the Standing Senate Committee on Legal and Constitutional Affairs when Senator Buckwold is prepared to so move. We will have our experts look at it there.

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 Buckwold, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

FARM INCOME PROTECTION BILL

SECOND READING

Hon. Eileen Rossiter moved the second reading of Bill C-98, an act authorizing agreements between the Government of

Canada and the provinces to provide for protection for the income of producers of agricultural products and to enable the Government of Canada to take additional measures for that purpose.

She said: Honourable senators, I am pleased to have this opportunity to speak to the second reading of the farm income protection bill, Bill C-98. Before I address the bill itself, I should like to present some background which led to the tabling of the farm income protection legislation.

Since the mid-1980s various market pressures have called into question the adequacy of protection which Canadian farmers receive under existing insurance and stabilization programs. Trade wars, falling prices and successive droughts have put the squeeze on Canadian farmers. Since 1985 record levels of emergency federal support have been offered. Yet farmers have continued to suffer financial hardship.

The summer of 1988 was an important turning point. Canadian farm leaders told federal and provincial agriculture ministers that they wanted programs to provide more predictable support, support they could count on for the long-term.

The wheels of the federal government, the provinces and producers were soon moving in fast motion toward a new grain safety net program. The Grain and Oilseed Safety Net Committee was established in January of last year. It included 19 farmers working in partnership with 14 officials from Agriculture Canada and the provinces. I emphasize the word "partnership" because that is exactly what the safety net policy process has been and why it has been so successful. The safety net committee was but one of 11 separate task forces established under the agri-food policy review.

This ambitious and unprecedented review was launched in December of 1989 by the Minister of Agriculture about a month after the government published *Growing Together—A Vision for Canada's Agri-food Industry*. *Growing Together* laid the foundation for a new consultative process involving the federal government, the industry and the provinces. It was built on four pillars: market responsiveness, self-reliance, regional sensitivity and environmental sustainability.

Based on these four pillars, *Growing Together* explored many complex issues and identified changes needed in seven key areas. Safety net programs was one of them. The Grain and Oilseed Safety Net Committee was put on a fast track because the farm income situation required urgent consideration.

The new safety nets, the Gross Revenue Insurance Program, GRIP, and the Net Income Stabilization Account, NISA, are among the first tangible results of the agri-food policy review. The grain safety net process represents a unique new approach to public policy making. GRIP and NISA are outstanding examples of what can be accomplished when farmers and governments work together.

In the case of the safety nets, the task was accomplished quickly. The Grain and Oilseed Safety Net Committee met for the first time in January of 1990. At that time the proposed new programs were just beginning to take shape.

Last August the committee recommended to federal and provincial ministers the Gross Income Insurance Program, GRIP, and the Net Income Stabilization Account, NISA. Federal and provincial ministers agreed in principle to the programs at their November meeting in Winnipeg. On January 11 the Minister of Agriculture announced that GRIP and NISA would be available to farmers before spring seeding.

The Farm Income Protection Bill was introduced to provide for the implementation of long-term safety net programs for Canadian farmers. This legislation represents a new approach to income stabilization in Canadian agriculture. The protection is permanent, predictable, targeted and effective.

The new safety nets provide similar protection equitably to all farmers in all regions. They encourage good management practices based on long-term market trends.

This comprehensive review protection provided for the establishment of four programs. They are the Revenue Insurance Program, the Crop Insurance Program, the Gross Revenue Insurance Program and the Net Income Stabilization Account. As well, there are provisions in the bill for special measures.

Under GRIP, farmers receive total revenue protection from both production and market price risks. It is a bankable program because farmers will know before seeding what their minimum revenue will be for each crop enroled.

• (1640)

GRIP offers equitable support across all crops and regions. It targets support to individuals who need it most. It targets revenue which includes both price and yield. The program opens up various options for producers. They can enrol for total GRIP coverage, or just crop insurance, or, if they wish, only for the revenue insurance component. Now producers can buy the best type of coverage for their farms.

NISA enables farmers to set aside money in their own individual accounts. They can stablilize their income by making deposits during good years to draw upon in difficult years. Income stabilization is geared to the individual.

Bill C-98 authorizes the Minister of Agriculture to enter into agreement with provinces for one or more of the programs. There are five guiding principles: production or market neutrality, equity, protection of farm families and communities, consistency with international obligations, and encouragement of long-term environmental and economic sustainability.

The bill also defines elements common to all programs specified in a federal-provincial agreement. Common elements include: criteria used to determine producers' and products' eligibility, conditions for enrolling and opting out, methods used to calculate premiums and payments, terms and conditions for audits, assessment of environmental sustainability. Also, committees shall be established to ensure a continuing review of the Act and the agreements. A report to the Minister of Agriculture must be made on a yearly basis. Extra requirements for specific programs are also included.

Under exceptional circumstances the Minister of Agriculture is authorized to take special actions. For example, the

minister may set up a Special Measures Committee to examine a problem beyond the scope of existing programs and recommend special measures to resolve it.

Two committees are already working to carry out such tasks. One committee is analyzing the situation of grain and oilseed producers. The members of committee have created four working groups to examine short-term support, land use, farm finance and diversification. Another special measure, or third line of defence committee, is at work for the horticulture sector.

The Farm Income Protection Act is built on the provisions of the Crop Insurance Act, the Agricultural Stabilization Act, and the Western Grain Stabilization Act. When Bill C-98 is passed, all agricultural products will be protec ted under this new comprehensive legislation. However, I would like to emphasize that while the old Acts are being repealed, crop insurance and tripartite stabilization programs continue. In addition, as a transition, provisions under ASA and WGSA will apply for the 1990-91 crop year. The federal government will have the regulatory power to offer protection to producers of commodities not protected under a federal-provincial agreement, such as industrial milk and cream.

I would like to point out that at the committee stage in the House of Commons the Minister of Agriculture accepted a number of amendments to respond to concerns raised during hearings. The Statement of Principles now better clarifies the issue of equity across programs an agricultural products. National management committees must be established for NISA, GRIP and the Revenue Insurance Program.

Also, the Special Measures Committee section was revised to ensure that its membership consists of representatives of Canada, the provinces, and any other groups, as appropriate.

In fact, during review of this legislation in the House of Commons, the Minister of Agriculture once again accepted a number of amendments which will further improve this bill. These include the addition of a fifth principle— to provide for the encouragement of long-term social and economic sustainability of farm families and communities. Another change will now ensure that the national committees will review the Act an its agreements and report to the minister on its recommendations at least once a year.

As well, the minister has agreed to table in Parliament the agreement signed with the provinces with their concurrence.

To conclude these remarks on the second reading of Bill C-98, I want to emphasize the federal government's commitment to ensure that Canadian agriculture has a strong future. That commitment has been met by working closely with industry and the provinces towards a more stable and predictable agricultural economy.

This new Farm Income Protection Act demonstrates how effective a partnership approach can be.

Senator Olson: STPH-FPLT Honourable senators, I should like to say a few words about Bill C-98 before we pass second reading and hopefully send it off to the committee on agriculture so that we can deal with some of the details there.

[Senator Rossiter]

I want to begin by complimenting the Honourable Senator Rossiter for giving a very complimentary explanation of what this bill is all about and where it came from. In fact, I think it fair to say that she was probably over-zealous in calling it a great new and unique bill. I know that she had to say something nice about it, but there is nothing new or unique about it at all.

As far as insurance against yield is concerned, a crop insurance program has been around for a number of years. In fact, I introduced it way back between 1968 and 1972. It protected farmers against a loss in yield and it was called "all risk crop insurance." It did not matter what caused the loss, whether it was drought, flood, or bad weather, insects, hail, or for any other reason, because it was all risk crop insurance. There is nothing new this bill about that; it is carrying on that. The trouble is, this government seems to think that the contribution of the federal government was too much, so it has actually reduced it a little and loaded more of the cost of that type of program on to the producers—and, I might say, at a time when they can ill afford it.

In Alberta at least, and I think in most of the other provinces, the government has agreed that for 1991 it will offer the crop insurance again in the same form and without any modifications as it was offered last year and the year before. To that extent, I am quite happy about it, because it does give farmers some additional time to consider and to make the correct management decision based on that consideration as to whether they want to sign up for what is called "GRIP." When a farmer signs up for GRIP, it is for three years and the farmer cannot get out. Perhaps the premiums will be too high. Quite frankly, it is not known what the premiums will be until sometime later in the season. That is not good.

The other part of the GRIP program allows a farmer to insurance against changes in price. There is also nothing new or unique about that. That could be done previously under the crop insurance program. A farmer could elect the price and there were several options offered, such as 60 per cent or 70 per cent, which was yield, but then a farmer could elect the price to insurance it at. Under the new program there are not any elections; the farmer takes what is known as an IMAP price—and I am not saying that is unfair—which means an international moving average price for the last 15 years.

• (1650)

I think that turns out to be $4.15 per bushel in the 1991 year. That is fair. It is not enough by any means in comparison to the increased costs people, particularly grain farmers, have had to suffer during the past few years. As I have said, I will not complain about it because it is certainly a lot more than the market price at the present time.

However, when Senator Rossiter was explaining the reasons why—she said I think 19 producers or producer groups were represented on the committee along with provincial and federal governments—she mentioned that we got into this situation because of drought and lower prices. She could also have mentioned that we got into it because of an incompetent

federal government in dealing with farm policies. There has never been a time since I entered the political scene when there has been such a disastrous decline in farm prices and therefore farm income. There is no such thing as net farm income anymore. Saskatchewan is the worst province, where it is going down to below zero. Senator Barootes would know that there will be a decline of something like 43 per cent, I believe, in net income for Saskatchewan farmers — that is the projection — and it may go below zero. That has happened since this government has been in office. There are all kinds of things that the government could have done and should have done. By the way, I tried to coax them to do some of them from time to time.

One makes an effort to get debt service charges down. There has never been any justification for the enormous debt service charges that have been charged farmers, usually in situations where they had absolutely no defence. The only way to get around paying these high debt service changes is to pay off the debt. Farmers cannot do it; other small businesses can—but I will not make that argument today.

Senator Nurgitz: Why?

Senator Olson: Because I have done it so many times and I think it is starting to sink in a little. However, if you would like me to make it again today, I could. The other problem with this program is that we here, and the farmers, particularly the producers in the prairie provinces, have waited and waited for it. I know that even some senators in the Conservative ranks, from the prairies, were getting a little impatient with their own government because they were waiting for it to come out with a program after they had gone past the deadline. It used to be that you signed up for crop insurance by March 31 or else you missed it for that year. This program was not even ready then. I guess it could have been passed if you had set aside all the rules of notice in both houses of Parliament and forced it through, but there was no reasonable time for the program to be brought in. We were still asking what the insurance rates would be—I have it right in front of me here somewhere, if I can find it—on March 2. On that date, at a meeting in Regina, the federal and provincial ministers of agriculture approved the criteria for third line of defence programs and finalized premium methodology. They did not agree on what the premiums would be even at that late date, but just on the methodology that would be used to calculate the premiums.

We had a meeting, and I must give a lot of credit to whoever on that side is responsible, in particular Senator Barootes, who, as chairman of the Agriculture Committee, managed to get the Minister of Agriculture and the Minister of State for Grains and Oilseeds to come to a meeting of the Senate committee some time in the middle of March. They gave a lot more information that night, I might say, than they had either been able or willing to give the agriculture producers of this country for weeks prior to that night. I was indeed grateful, and I am sure other senators were too, that those two ministers came and were open, frank and forthcoming, and whatever other terminology you want to use.

Senator Barootes: Conservatives!

Senator Olson: We obtained information for people who had been waiting weeks for it. I think the chairman of that committee should be commended. Perhaps I should get a little credit too for prodding him to do it; but we finally got the right ministers to the right meeting and they have followed through.

Senator Nurgitz: Great chairman.

Senator Olson: The other problem that the development of this program demonstrates is a serious one within this government. That is, the government does not seem to be able to do anything without dragging the provincial treasuries in along with their treasury. One might say, perhaps, that that is the way it should be, that the federal treasury should be making laws that involves charges against the provincial treasuries. That is exactly what this measure does.

The unfair part of it is that there are some provinces where the financial burden to deliver this program is far greater than for other provinces. Let us take Saskatchewan for example. Alberta has a similar problem to some extent, but its economy is a little more diversified than Saskatchewan's. For Saskatchewan, given the number of grain producers and the amount they contribute to the total economy, and therefore to the revenue of that government, it is an enormous burden for them to pay their costs at the same level as some other provinces such as Alberta, Ontario or wherever. I am not sure that is fair. Under the Constitution of Canada the federal government is responsible for agriculture, along with the provinces to some extent but not necessarily in exactly the same programs.

So what has happened now with the acceptance of various parts of these two programs, GRIP and NISA ,is that there will be different levels available to farmers depending on whether they live on one side or the other of a provincial boundary. The government should ask itself the question: Is that fair? We are all Canadians, so why should we not all be treated the same under exactly the same conditions, particularly if we just happen to live across the boundary?

I know very well that it is a much greater burden for Saskatchewan to offer these two programs to their producers than it is for the province of Alberta. There are two reasons: first, there are more of them and, secondly, they are more reliant on the agricultural economy to produce the revenue that the province has available to pay for these kinds of programs. So I think the government should have taken that fact into account, but I do not think it will, at least not for 1991.

If you want to participate, the province has to pay a certain percentage. I could give the percentages, but I think they are already well-known—namely, percentages of the burden or responsibility that the federal and the provincial governments will have to pay. As I have said, each province will be different. Canadians will be treated differently in these provinces.

• (1700)

Senator Rossiter, what happened to the third line of defence? You mentioned it in your speech today, but only insofar as horticultural products were concerned. There is supposed to be a third line of defence, according to the Minister of Agriculture, Mr. Mazankowski, and the Minister of Grains and Oil Seeds, Mr. Mayer, to deal with situations that GRIP and NISA fail to deal with. These programs are going to do absolutely nothing for those farmers in desperate straits who will be trying to seed their crops in the spring of 1991. There will be no income available from these programs until after the harvest of 1991. The Minister of Agriculture and the Minister of Grains and Oil Seeds acknowledge that there is a severe problem that must be dealt with. Then they refer to the third line of defence, but they do not do anything about it.

I believe an announcement was made two weeks ago that some kind of interim payment was made under the Western Grains Stabilization Act. Senator Rossiter, is that all there is to this third line of defence for the producers? That will help the grain producers, but what about the others? Hopefully you can answer that question for me.

I am ready to pass this bill. I was going to say that I will hold my nose and pass it, but I will not even need to do that. It is a lot better than what we have now, but I do not think we should oversell it and say that it is some great, new and unique concept in protection for farmers. That kind of program has been on the books for years. A farmer could use his crop insurance, once he had it, to convince the banker to lend him money. In many cases farmers were loaned too much, because the price of their product decreased by the time it went to market.

As I have said, we should pass this bill, and the sooner the better. There will then be no further apprehension about whether or not a program will be put in place. Some of the provinces have gone a long way in attempting to distribute application forms based on the assumption that this bill will be passed in its present form. As far as I am concerned, we should pass it and get on with it. Then, when the weaknesses show up, as they will, amendments can be made in the next session of Parliament. Thank you.

Hon. E. W. Barootes: Honourable senators, I want to thank the sponsor of the bill for the concise way in which it was presented, and I also wish to thank Senator Olson for the complimentary remarks he made about the committee on which he sits and in which I regard him as a leading light. I want to compliment him as the introducer of crop insurance on a federal basis in Canada. Indeed, it is incorporated in this program. Unfortunately, some of the other things he introduced, such as the Western Grain Stabilization Act, have been good in supporting the income of farmers in the past, but, at the present time, I believe it is $960 million in the hole. That means that the taxpayers of Canada and this government will have to honour that bill. On the other hand, the Wheat Board—and this is only a guesstimate—is some $700 million in the hole from overcompensating farmers on the basis of their grain in the past year or two. That too will have to be made up by the bulk of Canadian taxpayers. Senator Olson must also admit that the "ad hockery" we have used in supporting farmers in the past few years has not been successful in restoring permanent stability in our farms. I might also add that many producing organizations and producers support this program as restoring some degree of stability, and I am sure Senator Olson will agree that this bill provides something better than what we had in the past.

Senator Olson: That is the hope anyway.

Senator Barootes: Yes. There is no doubt that shortcomings will be found in the program, and amendments will be incorporated over the next few years as our farm experts, governments and, particularly, our producers identify defects in the program. We look forward to those, and the minister has said that he anticipates this to occur.

The bill, on the whole, is a good one, and perhaps by next year we will be able, on behalf of my friend Senator Bonnell, to include horticultural crops and other types of crops that are not presently included.

I took a slight bit of offence, Senator Olson, when you mentioned that the incompetence of the agricultural policies of the present government has led us into the situation.

Senator Simard: Shame!

Senator Barootes: If I thought that a government could make it rain, stop floods, prevent grasshoppers from coming into the fields, stop rust and all the other plagues and pestilence—

Senator Olson: I was talking about the decline in prices.

Senator Barootes: —I would agree with him, but I think he got carried away. This government has made a superlative effort to support producing farmers, particularly grain farmers, in these difficult years, and I would be prepared to match the record of this government's munificence toward the agricultural industry with any former government over any five- or ten-year period.

Senator Nurgitz: He agrees and he is sorry he said what he said.

Senator Barootes: You are taking it back. Thank you very much.

As for the third line of defence, as you know, this last week an interim payment on the Western Grain Stabilization has, in my province, yielded some $47 million, and I think the total in Canada is over $100 million. I think ours was $87 million. I also recall the figure of $140 million, which is the final payment to be made in November. In my province the rest of the third line totals about $2500 for the major farmers and, on average across the province, $1200 per farmer.

Senator Doody: Pity the poor fishermen!

Senator Barootes: Do you want money for the fishermen too?

Senator Doody: No wonder there is no money for the fishermen!

Senator Barootes: We cannot seed fish. We can seed grain. We harvest grain and you harvest fish.

Senator Doody: There is no mercy!

Senator Barootes: I might add that I too am looking forward to what further measures of an immediate nature will be forthcoming in the third line of defence.

• (1710)

I hope that by the middle or toward the end of this month something more will be heard in that respect, although I am sure, knowing my farm friends, of whom I have many, that it will not be enough; but I hope it will be of some help to get them through the seeding season and to get their crops in the ground in order to reap the great benefits of this program this fall.

With regard to the matter of equity between provinces, these programs are specific—specific to that farm and to that farmer. They are targeted directly, so it will depend on the kind of soil, the kind of crop, the history of the farm and, I might add, the record of that farmer's farming policies and practices. So it is not a matter of spreading a little butter over all the bread. This is a targeted program and it will remain targeted to the specific needs of that particular farm area or that farmer, which I think will be helpful, whereas our other *ad hoc* programs are on a general basis so that the rich and the poor were treated the same.

I look forward to seeing how this will work out. I regret that the one area which we have not been able to attack is that of farmers who have a heavy debt load and are paying heavy interest who, in the bonanza years of the $5 and $6 wheat prices—

Senator Olson: When the Liberals were in office.

Senator Barootes: I am not saying that. That was incidental and unfortunate, but it was true. In that period of $6 grains farmers enlarged their farms. They believed that they could add a section here and a section there and have it paid off with two or three crops. Unfortunately many of them tried that. They were good farmers but made bad economic judgments. Then came mortgage rates of 20 and 22 per cent over which the farmer had no control. But they got that easy money from the banker to buy that land. I regret that 10 or 12 per cent of those farmers are indeed in extreme difficulty these days, but I know of no way that we can go to a bank and say that we are the Government of Canada and we want you to wipe out this man's debt or reduce the rate. A contract is a contract is a contract. We can ameliorate it.

Senator Olson: And bankruptcy is bankruptcy is bankruptcy.

Senator Barootes: We can help with debt restructuring and so on, but I cannot make up today for a bad judgment that I made a few years ago. I wish some way could be found to do that. Some of my friends in the National Farmers Union would like to see those debts wiped out, but I do not think there is a feasible, easy way to do it. We have to work with these farmers and help them until they can get their debt reduced. GRIP and NISA may be one way of helping them do that.

I thank you very kindly for listening to me. I want to thank Senator Olson for staying and assisting us in proceeding with this bill today. I should also like to thank the Leader of the Opposition who gave us leave to proceed today. Thank you very much.

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 Rossiter, bill referred to the Standing Senate Committee on Agriculture and Forestry.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if there is agreement among senators, I would move that all remaining orders, inquiries and motions stand.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 5556*)

ADDRESS
of
HIS EXCELLENCY CARLOS SALINAS DE GORTARI,
PRESIDENT OF MEXICO,
to
Both Houses of Parliament
in the
HOUSE OF COMMONS CHAMBER, OTTAWA,
on
Monday, April 8, 1991

APPENDIX

ADDRESS

of

THE PRESIDENT OF MEXICO,
MR. CARLOS SALINAS DE GORTARI

to

Both Houses of Parliament

in the

HOUSE OF COMMONS CHAMBER, OTTAWA

on

Monday, April 8, 1991

President and Mrs. Salinas were welcomed by the Right Honourable Brian Mulroney, Prime Minister of Canada, by the Honourable Guy Charbonneau, Speaker of the Senate and Honourable John A. Fraser, Speaker of the House of Commons

[*English*]

Hon. John A. Fraser (Speaker of the House of Commons): The right hon. Prime Minister.

Right Hon. Brian Mulroney (Prime Minister): Mr. President, Madam Salinas, Mr. Speaker, *chers collègues, mesdames et messieurs*:

During my visit to Mexico last year, Mr. President, we laid the foundation of a new beginning in relations between Mexico and Canada. Today with your visit here all of us build on that foundation, and on behalf of the people of Canada I extend to you, Mr. President, to Mrs. Salinas, your family, and all members of the Mexican delegation the warmest of welcomes to our country, Canada.

Some hon. members: Hear, hear.

Mr. Mulroney: Formal diplomatic relations between Canada and Mexico go back many decades. First contacts date to the days of Captain George Vancouver who gave Canada's largest Pacific island its original name, "Vancouver Y Quadra", after himself and the commander of the Spanish vessels, *Mexicana* and *Sutil* with whom he sailed.

[*Translation*]

If Canada and Mexico grew on the same continent, each tended to look elsewhere, however, for like-minded partners. But the world around us is changing dramatically and economic competition and opportunity are the hallmarks of our age. And so it is no coincidence that both of us have re-calibrated our global orientations and re-formulated our foreign policy priorities, at about the same time.

• (1110)

[*English*]

Since you came to office, Mexico has been focusing more northward to the United States, our common neighbour, and to Canada, to build new partnerships to improve the lives of your people. And Canada has begun to focus more southward, to consolidate our base in the hemisphere and to pursue new opportunities in the global economy.

Our first step in implementing this new policy direction was to conclude a free trade relationship with the United States. As you know, the decision to secure that free trade relationship was supported 100 per cent by all Canadians and all members of this House of Commons.

Some hon. members: Oh, oh.

Mr. Mulroney: Well, give or take a few.

Some hon. members: Oh, oh.

Mr. Mulroney: The next step was to develop a comprehensive strategy for relations with Latin America. By the year 2000, 600 million people with a purchasing power of $1 trillion will live in Latin America. It will constitute a continent of enormous economic power and great political influence on the world stage.

As part of our strategy for relations with Latin America we have joined the Organization of American States, both to demonstrate our commitment to progress in this hemisphere and also to play our part in making it

happen. A lynch pin of our strategy is our renewed relationship with Mexico.

During my visit to Mexico last year we concluded 10 agreements covering a wide range of public policy issues from law enforcement to environmental protection. Today, four more agreements are being signed; on film co-production, double taxation, and on commerce, including a $500 million line of credit between EDC and Pemex.

These agreements are further building blocks in the construction of our new relationship.

A North American free trade agreement is a logical next step. That is why, Mr. President, we have endorsed your proposal for such an agreement. We know that the road will be long and difficult. We know it is a courageous decision by you, Mr. President, and all parliamentarians wish you well.

Some hon. members: Hear, hear.

Mr. Mulroney: A North American free trade agreement would create a market of over 350 million people with a gross product of over $7 trillion, bigger than the European Community whose economic relationships will intensify greatly in 1992.

[*Translation*]

Trade in goods and service would exceed $300 billion per year. Canadian consumers would benefit from the lower prices that competition and comparative advantage can deliver. And Canadian producers would benefit competitively from the restructuring and modernization that access to a larger market makes possible.

We have no intention, however, of renegotiating the Canada-U.S.A., FTA. We want to build on the FTA and to expand trade liberalization to encompass all of North America.

The objective of all three governments is to negotiate an agreement that allows them to strengthen their economies through free trade, for the benefit of their people.

[*English*]

The advantages for Mexico are clear. If there is one lesson that globalization and interdependence have taught, it is that increased trade brings higher living standards and greater opportunities. Trade, not aid, has opened up the most effective avenues to prosperity and to social justice. Aid, while extremely helpful has not itself been able to deliver prosperity. But trade, by transforming developing nations into advanced economies, has done so.

Not so long ago Singapore, South Korea and Taiwan were considered to be underdeveloped centres of low-cost labour. But as a result of sound economic policies at home and increased trade abroad, the standard of living in these countries on a per capita basis, is on a track to parity with the western industrialized countries during this decade. This is an extraordinary achievement and I think it is one that Mexico is going to emulate.

Some hon. members: Hear, hear.

Mr. Mulroney: Countries with strong economies can afford to provide their citizens with social benefits that others cannot. These same countries are also those that can afford to impose the most stringent environmental standards on their industries and on their citizens. They are also the countries that dominate international trade.

Mr. President, 87 per cent of Canadian imports now come from the United States, Europe and Japan, and not from, for example, countries with extremely low wage rates such as China or India or the Soviet Union. The argument that wage structures in less developed nations somehow fundamentally distort a free trade area, or provide substantially unfair advantages, does not stand up to serious scrutiny.

The reality is that in the knowledge age we live in, competitiveness depends not on one, but on many factors, including education, training, productivity, communications and transportation networks, proximity to markets, and the costs of capital as well as the costs of labour.

[*Translation*]

The Government of Canada believes that a Canada-U.S.-Mexico free trade agreement can prove to be in the best interests of all concerned—if it can be achieved on terms that are acceptable to all three sovereign nations.

But important as the trade issue is, there is much more on the agenda of our two countries. Cooperation is underway on environmental protection. Business links are growing between private enterprise on both sides.

And 350,000 Canadian tourists and business people visited Mexico last year.

Talks between President Salinas and I will address the evolving situation in this hemisphere to which he, as President of Mexico, brings a unique perspective. And our talks will go beyond respective domestic and regional concerns to the ongoing challenges in the Persian Gulf, the evolving situation in the Soviet Union, the prospects for successful conclusion of multilateral trade negotiations and the urgent need to limit the spread of weapons of mass destruction and to control the sale of arms.

[*English*]

Mr. Speaker, simply put, there would be no discussion today of a resurgent Mexico, much less of a North American free trade agreement, were it not for President Salinas. His confidence in Mexicans and their confidence in themselves, have made it possible to transform attitudes, to accomplish changes and to chart a course that even five years ago seemed unthinkable.

Canadians respect Mexico's dynamism, and all Canadians admire Mexico's culture. We welcome you today, Mr. President, as the visionary leader of a great people with an exciting future. Here in the House of Commons, this crucible of Canadian democracy, I invite you now, on behalf of all parliamentarians of all political parties, who value our association with Mexico—and all of us do—I invite you today to address the Parliament and the people of Canada.

Some hon. members: Hear, hear.

• (1120)

His Excellency Carlos Salinas de Gortari (President of Mexico):

[*His Excellency spoke in Spanish.*]

[*Translation*]

The Hon. John A. Fraser, Speaker of the House of Commons of Canada; the Hon. Guy Charbonneau, Speaker of the Senate of Canada; the Right Hon. Brian Mulroney, Prime Minister of Canada; hon. members of the House of Commons and Senate of Canada; Your Excellencies, ladies and gentlemen: I come here in respectful response to the invitation extended to me by this sovereign body, which so worthily represents the people of Canada. In this house of democracy resides the will of the great Canadian nation to find its own answers to its needs and to forge its own path in the world. I bring to this rostrum the friendship of the Mexican people and speak with their voice in expressing our desire for Mexico and Canada to become better acquainted with their many coinciding aspects, as well as with the wealth of their differences, so that together we may embark on new relations of exchanges and co-operation for our mutual benefit.

Canada and Mexico are both the outcome of singular experiences, but both are genuine nations, soundly rooted in their history and solidly backing their national project. Here in this Parliament speaks the voice of a sensitive and vigorous country that jealously guards its linguistic and cultural traditions and cherishes peace and co-operation among nations. Mexico draws its identity from a synthesis of civilizations and cultures; the strength of our blending of races gradually built up a national character that is proud of its past, aware that it is the heir and custodian not only of universal values but also of its own way of life and profound communal solidarity.

Mexico has a robust identity and sufficient vitality to build its own sovereign future. We therefore do not fear an encounter with the world, rather we actively seek it. To be bent on autarky would not only be Utopian, but would mean condemning ourselves to backwardness and marginalization. Our homeland is able to look out at the world and open itself up to contact with other peoples, without thereby failing to be faithful to itself, to its traditions and culture, to its values and historical *raison d'être*. We Mexicans today look towards the future and are determined to play a significant role in the coming century.

That is why I have come to Canada, an industrialized nation with a high export volume, a wealth of natural resources and a wide rate of freedoms, which will undoubtedly contribute to shaping the world of the third millennium. The Mexican people want to establish new continental relations that are more dynamic, more productive and more just. By doing so, our governments will be in a better position to carry out their tasks in a manner befitting the men and women of our countries and our times, who are doing their best to make our hemisphere an area of convergence and freedoms. We can take advantage of the goodwill and hard work of our peoples to guide our agreements and encounters to our mutual

benefit and ensure that this new world will once again astonish humanity, just as it did 500 years ago.

Members of Parliament: Today, as we are just beginning to witness the end of the world's post-war structure, we recognize the crafty barriers and outworn dogmas that are designed to hinder the exchange of ideas, goods and people. The new co-operation between the great powers, the autumn revolution in central and eastern Europe, the new democracies here in the Americas, evinced, to our fascination, the global nature of the human condition, the flexibility of politics and the economic interdependence of nations. The Persian Gulf conflict was a painful reminder of the same global reality. Today, it is no longer possible to dream of an isolated social experience, impenetrable to coexistence or to alien conflicts. The hope and the challenge of building a world governed by international law are growing at a parallel rate. The true challenge of our times is to recognize the constructive force of the globalization of history, to face with responsibility and respect the variety of social experience and to avert the risk of new attempts at protagonism and new myths aimed at ignoring the sovereignty rights of states.

The world economy is the stage of a harsh and intense competition for markets. The revolution in knowledge and technology is transforming work habits and making social relations more fluid. New centres of innovation, resources and trade are at the forefront of economic activity and are forming into blocs to profit from their comparative advantages. To have staying power in this new international arena demands changes in economic structures, openness to competition and innovation, and new forms of association both within and outside the borders of individual nations.

In view of those circumstances, Mexico has set out to make the changes needed to secure a new placement in the world economy and to play an active role in the political configuration of the future. Within our borders, Mexican society has undergone a significant transformation over the past 25 years. Our current population of 82 million will increase by a further 10 million during my administration. Every year, one million young people seek to join administration. Every year, one million young people seek to join the labour force. Their demands are clear-cut. They want opportunities, services, and to participate in the decisions that concern them as well as in national affairs. They now reflect the demands of a better-informed and therefore politically more active, mature society. That is why in Mexico development, democracy and, above all, solidarity with those who have the least are essential needs and not merely options for defining government policies. Our response has had to be commensurate with these legitimate demands and in keeping with the new global reality.

We have strengthened our democratic institutions by changing the customs and practices that hampered the indispensable modernization of our structures. Thus, we now have a more vigorous system of parties in which increased electoral competition is the distinctive characteristic of political contention. The progress of democracy in Mexico has been reflected in the establishment of a new juridical framework for electoral matters, the result of an agreement reached between the different and even opposing political forces in the country. This new electoral legislation ensures a framework agreed upon with a view to establishing mutual responsibilities and acceptance of electoral results. We Mexicans know that our greatest political challenge lies in renovating our democratic practices, organization and structures in unison, so as to respond to an increasingly demanding society.

Mexico has never lost its course on the road to democracy. However, if politics are to be constructive, favourable economic conditions need to be established—as many fledgling democracies are beginning to discover—to ensure that the aspirations and ideals of liberty are solidly founded in actual reality in order to be long-lasting. The democratic exercise of power therefore also involved building economic foundations that will give our people more and better opportunities to realize their hopes for a decent life.

In Mexico, it is through our modernization strategy that we have sought to regain the path to gradual, sustained growth. After two years of persevering joint efforts in that direction made by society and the government, we have succeeded in achieving a growth rate of 4 per cent of GNP in real terms, and in reducing the public deficit to just half a percentage point of our national product, the lowest level in a quarter of a century. Strict fiscal discipline and a successful, timely renegotiation of the foreign debt have provided the necessary stability. Moreover, the pact signed by all sectors of society to

reduce inflation remains in force, and this year we aim to cut it back to half the rate recorded in 1990.

During the past two years, Mexicans have seen inflation reduced more than it had been over the past 20 years. Our objective is to lower it to single-digit levels comparable to those of our main trading partners and to provide the greatest possible certainty regarding the development of our economy.

Economic stability has therefore been our highest priority. From the outset we viewed it as an essential condition for ensuring the continuity and viability of the structural measures that we have implemented in order to modernize our productive plant. The main objective is to make Mexico a major exporting country: hence the urgent need to ensure greater efficiency in productive processes and over-all quality of the end product. That is why we opened up our economy to international and domestic competition. In a brief period of time, we moved from being one of the most closed developing economies to being one of the most open. We have dismantled non-tariff barriers, removing them from over 85 per cent of imports; tariffs now average 10 per cent and the highest stands at 20 per cent. We needed to encourage innovation and competition, and to take advantage of the arbitrage of foreign prices on domestic prices.

• (1130)

That, in turn, meant broadening and stepping up the process of deregulating large sectors of our economy and establishing more attractive conditions to encourage greater flows of foreign direct investment, on which access to new technology largely depends. The fields of transportation, telecommunications and secondary petrochemicals are now more efficient and competitive; new regulations afford security and certainty to foreign investors who now have 100 per cent access to investment in activities that account for nearly two-thirds of our GNP. The Mexican Congress is currently studying bills to define clear, competitive rules for the protection of intellectual property rights. The climate for investment is attractive and dependable. This year Mexico has witnessed the arrival of nearly $4 billion in foreign investment and we expect more in the future.

Another important structural change has lain in the sale of public companies that are not of a strategic or priority nature. Our State has grown not only in terms of bureaucracy but also of property. The economic crisis of the past decade revealed the seriousness of the problem. More state-owned property and greater trade protectionism in Mexico simply did not lead to greater justice or greater economic strength that would allow us to deal with international contingencies and grow. The government has therefore privatized mining industries and companies, our airlines, and the telephone company, and soon to come are the commercial banks. The funds obtained from such sales have aided financial stability and have been invested in tackling extreme poverty. The Mexican people realize that government responsibility does not lie in owning a new fleet of aeroplanes or new bank offices, but in meeting demands for water and schools, and in providing opportunities for Indian, rural and urban communities. That is why Mexicans support the government's programs for change and thereby guarantee the continuity of such programs.

This shows the magnitude of the efforts made by the Mexican people. The strength of the nation and its increased capability to meet domestic needs and the demands resulting from globalization of the economy rest on a firm foundation. Consequently, we now intend to step up the process of diversifying our ties and bolstering trade relations with the various regional integration areas. We are aware of the potential of our geographic location, which makes us, like Canada, neighbours of the world's strongest economy and a link between the Orient and the Occident. We are also aware that Mexico is a bridge connecting the northern and southern parts of the hemisphere, which implies greater two-way trade with the countries of Latin America and therefore a secure link in shaping a continent-wide, free trade area.

Consequently, we have begun talks with Canada and the United States of America that will, in the near future, enable us to embark on negotiations leading to the signing of a trilateral free trade treaty. I am convinced that such a treaty is unquestionably the best option for the parties involved. It is an opportunity for our three nations to create a major economic zone that while respecting our cultural differences, will have the

vitality to compete successfully with the European market and the Asian Pacific Rim.

Within the framework of an agreement between sovereign nations that will do away with tariff and non-tariff barriers, increase the expand trade patterns and objectively and justly resolve differences, we can expect investment and the creation of jobs to benefit all three countries. We will also be able to find economies of scale that will not only increase the competitiveness of Canada and restore that of the United States, but also bring Mexico's competitiveness up to world levels. A new array of technological options may well open up as a result of greater specialization and diversification in production and exports. We have what is needed to translate efforts into well-being for the inhabitants of North America.

Particularly for a country such as Canada, where the export of goods and services accounts for one-fourth of the gross domestic product, Mexico's market, in full expansion with 82 million consumers, is a potential destination for Canadian products and investment. Correspondingly, Mexico is seeking free and reciprocal access for its products to Canada and the United States. Furthermore, we are convinced that such conditions will generate greater investment and more sources of well-paid jobs, which will dissuade our fellow countrymen from leaving Mexico in search of job opportunities in the north. Economic relations with the United States are already strong, but we now wish to ensure that they grow in an organized and equitable manner, taking into account differences in the levels of development achieved by the two economies.

Very broad opportunities truly exist, since the economies of Canada and Mexico are complementary. Mexico is seeking to gain from Canadian experience in the fields where Canada has consolidated advanced infrastructure and has leading-edge technology. Such fields include, for example, telecommunications and public transportation, advanced irrigation projects, and water and environmental sanitation. Efforts to modernize Mexico urgently call for access to different technological options that will give producers greater flexibility in meeting the expectations of modern consumers.

Freer trade between our nations is expected to enhance the well-being of our peoples. We must not blame free trade for the conditions imposed on the productive situation by other factors. We have nothing to fear but barriers and obstacles that are intended to protect some parties from competition and, in doing so, end up destroying creativity and well-being. We must not forget that, sooner or later, such barriers have been demolished by the freedom-seeking vitality of peoples and by their demands for justice.

Distinguished members of Parliament, a free trade agreement between Canada and the United States of America is already in force. Arduous and intense negotiations preceded the signing of this agreement and now serve as valuable experience of which Mexico hopes to take advantage. Although the debate was undoubtedly intense, it was finally shown that the economic prosperity of Canada, one of the world's most important exporting countries, is closely linked to access to new markets and consequently to plans for developing a free trade in goods and services. An economy that closes itself off loses competitiveness. An economy that is skilfully opened up gains new competitive vitality.

In Mexico we share this vocation. It is with the support of our culture and our history that we are opening up to the world and to the competition for markets. We know that the path that each nation pursues cannot be other than the result of its own historic experience, of the specific circumstances of its geography and even of the resources with which nature has endowed it. In the world of today, however, comparative advantages are not inflexible—they can be built up. The circumstances of today's world oblige us to make use of all the energy, imagination and determination of Canadians and Mexicans alike in working toward the convergence of our goals, so as to take full advantage of the complementary aspects of our economies. We can share a vision of the future, based on the long term, that will heed the needs of coming generations, who deserve to live in a better world.

We have embarked upon a new and vigorous stage in bilateral relations between Canada and Mexico. We are counting upon the spirit of our societies and the interest of our governments to strengthen our ties in the different areas of our agenda, both as regards our economies and in the fields of politics and culture. In particular, we in Mexico want to intensify the co-operation between our countries in two areas that the Mexican government and people regard as especially sensitive. These are: the

fight to definitively eradicate the scourge of drug trafficking, and the mutually respectful and concerted effort to improve the environment.

• (1150)

The international struggle against illegal traffic in narcotics is Mexico's struggle as well. Over the past two years, we have seized thousands of tons of cocaine and destroyed hundreds of hectares of marijuana and poppies; we have broken up over 100 criminal organizations and confiscated their goods and properties; we have substantially increased budgetary resources for combating drugs and raised penalties and sanctions against those proven to have a connection to this chain of terror; we have ratified the Vienna Convention and are playing an active role in international forums. We have carried out these and other actions because in Mexico we consider drug trafficking to be a basic threat to the security of our country and to the health of our young people. We know that this chain of criminal activity transcends the frontiers of any country—which means that co-operation among nations is essential. Nonetheless, for it to be truly effective, such co-operation must be respectful of the sovereignty of all the states involved.

In the protection of the environment, Mexico assumes its commitment along with the entire world, because it sees this as a humanitarian cause of universal scope. Mexico has gladly accepted its responsibility in this crusade that is incumbent upon us all, since all of us stand to benefit from its advances and its successes. We Mexicans are convinced that our growth need not lead to the ravaging and pollution of the environment; quite the contrary. Growth that damages the environment is not growth. Resources and technologies for cleaning it up are still needed, but with government and society working together we have made progress.

A few days ago the Mexican Government took the decision to definitively close down one of our country's five refineries, precisely the one that supplied Mexico City. This was done at great economic cost, but this action will prevent the release of 80 thousand tons of pollutants per year into the atmosphere. We are also going to make other heavy investments in improving the environment of Mexico City, but we realize that a great deal still remains to be done, not only in our capital city but also in other areas of our country, some of which have been declared part of the patrimony of humanity. The initial and long-term efforts must be made by the Mexicans themselves, but we also propose to obtain more far-reaching international co-operation in this endeavour. I must acknowledge that our efforts have been supported by the invaluable technological and financial assistance of friendly countries, among them Canada, for which I hereby extend the sincere and fraternal gratitude of the people of Mexico.

Honourable Members of Parliament, Mexico has always based its foreign policy on strict observance of the principles that define harmonious coexistence among nations. By tradition and conviction, Mexico has displayed a clear vocation for peace and conduct consistent with respect for the self-determination of peoples, the peaceful settlement of controversies and co-operation for development. For that reason, and because of the strength of its history, Mexico has confidence in its future, in the deep-seated nationalism of its people, and in the vigour of an ancient culture, which is experiencing a renewal and renaissance, and which proudly offers to the world's surprised eyes the contributions stemming from the spirit of its men and its women to the vast cultural wealth of the west.

Today Mexico, proud of its past, looks to the future. In doing so, we have found in Canada a friendly and respectful nation, interested in becoming acquainted with our way of life. We Mexicans also want to gain a better knowledge of this country's way of life, to explore in depth the traditions and customs of the people of Canada, and to enrich ourselves with the value that they themselves place on their pluralistic society and the diversity of their ethnic groups and their languages.

In the spirit of a Canadian who so staunchly demonstrated the strength of his determination, Terry Fox, as in the impressive talent of men of science like Frederick Banting and the humanism of Stephen Leacock, we Mexicans have come to know of the greatness of your people. That is why we are certain that this new era of friendship can be positive and enduring. The people of Mexico make very good friends. They want to be, in the true sense of the word, friends of the people of Canada.

Hon. Guy Charbonneau (Speaker of the Senate): Your Excellency, Mr. Speaker, Mr. Prime Minister, honorables collègues du Sénat et de la Chambre des Communes, distinguished guests:

[*Editor's Note: Speaker spoke in Spanish.*]

[*Translation*]

Mr. President, we are honoured by your visit. Your stature as an economist and a humanist inspires us with trust borne of reason. The validity of your democratic convictions is testimony of mutually beneficial co-operation.

[*Translation*]

You embody our countries' hope to create organic ties on this North American continent which we share with a powerful neighbour.

A worthy representative of contemporary Mexico, in your writings and your political life, you have already shown that technology and human values are not opposed but, on the contrary, that they combine to enrich humanity.

[*English*]

It is entirely appropriate, Your Excellency, that you should visit our assembly at this historic juncture in Canadian-Mexican relations. Mexico is of immense importance to Canada.

Before today, we knew you as a forward-looking leader determined to reshape your nation to meet the challenges of the future, while preserving the diversity of your cultural traditions and a deep sense of national pride in the achievements of previous civilizations.

Today, we have had the privilege of hearing you speak eloquently of your vision of the Mexico of today and tomorrow, and we feel that under your leadership the aspirations of your people are in good hands.

Your bold vision for the future of North America opens the door to new avenues of co-operation which promise to carry us well into the next century. Time strengthens friendship, and we look forward to expanding our ties in the months and years ahead.

In listening to you, Mr. President, we realized once again how the firmness of your ideological convictions is yet allied to a wise pragmatism, and your courage to a political wisdom which commands respect.

Mr. President, your mother is an economist and your father a senator; your inheritance was obviously the presidency.

We are proud to share our coming prospects with a neighbour who so profoundly grasps the interdependence of the modern world.

Your country is indebted to you for a new deal for its people. Your knowledge and experience fit you perfectly to play a prime role in the new deal that the three neighbouring countries in North America are contemplating. And we have the greatest confidence in the man who started the process, the President of Mexico, whom we have the honour to welcome here today.

On behalf of my colleagues in the Senate of Canada, your Excellency, allow me to thank you very warmly for your inspiring address to us today and for your moving expressions of friendship for the Canadian people.

We would ask you to carry back to Mexico a message of the deep friendship which all Canadians feel for the Mexican people.

[*Translation*]

I thank you, Mr. President, and wish you good luck.

Some hon. members: Hear, hear.

Mr. Speaker: Your Excellency, Madam, Mr. Prime Minister, Mr. Speaker of the Senate, Members of the House of Commons and Senate, honoured and distingued guests, ladies and gentlemen:

Today, I have the duty but also the immense pleasure to express on behalf of all members of the House of Commons and of all political parties represented here our great joy in having you among us in this historic Chamber.

• (1200)

[*English*]

Canada and Mexico have enjoyed an enduring friendship over many years. Since diplomatic relations were established in 1942, we have maintained positive and constructive contacts for our mutual benefit in numerous spheres of activity.

I should mention, Mr. President, the continual exchanges that have taken place between members of your Parliament and members of our Parliament over many years which have had a great effect in understanding both among your own people and among our colleagues that you meet with today.

I might say from a personal point of view that before I was elected to this House, I visited your country as part of a bidding delegation for the 1976 Winter Olympics,

when you were holding the Olympics in 1968. We were very well received by your representatives and they got us the Olympics. They got us the Summer Olympics though, not the Winter Olympics.

I have also had the privilege of being on a parliamentary delegation visiting your country. I want you to take back to your colleagues the very great importance that we place on these exchanges.

Today, we are facing new challenges arising from vast changes in our hemisphere and the world community, and you have spoken of them. In your address to us today, you have not ignored the difficult questions but rather with statements of courage and vision you have drawn attention to them.

As a true leader, you have reminded us that a challenge is also an opportunity. Since assuming office you have achieved great progress in moving Mexican society forward to realize its true potential.

Those of us who have had the opportunity to visit your country are impressed with the vast storehouse of resources, both material and human, with which your country is blessed. Culturally rich, economically dynamic, historically resplendent, politically self-assured, Mexico cannot help but succeed. These values and attitudes are reflected in the views you have expressed to us today.

The comments that you made, Sir, with respect to the drug problem and with respect to environment are timely and are of great importance to us. We know, because we are not naive, that the terrible scourge of the drug problem is not just as a consequence of where the drugs are produced, but also as a consequence of those who use them. So your comments are timely and helpful.

Your comments with respect to the environment come at a time when at a global level and all around the earth people are more and more realizing that this may well be the great issue that we have to resolve. Your comments bring encouragement and help to your friends here.

Some hon. members: Hear, hear.

Mr. Speaker Fraser: It means a great deal to us, who share the continent with you, to hear your comments because leadership is something that in this day and age must go beyond national boundaries and that when you make these statements, which are the statements of a true leader, they are an inspiration for all of us. We are deeply grateful for the message that you have brought to us from your country.

In closing, Mr. President and Madam, let me say on behalf of all who are here today, and many who are not able to be here, we value immensely our friendship with your country. We want to continue the relationship in a more and more effective way. We welcome you here today. We wish you could stay longer. We wish both you and Madam and your colleagues the very warmest best wishes from all Canadians. Thank you.

Some hon. members: Hear, hear.

THE SENATE

Wednesday, April 10, 1991

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

Prayers.

NATIONAL FILM BOARD

"FOCUS ON CANADA" HANDBOOK FOR SECONDARY SCHOOLS—PROMOTION OF FILM "THE KID WHO COULDN'T MISS"—QUESTION OF PRIVILEGE

Hon. Jack Marshall: Honourable senators, while I realize my Question of Privilege may have some implications, I must bring it to the attention of the Senate.

A recent action by the National Film Board breaks faith with a commitment made to the Senate Subcommittee on Veterans Affairs some three years ago, and stands in startling conflict with the government's stated attempt to weld national unity from varied elements of Canadians and certainly our veterans.

The NFB's new publication, "Focus on Canada", carries information on films and videos recommended for secondary-level social studies work.

The introduction to the "Focus on Canada" handbook states that it was prepared with the assistance of eleven social studies educators from across the country. Each consultant evaluated a number of films and provided suggestions for their effective use in the classroom. Working from these notes and comments, media specialist Arlene Moscovitch then wrote "Focus on Canada."

As one of their themes, the NFB lists works examining World War I, and one of the films recommended is "The Kid Who Couldn't Miss"—the story of William Avery Bishop, Air Marshall and recipient of the Victoria Cross. Let me describe what the handbook says about "The Kid Who Couldn't Miss."

> The dark side of heroism and the horrors of war are examined in this exciting docudrama that uses excerpts from the play *Billy Bishop Goes to War* together with archival war footage, scenes from old movies, and interviews with fellow combatants of Canada's most decorated military figure.
>
> This particular film has generated a great deal of controversy because of its less than adulatory stance towards Bishop, one of Canada's well-entrenched idols. It provides a wealth of issues for students and teachers to explore and debate. Why does war need heroes? Should generals use people like Bishop and Von Richtoffen to promote war? How are Bishop and Von Richtoffen alike? Could the film have shown that World War I was a futile, imperialistic struggle that needed to manufacture heroes to hide the true nature of things from the public and yet still have acknowledged the very real courage of men in intolerable situations?

Honourable senators, it should be of deep concern to Parliament that despite a commitment made by the NFB Film Commissioner, Mr. Francois Macerola, and his successor, Ms. Joan Pennefather, that the film would be quickly consigned to the back shelves, they have defiantly accepted the recommendations of these eleven social studies educators; and, furthermore, that the powers that be at the National Film Board have no control over the decision to recommend "The Kid Who Couldn't Miss" as suitable for study by secondary school students, especially when they agreed to allow the film to phase out.

As a matter of fact, honourable senators, their acceptance of the recommendations contradicts their commitment to the Senate and may border on contempt of Parliament.

It is quite alarming that the NFB administration could be so out of control with such a recommendation which ignores out-of-hand the agency's policy, unless they condone the action. This wayward direction is symptomatic of the irresponsible attitude of successive Minsters of Communication, both past and present, who hide behind their "arm's length" denial of their responsibility to Canadians. This action by the NFB also ignored the hurt that may again be inflicted on the Billy Bishop family.

The NFB agreed to insert a disclaimer with the title of the film and, as a resolution of the subcommittee report, decided to produce a new film, which is nearing completion at this very moment, entitled "*Aces*", which is a depiction of the many Canadian air pilots who became heroes in the world wars. It was expected, indicated, promised and stated by the Film Commissioner that "*The Kid Who Couldn't Miss*" would gradually disappear from the National Film Board inventory. Their action implies that they are now just as guilty of not representing what the truth embodies for Canadians, over 75,000 of whom supported the Senate's action, as is the producer of the film, Paul Cowan, who tried to camouflage the truth of a Canadian hero. Instead, a recommended distribution of such an erroneous film cannot help our nation find itself, and is a mockery of their responsibility. It certainly cannot help Canadian students appreciate that history should be, and must be, the truth. It cannot possibly foster pride in our Canadian achievements.

"*The Kid Who Couldn't Miss*" should not be distributed as an accurate reflection of one of Canada's foremost heroes, Air Marshall Billy Bishop, VC. I intend to ask for the consent of the Senate to put this blatant attitude to rest, and I will do so

utilizing my parliamentary privileges and the proper procedures of the Senate when the opportunity arises. Thank you.

Hon. Senators: Hear, hear!

Hon. M. Lorne Bonnell: Honourable senators, with respect to Senator Marshall's question of privilege, I should like to agree with everything he has said. I think it is time that we, as parliamentarians, should be able to depend on our public servants when they tell us they will put this film in the archives and not show it again. We do not have many Victoria Cross winners in Canada, and to have them belittled by our own National Film Board has gone beyond what is expected of it as an institution responsible to the Parliament of Canada.

I would like to suggest that Senator Marshall's question of privilege be referred to the Standing Senate Committee on Social Affairs, Science and Technology and its subcommittee of Veterans Affairs so that witnesses can again come forward from the National Film Board to answer to this blatant irresponsibility. It makes matters even worse to think that young Canadians in their history lessons and through the promotion of this film will be seeing a film that belittles one of our national heroes.

REFERRED TO COMMITTEE

Hon. M. Lorne Bonnell: Honourable senators, I therefore move:

> That the Question of Privilege raised by the Honourable Senator Marshall regarding the action of the National Film Board with respect to the film "The Kid Who Couldn't Miss" be referred to the Standing Senate Committee on Social Affairs, Science and Technology for consideration and report.

Motion agreed to.

• (1410)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. E. W. Barootes: Honourable senators, with leave of the Senate and notwithstanding Rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Agriculture and Forestry have power to sit while the Senate is sitting today, and that Rule 76(4) be suspended in relation thereto.

I can explain if requested.

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

Hon. Allan J. MacEachen (Leader of the Opposition): I would like an explanation as to why it is necessary to give leave.

Senator Barootes: I have asked for leave.

Senator Olson: Go ahead and explain.

[Senator Marshall.]

Senator Barootes: The explanation, honourable senators, is as follows: Bill C-98 has been referred to the Standing Senate Committee on Agriculture and Forestry, and we have asked the Minister of Agriculture to appear before that committee. However, the only time that we can obtain the services of the minister and his officials is at 3:30 this afternoon. We would therefore ask permission of the Senate for the committee to sit at that time.

Senator MacEachen: Three-thirty?

Senator Barootes: Fifteen-thirty hours, for those who do not understand, and, for the others, when the little hand is between three and four. That is our explanation.

Senator MacEachen: Honourable senators, I regret the necessity for seeking leave to have a meeting at 3:30 while the Senate is sitting when a number of important speeches are to be made, and I regret that the chairman of the Agriculture Committee has not been able to persuade the Minister of Agriculture to be available at a time other than 3:30. I would refuse leave except that I want to remain on good terms with my colleague, Senator Olson. So I agree to give leave; but I would ask the chairman of the committee, when this situation again occurs, to please use his acknowledged clout with the ministry to have the minister appear at a more appropriate time.

The Energy Committee is also meeting this afternoon, and presumably that committee too would like to hold an early meeting. I think it complicates matters but, having said that, I grudgingly agree.

Senator Barootes: Honourable senators, I accept the graciousness with which leave has been given today. The reason for the time agreed upon is that we had hoped to have half an hour with the minister who, although he has a fairly heavy agenda today, was persuaded to come at that time. We hope to be able to report back to the Senate on that bill as soon as possible.

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

Hon. Senators: Agreed.

Motion agreed to.

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

Hon. William M. Kelly: With some hesitation I move, with leave of the Senate and notwithstanding Rule 45(1)(*a*):

> That the Standing Senate Committee on Energy, Environment 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: Is leave granted, honourable senators?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I do not want to appear to be the one who is trying to interfere with the plans of these committees. I realize that all of them have important duties to perform and important work to do. As Senator MacEachen has just pointed out, there are times when we have to attend to other duties in the chamber and there are times when we can arrange committee meetings when the house is not sitting. I think it is incumbent on the chairmen of committees to try to arrange committee meetings at times that do not conflict with the sittings of the chamber. The elitist little group which was here yesterday afternoon recognized the situation in which we in this chamber found ourselves. Trying to maintain the numbers here to deal with the business of the Senate is difficult enough without having to give permission for committees to sit during that time.

I shall not interfere with Senator Kelly's request. This obviously is something that he has arranged beforehand, and I suspect that he probably has witnesses coming. Perhaps he will explain that to us. I simply wished to place before the chamber the predicament in which we find ourselves. We have a number of committees, all of which have to be manned. There are times set out during the week for committees to sit. I think that committee chairmen should try to arrange their committee sittings for that time and not place us in the position, here in the chamber, of trying to maintain a quorum and to keep the chamber's business going while the committees sit, albeit, and quite admittedly, on important Senate business. However, the first responsibility while the Senate is sitting is here in the Senate chamber.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I could not agree more with what Senator Doody has said. The witnesses this afternoon before the Energy Committee are public servants from Ottawa and Halifax. I would like to attend the committee meeting this afternoon, as I have a personal interest in the matter, and I also have to stay in the house; so what do I do?

Senator Doody: Postpone the committee meeting until the Senate rises.

Senator Kelly: Honourable senators, under the circumstances I am quite willing to withdraw the motion, if that is possible. However, in so doing I would like, on behalf of the committee, to throw myself at the mercy of the chamber and petition Senator Olson, particularly, to contain himself during Question Period, and to express the hope that perhaps we can complete the business of the chamber by four o'clock.

Hon. H.A. Olson: Honourable senators, there is a limit to how much you should ask Senator Olson to do.

The Hon. the Speaker: Honourable Senator Kelly, are you withdrawing your motion?

Senator Kelly: Yes, I am withdrawing the motion.

Motion withdrawn.

QUESTION PERIOD

TRANSPORT

DE HAVILLAND AIRCRAFT COMPANY—SALE TO EUROPEAN CONSORTIUM

Hon. Peter Bosa: Honourable senators, I have a question for the Leader of the Government in the Senate. Boeing announced today that it has sold de Havilland, a Toronto-based high-tech aircraft company, to an Italian and French consortium, which apparently is manufacturing aircraft in direct competition with the type built by de Havilland.

Could the honourable gentleman inform the Senate whether there are any strings attached to the deal that the government struck with Boeing? Can Boeing dispose of a high-tech company such as de Havilland to foreign companies without conditions?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, subject to confirmation, I think the transaction in question would have been cleared by Investment Canada, but I shall ask the minister responsible for that agency to let me have a report which hopefully I will be able to bring to the Senate later tomorrow or the next day.

● (1420)

Senator Bosa: Would the Leader of the Government comment on why it is possible for the French and Italian governments to have a controlling interest in an aircraft company but the Canadian government cannot?

Senator Murray: The honourable senator is asking for a statement of policy. The original decision with regard to de Havilland was and remains eminently defensible. I am sure the transaction, which will be approved by Investment Canada, will prove to be in the best interests of that industry and of the Canadian economy.

DE HAVILLAND AIRCRAFT COMPANY—OFFER TO PURCHASE BY BRITISH COMPANY—CONSIDERATION BY INVESTMENT CANADA

Hon. George van Roggen: Honourable senators, when giving an answer to Senator Bosa's question, would the Leader of the Government in the Senate comment on the degree to which Investment Canada considered the reported offer of a British company to purchase de Havilland; or will he at least comment on the desire of that company to bid on de Havilland, something which was refused by the Boeing Company?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will ask my colleague what information he has on that matter which he can properly convey to the Senate at this time.

DE HAVILLAND AIRCRAFT COMPANY—JOB PROTECTION—GOVERNMENT POSITION

Hon. Peter Bosa: Honourable senators, in answering these questions tomorrow, or the day after, will the Leader of the

Government inform the Senate as to whether there are any guarantees that the 4,900 jobs in Toronto will remain in place and that the workforce of the factory will not be diluted?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will ask for a full report on the matter.

THE ENVIRONMENT

PCB DESTRUCTION—STATUS OF FEDERAL PROGRAM

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. The federal PCB destruction program was implemented two and a half years ago by the then Minister of the Environment, Tom McMillan, in response to the tragic fire at St-Basile-le-Grand.

This plan featured measures to destroy low-level PCB contaminated materials in the federal inventory within one year. In fact, at the time of the announcement the minister made a commitment to ensure that no low-level PCB wastes would be left on federal sites by the fall of 1989.

Second, measures to destroy high level PCB wastes using leased transportable incinerators included expenditures allocated by the cabinet of $6 million to lease a transportable incinerator to destroy 3,000 tonnes of PCB waste at CFB Goose Bay in the spring of 1989, and $15 million to lease a second transportable incinerator for the destruction of other PCB wastes in Canada.

One year later Minister Bouchard updated this program, offering to transport mobile PCB destruction facilities on a low cost recovery basis to areas where volumes of waste warranted it.

Finally, the Green Plan released in December of 1990 committed the government to destroying by 1996 all PCBs under federal jurisdiction, establishing mobile incinerators in Atlantic Canada, Quebec and Ontario.

Two and a half years after the official announcement the following situation exists. There are 131 tonnes of low-level PCB contaminated mineral oil in the federal inventory. At the end of 1989 there were only 112 tonnes. The total number of PCB waste storage sites has increased by four from 1989 to 1990. The number of federal government—

Senator Doody: Question!

Senator Kenny: I am coming to it. I have been coming to it for a couple of years, and I have not been getting any answers.

The number of federal sites has increased from 551 to 625 during this period of time. Total PCB waste has increased from 119,000 tonnes to 130,000 tonnes by 1990.

The incinerator at Goose Bay is no longer operational. Since the shut down, nothing has been set up in the way of transportable incinerators anywhere in the country. According to Environment Canada, the $15 million allocated for the second incinerator still remains untouched. This considered, how fast is the government progressing in ridding the country of high-level PCB wastes?

[Senator Bosa.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, permit me to draw the attention of the honourable senator to Rule 20(4) concerning oral questions, which states:

> A debate is out of order on an oral question, but brief explanatory remarks may be made by the senator who asks the question and by the senator who answers it.

The honourable senator, in the guise of asking a question, has purported to place before the Senate a great deal of information which may or may not be factual; I have no way of knowing. I am therefore invited to comment on the premise and the preface to the honourable senator's question which, in the first place, I am not in a position to do, and, in the second place, it would be against the rules for me to do. I will take that part—that very brief part—of the honourable senator's speech which is a question as notice and ask for a report from my colleague.

Senator Kenny: Honourable senators, for two-and-a-half years I have been raising these questions. None of them is a surprise; they are on the order paper. The government does not answer the questions; they just hang there and hang there. The fact of the matter is that nothing is happening, and the Leader of the Government in the Senate is not prepared to stand up and admit that his government is doing nothing in this area.

Senator Murray: Honourable senators, I think there is a prior matter which should be attended to, and, if I may say so with respect, it is that the honourable senator should learn how to ask a question and not impose on the time and patience of the house.

Senator Kenny: Honourable senators, the Leader of the Government in the Senate is hiding behind the rules and ducking the substance and the issue. The people of Canada are far more concerned with whether or not the government is living up to its promises with regard to getting rid of PCBs than whether I know how to ask a question properly.

INTERNATIONAL TRADE

PROPOSED TRILATERAL AGREEMENT AMONG CANADA, UNITED STATES AND MEXICO—EFFECT ON CANADA-UNITED STATES FREE TRADE AGREEMENT—GOVERNMENT POSITION

Hon. Jack Austin: Honourable senators, I should like to ask the Government Leader in the Senate a question concerning the negotiations now being put in train between Canada, the United States and Mexico, and which were the subject of the recent visit of President Salinas de Gortari of Mexico.

There is some confusion in circles interested in these negotiations as to whether the present Canada—U.S. agreement, the so-called Free Trade Agreement, is subject to a possible reopening. The Prime Minister is reported to have said this week that it would not be reopened, but I would like to know whether that is the case, because Mr. Crosbie, the Minister for International Trade, is on record as saying that he would not rule out changes if Canada signs a North American pact. I quote his words, as follows:

● (1430)

> If during the course of these events we agree to things that are to our advantage and affect the U.S.-Canada deal, then, fine, we'll make some amendments,

I am wondering whether newspaper speculation is correct, that the Prime Minister has said that this U.S.-Canada agreement is closed and will not be reopened. If it is correct, then there appears to be a contradiction in policy which I would like the government leader to sort out for us.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not see where the contradiction lies. The Canada-U.S. Free Trade Agreement is not on the table in the course of these trilateral talks. The Canada-U.S. Free Trade Agreement cannot be reopened in any particular without our consent. Having said that, I suppose it is only prudent to state, as Mr. Crosbie has stated, that we would assess any suggestions for changes or modifications to that agreement in the light of the national interest.

Senator Austin: Honourable senators, I want to point out to the minister what I am sure he knows. I am sure he has a sophisticated appreciation of the issues involved in these trade talks. For example, there are very significant elements in the U.S. congress and U.S. business community who would like the reopening of some issues in the Canada-U.S. agreement and are using their position in the U.S. economic and political system, and in the discussions on the approval of the fast track system, as leverage to put these issues back on the negotiating agenda. I think it is very important for Canadians to know whether this agreement may be subject to being reopened, as Mr. Crosbie says, "if it is to our advantage" or whether it will not be reopened, and therefore those issues to which I have referred—I am not detailing them here because I know that my colleagues would like to get on with other business—will definitely be excluded by reason of government policy not to reopen the agreement under any conditions.

Senator Murray: Honourable senators, I think that would be quite an unreasonable position to take. We think that the Free Trade Agreement represents quite an important step forward in our trade relations with the United States and that it holds tremendous potential for economic growth in Canada. We have never stated that it is perfect. I think it is only prudent to add the qualifier that Mr. Crosbie has added to our position; namely, that we would assess any suggestions for modifications to the Canada-U.S. Free Trade Agreement in the light of the advantages such suggestions would bring to Canada. The only person in a position of leadership in Canada who has suggested that the whole treaty should be reopened is my honourable friend's leader, Mr. Chretien.

Senator Austin: Honourable senators, I am going to face with stony silence the last remark of the minister and simply press him to realize that if the government is holding out the possibility that the Canada-U.S. Free Trade Agreement could be reopened under any conditions at all, which the minister is now doing in adopting the words of Mr. Crosbie, if it is "to our advantage", then notice should be given specifically to important elements in our business community that their interests may be up for negotiation, because there is no negotiation without tradeoff. If some things are offered to our advantage then some other things may be offered to our disadvantage. There is no one-way win in any of these negotiations. For example, if intellectual property rights will be the subject of discussions in a trilateral way and end up as the subject of possible amendments in the Canada-U.S. arrangement, then I think the government should be warned that it should consult very carefully and openly with effective business and public interests in this country.

● (1440)

Senator Murray: Honourable senators, my friend is making an astounding leap in his argumentation. In my first sentence in reply to his first question, I told him that the Canada-U.S. Free Trade Agreement is not on the table in these talks, that it is not being negotiated, that there is no question of tradeoffs, and so forth.

There are also multilateral negotiations going on at the GATT. I believe intellectual property rights have come up at those negotiations. Is he suggesting that we should refuse to discuss them in that forum?

We are in the Canada-U.S.-Mexico talks to protect our own interests, to help open a tremendous market for Canadian products, to create economic opportunity here at home, and to achieve all the objectives that the honourable senator knows full well are totally possible in a more liberalized trading environment. We have no proposal to reopen the Canada-U.S. Free Trade Agreement, but it is always prudent in a matter of this kind to express the qualifier that Mr. Crosbie has sensibly expressed.

PROPOSED TRILATERAL AGREEMENT—POSSIBLE NEGATIVE EFFECT ON EMPLOYMENT

Hon. Stanley Haidasz: Honourable senators, in view of the fact that Statistics Canada recently published the sad fact that, since the implementation of the Canada-U.S. Free Trade Agreement on January 1, 1989, 200,000 jobs have been lost in Canada, could the Leader of the Government in the Senate tell us whether the federal government has studied the possible negative effects of a trilateral trade agreement between Canada, the United States and Mexico?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Senator Haidasz was perhaps not present yesterday when we had an exchange in this house concerning the Canada-U.S. Free Trade Agreement and the impact of that agreement on the Canadian economy. I may say, in parenthesis, that my friend could study, with profit, the statements made recently by another forum to the effect that the Canada-U.S. Free Trade Agreement had resulted in a considerable increase in investment by Canadian companies in this country with the intention of taking advantage of the increased opportunities created by the FTA.

As for what he calls the negative impacts of a trilateral trade agreement, I can only tell him that in any liberalization of trade there is, as he knows, always a certain amount of adjustment to be made in all of the economies concerned; but our studies and consideration of the question leads us firmly and unequivocally to the conclusion that the advantages of a trilateral trade agreement vastly outweigh whatever adjustments or disadvantages might occur in some sectors of the economy.

Senator Haidasz: Honourable senators, I would repeat that since January 1, 1989, unemployment has increased every year, and last week we were told that the unemployment rate in this country had reached 10.5 per cent. It is obvious that many Canadians are out of work. It is also a fact that a record number of companies have gone bankrupt and that others have left Canada.

Can the Leader of the Government tell us what the Canadian government will do to stop this haemorrhage, this tragedy of unemployment, bankruptcies and Canadian companies folding up or going south?

Senator Murray: The honourable senator cites the unemployment figures in the country, but he is wrong to attribute those statistics to the Free Trade Agreement with the United States.

As I indicated in an exchange here yesterday, some of the layoffs that various honourable senators and other critics of the Free Trade Agreement have attributed to the Free Trade Agreement turn out to be in sectors of the economy that are not covered by the Free Trade Agreement. The honourable senator should really analyze the situation a bit more rigorously before making general statements of that kind.

Senator Haidasz: Honourable senators, I am not blaming everything that has gone wrong in the Canadian economy on the FTA, which came into effect on January 1, 1989. However, the minister cannot deny the fact that many jobs have been lost. Statistics Canada says that 200,000 jobs have been lost since January 1, 1989, and that the unemployment rate is 10.5 per cent nationally.

What is this government doing to save the jobs of Canadians and to save Canadian companies from going under?

Senator Murray: Honourable senators, I think it is proper to examine the economic policies of the present government since it took office and the results of those policies. If the honourable senator does so objectively, he will find that since this government took office something like 1.3 million new jobs have been created in Canada. He should not, therefore, focus, to the exclusion of everything else, on the recession in which we find ourselves at the moment.

If he examines the analyses that have been done by various think-tanks and economic commentators, in particular the Conference Board of Canada report that came out in the last day or so, he will see that they are at one with the projections made by Mr. Wilson in his budget last month to the effect that Canada will be coming out of this recession by the summer of 1991.

[Senator Murray.]

FEDERAL FISCAL ARRANGEMENTS

EFFECT ON AFFORDABLE HOUSING IN TORONTO— REALLOCATION OF OLYMPIC GAMES' FUNDS

Hon. Stanley Haidasz: Honourable senators, I have another question for the Leader of the Government.

Last week the Mayor of Toronto, Art Eggleton, brought to the attention of the City Council and the people of Metropolitan Toronto the grave shortage in affordable housing in Toronto and the effect of the cutbacks to the provinces with respect to federal fiscal arrangements. Would the federal government consider giving the city of Toronto the money that was earmarked for the Olympic Games to help that city provide affordable housing for the homeless people of that city?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sure that money is already spoken for.

• (1450)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have two delayed answers, one to a question asked by Senator Olson on March 25 regarding interim financing for grain producers, and the other in reply to Senator Buckwold's question of March 26 regarding the use of GST revenues to reduce the national debt. I would ask that these answers be printed as part of today's proceedings, and I have duplicate answers for distribution to the senators.

AGRICULTURE

INTERIM FINANCING FOR GRAIN PRODUCERS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the first delayed answer is in response to a question raised in the Senate on March 25, 1991, by the Honourable H.A. Olson regarding Agriculture—Interim Financing for Grain Producers.

> The Minister of Grains and Oilseeds announced on March 27, 1991, a $158 million interim payment under the Western Grain Stabilization Act.
>
> The interim payment is for the 1990/91 crop year, which ends July 31. Producers who contributed maximum individual levy during the past two completed years will receive about $2,545. The average payment is expected to be about $1,200. The final payment will be issued in November 1991.
>
> This interim payment is made possible by an amendment to the Act in 1985. By province, it is estimated that the interim payout will be shared by participants as follows:

Manitoba	$27.5 million (in 23,700 cheques)
Saskatchewan	$80.5 million (in 67,000 cheques)
Alberta	$49 million (in 44,400 cheques)
B.C. & others	$1 million (in 1,300 cheques)

> The Western Grain Stabilization Program (WGSP) is

jointly funded by farmers and the federal government. A payment is triggered under the program when net cash flow from grain, oilseed and eligible special crop sales falls below the average of the past five years.

The WGSP will end effective July 31, 1991, and be replaced by two new safety net programs. The Gross Revenue Insurance Plan (GRIP) is available through provincial crop insurance agencies. The Net Income Stabilization Account (NISA) is being administered by the federal government and will be applicable to the 1990 taxation year in participating provinces.

GOODS AND SERVICES TAX

USE OF REVENUES TO REDUCE NATIONAL DEBT—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on March 26, 1991, by the Honourable Sidney Buckwold regarding Goods and Services Tax—Use of Revenues to Reduce National Debt.

(*The answer follows:*)

The Government in establishing the Debt Servicing and Reduction Fund, has gone considerably farther than what was suggested by Senator Lawson in his proposed amendment to Bill C-62. Senator Lawson had suggested that any surplus revenue, that is revenue in excess of $21 billion, be applied to the reduction of the federal debt.

The Government is proposing that all Goods and Services Tax revenues, net of the rebate to lower-income Canadians and the applicable credits, be allocated to a special fund, called the Debt Servicing and Reduction Fund. This Fund will also receive the net proceeds from privatization and debt contributions made by the general public. Public debt charges will be the only expenditure allocated to this Fund.

This means that all revenues collected from the Goods and Services Tax will be allocated to this fund, not just that amount in excess of what would have been collected under the manufacturers' sales tax. This will provide Canadians with the assurance that all revenues from the Goods and Services Tax will go directly to the payment of the interest on the public debt and therefore to deficit and debt reduction. By allocating all revenues to the Fund, none of the Goods and Services Tax revenues can be used to fund new program spending.

As noted in the February 1991 budget, beyond 1991-92, total budgetary revenues excluding the Goods and Services Tax will be sufficient not only to finance all of the program spending but also to contribute to deficit and debt reduction. Furthermore, the government has put in place a structure of revenues and program spending which will result in this surplus, between revenues excluding the Goods and Services Tax and program spending, growing over time. In 1991-92, there will be a shortfall of $3.7 billion which will have to be borrowed. (Copy of Summary Statement of Transactions from February 1991 budget attached)

The establishment of the Debt Servicing and Reduction Fund, along with the proposal to legislate spending limits, will ensure that program spending will be tightly controlled over the next five years. In addition, these two initiatives will provide the assurance that the Goods and Services Tax will not be used to finance higher-than-projected or new program spending.

TABLE 4
SUMMARY STATEMENT OF TRANSACTIONS:
BUDGET 1991

	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96
			(millions of dollars)			
A. PUBLIC ACCOUNTS						
Budgetary transactions						
Budgetary revenues	120,750	128,500	139,600	150,500	160,300	167,500
Program spending	-108,300	-115,800	-119,650	-122,800	-126,450	-130,600
Operating balance	12,450	12,700	19,950	27,700	33,850	36,900
Public debt charges	-42,950	-43,200	-43,950	-44,300	-43,850	-43,400
Budgetary deficit	-30,500	-30,500	-24,000	-16,600	-10,000	-6,500
Non-budgetary transactions						
Loans, investments and advances	300	300	650	750	500	300
Specified purpose accounts	7,400	8,250	8,850	9,350	9,800	10,200
Other transactions	-1,000	350	700	1,200	1,200	900
Net source of funds	6,700	8,900	10,200	11,300	11,500	11,400
Financial requirements (excluding foreign exchange)	-23,800	-21,600	-13,800	-5,300	1,500	4,900
Net public debt (billions of dollars)	388.5	419.0	443.0	459.6	469.6	476.1

TABLE 4
SUMMARY STATEMENT OF TRANSACTIONS:
BUDGET 1991

	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96
			(millions of dollars)			
B. Public Accounts restated for debt servicing and reduction fund						
Debt servicing and reduction fund						
GST revenues/privatization proceeds/private remittances		16,350	18,260	19,500	20,825	22,000
Public debt charges		-43,200	-43,950	-44,300	-43,850	-43,400
Balance		-26,850	-25,690	-24,800	-23,025	-21,400
Other budgetary transactions						
Budgetary revenues (excluding GST)		112,150	121,340	131,000	139,475	145,500
Program spending		-115,800	-119,650	-122,800	-126,450	-130,600
Balance		-3,650	1,690	8,200	13,025	14,900
Budgetary deficit		-30,500	-24,000	-16,600	-10,000	-6,500
C. Memorandum			(percentage of GDP)			
Budgetary revenues	17.8	18.3	18.7	18.9	18.9	18.5
Program spending	-16.0	-16.5	-16.1	-15.5	-14.9	-14.5
Operating balance	1.8	1.8	2.7	3.5	4.0	4.1
Public debt charges	-6.3	-6.2	-5.9	-5.6	-5.2	-4.8
Budgetary expenditures	-22.3	-22.7	-22.0	-21.0	-20.1	-19.4
Deficit	-4.5	-4.4	-3.2	-2.1	-1.2	-0.7
Financial requirements	-3.5	-3.1	-1.9	-0.7	0.2	0.5
Net public debt	57.3	59.8	59.5	57.8	55.4	53.0

Note:
(-) indicates a net requirement for funds
(+) indicates a source of funds.

THE SENATE

DELAY IN RESPONSE TO WRITTEN QUESTION—REQUEST FOR ANSWER

Hon. Eymard G. Corbin: Honourable Senator Doody, I notice that you have given answers to questions asked on March 25 and 26. I put down a written question much earlier than that and I still have not received an answer. What is going on?

Hon. C. William Doody (Deputy Leader of the Government): I tried to get the answer, senator, but it has not yet reached me. As soon as it does, I will make it available.

[Senator Doody.]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Seventy-Fifth report of the Standing Committee on Internal Economy, Budgets and Administration (Senator's secretaries), presented on April 9, 1991.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

THE BUDGET, 1991

STATEMENT OF MINISTER OF FINANCE—DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Olson, P.C., calling the attention of the Senate to the Budget statement made by the Minister of Finance on February 26, 1991.—(*Honourable Senator Frith*).

Hon. William J. Petten: Honourable senators, this order stands in the name of Senator Frith; but he has suggested that if any other senator wishes to take part in this debate, he or she should proceed.

Hon. Douglas D. Everett: Honourable senators, I am pleased to have this opportunity, raised by Senator Olson, to discuss the recent budget of the Minister of Finance. Honourable senators will be aware from Question Period in the last few days that this is a subject very much on everyone's mind at this particular juncture. The financial features of the budget are that the budgetary revenue will be in the neighbourhood of $121 billion, $108 billion of which will be allocated to program spending, leaving an operating surplus, prior to the servicing of public debt, of some $13 billion. The public debt charges are estimated to be $43 billion, so there will be a deficit of $30 billion in 1991-92, which will be offset by non-budgetary transactions of $6 billion, which will leave a financial requirement for the government of $24 billion, plus or minus the additions or subtractions from the Foreign Exchange Reserve Fund.

The government has set explicit targets for inflation for the first time. They have actually been set by the Governor of the Bank of Canada, which is an astonishing departure from policy in the past. Over the many years that I was chairman of the Finance Committee we discussed with the then government and governors of the Bank of Canada the possibility of establishing targets, and the possibility of giving us some norm on which we could judge the performance of monetary policy. Time and time again we were told that that was not possible because there were too many targets to be concerned with and to set a target at all might create a problem by virtue of its very existence.

That situation has now changed and changed dramatically. The Governor of the Bank of Canada has said that he will conduct monetary policy such that, by 1992, the inflation rate, as indicated by the Consumer Price Index, will only rise by 3 per cent. By 1994 that rate will be reduced to 2.5 per cent, and, by 1995, to 2 per cent. Not only does he propose to conduct monetary policy on that basis, he also has the joint cooperation of the Department of Finance.

It is true that the Governor is ultimately responsible to the Minister of Finance; but, as honourable senators know, that responsibility is of such a form that if he were to disagree with the Minister of Finance, which disagreement could not be resolved, the Governor would have to resign. Therefore, there is a great deal of independence between the Governor and the Minister of Finance. This independence is being narrowed by virtue of these targets where the Governor of the Bank of Canada and the Minister of Finance have agreed that those targets for reducing inflation will be met by a combination of fiscal and monetary policy.

We shall see whether or not this will be effective. There are certain escape clauses in the plan; but, nonetheless, the commitment is there, and, whenever it is moved away from, they are required by policy to return to it. So we have a new era that is going to change the whole concept of monetary and fiscal policy, perhaps quite dramatically. I sincerely hope that they can live up to it, as I am sure do all honourable senators and Canadians.

The other aspect of the budget that has been emphasized by the Minister of Finance has been the growth of program spending—that is, all spending other than interest on the debt and non-budgetary transactions. In 1984-85, when this government came into power, 19.5 per cent of the gross domestic product was allotted to program spending. That was reduced to 16 per cent in 1990-91, and the proposal is to reduce it further to 14.5 per cent by 1995-96. To put that in another context, the growth in program spending between 1984-85 and 1990-91 was 3.7 per cent per year. It is true that in 1991-92 that growth will jump to 6.9 per cent, the reason being that we are in a harsh recession and greater outlays will have to be made for unemployment insurance, old age security, farm interventions and defence. The long-range target for the program spending is 3 per cent a year.

It will be interesting to see what is done. The government proposes to put legislative limits on programs for the growth of program spending similar to the targets that have been proposed for monetary policy and inflation by the Governor of the Bank of Canada. Also, the government proposes to reduce government spending. I will not go into the proposed ways, but the most salient is that federal government employees will be restricted to 3 per cent increase in wages per year for the next three years.

I am happy to note that the government has decided to channel all GST revenues into what they call a Debt Servicing and Reduction Fund. That was a matter of some concern to all senators during the debate on the GST. If I recall, my colleague Senator Lawson proposed an amendment that the revenue be used to reduce the public debt. I am pleased that the decision was made to create the Debt Servicing and Reduction Fund, which would channel all those revenues and others toward those purposes.

Honourable senators, this year the deficit will be $30.5 billion. The public debt is $388 billion, and by the middle of the fiscal year it is estimated that it will rise to $400 billion.

● (1500)

The cost of servicing that debt will be $43 billion. What is important and what gets my attention is the financial requirements of this budget and the estimated requirements of future budgets, because this is a cornerstone of government policy right now. In 1984-1985 the financial requirements were $29.8 billion. By 1991 that figure had been reduced to $23.8 billion. It is proposed that in 1992-1993 that will drop to $14 billion.

In the following year it will drop to $5 billion, and by 1994-1995 the financial requirements will reverse and the income will be a plus instead of a minus of $1.5 billion.

The Minister of Finance has stated that the budget objective is to eliminate federal government borrowing from private capital markets. If he were to eliminate the government's financial requirements by 1994-1995, then a very important policy objective will have been accomplished.

What we are facing today is the reliance on foreign borrowings, and that is skewing our entire economic policy in the wrong direction. We have to raise domestic savings. The government again has committed itself to that. The government has said that it has to eliminate the government sector dis-saving; and that to which I have just referred, namely, of arriving at the $1.5 billion financial requirement surplus, would, in fact, do just that. Most of all, we have to—and the government again endorses this—reduce our reliance on foreign borrowings.

Honourable senators who yesterday were privileged to be in the Senate listened to Senator MacEachen's brilliant speech—and I underscore "brilliant" speech—on the reliance that is being placed on foreign borrowings in our budgetary transactions and how those borrowings are being used to finance government spending on consumption rather than on investment either by the government or by the private sector—more importantly the private sector. Senator MacEachen raised an issue—and, indeed, Senator Buckwold, when he asked his questions about the effect on interest rates, also raised an issue—which I think is very important that we address.

Let us look for a moment at our external position, as a country, vis-a-vis the U.S. Our long-term rates—that is, Canadian long-term bonds—as of this morning are at 9.7 per cent. U.S. long-term bonds, on the other, hand have an interest yield of 8.19 per cent. That is a spread in interest rates of 1.51 per cent between the long-term yields of the two countries.

It is interesting to note that long-term borrowings have a relevant tracking—not complete, but a relevant tracking—to the rate of inflation. It is also interesting to note that the spread of 1.5 per cent, or 151 basis points, between our long-term interest rates and the American long-term interest rates is close to the traditional spread.

It is also interesting to note that the monetary aggregate M-2, which largely tracks current output, in 1990 grew by 8.4 per cent. Now this is compared to a growth of 14 per cent in 1989. So one can see that economic activity is slowing. There is much evidence of this before our very eyes, but the fact of the matter is that the figures support the suggestion that there is a substantial reduction in economic activity.

Let us contrast long-term rates with short-term rates. The Canadian three-month treasury bill, as of this morning, is 9.53 per cent. The U.S. three-month treasury bill yields 5.60 per cent. That is a spread of 393 basis points, almost 4 per cent. It is interesting to note that M-1, which tracks the Bank of Canada control of monetary policy, has contracted by 1.8 per cent in the fourth quarter of 1990 as compared with the fourth quarter of 1989.

[Senator Everett.]

So what we have, as pointed out in short-term interest rates, in the spread between our interest rates and the American interest rates, and the performance of the monetary aggregate M-1, is the continuation of an extremely tight monetary policy by the central bank.

The fact of the matter is—and I do not need to tell honourable senators this—that we are in a recession—a very serious recession. I have listened to comments for the past six or eight months about how it will be a shallow recession. Well, it is not easy now, and there is a good chance that it will not be easy for the next few months. It will be very tough. We all know the figures—I do not have to go over them for senators—on the level of unemployment, the loss of jobs, and the loss of output. The other day I saw an article from the head of the social services department of the city of Toronto saying that the welfare outlays in that city are the worst in numbers of people involved since the 1930s.

Let us look at commodity prices, which are a good proxy for what is going on in the economy. They have fallen for the last five months. They are 5.2 per cent below their level of twelve months ago. There are some commodities now that are actually selling for less than their cost of production.

Honourable senators, our exchange rate today is 86.76 cents in terms of the American dollar. Ontario consumers are crossing the border at such a rate that it is estimated they are spending in the U.S. this year—that is, in 1991—$1 billion. This is the biggest province, but it is only one province, and consumers are spending $1 billion. We have all heard stories about the lineups of people at Blaine, Bellingham, and Buffalo to cross the border. This is turning into an avalanche, honourable senators, and don't think the Americans are not taking advantage of it.

I live in Winnipeg. Here is a paper I got the other day from a shopping centre in Minneapolis saying, "come on down." I would love to take the time to read it to you. It tells of marvelous bargains. The Americans are not foolish; they realize that at the present time they are developing a good market in luring Canadian consumers down to the northern part of the United States.

Hon. Edward M. Lawson: They are taking our money at par in Blaine and Bellingham.

Senator Everett: The honourable senator says they are taking Canadian money at par in Blaine and Bellingham.

• (1510)

Honourable senators are aware, from what they read, of the plight of export industries trying to compete today. It is not caused by the Free Trade Agreement. The Free Trade Agreement is going to cause adjustments, but I have no doubt in my mind that in the long-term the Free Trade Agreement will be good for Canada. The problem today is the difference in exchange rates between the two countries. I have talked to export industry after export industry and they are getting killed. The low cost of imports is making it very difficult for

our manufacturers to compete against American imports for the retailer's dollar.

So we have a problem. We are in a recession and yet we are finding out that we are not competitive with our main trading partner, and that is what is important. Why do we have the problem? First, our productivity in Canada has been lagging that of the United States. Also, there are a number of government mandated costs. It may interest honourable senators to know that government outlays in Canada total 44 per cent of the Gross Domestic Product. Let us compare that to 36.9 per cent in the United States and 39.6 per cent for the average of the G-7 countries which would include Canada.

As I mentioned earlier, the cost of servicing our public debt is $43 billion a year. We have the problem, for example, of universality—a pretty major problem if we think about it. I wonder if honourable senators know that the estimated government payments for family allowances, unemployment insurance, Old Age Security and Canada Pension Plan to those not in need totalled $7 billion in 1985, the last year for which they have figures. I think one could assume that if it was $7 billion in 1985, it is somewhat higher today.

In addition, of course, we have these high short-term interest rates. Let me again remind honourable senators that in Canada short-term interest rates are 9.53 per cent as compared to the American rate of 5.60 per cent. What does that do? Well, it all comes together to make us uncompetitive with the Americans. But despite that we have a very high short-term interest rate and a very high dollar in terms of the American dollar. What does that suggest to you? The automatic suggestion is to lower the interest rates, thereby lowering the exchange rate. We must remember that the exchange rate today is 86.76 Canadian cents for one American dollar. It is at a discount, but that is up considerably from a much lower figure not very long ago.

One of the problems of lowering the exchange rate is, of course, importing some inflation from the other country; and we can get into what is called the "British disease"—that is, you lower the exchange rate, you import some inflation, and labour reacts to it by trying to offset the inflation by asking for higher wages. So you devalue again, and the process goes on and on. It has to be done very carefully and at a particular time. I suggest to honourable senators that the time when it can be done is now. I think there is a minimum risk of inflationary fallout today.

I read that the GST had added 2 per cent to the inflation rate. Well, it did that in the month of January, but that will be spread over the whole year. I suspect that at the end of the year, if there is no change in policy stance, the increase due to the GST will be lower than the 1.25 per cent that was predicted by the Minister of Finance. We have an opportunity now. In my judgment, this economy is in such a precarious state right now that we are not going to import inflation; we are in much greater danger of letting our economy get away from us and harming some of our basic industries and our financial muscle because of lack of sales.

We will have to make a choice. The discipline of the relatively high exchange rate is that in order to compete you have to get your costs down, which means that increases in labour rates, profit margins, costs of commodities, and so on and so forth, have to be reduced. That is essential and that is a good aspect of government policy. But do not let us forget that in Canada our government intervention, especially in the social field, is such that we have a cost involved that adds to our costs far greater than to the American costs. We have to make a policy decision. Do we want to reduce the cost of social services? If we do and we can increase our productivity by reducing our wage increases, by improving our plant, by investing, by taking lower profit margins, by buying our commodities better, then we have to decide how much we want to spend on the landing nets of society. I for one would be loath to give up those landing nets. I think they are worthwhile in our society. I happen to be personally opposed to the concept of universality for the reasons I gave earlier, but the fact of the matter is that we can be proud of Canada's social programs. However, if we are going to have them, we will have to pay the price through a lower exchange rate. That is the option, and it seems to me that in the present recessionary climate the opportunity exists right now to lower short-term interest rates and the exchange rate in terms of the American dollar. We have the foreign exchange reserves today to protect against a run. I might say that lower interest rates alone will have a dramatic affect on the servicing of our public debt. A good percentage of our public debt is in short-term paper and the reduction in the cost of servicing that debt would be quite dramatic as interest rates reduce.

To follow on from where Senator MacEachen left off yesterday, and triggered by Senator Buckwold's question, I have no doubt in my mind that the Canadian dollar is overvalued, that it must come down, in my judgment, by at least ten cents. We cannot cure the problem just by lowering the exchange rate. We will have to be more productive, we will have to be able to compete with the Americans on terms of our costs; but if we want to maintain the services that we have, in my judgment we are not going to be able to do it at today's exchange rate. We must now, as a matter of policy, lower the interest rates. That will involve a more expansive monetary policy, an increase in the aggregate, but in the present recessionary climate we can do it and I think the fallout from it would be very beneficial to this economy. The failure to do it now, I am sure, will put us in a very difficult position, not only with regard to the problem that exists today but that which will exist as an ongoing legacy in the future.

• (1520)

On motion of Senator Petten, debate adjourned.

INTER-PARLIAMENTARY UNION

EIGHTY-FOURTH INTER-PARLIAMENTARY CONFERENCE, PUNTA DEL ESTE, URUGUAY

Hon. Joan Neiman rose pursuant to notice of Tuesday, March 26, 1991:

That she will call the attention of the Senate to the Eighty-Fourth Inter-Parliamentary Conference, held in Punta Del Este, Uruguay, from October 15 to 20, 1990.

She said: Honourable senators, I apologize for asking you to be patient for another 20 minutes or so, but the requirements of our Inter-Parliamentary Union procedures are such that I have to get on record this speech I am about to make so that it can be reported to headquarters in Geneva. I will try not to detain honourable senators too long.

I would like to present to the house the report of the Canadian Group of the Inter-Parliamentary Union for the eighty- fourth conference held in Punta Del Este, Uruguay from October 15 to 20, 1990, on behalf of the chairman of the Canadian group, Senator Nurgitz, who is unable to be present today.

It was very fitting that in a year which saw Canada join the Organization of American States that parliamentarians had an opportunity to attend a conference in one of the countries of South America. Uruguay is a country which is consolidating a return to the country's democratic values and institutions following the military dictatorship of 1973 to 1985. Although the country's economy grew steadily during the 1980s, it has stagnated during the past few years. Uruguay has not been traditionally a major trading partner of Canada, but recently the Canadian government moved the South American office of International Development and Research Centre to Montevideo, the capital of Uruguay.

Before leaving Canada, the delegates were briefed by a number of officials from External Affairs and International Trade Canada, the Canadian International Development Agency and the Department of Secretary of State. The Research Branch of the Library of Parliament prepared a number of papers.

Upon our arrival in Punta Del Este we were also briefed by his excellency Clayton Bullis, our ambassador to Argentina, who is accredited to Uruguay, about the current political and economic situation of that country.

Just before the opening of each conference the women delegates hold a meeting to discuss ways of involving more women in the work of the Union by increasing their numbers on the delegation and their representation on various committees. On this occasion Mrs. Sheila Finestone of the House of Commons and I were the only women delegates with the Canadian group.

On a personal note, I want to mention how much progress women parliamentarians have made at the IPU in recent years. When I first started to attend IPU conferences in the mid-1970s there was only a handful of women delegates, and none served on any executive positions. At Punta Del Este 19 per cent of the delegates were women, and at present there are three women on the executive committee and a few women serving as chairpersons or vice-chairpersons.

At their meetings the women parliamentarians also consider the subjects on the agenda of the full conference. The Canadian delegation presented a draft text on one of the items in which it was especially interested, literacy and education, which served as a working document for the draft resolution presented on behalf of women parliamentarians.

"Eliminating colonialism and its consequences by strengthening cooperation between developed and developing countries and exploring different models of regional cooperation" was the first topic on the conference agenda. This has been an ongoing subject of debate in the Union for years, but since the free elections in Namibia the number of persons still under colonial powers has decreased substantially. Thus, the committee on non-self-governing territories and ethnic questions has changed its focus to try to effect improvements in north-south relations.

The Canadian group submitted both a memorandum and a draft resolution and participated in the plenary debate. Mrs. Sheila Finestone was selected to chair the drafting committee which is usually quite contentious and difficult. She was obviously a very capable and resolute chairperson since, for the first time in the history of the IPU, the draft resolution on decolonization was adopted by consensus on the final plenary.

The second topic on the conference agenda was "Literacy and education as essential factors in the liberation of women and men to promote their participation in democratic life and as necessary instruments for development." As I mentioned earlier, the Canadian group assisted in the preparation of the draft resolution presented by the women parliamentarians. In addition, it submitted a draft resolution and a memorandum, and one of our delegates spoke in the plenary debate. Sections of the Canadian resolutions were incorporated into the final text.

At each conference there is an opportunity to add to the agenda a supplementary item relating to some event which has occurred in the six months since the last conference. It will come as no surprise that this time the conference agreed to examine the situation in the Persian Gulf.

Richard Lopez, a member of the other place, participated in the debate. He pointed out that Canada had played an active role through its position on the United Nations Security Council in drafting and sponsoring the series of resolutions designed to put pressure on Iraq. Canada had made every effort to ensure that its people and corporations observed United Nations sanctions against Iraq and to ensure that other UN members did the same.

He also noted that Canada had dispatched two destroyers and a naval escort to monitor the implementation of sanctions and to deter further aggression. He stressed that the success of a non-military action to end Iraq's aggression against Kuwait depended on maintaining the collective will to enforce sanctions. He concluded by expressing the hope that all nations represented at the conference have the necessary resolve to maintain their compliance with sanctions until all foreign nationals have been released by Iraq and Iraq had withdrawn from Kuwait.

● (1530)

The text of the resolution approved in plenary reflected many of the positions taken by Canada. Subsequent events have overtaken and overshadowed the views expressed at that conference last October. The IPU and other interested organizations—most importantly the United Nations—now have the challenge of finding, expressing and implementing the political mechanisms and accommodations which have the best chance of bringing peace and stability to the Middle East.

Occasionally a conference also adds an emergency supplementary item to the agenda when a situation of grave importance occurs immediately before or during a conference. The violence which had just occurred in Jerusalem on October 10, 1990, when 20 Palestinians were killed and more than 150 persons injured by Israeli security forces, was deemed to be of such importance.

The draft resolution expressed alarm at what had taken place, condemned the acts of violence, and called upon Israel to abide scrupulously by its legal obligations under the Fourth Geneva Convention. The draft resolution was adopted by consensus, with several explanations of votes.

I know that a number of our honourable colleagues are interested in the CSCE process, which is the Conference on Security and Cooperation in Europe. Traditionally this process has provided the main forum for discussion between the 35 members of the East and West blocs. In addition to the regular CSCE meetings, attended by governments of countries represented at the IPU, every three years there has been an inter-Parliamentary CSCE conference. The next one will be held in July 1991 in Vienna when changes in its format and structure to recognize the changes still taking place in Europe will be discussed.

In his report to you on the Nicosia IPU conference held last April, Senator Nurgitz mentioned a planning meeting in Nicosia which he co-chaired regarding the World Summit on Children. That meeting, which was co-chaired by our Prime Minister and the president of Mali, took place in New York in September 1990. A resolution, co-sponsored by Pakistan and Canada and adopted by consensus at the summit, called on governments to implement fully and quickly the major global commitments agreed to in the Declaration and World Plan of Action on the Summit, especially national strategies for child survival and development and the early ratification and implementation of the Convention on the Rights of the Child, and further to ensure that adequate financial resources are available for these purposes, and to establish appropriate national mechanisms to monitor the implementation. These are brave words which we can only hope will be followed by equally bold action.

I would now like to turn to the IPU activity in which I am most directly involved, namely, the Committee on the Human Rights of Parliamentarians which I chaired last year. Although I was chairman of the committee in Punta Del Este last October, this year Senator Solari Yrigoyen of Argentina and I have again switched places and he is the chairman and I am the vice-chairman. As I have explained to honourable senators several times just how the committee functions, I shall only mention that it conducts its meetings *in camera* and deals with each file on a confidential basis. It is only when the committee feels that it is not making any further progress dealing directly with the government against which there is a complaint, and that it requires the cooperation of other national groups to bring additional pressure, that it decides to report publicly and recommend to the council appropriate further action.

At this conference the Nordic groups made public their concern, which was shared by many other national groups, about the removal from office and subsequent treatment of the former Prime Minister of Pakistan, Benazir Bhutto, and especially the need for her trial, if and when it occurred, to be held in accordance with internationally accepted standards. The Human Rights Committee agreed to accept the case, then conducted a preliminary investigation with the cooperation of the Pakistan National Group. This type of monitoring role is often effective in discouraging actions which could give rise to formal complaints.

Seven *in camera* sittings were held in Punta Del Este, including eight hearings with delegations from countries concerned. The committee studied the individual situations of 50 serving or former parliamentarians from 19 countries. Six of these cases in four countries were before the committee for the first time. The committee was able to close five confidential files and four public cases, one in Chile and three in Sudan. Violations of 18 members or former members in six countries (Chile, Colombia, Guinea-Bissau, Honduras, Sudan and Turkey) were brought to the attention of the conference. During its 14 years of existence, the committee has investigated over 600 cases in some 50 countries. The majority have concerned parliamentarians imprisoned without charge or after improper trial. Many others simply "disappeared" and the authorities cannot or will not provide any explanation. Although the committee can record some comforting success statistics, I am personally appalled and often discouraged at the increasing number of horrifying cases which are brought to the committee's attention.

In conclusion, honourable senators, I want to remind you of the goals of the union: to work first for peace and cooperation among people; and, second, for the firm establishment of representative institutions. With the events in the Persian Gulf, all of us are especially aware of the need for peaceful resolution to situations of conflict. These events are a poignant reminder to us to make renewed efforts to solve differences diplomatically and not by force. So too, the events of the past year in Eastern Europe remind us of the need for assistance in the development of democratic institutions.

● (1540)

After discussions with our colleagues from the newly-emerging democracies of Eastern Europe, we are aware of the difficult road on which they are travelling and of the type of assistance they require in order to firmly establish representative institutions with multi-party systems.

Honourable senators, these IPU conferences provide a valuable opportunity for our legislators to meet their parliamentary colleagues from widely varying backgrounds and, through dialogue with them, to gain a better appreciation of the complex factors involved in resolving current conflicts and in establishing representative institutions. These conferences play a key role in enabling us to be good world citizens, knowledgeable about international events and committed to world peace and cooperation.

Hon. Senators: Hear, hear!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I would thank Senator Neiman for her interesting speech and ask her the following question: Can she tell me how many members of the IPU are multi-party countries and how many parliaments represented elected their members by universal suffrage?

I know the honourable senator may not have the precise answer today but an approximate answer would be appreciated.

Senator Neiman: That is a very difficult and awkward question for me at the moment. I would be happy to take it under advisement and try to get an answer for the honourable senator tomorrow. I know the numbers are not nearly as great as we would like them to be. However, I can give the honourable senator a more precise answer tomorrow because I do have some research material which would help me in that regard.

The Hon. the Speaker: If no other honourable senator wishes to participate, this inquiry is considered as having been debated, subject, of course, to Senator Neiman's providing an answer to the question tomorrow.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, April 11, 1991

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

Prayers.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Peter Bosa: Honourable senators, I have the honour to present, on behalf of Senator Frith, two petitions comprising 46 names asking members of the Senate and members of the House of Commons to do everything possible to abolish the new goods and services tax and to demand that a general election be held immediately.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, I have the honour and the duty to present, on behalf of Senator Frith, two petitions coming from 41 residents from New Brunswick. These petitions come from the northeast region of New Brunswick, from localities such as Pokemouche, Tracadie, Shippigan, Évangéline, Sainte-Rose, Bas-Caraquet, Haut-Caraquet, Caraquet Centre, and so on. The petitioners are against the hardship caused by the goods and services tax.

Hon. Jacques Hébert: Honourable senators, I would like to table a petition by 64 Quebecers, mostly from the LaSalle area, who are also against the goods and services tax, and who denounce all the bad effects of this nasty law. Thank you, honourable senators.

[*English*]

FARM INCOME PROTECTION BILL

REPORT OF COMMITTEE PRESENTED

Hon. Efstathios William Barootes, Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, April 11, 1991

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-98, An Act authorizing agreements between the Government of Canada and the provinces to provide for protection for the income of producers of agricultural products and to enable the Government of Canada to take additional measures for that purpose, has in obedience to the Order of Reference of Tuesday, April 9, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

E. E. BAROOTES
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): With leave, later this day.

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

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, before we give leave, or before we consider giving leave, perhaps the deputy leader would tell us about his program for the days ahead, when the Senate will be sitting and whether it will be sitting tomorrow, Monday or next week.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, perhaps I could shed some light on the matter. I do not believe we will be sitting tomorrow. I intend to bring forward on Monday next, under Notices of Motions, the notice of a motion to instruct the Standing Senate Committee on Legal and Constitutional Affairs to report before the end of next week on the motion respecting the appointment of the Privacy Commissioner.

Senator Hastings: Who is that?

Senator Murray: Beyond that, no decision has been made about prorogation. There is always that possibility and, as honourable senators are aware, the House of Commons is coming to the end of its agenda for the moment. I have every reason to believe that they will be adjourning in the next couple of days. We have two or three important matters at most that we would want to have disposed of, one being the resolution regarding the appointment of the Privacy Commissioner and the other the bill which has only this week gone to the Standing Senate Committee on National Finance concerning amendments to the Financial Administration Act. I understand that committee met this morning and heard my colleague, Mr. Loiselle, President of the Treasury Board, and it has meetings scheduled for next week. So my concern is to ensure that the Senate is in a position to dispose of at least those two matters, which are on my mind now, so that the Prime Minister and the government would not be constrained in choosing a date for possible prorogation.

Senator MacEachen: Honourable senators, I take it, therefore, that the Senate will return on Monday, principally to deal with the motion which the Honourable the Leader of the Government will launch at that time, which is to deal with the appointment of the Privacy Commissioner. Insofar as the

Financial Administration Act is concerned, that matter will be before the committee next week and would not require the presence of the Senate. In any event, the motion that is before the House of Commons calls for an adjournment, and it is pretty clear that the government does not intend to prorogue until close to the calling of the new session. In any event, in light of the fact that the Senate is not sitting tomorrow, we will agree to give leave for these two bills to proceed, and we will look forward to debating the motion that will come forward on Monday.

Hon. John B. Stewart: Honourable senators, I should like to ask the Leader of the Government in the Senate a question. We were told that the bill with regard to the Financial Administration Act, which is a complicated bill because of the relationship between its clauses and the sections of the Financial Administration Act, would be available to be studied by senators up to the end of this month. I think that is on the record of the Senate. Certainly that is what some of us heard and that was the assumption on which we were planning our work. That was certainly the assumption that operated this morning in the work of the committee.

• (1410)

My question to the minister is this: Should the committee continue its work, or is it possible that the government will prorogue notwithstanding that this particular measure has not passed, with the thought that because the work has already been done the bill will be introduced in the next session and carried forward fairly quickly to enactment? Is that the plan?

Senator Murray: I do not think I can help the honourable senator very much, because, as I said, no decision has been made as to a date for possible prorogation. I am not in a position to read the Prime Minister's mind. I simply want the Senate to do the prudent thing. I am very happy with the work schedule that has already been set out by the Standing Senate Committee on National Finance.

Insofar as the question has been put to me about whether the members of the committee should continue or cease their work, I say to them: "continuez mes amis".

THIRD READING

Hon. Eileen Rossiter: 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.

Motion agreed to and bill read third time and passed.

[*Translation*]

BORROWING AUTHORITY BILL, 1991-92

TWENTY-SECOND REPORT OF THE STANDING COMMITTEE ON NATIONAL FINANCE PRESENTED

Hon. Fernand-E. Leblanc has the honour to present the following report:

[Senator MacEachen.]

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

TWENTY-SECOND REPORT

Your Committee, to which was referred the Bill C-97, An Act to provide borrowing authority, has, in obedience to the Order of Reference of Wednesday, March 27, 1990, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

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

THIRD READING

Hon. C. William Doody (Deputy Leader of the Government): 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?

Some 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 Doody, seconded by the Honourable Senator Simard, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

[*English*]

Hon. John B. Stewart: Honourable senators, on March 27 or 28 I expected to be speaking to the third reading of Bill C-97.

The Borrowing Authority Bill for 1990-91, Bill C-65, provided authority to borrow $25.5 billion. The Minister of Finance a year ago believed that the amount of $25.5 billion of borrowing authority would be more than enough to carry the government through March 31, 1991, and to leave a balance of up to $3 billion with which to begin the new fiscal year, 1991-92.

The Minister of Finance was wrong. The $25.5 billion of borrowing authority provided by Bill C-65 proved insufficient for 1909-91. The total was used up early in March. Even the $3 billion intended for the first part of 1991-92 was used up before the end of March 1991.

New senators may not know all about section 47 of the Financial Administration Act. That section permits the government to borrow on a short-term basis without the authorization of an ordinary borrowing authority bill. Section 47 states:

> Where it appears to the Governor in Council that the Consolidated Revenue Fund will be insufficient to meet

> the disbursements lawfully authorized to be made from it, the Governor in Council may authorize the Minister to borrow, for a period not exceeding six months, an amount not exceeding such amount as the Governor in Council deems necessary to ensure that the Consolidated Revenue Fund will be sufficient to meet those disbursements.

Governments have been most reluctant to make use of section 47. First, debt management is destructive because too much of the debt is in the form of short-term instruments. Second, the interest on short-term instruments ordinarily is somewhat higher than on long-term bonds.

I note, honourable senators, that I had expected to be speaking on this motion over two weeks ago. I want to use a paragraph or two from what I had intended to say at that time.

I intended to say:

> Unless Bill C-97 goes forward for Royal Assent before April 1, the government's debt management program will be seriously disrupted. If the bill does not receive Royal Assent before the House of Commons returns from its Easter recess, two, perhaps three, bond issues will be impossible. Once again, the Senate must set aside its rules and practices to rescue the government.

Then I intended to say:

> Bill C-97 was read here the first time on Monday, March 25. Under the rules of the Senate, normally it could not be ready for Royal Assent before the House of Commons adjourns for Easter. The bill affords senators their first opportunity to debate a measure related to the budget brought down by Mr. Wilson toward the end of February.

Notwithstanding that it was the first opportunity for the Senate to consider budget matters, the Senate was being asked to waive its rules with regard to the enactment of this bill and to enact it very rapidly.

● (1420)

Once again, the Senate is being asked to rescue the government from the consequences of ministerial bungling. The minister was wrong in his financial forecast for 1991. Months ago, indeed in September 1990, he knew that all the borrowing authority would be used up and that there would be nothing left to finish the then current fiscal year, let alone to begin 1991-92. Nevertheless, on government motion, the House of Commons went on a prolonged adjournment for over two months covering late December, January and February. They came back for a few days in January to deal with the Gulf emergency, but they were away from Ottawa for over two months. I hope that honourable senators opposite will not regard what I am saying now as party partisan.

Senator Barootes: Heaven forbid! Who would think that?

Some Hon. Senators: Oh, oh!

Senator Stewart: It is a matter of relationship between senators on both sides of this chamber and the House of Commons. The House of Commons went away for two months. They needed the rest. Then, when they came back, the Minister of Finance gave his budget speech toward the end of February. In other words, they came back with only one month between the time of their resumption and the beginning of the new fiscal year. The government brought in the Borrowing Authority Bill, which was going to be needed immediately, but the bill did not reach us until Monday, March 25. What were senators on both sides expected to do? They were expected to have the bill through by the end of that week.

Again and again it is said that the relationship between the Senate and the House of Commons would be harmonized by a constitutional amendment comparable to the Parliament Act of 1911, thereby the Senate would be reined in. Under that act the Senate would have had one month in which to deal with Bill C-97. The truth of the matter is that the Senate, unlike the House of Lords in England, is so cooperative with the executive government with regard to these financial matters that ministers have come to take the Senate very lightly. The Leader of the Government in the House of Commons takes senators in the Senate extraordinarily lightly. Senators on both sides are supposed to be cooperative and come to the rescue regularly.

I was going to say on March 27 that "if the bill passes today, not one month but only four days will have elapsed between the first reading of the Senate and passage of the bill." That is what I was going to say. As it turned out, as Senator Doody reported to the Senate on March 27, as recorded in *Hansard* at page 5553, the government was not prepared to go forward. Let me quote what Senator Doody said at that time:

> Senator Stewart is absolutely correct. I did assure him that the government wanted this bill as quickly as possible. A meeting was arranged for him with members of the Department of Finance, who explained the urgency of the bill. For some reason—which I cannot explain and I do not understand—the government or the leadership in the other place did not make arrangements for the House of Commons to be present for Royal Assent tomorrow.

I gather there was also some problem with arranging for the presence at the National Finance Committee of a suitable minister. The House of Commons again went on holidays. The Senate adjourned and we came back this week. The National Finance Committee met last night. We were told that Senator Doody was wrong in what he told us with regard to the urgency of the bill. We were told that the understanding that had been given to me by the officials was wrong, that there was really no urgency at all. We were told that the government had not had to resort to section 47 of the Financial Administration Act except for a small part of an issue late in March. It did not need the borrowing authority.

In the speech I was going to make urging the passage of the bill before Easter I was going to say that if the bill does not receive Royal Assent before the House of Commons returns from its Easter recess, two, perhaps three, bond issues will be impossible. That is what I was led to believe, but last night the tune was very different. Only one issue was missed. When we

asked whether there were serious consequences for the financial management, the minister told us that the consequences were not serious at all. Indeed, the minister urged the committee and the Senate to take all the time the senators thought they might need on this bill.

So Senator Doody was wrong. I was wrong. Why we were wrong remains to be explained. The credibility of people who mislead senators is in question. I do not think that honourable senators on either side of this house, who have the interest of this house at heart, should be prepared to tolerate this kind of treatment any longer.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I do not know whether to be angry or amused at the events that Senator Stewart described. We all recall our session on March 25 when the borrowing bill came from the other place. Senator Doody rose and asked for leave to have second reading on that Monday, which normally would require notice of two days. I declined to give leave but said that if the case could be made we would reconsider our position. In fact, in making that offer I said as follows.

> . . . it is my understanding that it is the intention of the government to bring back the House of Commons on April 8.

That happened.

> In that event, we would return on the following day. Therefore, would it not be appropriate to give the borrowing bill second reading, send it to the committee this week and deal with it finally on the week that we come back?

That is the schedule that is now being followed. When I made that proposal, Senator Doody again appealed in these words, after having stated that the government was now operating under section 47 which enables it to use short term borrowing only:

> That disrupts their mix of short-term, long-term and flexibility in terms of interest rates . . .

● (1430)

As Senator Doody and Senator Stewart confirmed, a meeting was arranged in which the case of the Department of Finance was heard. At that time the officials insisted upon the urgency of action, which convinced Senator Stewart and myself that we should waive all notice and provide for the passage of the bill because it was urgent—that is, it would be "disruptive," in the words of Senator Doody, to do otherwise. It would disturb the proper balance between short-term and long-term borrowing; it would create difficulty down the road; and it would destabilize the market.

I do not complain about the fact that the Royal Assent could not take place on the day that we expected had we passed the bill before Easter—in fact, I do not complain to Senator Doody at all on any of these points—but Royal Assent did not take place and we dealt with the bill last night. What I would have expected, in the light of the previous evidence given privately and in the Senate, is that the officials would have said, "Yes, it has been disruptive, as we said; it has embarrassed our borrowing plans and we confirm what we said previously." But what happened, as I understand it—not having had a chance to read this volume in detail—is that whatever urgency had existed had dissipated greatly in the meantime. The minister pulled the rug right from under Senator Doody when he said in his statement:

> I am not criticizing the Senate at all. I am not saying you have got to pass this tonight. I have not even suggested that.

This exchange took place on April 10, 1991. The minister went on to say:

> The sooner it is passed, the better . . . However, we are not asking you to rush or to hammer the bill through.

Senator Cools: You were there and you did not say a word.

Senator MacEachen: What is going on?

Senator Doody: Was that last night?

Senator MacEachen: Yes. That is what the minister said last night. That concerns the timing of the bill. He said there was no rush. I was tempted today to say, "Let us do the third reading next week and send it back to committee for another go," but being uncertain as to what mood I should adopt on the matter I gave leave. But last night Senator Stewart said:

> We are into April. You told us you have not done any borrowing in the new fiscal year using the authority of section 47 of the Financial Administration Act.

I understood the word was that there would be two or three. Senator Stewart asked:

> Has the fact that this bill has not yet become law had any considerable impact on the government's borrowing program? For example, has it had any considerable impact on the size of the borrowings that you will make in April?

The minister said, "The short answer to your question is that it is very minor."

Well, there it is. I think it would be very difficult in future to accept pleas of this kind that are backed up by appealing to our sense of citizenship and telling us that the taxpayers would be embarrassed, that the borrowing program would be disrupted, that the proper mix would be endangered and that it would create a difficult situation. It would have been better had the officials been consistent in their approach last night in order that we could believe what we hear in the future. However, what are we to think about this kind of situation? I believe that Senator Doody, when he said that it would be disruptive, firmly believed that it would be disruptive if it were not passed; but the minister said last night that, no, it was not disruptive, that it was very minor, "take your time, ladies and gentlemen; no rush, no rush from us." Therefore, let's pass it and get it out of our sight, for God's sake.

[*Translation*]

Senator Leblanc: Honourable senators, I want to emphasize to this Chamber that the National Finance Committee made every effort to give timely passage to the bill before the Easter adjournment. Even before the bill was referred, we had made tentative arrangements to hold a committee meeting on the evening of Wednesday, March 27 and were prepared to expe-

dite the bill towards third reading and royal assent the following day. However, none of the three ministers with responsibility for the bill—the Minister of Finance and two ministers of State—was prepared to appear before the committee at that time. We accordingly arranged to meet the following morning, on Thursday, March 28, but could not obtain a minister for that meeting either. By then we knew that the House of Commons had not agreed to be present for a royal assent ceremony on the afternoon of March 28, so Bill C-97 could not become law immediately in any case. In other words, our strenuous efforts to co-operate in giving this bill speedy passage were to no avail through no fault of your committee's, but rather because the government was unwilling to make a minister available to the committee and unable to smooth the way towards royal assent. Any blame for the disruption of the government's borrowing program must therefore be placed squarely on the government itself.

I would like to make a few comments about the substance of Bill C-97 and in so doing to reiterate some of the points made by the Leader of the Opposition in his speech to this Chamber on March 27. As hon. senators are aware, the borrowing requirement of $26.4 billion consists of the government's net financial requirements for 1991-92 of $21.6 billion, plus $1.8 billion to cover exchange fund earnings and $3.0 billion as a reserve for contingencies. The financial requirements are of course closely related to the deficit, which, for the third year in a row, is estimated at $30.5 billion in 1991-92. When we look at the 1991 budget, we see that the public debt, which now amounts to some $388 billion, is expected to rise to $419 billion this year and to $476 billion in 1995-96. Given the government's track record of overly optimistic predictions, what reason is there to believe that the deficit and the debt will ever start to decrease?

The Main Estimates for 1991-92 are presently before the National Finance Committee for review. They indicate that the provisions for interest charges on the public debt, at $43.2 for 1991-92, is only 0.6 per cent higher than the forecast payments in 1990-91. Honourable senators will recall that interest rates in 1990 were much higher than the Minister of Finance predicted in his 1990 budget, and indeed the resulting high interest charges are the principal reason for the situation that the government now finds itself in, having exhausted its borrowing authority for 1990-91 before the end of the fiscal year. As well, the continuation of the high deficit was explicitly blamed by the government on the rapid increases in interest payments, which rose by 17.0 per cent in 1989-90 and 10.6 per cent in 1990-91. The Minister of Finance has also been claiming in his budgets of recent years that the government is controlling the growth of program spending, which it defines a spending on everything except interest payments on the public debt.

The government is now in the fortunate position of having to service its debt at a time of falling interest rates, and the provision for interest payments in the 1991-92 Estimates is therefore scarcely higher than the forecast for 1990-1991. Why then is the deficit expected to be $30.5 billion for the third year in a row? Again, the Main Estimates provide the answer. Proposed 1991-1992 program spending, far from being under control, is $115.8 billion, an increase of 6.9 per cent over 1990-1991. This compares to increases of 4.3 per cent in 1990-1991 and 4.4 per cent in 1989-1990. The budget announced an expenditure reduction of nearly $1.1 billion, which is not reflected in originally planned expenditures and reduces program spending to $114.7 billion. This still represents an increase of 5.9 per cent from last fiscal year. Part I of the Estimates states that the increase is the result of higher statutory payments for old age security and unemployment insurance. Increased unemployment insurance payments, of course, are caused directly by the high unemployment rates of the recession into which the government has plunged the country.

It seems that, when the government is managing its program expenditures fairly well, interest charges rise out of control while, when interest payments come down, it is only because we are in a recession, so program expenditures start ballooning upwards. The deficit and the government's financial requirements therefore end up at about the same levels. Year in and year out. This is the background to the borrowing authority that the government is asking Parliament to approve under Bill C-97.

Thank you, honourable senators.

Motion agreed to and bill read third time and passed.

• (1440)

[*English*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA
K1A 0A1

April 11, 1991

Mr. Speaker,

I have the honour to inform you that the Honourable William Alexander Stevenson, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 11th day of April, 1991, at 4.00 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

Judith LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

PRIVACY COMMISSIONER

NOTICE OF MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO REPORT

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I give notice that on Monday next, April 15, 1991, I will move that the Standing Senate Committee on Legal and Constitutional Affairs be instructed to report no later than Friday, April 19, 1991, the motion respecting the appointment of the Privacy Commissioner.

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 Monday next, 15th April, 1991, at two o'clock in the afternoon.

Motion agreed to.

QUESTION PERIOD

CANADA-UNITED STATES FREE TRADE AGREEMENT

APPEAL OF RULING—POSSIBLE REVOKATION OF AGREEMENT—EFFECT ON TRILATERAL NEGOTIATIONS—GOVERNMENT POLICY

Hon. Peter Bosa: Honourable senators, my question is for the Leader of the Government in the Senate.

The Minister of International Trade, Mr. Crosbie, is reported in the *Globe and Mail* today to have said that Canada's participation in any free trade agreement with the United States and Mexico would be endangered if the United States wins its controversial appeal of a recent ruling on Canadian pork imports. He went on to say that the U.S. appeal was an abuse of judicial procedures set up under the two-year-old Free Trade Agreement. He warned that a successful appeal could further erode dwindling support for the FTA in Canada and thereby threaten the government's recent decision to enter trilateral talks to forge a broader North American agreement that would include Mexico.

My question for the Leader of the Government is: Was the minister stating government policy? Is he hinting that the Free Trade Agreement might be revoked or reviewed; and, when he mentioned the recent decision of the Canadian government to enter the trilateral negotiations, does he mean that the government is not firm on its decision and that it is still contemplating committing itself to the trilateral negotiations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend has based his question on a newspaper report attributing certain remarks to the Minister of International Trade. From there, the honourable senator has proceeded to suggest various alternative inferences that might be drawn from the statements supposedly made by Mr. Crosbie.

[The Hon. the Speaker.]

• (1450)

The first step should be for me to verify with Mr. Crosbie the accuracy of those quotations to ascertain the context in which they were made. Having done that, I would be in a position to ask my colleague Mr. Crosbie, to let me have a report on the matter so that I can satisfy Senator Bosa and other members of the Senate on this quite important subject.

DELAYED ANSWER TO ORAL QUESTION BANK OF CANADA

UNDERTAKING TO ACCEPT GOVERNMENT EXPENDITURE GUIDELINES—REQUEST FOR MONITORING AND REPORTING TO SENATE

Hon. C. William Doody (Deputy Leader of the Government): I have one delayed answer to a question asked by Senator Olson on March 26 regarding operating expenses of the Bank of Canada. I have a copy for Senator Olson. I would ask that the answer be printed as part of today's proceedings.

(*The answer follows:*)

> The Governor of the Bank of Canada stated on March 18, 1991, before the House of Commons Standing Committee on Finance, that the Board of Directors of the Bank of Canada "will wish to ensure that the Bank's operations continue to conform with the broad guidelines of public policies".
>
> At its meeting of March 22, 1991, the Board of Directors of the Bank of Canada endorsed the above statement by the Governor. Additionally, the Board announced that it had "asked the management of the Bank of Canada to review its expenditure plans and to report back to the Board on any measures required to ensure that those plans will be in accord with the program of expenditure controls recently announced by the federal government and will conform with the program of wage restraint as it is being applied elsewhere in the federal public sector".
>
> Under the Bank of Canada Act, responsibility for the management of the Bank rests with its Board of Directors. This Board typically meets seven times a year. The Executive Committee of the Board holds a meeting every week that the Board itself does not meet.
>
> The Act requires the Bank to submit to the Minister of Finance a statement of its accounts along with the Governor's report within two months of the end of the financial year. The Act also requires the Minister to table a copy of the accounts and of the Governor's report before Parliament.
>
> As announced in the Budget, the government is not prepared to contemplate wage increases in the federal public sector beyond 3 per cent annually over the next

three years. Crown corporations, including the Bank of Canada, are expected to implement wage restraint measures that are in keeping with the spirit of this commitment. The Governor of the Bank of Canada has signalled his support for such a program. The figures mentioned by the Honourable Senator, on the other hand, appear to refer to last year. In his Introductory Statement before the House Standing Committee on Finance on March 18, 1991, the Governor of the Bank of Canada gave a detailed explanation of the factors underlying salary increases at the Bank last year, and the Honourable Senator is referred to that statement.

The figure cited by Senator Olson (11 per cent) appears to be total expenses, not just wages and salaries, of the Bank of Canada in 1990. The Bank's total expenses, increased by 11.3 per cent in 1990. The statement of the Governor of the Bank, referred to above, provides details on the distribution of these expenses. The government's recently announced wage restraint program does not apply in retrospect. As noted in the first paragraph, the Governor of the Bank of Canada and the Bank's Board have stated their support for this program.

INTER-PARLIAMENTARY UNION

EIGHTY-FOURTH INTER-PARLIAMENTARY CONFERENCE, PUNTA DEL ESTE, URUGUAY

Hon. Joan Neiman: Honourable senators, I have a somewhat inconclusive but informative answer to the question put to me yesterday by the Leader of the Opposition in the Senate following my report on the IPU conference in Punta Del Este last October.

The Honourable Senator MacEachen asked me if I could tell him how many members of the IPU are multi-party countries and how many parliaments represented elected their members by universal suffrage. I consulted with Mr. Hucal, who is the assistant to the Canadian group of the IPU, and he reminded me that the IPU keeps at its headquarters a kind of record, called Chronicles of Parliamentry Elections and Developments, which tries to publish each year the latest developments from July 1 to June 30 of the following year. It records all the constitutional changes and elections that have taken place during that year. Unfortunately, the last one we have in our library is for the period ending June 30, 1989.

As honourable senators know, considerable change has taken place in many countries since then. As far as Mr. Hucal could tell at that point officially, of 113 countries that were members of IPU, 78 were characterized as being multi-party, 34 were single party, and one was called "other." That "other" happens to be the United Arab Emirates which really is operating under a feudal system and has no electoral system at all.

In addition, some of these countries are a little difficult to define, to pin down, or to characterize. For instance, the member country of Monaco has a constitution that provides for multi-parties, but never in its history has it had a multi-party system. The one party has governed since the constitution was recorded.

Mr. Hucal also consulted with our Department of External Affairs to see if he could obtain any other types of definitions or categories. He was told that things were constantly in flux, that everyone had a different definition. For instance, the U.S.S.R. is characterized as a multi-party system. Presumably there are some dissident parties there, but effectively for many years it has be governed by the Communist Party.

That is as close as I can come to providing an answer, Senator MacEachen, but your question has prompted me to suggest that it might be a good study for the IPU to try to define,more closely than we have in the past, these various categories of so-called electoral parties.

Hon. Allan J. MacEachen (Leader of the Opposition): Perhaps the honourable senator would not mind if I asked another question. I understand perfectly as to why the chronicles are so shrouded in difficulty, but are these questions ever discussed at IPU or the Inter-Parliamentary Union? Do the members ever exchange and draw comparisons as to which parliamentarians taking the podium have faced the electorate and those who have not, or is it a "no-no" subject?

Senator Doody: Including Canadian senators.

Senator Neiman: It is not a subject that the IPU has been inclined to approach with any courage. I think it has followed the lead of the United Nations in that traditionally we have allowed everyone into the IPU so long as the country pays its dues or has done nothing really outrageous. The question has often come to mind when we speak of democratic countries and democratic institutions. As the honourable senator knows, during the past several years we could almost define a communist bloc country if it had the title "democratic" as part of its official name. So some of these words have lost their meaning. I think it is a subject that we should address.

The Senate adjourned during pleasure.

• (1500)

ROYAL ASSENT

The Honourable William Alexander Stevenson, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable William Alexander Stevenson, Puisne Judge of the Supreme Court of Canada, his

Deputy, to do in his Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk of the Senate.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Parliament of Canada Act (*Bill C-79, Chapter 20, 1991*)

An Act to amend the Bretton Woods and Related Agreements Act (*Bill C-93, Chapter 21, 1991*)

An Act authorizing agreements between the Government of Canada and the provinces to provide for protection for the income of producers of agricultural products and to enable the Government of Canada to take additional measures for that purpose (*Bill C-98, Chapter 22, 1991*)

An Act to provide borrowing authority (*Bill C-97, Chapter 23, 1991*)

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Monday, April 15, 1991, at 2 p.m.

THE SENATE

Monday, April 15, 1991

The Senate met at 2 p.m., Hon. Rhéal Bélisle, Acting Speaker, in the Chair.

Prayers.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have several petitions, all of them against the GST and asking that this tax of 7 per cent adopted by the government be abolished. They humbly ask senators and members of the House of Commons to do everything possible to abolish the new goods and services tax and demand that a general election be held immediately.

Honourable senators, I have today only one petition from the province of Saskatchewan. It is addressed to me from Saskatoon and Grant, although most of the petitioners are from Grant. This petition is completely filled with names. I also have 39 petitions from Quebec. Although most of these petitions are from Montreal, I note that a large number are from St.-Léonard. There are also some from La Durantaye.

I also have four petitions from Toronto and, in particular, one from Jamieson Avenue, Toronto, which is the street where Parkdale Collegiate is located, my high school alma mater. Some of the other petitions are from Grenoble and Don Mills.

All of these petitions are completely filled with petitoners' names.

VETERANS AFFAIRS

IT'S ALMOST TOO LATE—REPORT OF COMMITTEE

On Presentation of Petitions:

Hon. Jack Marshall: Honourable senators, I am so impressed with Senator Frith's presentation of petitions that I should like to inform the Senate that tomorrow I will start presenting petitions in this chamber on a daily basis. These petitions will relate to the 2,500 petitions that were sent out to ask the veterans of Canada to support the 12 recommendations contained in the report of the Subcommittee on Veterans Affairs, It's Almost Too Late. I will use Senator Frith's method and try to follow him each day.

Strangely enough, honourable senators, of the 2,500 petitions we sent out, over 600, which is more than 25 per cent, have been returned. This may well be a lesson to the companies that run these expensive research polls, who would probably be delighted to have a 25-per-cent return.

Apart from the 600 petitions, we have now received some 12,000 individual signatures or declarations of veterans groups, such as branches of the Legion and other veterans associations, commending the 12 recommendations of the Senate subcommittee and offering their support in our appeal to the government to implement those recommendations, which will help veterans at this late stage in the game.

Honourable senators, when the Presentation of Petitions is called, it is my intention to read some of the letters I have received from aged veterans who, if these recommendations were implemented, would receive the help they need and which they have been trying to get for the last 50 years.

I thank Senator Frith for giving me this idea. I will be presenting my petitions over the next few days.

● (1410)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, because Senator Marshall mentioned my name, I want to thank him for his intervention. Many senators I think will agree that this ancient, honourable and important right of citizens to address themselves directly to Parliament, was, until the GST came along, sadly underused.

Hon. Jean-Maurice Simard: But now it is being used by you people over there, and abused!

Senator Frith: Of course, in the opinion of Senator Simard and many—

Senator Petten: Does he have an opinion?

Senator Frith: —of his colleagues—

Senator Simard: Yes.

Senator Frith: —it is an abuse. Notice the word chosen— it is an abuse for the people.

Senator Simard: You're abusing!

Senator Frith: I am not abusing anything. These are letters and petitions, directly addressed to me, asking me to present them to Parliament, as it was with the GST. Senator Simard thinks it is an abuse of our time to listen to the people. What a waste of our time to hear what the people have to say. What a waste of the taxpayers' money to allow us, in fact, to insist that we present, on their behalf, their views on legislation before them—especially on matters where they have to pay a tax that was imposed on them. It is an abuse, an abuse of Parliament, for them to ask us to present their views on the subject, and an abuse of Parliament, I suppose, by Senator Marshall. Is it an abuse for Senator Marshall to tell us what veterans think about legislation and other matters before us? Well, it may be an abuse of this institution to Senator Simard, but it is not an abuse as far as I am concerned, and I intend to use it. It is not an abuse to do so.

Some Hon. Senators: Hear, hear!

Senator Simard: Honourable senators, on a point of order—

Senator Frith: Good, smoke them out! Now we're having a good time!.

Senator Simard: —Senator Frith wants to tell the world, after being away three weeks, that he is still in good shape, and that he has not changed his opinion, and he will not change his tactics. Of course Canadian citizens can make their views known through petitions.

Senator Frith: That is kind of you!

Senator Simard: That is a long tradition that I support.

Senator Frith: A little repentance is good for the sole.

Senator Simard: We know where you people are coming from, whether it is from the Liberal Party, from a Liberal Party convention, or what have you—anything partisan. You and Senator Hebert, you drum up business, you excite people, you agitate people, and you get them to send petitions. That is your business. That is what I call abuse of the system. We are looking forward to further debate and I for one am terribly please that Senator Frith is back in shape, so that he can continue to tell the world that you people can change anything, even in Opposition. You don't make amends! You abused the system when you were in power and you abuse the system now! Thank you.

Senator Frith: Honourable senators, I want to get one thing very clear on the record, namely, I did not drum up any business. All of these petitions were sent to me by people I do not know, and I did not incite them to do so. The second thing is to welcome Senator Simard's repentance.

Hon. Lorne Bonnell: Honourable senators, on a point of order, this is Presentation of Petitions. It has nothing to do with the speeches we are getting from Senator Simard. If he is against people presenting petitions, let him put a motion before the Senate and debate the question. He is taking up our good time here and indulging his and our time with this foolish debate in the middle of presenting petitions. There is a place for presenting petitions and for presenting arguments. I suggest that he do so in the proper place and that he keep his seat in the meantime.

QUESTION PERIOD

TRANSPORT

FERRY SERVICE TO PRINCE EDWARD ISLAND—INCREASE IN RATES—GOVERNMENT POLICY

Hon. Lorne Bonnell: Honourable senators, I would like to ask a question of the Leader of the Government in the Senate to see if there is anything he can do on behalf of the students of Prince Edward Island, who over the weekend came home to visit their parents and in order to get back to their universities and their schools had to pay twice the fare. They had to pay three fares to get home for the weekend on the CN ferries at Borden and Cape Tormentine. Will there be any rebate to those young students, who now have it hard enough since the payments by the federal government to universities have been cut and tuition fees are up? They had to pay three times to get across to visit their parents over the weekend. Can they get a rebate on one or two of those trips?

[The Hon. the Speaker.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must confess that I am unaware of the circumstances described by Senator Bonnell. I shall ask my colleague, Mr. Lewis, the Minister of Transport, for a report.

Senator Bonnell: Honourable senators, perhaps to make it a little clearer, the CNR ferries have fired about six people who sold tickets in Tormentine. They no longer sell tickets to people on the ferry. Apparently they can get over to Prince Edward Island free starting today, and then they are charged twice as much to get back. So Prince Edward Islanders have to pay twice what foreigners have to pay, because they have to pay twice as much to the get off the Island. These people paid to come over on the weekend, and to get back today they have to pay double the fare, which makes three fares to go back and forth. Perhaps the CN ferries can provide a rebate to those students who came home, and save them $5 or $10.

Senator Murray: Honourable senators, the situation is rather different with regard to Cape Breton. I have observed that one has to pay to get in, but one does not have to pay to get out.

Senator Bonnell: You have to pay to get out if you are an Islander. You cannot get off the Island without paying twice as much. We pay twice as much for everything on Prince Edward Island and I suspect they will do the same thing to Newfoundland and make them pay twice as much as well. Everyone else in Canada can go from one province to the other free, drive on the big Trans-Canada Highway with three or four lanes and it costs them nothing. We on Prince Edward Island have to pay double.

While I am on my feet, at the other end of Prince Edward Island we have a ferry from Pictou, Nova Scotia to Caribou, Nova Scotia to Wood Island. We have had three ministers of transport come down there since 1984 to promise us a new ferry. We had one in 1984, another in 1988, and another one last year. We have never received any of those new ferries. They have not even drawn up the plans yet. I suspect by 1992 we will get another promise. Can the Minister find out from the Minister of Transport if and when the plans will be drawn up, what they will look like, and where the construction is liable to be, in Quebec, Pictou or Halifax, or what shipyard?

Senator Murray: Honourable senators, I can tell my honourable friend, without having to refer back to Mr. Lewis, that a decision on that matter is imminent.

Senator Bonnell: What does "imminent" mean—a month, a day, a week or today?

Senator Murray: Very soon.

Senator Bonnell: Does "very soon" mean before we go on to the next order of business or does it mean today? Will you be making the announcement or will the minister be making it?

Senator Murray: The government will be making it, honourable senators.

THE ENVIRONMENT

ELIMINATION OF TOXIC WASTE—STATUS OF FEDERAL PROGRAM

Hon. Colin Kenny: Honourable senators, a federal PCB destruction program was announced two and a half years ago by the then Minister of the Environment, the Honourable Tom MacMillan, in response to the fire at St-Basile-Le-Grand. This plan contained a commitment to insure that no low level PCB remain in federal sites by the fall of 1989. At that time there were 112 tonnes of contaminated mineral oil in the federal inventory. Two and a half years later there are 131 tonnes in inventory. What progress is the government making towards ridding the country of this contaminated mineral oil?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there is a delayed answer that Senator Doody will be tabling later today concerning a question raised by the honourable senator some months ago—a rather detailed question having to do with elimination of a toxic waste incinerator at St-Basil-Le-Grand.

● (1420)

If this is a question that he is now putting, it will be answered under delayed answers later this afternoon.

DELAYED ANSWER TO ORAL QUESTION
THE ENVIRONMENT

ELIMINATION OF TOXIC WASTE—STATUS OF FEDERAL PROGRAM

Senator Doody (Deputy Leader of the Government: Honourable senators, strangly enough, I have a delayed answer to a question asked by Senator Kenny on October 26 regarding elimination of toxic waste incinerator St-Basile-Le-Grand. I hope it contains the information the honourable senator is looking for. In any event, I have a copy for him. He can look at it, and if it not does contain all the information I will have another run at it. In the meantime, I ask that the answer be printed as part of today's proceedings.

(*The answer follows:*)

In September 1988, after the PCB fire at St-Basile-Le-Grand, the federal Minister of the Environment announced the Federal PCB Destruction Program. The goal of the program was to destroy all PCB wastes under federal jurisdiction, by leasing two incinerators, one to be located in Goose Bay, and a second in central Canada. These incinerators were to be used to destroy only PCB wastes, not other toxic wastes.

A transportable incinerator was located at Goose Bay, Labrador, and over the winter and spring of 1990, it successfully destroyed 47 per cent (by weight) of the federal PCB inventory. The project was completed in August 1990.

In October 1989, the federal Minister of the Environment reaffirmed the government's commitment to offer mobile PCB destruction facilities, on a cost-recovery basis, to regions in Canada that have sufficient volumes of PCB wastes and require federal assistance.

On January 18, 1991, Environment Québec (MENVIQ) released a series of three communiqués announcing its strategy to destroy PCB wastes under provincial jurisdiction. The communiqués signal Québec's intention, after consultation with municipalities and the public, to identify sites for PCB destruction equipment and to evaluate technological options for PCB destruction equipment. Immediate action is aimed at eliminating PCBs under provincial jurisdiction in St-Basile-Le-Grand, Baie Comeau, Shawinigan-Sud, Saint Lazare and Pointe-aux-Trembles, by the end of 1993.

Environment Canada is now working with MENVIQ and Hydro Québec to develop a Memorandum of Understanding, agreeing to participate in a co-operative program to site mobile PCB destruction facilities in Québec so that remaining PCB wastes will be destroyed. Such an agreement may be ready for Ministers' signatures by late spring or early summer.

On other fronts, DOE is working with provincial partners and communities to site mobile PCB destruction facilities in Atlantic Canada, and in the vicinity of London, Ontario. As part of the Green Plan, the federal government has made clear its intention to destroy all PCBs under federal jurisdiction by 1996 by siting destruction facilities in Atlantic Canada, Québec and Ontario.

PRIVACY COMMISSIONER

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO REPORT—DEBATE ADJOURNED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations), pursuant to notice of Thursday, April 11, 1991, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be instructed to report no later than Friday, April 19, 1991, the motion respecting the appointment of the Privacy Commissioner.

He said: Honourable senators, I will take no more than a few minutes of your time with the introduction of this matter this afternoon, I assure you at the outset that it is not in any contentious or confrontational spirit that I embark upon this motion. Rather it is with a view to ensuring that the Senate will have the opportunity to decide on the appointment of Mr. Bruce Phillips as Privacy Commissioner, an opportunity which

it appears might otherwise be denied this chamber because of the refusal of the Standing Senate Committee on Legal and Constitutional Affairs to report.

Senator Frith: Refusal. Now you are getting confrontational right there. If you had not used the word refusal, we might have believed you.

Senator Murray: Honourable senators, just for the record, let me quote the relevant statute under which this appointment is proposed. It is section 53(1) of the Privacy Act.

> The Governor in Council shall by commission under the Great Seal appoint a Privacy Commissioner after approval of the appointment by resolution of the Senate and House of Commons.

The resolution to appoint Mr. Bruce Phillips was moved in this place by the Deputy Leader of the Government on June 6, 1990. There was a debate on the matter on June 27th, a debate in which Senator Pitfield, Senator MacDonald (Halifax) and I participated.

On motion of Senator Frith, the Deputy Leader of the Opposition, a resolution was carried to refer this matter to the Legal and Constitutional Affairs Committee. Meanwhile, the proposed appointment of Mr. Bruce Phillips had been approved by the House of Commons on June 7,1990.

Senator Frith: On division and under closure.

Senator Murray: On division as the honourable senator observes. He have also says it was done under closure, but, in any event, it was approved by the House of Commons en bonne et due forme.

The committee of the Senate has now had this resolution before it for almost ten months. It would appear to me, and I think to most reasonable people, that that is sufficient time to have ventilated all the issues that needed to be considered with regard to this matter.

I should say for the record that the committee has met three times, most recently on April 10 last. They have heard if I am not mistaken from at least three witnesses, but they have not yet reported.

Honourable senators will be aware, because we had a discussion on this point the other day, that Parliament is faced with the possibility of a prorogation of this session within the next little while. Under the circumstances, it seems to me that it is incumbent upon the Senate to dipose, one way or the other, of business that has been before us a sufficient length of time to be fully considered.

At the meeting of the committee on Wednesday last, our friend Senator Doyle attempted to bring matters to a head. A motion moved by him to approve the appointment of Mr. Bruce Phillips as Privacy Commissioner was defeated by by the majority of the Legal and Constitutional Affairs Committee, but, having done that, the majority on the committee would not authorize the chairman, Senator Nurgitz to make a negative report, or indeed any report at all, to the Senate in order that the Senate, in accordance with our practices, could decide.

Well, without a report from the committee it appears as if the Senate cannot decide on the proposed appointment of Mr. Phillips, and, of course, if the majority on the committee continues to refuse to report, the resolution would die at prorogation and the government would have to retrace its steps in the House of Commons and would have to start all over again.

Senator Frith: And do it right this time.

Senator Murray: My honourable friend says, "do it right." That is a issue that we did discuss when the matter was debated here last June, was it, and which we can discuss again. The committee may wish to offer some observations on that issue when it reports.

• (1430)

It seems more than possible—it seems likely—that indeed it is the strategy of the majority on the committee to delay the matter so that it will be overtaken by prorogation and the Senate will not have had an opportunity in this session to pronounce upon it. Indeed an assistant to the Leader of the Opposition evoked just that possibility in an interview with Southam News carried in the Ottawa *Citizen* last Thursday.

Honourable senators, I do not think it is conducive to good relations between the houses of Parliament for us to force the House of Commons to deal a second time with a resolution because we or one of our committees had stalled it. My motion would allow the committee to have additional meetings this week, to hear further witnesses if it wishes, and to give further consideration to the issues involved here, so long as it reports by Friday at the latest. My motion, of course, would allow for such further debate in the chamber as senators deem advisable and for a timely decision, which is all I ask of the house at this time.

Of course issues have been raised in the other place, and during the debate that we had here last June concerning the suitability of Mr. Bruce Phillips for this position and concerning also the process that had been followed in this case or should be followed in appointments of this kind, subject as they are to the prior approval of Parliament. I—and no doubt others here—am perfectly prepared to debate these issues here if given the opportunity, but first the committee which has been discussing these issues should report and give us the opportunity to debate and decide them.

Therefore, honourable senators, I ask for your support for this motion which would instruct the Legal and Constitutional Affairs Committee to report by the end of this week on this matter which was referred to it ten months ago so that we may have an opportunity for an orderly and timely debate and a decision on the matter.

On motion of Senator Frith, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, April 16, 1991

The Senate met 2 p.m., Hon. Rhéal Bélisle, Acting Speaker, in the Chair.

Prayers.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, only two petitions came in today. One is fully signed and is from Chicoutimi. The petitioners are humbly petitioning in the same manner as I put on the record yesterday.

The other petition is from Mayflower Drive, Agincourt, and it has only two names.

That is all I have today, honourable senators.

VETERANS AFFAIRS

PRESENTATION OF PETITIONS

Hon. Jack Marshall: Honourable senators, yesterday I advised the Senate that I would be starting to present petitions from the veterans of Canada and indicated that we had over 60O petitions returned, out of 2,500, containing some 12,000 signatures.

I also explained that in some cases a branch of The Royal Canadian Legion, with so many members, made a declaration on behalf of the whole membership. To explain why we do not have the 367 signatures from that branch, there is a resolution adopted by the membership of the branch which states:

> Therefore Be It Resolved that the branch secretary forward to the Senate of Canada-Attention Hon. Jack Marshall, a listing of our current nominal roll of voting members which is to act as our endorsement of the petition.

That resolution was passed by the R.L. Beattie Branch, Ontario Branch 224 of the Royal Canadian Legion.

I have selected some petitions at random and I will read a few of them today.

Honourable senators, I have one here from an RCAF ex-prisoner- of-war, who resides in Ottawa, Ontario. I also have one from a resident of Kanata, Ontario. I have one from a resident of Terrebonne, Quebec. I have another which contains the names of 13 veterans who reside in Hemmingford, Quebec.

(*Names of petitioners read*)

I have two petitions from Kamouraska, Quebec.

(*Names of petitioners read*)

I have another petition from a resident of Toronto, Ontario, a member of the World War I Royal Flying Corps. I have one from a veteran who moved to Scottsdale, Arizona.

Other petitions contain signatures of residents of Ottawa, Ontario, and a veteran who served in both wars, 1917 to 1919 in the RFC-RAF and 1939 to 1946 in the RCAF.

Another petition contains the signature of a veteran who served in Iceland, France, Belgium, Holland and Germany, who enlisted in 1939 and was discharged in 1945.

Another petition contains the name of a veteran from New Brunswick; another contains the names of 13 veterans from Buckingham, and Sherbrooke, Quebec; another petition contains the names of 9 veterans from Sintaluta, Saskatchewan; and another petition contains 10 names from Scotia Branch Number 25, Royal Canadian Legion, Halifax, Nova Scotia.

There are also petitions from veterans who reside in Woodstock, New Brunswick, and Parry Sound, Ontario.

(*Names of petitioners read*)

Another petition comes from the Rideau Branch of the Royal Canadian Legion, Branch 542. All signees are veterans or associate members of the branch and reside in Newboro or Westport, Ontario. Other petitions come from St. Catharines and other parts of Ontario.

Those are the petitions I selected at random this morning. They came in on March 15. I will be continuing tomorrow, and may get some help from the deputy chairman of the committee, Senator Bonnell.

DISTINGUISHED VISITOR IN GALLERY

THE HONOURABLE GEORGE JOHNSON,
LIEUTENANT GOVERNOR OF MANITOBA

The Hon. the Acting Speaker: Honourable senators, may I welcome, on your behalf, our distinguished visitor, the Lieutenant Governor of Manitoba, the Honourable George Johnson.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): If I may, Mr. Speaker, perhaps it is appropriate to note that His Honour is himself a distinguished former parliamentarian, having served with our friend Senator Roblin in the Government and Legislature of Manitoba, and that His Honour is also the father of a distinguished parliamentarian, our colleague, Senator Janis Johnson.

QUESTION PERIOD

THE ENVIRONMENT

ELIMINATION OF TOXIC WASTE—STATUS OF FEDERAL PROGRAM

Hon. Colin Kenny: Honourable senators, yesterday I received a delayed answer to a question I asked on October 26, 1990. However, the response I received from Senator Doody did not really answer my question. There were six paragraphs that were very helpful—and I refer to page 5613 of *Hansard*—but they did not respond to the question.

The question to which I was looking for an answer was the following: When will the second PCB incinerator promised by the government in September 1988 be operational? That question, sir, is still outstanding.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): In that case I shall take the question as notice and try to obtain a reply for the honourable senator as soon as possible.

Senator Kenny: If I may, I shall proceed with the question I was asking yesterday, and which was not answered, on the chance that the response was in the document being tabled. That question is:

> . . . a federal PCB destruction program was announced two and a half years ago by the then Minister of the Environment, the Honourable Tom McMillan, in response to the fire at St-Basile-Le-Grand.

● (1410)

> This plan contained a commitment to insure that no low level PCB remain in federal sites by the fall of 1989. At that time there were 112 tonnes of contaminated mineral oil in the federal inventory. Two and a half years later there are 131 tonnes in inventory. What progress is the government making towards ridding the country of this contaminated mineral oil?

Senator Murray: There again, honourable senators, I shall ask my colleague, the Minister of the Environment, for an early report, which I trust will satisfy the honourable senator.

Senator Kenny: As a supplementary question, in September 1988, the Minister of the Environment also announced measures to destroy high level PCB wastes using transportable incinerators. This included $6 millon to lease a transportable incinerator to destroy 3,000 tonnes of PCB waste at Goose Bay and $15 million allocated by the cabinet to lease a second transportable incinerator for the destruction of other PCB wastes in Canada. Since 1989 the total number of PCB waste storage sites has increased by 76. The number of government sites has increased by 74. Total PCB wastes have increased by 10,640 tonnes. When will the government start decreasing PCB waste and the number of PCB waste sites?

Senator Murray: Honourable senators I am happy to give the honourable senator the same undertaking in response to that question that I gave to his two previous questions.

[Senator Murray.]

THE CONSTITUTION

INVOLVEMENT OF ABORIGINAL PEOPLES IN CONSTITUTIONAL REFORM—GOVERNMENT POLICY

Hon. Charlie Watt: Honourable senators, I have a question on Canada's Constitution crisis for Senator Murray, the Leader of the Government and Minister of State for Federal-Provincial Relations. We know there is a constant exchange between the federal and provincial governments on Canada's constitutional future. We have heard that there have been federal-provincial talks on the division of powers. I read that the federal government is now putting together a new constitutional package to satisfy Quebec's demands. I have even heard that the Prime Minister is talking about a royal commission on aboriginal matters.

My question is simple: When are Aboriginal peoples to be provided the opportunity to directly participate in the federal-provincial efforts to develop a new constitutional package for the future of the country? By participation I do not mean appearing before committees or commissions; I mean working and negotiating with the federal and provincial governments on a new constitutional package.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think there is a provision in the present Constitution for the participation of representatives of the Aboriginal peoples at First Ministers' Conferences at which Aboriginal constitutional affairs are being discussed. For the moment there is no plan to convene a First Ministers' Conference on constitutional matters in the near future, because we are awaiting the reports on the consultations that the Citizens' Forum has been conducting across the country, and also the reports of various provincial committees and commissions. In addition, we have our own joint committee of the Senate and the House of Commons considering the amending process. The plan is to establish next summer or fall a new vehicle or process to consider these matters and to consult the general public on them.

My honourable friend is not correct in the premise of his question. His very first sentence, if I heard him correctly, was that discussions or negotiations on constitutional matters are now taking place between the federal government and the provinces. That is not the case.

Senator Watt: Honourable senators, I have a supplementary question, but, before I come to it, I hope Senator Murray is not suggesting that we should be satisfied to appear before a committee or a commission. I ask him how satisfied would the people of Quebec be if they had no provincial government by which to access the federal-provincial talks on the future of the country? How satisfied would the Quebec people be if they were told they would have no direct input on the development of the constitutional package? How satisfied would they be if they were told they had to limit themselves to making presentations to a committee or a commission? If this were to be the case, the Quebec people would reject the entire process. If it is not good enough for the people of Quebec, it is not good enough for the Aboriginal peoples.

My supplementary question is: Does the government realize that it has no choice but to directly consult, discuss or negotiate with the Aboriginal peoples in their effort to put together a package to redefine the country's future? Anything less means having to relive the mistake that lead to the death of the Meech Lake Accord and other crises concerning Aboriginal peoples.

Senator Murray: Honourable senators, I believe I dealt with those points in my answer to the first question. We are not at the stage now where First Ministers' Conferences or negotiations or consultations are taking place. Of course the Aboriginal peoples have a right to full consultation on matters affecting them and to participate in any process that affects them, and we will do no less.

The honourable senator's question gives me the opportunity, however, to touch on a point he made in his first statement to the effect that this exercise is intended to put together a package, as he put it, "to satisfy Quebec's demands." I think it has been clear from the very beginning of this exercise, with the appointment of the Citizens' Forum, that this is a very broad- ranging discussion about Canada's future, including its constitutional future, and that the considerations are not limited to one province alone. The demand for change in this country is widespread. We are aware that it extends to various regions of the country as well as to the Aboriginal peoples. I have said publicly on several occasions that, to the extent constitutional initiatives are taken, I for one cannot envisage a new constitutional initiative that does not address the constitutional aspirations of our Aboriginal peoples.

ANSWER TO ORDER PAPER QUESTION TABLED FEDERAL-PROVINCIAL RELATIONS

ENTERPRISE NEWFOUNDLAND AND LABRADOR—GOVERNMENT FUNDING

Hon. C. William Doody (Deputy Leader of the Government): tabled the answer to Question No. 72 on the order paper—by Senator Marshall.

● (1420)

PRIVACY COMMISSIONER

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO REPORT—ORDER DEFERRED

On the Order:

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

That the Standing Senate Committee on Legal and Constitutional Affairs be instructed to report no later than Friday, April 19, 1991, the motion respecting the appointment of the Privacy Commissioner.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have asked Senator Doody if he would object to our switching Orders No. 2 and 3. Order No. 3 is resuming debate on the inquiry calling the attention of the Senate to the budget statement of February 26, 1991, standing in the name of Senator Petten. Senator MacEachen will speak on that, and Senator Doody knows that this change has nothing to do with delay.

So, with leave, honourable senators, I would ask that we call Order No. 3, and when Senator MacEachen, or anyone else wishing to speak to Order No. 3, is through, we will then call Order No. 2 and proceed with that.

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

Hon. Senators: Agreed.

Order deferred.

THE BUDGET, 1991

STATEMENT OF MINISTER OF FINANCE—DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Olson, P.C., calling the attention of the Senate to the Budget statement made by the Minister of Finance on February 26, 1991.—(*Honourable Senator Petten*).

Hon. William J. Petten: I yield to Senator MacEachen.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I appreciate the opportunity to speak on the budget and I thank Senator Frith and other colleagues for altering the order of business to that extent. Perhaps you will find that it was a mistake as I go through my comments on the budget, but this particular budget of February has, I believe, a particular significance because, for the first time since he became Finance Minister in September 1984, the Minister of Finance had to prepare a budget in an economic situation produced by the cumulative impact of his own policies.

The size of the annual budget deficit since 1986-87 has not been reduced. The national debt, in his period of stewardship, has about doubled in size. Unacceptably high interest rates and exchange rates were maintained, in spite of repeated warnings, producing a recession. Canadian competitiveness has further declined. Bankruptcies have reached a record level. Unemployment is rising. So is the tax burden; so is inflation. The balance of payments and Canada's foreign indebtedness have seriously deteriorated, and government revenues are falling. That is the background to the 1991 budget: a major recession, public finances out of control, and the country itself in serious difficulty.

Yet as recently as September 1990—that is not long ago—the Minister of Finance was declaring before the Canadian Chamber of Commerce: "Our policy is working". He was referring particularly to his monetary policy, which caused the recession. Indeed, one of the most remarkable features of the Minister of Finance's tenure of office is that over the years, in

every budget speech, he reiterated that his policies were working, and that is true of the February budget. Yet his forecasts of budget deficits, interest rates, growth rates and inflation rates have consistently been wrong.

Another hallmark of Mr. Wilson's career as Minister of Finance must surely be his aptitude at crafting a mythology instead of facing up to the reality of the situation. There are many examples of this, but none more poignant than the concluding words of his second-reading speech on the GST on January 29, 1990. Mr. Wilson said:

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

Well, we are now in the months following January 1, 1991, and if our economy is now "even more vibrant and growing," it is only in the minister's mind.

It is because Mr. Wilson is more interested in crafting mythology than in dealing with reality that he must bear the full responsibility for Canada's current financial and economic situation. This is why his seventh budget is not more effective than the others. In fact, his seventh budget has been characterized by one of Canada's leading financial institutions as "probably the most economically inept and destructive budget since the 1930s."

Senator Barootes: Since your own!

Senator MacEachen: These are strong words, but words that are warranted when the record is examined. A brief flashback to Mr. Wilson's management will illustrate what I have in mind. Perhaps we should begin at the February 1988 pre-election budget, which Mr. Wilson subtitled, as he had all his previous budgets, "Securing Economic Renewal."

Senator Perrault: Ha!

Senator MacEachen: But in 1988 the tone was very different from previous budgets. The public was led to believe that economic renewal had been secured. In that budget speech Mr. Wilson said:

> In three and a half years, our economic progress has been dramatic . . . our policies and initiatives have worked in building the framework for the economic success we now enjoy.

Senator Perrault: Bafflegab!

Senator Simard: That will be the best part of your speech today.

Senator MacEachen: In the months following, Mr. Wilson went on tour to explain the drama and the success, and said:

> The structural changes that we are making in the Canadian economy have strengthened the foundation for economic growth and investor confidence. That strength will continue in the years ahead as our initiatives take root, grow and bear fruit.

[Senator MacEachen.]

Senator Perrault: It's the pits!

Senator MacEachen: The fruits that were borne out of Mr. Wilson's nurturing are there for all of us to see, and they leave hardly a sweet taste.

In his February 1988 budget the Minister of Finance predicted a 2.8 per cent GDP growth for 1988. This was a gross mistake, as actual GDP growth for 1988 turned out to be 5 per cent. The significance of the second figure is that in 1988 there was evidence of inflationary pressures on the Canadian economy. The time had come for the Minister of Finance to apply remedial policies. However, in February of that year the minister was clearly more interested in tabling a pre-election budget than with properly managing an overheating economy.

It took Mr. Wilson a full year to diagnose the situation, as seen in the document entitled "Canada's Economic Prospects in the 1990s" issued at the time of the April 1989 budget. This document acknowledged, at last, that serious imbalances had developed in the course of 1988 and were threatening sustained growth. This document identified as troublesome the rate of growth of domestic demand, which outpaced GDP growth, the tightening of product and labour markets, inflation increases, the rise of interest and exchange rates, the large deficit in the current account balance, the weakness of domestic savings and growing foreign indebtedness.

• (1430)

The key policy point was put in the following way:

> For the Canadian economy to achieve a balanced transition to sustainable, non-inflationary growth with lower interest rates, the federal deficit must be returned to a downward track.

There was nothing novel about that statement, but for it to be made in 1989 was a remarkable admission that the government, during its first term of office, had failed to keep the budget deficit on a downward track. The economic course was reset in the 1989 budget. The top priority went to the reduction of inflation, which by then had become much harder to defeat. High interest rates and a high exchange rate would be encouraged, taxes would be increased, and expenditures restrained. While admitting belatedly that imbalances had developed in 1988, Mr. Wilson was confident they would be corrected in 1989 and 1990. In his view, demand growth would moderate, growth in investment spending would also moderate but remain robust, and labour market pressures would ease, as would underlying cost pressures. Such were the minister's assessments and prognostications at the time of his budget in April of 1989. Unfortunately the assessment was a year late and his prognostication proved to be wrong.

Indeed, the improvements foreseen for 1989 did not occur and the country's economic situation and outlook deteriorated significantly. Inflation, measured by the CPI, rose from 4.8 per cent in 1988 to 5.5 per cent in 1989. Wage settlements became inflationary in the course of 1989.

The Bank of Canada's 1989 Annual Report is eloquent on the subject:

> Canada's underlying inflation performance deteriorated in 1989 . . . inflation pressures picked up in all regions.

Corporate profits were squeezed by rising labour costs and weakening demand. With sustained rapid growth of household and corporate borrowing, the financial health of the Canadian economy was weakened. That is from page 37 of the 1990 budget. Canadian labour costs had increased faster during the previous three years than those of our major economic partners. Combined with sluggish productivity growth, our competitive position deteriorated. That is from page 33 of the 1990 budget. Short-term interest rates continued to rise early in 1989 and stabilized at about 12.3 per cent from April 1989 to early January 1990. In early February 1990 they were about 13 per cent. That is from the 1990 budget, page 39. The current account balance also deteriorated sharply from a deficit of $9.4 billion in 1987 to an estimated $18.5 billion in 1989. The exchange rate moved from 75.4 cents to the American dollar in 1987 to 84.5 cents in 1989. Finally, GDP growth was reduced from 5 per cent in 1988 to 3 per cent in 1989.

I repeat these rather tedious summations of statistics because Mr. Wilson's rosy view that the imbalances would begin to correct themselves in 1989 is totally belied by the sombre picture emerging from these figures. Let me point out that apart from my quotation of the Bank of Canada report all these figures can be found in the 1990 and 1991 budget papers.

The treatment by the 1991 budget papers of recent economic performance is even more damning. It confirms that the retrenchment in interest sensitive consumer demand, cuts in business investment and manufacturing decline—all signs of an impending recession—were evident at the time of the 1990 budget. A year ago, with an unmistakable set of warnings about the trouble the Canadian economy was heading for, Mr. Wilson had an opportunity to change course, and to stop pursuing policies that were driving the country into a recession, but he stuck to his policy stance. His 1990 budget was little more, if you look back, than a footnote to his 1989 budget.

Even more surprisingly, the minister continued to daydream in spite of the reality depicted in his own 1990 budget papers. Once again he expressed confidence that after a short economic slowdown in the first half of 1990 the imbalances would be corrected, mostly by natural forces in the economy, and sound non-inflationary growth would be resumed in 1991. Inflation was projected in his 1990 budget papers to decline from 5.5 per cent in 1989 to 4.5 per cent at the end of 1990, and to reach 3.5 per cent at the end of 1991. With growth slowing and inflationary pressures easing, a decline in interest rates was also predicted. GDP growth was expected to be 1.3 per cent in 1990. However, thanks to export-led expansion, the minister expected renewed growth in 1991 with 3 per cent GDP growth. From then on, according to him, all signs were positive. GDP would grow at an average of 3.5 per cent during the period 1992-95, inflation would be maintained at 3 per cent, the budget deficit would decline, the current account deficit would decline, interest rates would continue to decline and Canada's competitive position would improve. The unemployment rate, which would have risen to 8.5 per cent in 1991 from 7.5 per cent in 1989, would decline to 7.6 in the 1992-95 period.

Of course, his predictions last year were regarded by most economic observers as totally unrealistic. A year later we are able to measure with some precision the gap between Mr. Wilson's fantasy land and reality. If he had been right, and had his policies worked as predicted, there would be no recession, export-led growth would have already occurred, and we would have non-inflationary GDP growth at a 3 per cent rate for 1991.

We owe it to Senator Olson to have raised in this chamber on May 1 of last year the possibility that the economy was moving into a recession. Senator Murray replied:

> The honourable senator, in asserting that the country is in recession, is wrong.

Figures in hand, we are now able to judge who was right. We know that the recession started in the second quarter of last year, and that in May 1990 the economy was sliding down. Last September, when the economy was already well into its second quarter of recession, Mr. Wilson was still unwilling to face reality and was talking of a mere "slowdown" and a "period of adjustment."

The reality is that the macroeconomic policies pursued by the minister did not work and that they produced the current recession. It must be remembered that, unlike 1981-82, this recession is peculiar to Canada, or at least it is not peculiar to the world. Mr. Wilson's own budget, at page 41, shows that while Canada will experience negative GDP growth this year of 1 per cent, Europe as a whole will have GDP growth of 2.3 per cent.

• (1440)

We are entitled to ask what has placed Canada in this unenviable position.

Senator Perrault: Hear, hear!

Senator MacEachen: We had not seen in recent years how a Conservative government in Canada would deal with a recession. Mr. Wilson's 1991 budget provides us with the answer. It is entitled, "The Plan for Economic Recovery." A most unusual feature of this so-called plan is that it ignores the recession. Instead of dealing with the recession, it provides a rehash of old policies designed at different times and in different circumstances to reduce the budget deficit and the rate of inflation. The Conservative doctrine is that a recession is handled by balancing ledgers, not by promoting growth. Resumed expansion eventually comes as a by-product.

We know, honourable senators, that six budgets have failed to achieve continuing deficit reduction and, more recently, to defeat inflation. Now, with the seventh budget, something is going to work effectively, and that is the recession. I think we all agree that this recession has created a dramatic new situation. Compared with the powerful economic forces unleashed by the recession, Mr. Wilson's 1991 budget measures are marginal as a piece of economic management. "The

Plan for Economic Recovery" is built around the same old objectives: to control inflation, to put government finances on the course to a balanced budget, and, for that purpose, to restrain government operations. That was the core of the 1990 budget, itself an appendix to the 1989 budget. The Minister of Finance is recycling in a new context policies that can hardly be said to have been crowned with resounding success.

Just a word about inflation. The inflation rate increased to 5 per cent in 1989 and fell only to 4.8 per cent in 1990. The 1991 budget forecasts a 5.6 inflation rate for 1991. This is a remarkable figure given the fact that the economy is going through the deflationary impact of a recession; but remember, honourable senators, that the GST is boosting the inflation rate, which stood in January at 6.8 per cent and in February at 6.2 per cent. Over the years, despite the help of a recession, the minister has failed to reduce inflation significantly below 5 per cent.

Just a word about wage rates. I should mention that wage rates increased by more than 6 per cent in the last quarter of 1990. This was significantly above inflation and far above the government's expectation when it assessed the inflationary impact of the GST. Interestingly, wage rate increases of 4.7 per cent for 1991 and 2.7 per cent for 1992 are forecast in the 1991 budget. Both happen to be under the targeted inflation rate.

These figures are to be taken seriously, and they mean that the government expects the cost of the recession to be borne by Canadian workers, not only in terms of a current rate of unemployment in excess of 10 per cent in February of this year but also in terms of a loss in real wages.

Regarding the last point about the government's fight against inflation, careful readers of the 1991 budget papers may have noticed, on page 114, footnote 6, which reads:

> Temporary adjustments may also be made to the inflation target in the event of large changes in indirect taxes.

This, I suggest, is the first piece of evidence that the government has on its mind large increases for the GST rate. If this government stays in office, a greater fiscal load will be put on the backs of all taxpayers as Canadians are asked to redeem the national mortgage debt for future generations.

That leads me, honourable senators, to Mr. Wilson's seventh edition of how to deal with budget deficits. This is the seventh effort. Those of us with long memories, and I suggest that most senators have long memories, will recall how the Minister of Finance described his strategy for controlling the national debt in his first budget of May 1985. Those were the euphoric years. Those were the years when ministers were intoxicated by their new power and their new possibilities. So, in May of 1985 he produced the first budget. He called it the "clear and realistic medium term plan." Last year—about five years after the plan was launched—Mr. Wilson was still referring to it in his budget in spite of the consistent failure of "the clear and realistic medium term plan" to reduce the deficit. The record speaks for itself, and I invite honourable senators who want to contravert what I have to say, particularly regarding the numbers, to do so.

[Senator MacEachen.]

In his 1985 budget Mr. Wilson claimed that his "clear and realistic plan" would reduce the annual deficit at the end of the decade by $20 billion. He was anticipating a deficit of approximately $36 billion for 1984-85 and was thus projecting a deficit of $16 billion for 1990-91. The estimated deficit for 1990-91 now stands at $30.5 billion. That is at page 85 of the 1991 budget.

The estimated deficit, as I said, is now at $30.5 billion—an error in the implementation of the clear and realistic plan of a mere $14.5 billion. Whatever may be said about its clarity, its realism is somewhat in doubt at the present time. Mr. Wilson had perhaps grown wiser in his 1986 budget. He predicted a 1990-91 deficit of $22 billion. That was an improvement, since his margin of error decreased from $14.5 billion to $8.5 billion. By 1988, having been burned badly, Mr. Wilson was avoiding long-term predictions. His forecast in the 1988 budget was for a budget deficit of $28.6 billion for 1989-90. It turned out to be $29 billion.

Honourable senators, the temporary elimination of wild predictions should not obscure the significance of these budget deficit figures. In the fiscal year 1986-87, Mr. Wilson's second full fiscal year as finance minister, the budget deficit was $30.6 billion. At the end of the current fiscal year it will stand at a virtually identical $30.55 billion.

● (1450)

Those are the stark facts of the matter. The 1985 clear and realistic medium-term plan has totally failed to reduce the size of the budget deficit. That is why the minister has been hoping that his 1985 plan would fade away into oblivion.

In order to hasten that process, in 1989 he launched what he now describes as an "ambitious five-year fiscal plan." The clear and realistic medium-term plan has been superseded by an ambitious five-year fiscal plan. Mr. Wilson, who is never short of plans, mentioned this five-year deficit reduction plan in last year's budget. Forget the old clear and realistic medium-term plan; we are now back in the business of medium-term predictions with the minister's new ambitious five-year deficit reduction plan.

In his February 1990 budget speech the Minister of Finance clearly set out the key features of this new plan. They were to reduce the deficit to $28.5 billion in 1990-91; to cut it in half, that is, to $14 billion in 1993-94; and to reduce it to $10 billion in 1994-95.

With some benefit of hindsight, we now have a clear vision of what is happening under the first three years of this new ambitious five-year plan. The budget deficit was $28.7 billion in 1988-89. After one year under the new plan it was $29 billion. For 1990-91 it was $30.5 billion instead of the $28.5 billion forecast in the new plan. Moreover, the budget deficit forecast for 1991-92 stands at an identical $30.5 billion.

Honourable senators, I summarize at this stage by saying that after three years of operation under the new ambitious plan budget deficits will have grown from $28.7 billion to

$30.5 billion. Remember what I said earlier, honourable senators, that the $30.5 billion is approximately what Mr. Wilson started with in his second full fiscal year as Minister of Finance five or six years ago.

With only two years left in the five-year plan, Mr. Wilson again takes a flight into fancy. He always talks about the future—the future that is never realized, because in this budget the fiscal outlook provides for a budget deficit of $24 billion in 1992-93, a drop of over $6 billion in a single year. How is that to be achieved? In 1993-94, the last year of the plan, the targeted deficit is $16.6 billion, another drop of $7.4 billion in a single year. A further drop of $6.6 billion in the following year brings the budget deficit down to the $10 billion mark for 1994-95.

One can only be sceptical. If you look further down the road, honourable senators, you will see that the 1991 fiscal budget is full of good news. We should expect a $6.5 billion deficit by 1995-96. I have a table, which I hope is accurate, showing the trend—

Hon. Pat Carney: Would the honourable senator permit a question?

Senator MacEachen: I do not mind.

Senator Carney: Of course, we all recall the fact that you had the experience of being Minister of Finance and therefore have a great deal of background to draw on in your assessment of Mr. Wilson's budgets. I particularly remember the honourable senator's 1983 budget, when I was critic for the Minister of Finance. He was forced to withdraw or adjust some 28 measures in that budget.

In terms of the honourable senator's criticism of Mr. Wilson's budget, can he inform this chamber as to how he reduced the deficit in the budgets he brought in? If I recall correctly, every budget the honourable senator brought in increased the deficit. I know his successor increased the deficit by $200 million simply because he allowed a photographer to take a picture of the numbers in the budget document itself.

Could the honourable senator inform the house what the deficit of the Government of Canada was for the years he was Minister of Finance? I believe they increased quite substantially during his term in that position.

Senator MacEachen: I am just coming to that aspect of my speech.

I must say, in direct reply to the honourable senator's question, that I have never found it of deep interest to rehearse all the public policy questions in which I have been involved in the Senate since I became a member of this house, not only in matters of finance but external affairs, health and welfare, labour and other departments. I thought it my duty to address current affairs rather than to glimpse into history. Maybe I will do that in another way. I do not think it is appropriate to debate, for example, the 1981 budget, and not the 1983 budget as the honourable senator mentioned. I remember the date extremely well.

Senator Carney: They were both wrong; is that true?

Honourable senator, I bring up these issues because they speak to the quality of the criticism that this chamber is hearing today. In view of Senator MacEachen's distinguished background, I thought all members of the Senate should be aware of his experience when he was Minister of Finance. He added every year to the deficit of this country. This party inherited a $34 billion deficit when we took office. It was not euphoria we experienced, honourable colleagues, but a hangover because of Liberal spending excesses.

Some Hon. Senators: Hear, hear!

Senator MacEachen: I thank the honourable senator for providing such a marvellous introduction to the next portion of my speech, because that is the fable, the mythology, with which I intend to deal.

Senator Carney: Are you going to answer my question? What was the level of deficit when you were Minister of Finance? It increased.

Senator MacEachen: I told the honourable senator that I will deal with it in some detail. I am delighted that the honourable senator raises it, because the same old mythology has now been repeated here. It has been said, "Well, you know, when we came into office we inherited a mess. Our predecessors in office, Mr. Lalonde, myself, Mr. Chrétien and Mr. Sharp were a bunch of bunglers. We came in and we intended to repair the damage of those Liberal years."

Let me deal with that and see whether I can put some realism into the debate, and maybe even cause Mr. Wilson to revise some of the scandalous comments he made when he became Minister of Finance.

• (1500)

It has been characteristic of this Conservative government that when criticism is levelled against it, and when pressure is applied, instead of standing up and defending its policies it deserts that ground and says, "Well, look what we inherited from the Liberals." We got it again today from the senator who asks the question! "Everything would be well were it not for the legacy we inherited from the Liberals."

In a speech I made before this house in June 1989 on Mr. Wilson's budget of that year, I began to draw attention to the first myth carefully crafted by the Minister of Finance, that in 1984 the Conservative government inherited an economic disaster, brought about by the inept economic management of its predecessors. That is the myth crafted by the Minister of Finance and repeated today by a member of the government who was part of the myth makers.

One of the first moves taken by Mr. Wilson in his brand new portfolio was the publication of a document dated November 1984 and entitled "A New Direction for Canada." This document contained a sharp indictment of Liberal economic policy that was alleged to be the source of "poor economic performances," "soaring government deficits," "rising unemployment," "sluggish economic growth," and "an economy dangerously off-course." These are direct quotes from Mr. Wilson's statement. It would be of interest to go over this descriptive vocabulary and check to what extent it would fit

current economic conditions in Canada after more than six years of Conservative rule, but that is not my purpose now.

If we look back to November 1984, the date of Mr. Wilson's first economic paper, the truth of the matter is that the Conservative government—and listen to this—inherited a surging Canadian economy that had achieved a remarkable recovery from the 1981-82 recession, which was the worst recession since the Second World War. It was a worldwide recession. It hammered Europe, it hammered North America. This recession is not worldwide; it is a made-in-Canada recession and there is no influence from Europe or elsewhere that has caused this recession.

I said that it may sound exaggerated to say that there was a surging economy in 1984. The fact is that in 1984 the economy was growing at a rate of 4.7 per cent in real terms, a growth rate that was exceeded only in 1988 when it was 5 per cent. So in 1984 the country had come out of a deep recession; the economy was surging ahead at 4.7 per cent. Unemployment had declined from a recession peak of approximately 13 per cent to about 11 per cent. As the Leader of the Government said in another context, "We must watch the trend line." Inflation averaged 4.4 per cent, the lowest rate since 1971. The merchandise trade balance had a surplus of about $20 billion, a near record level; with a non-merchandise deficit of $17 billion, the balance of payments on current account showed a $2.7 billion surplus. Interest rates had fallen to less than 11 per cent from their pre-recession summits—the trend line again. The domestic saving rate was over 7 per cent of GDP—February 1990 budget paper, page 26—and government-held foreign indebtedness was being reimbursed.

What are we doing today? Borrowing 30 per cent abroad! We went into all of that recently. This was the disaster; this was the economy "dangerously off-course." This was the inheritance left over to an unfortunate Conservative government in quest of renewal. A growth rate of 4.7 per cent, a favourable merchandise trade balance, deficit on current account, falling interest rates, high savings rates, and we were paying off our indebtedness to other countries. This was hardly a disaster.

Senator Carney: And a deficit of $34 billion.

Senator MacEachen: Myths die hard, if they ever do, but facts are facts and they are verified in the budget papers and they tell the truth. In 1984 the minister began his term of office with a document laced with a disturbing display of intellectual dishonesty. The document, entitled "A New Direction for Canada," spoke of the "mountain of debt inherited as a result of the string of deficits over the past ten years," and warned that if nothing were done "net public debt would more than double from its present levels rising to over $400 billion by the early 1990s." Under the policies of Mr. Wilson this level of debt accumulation is right on target—the net public debt will exceed $400 billion in the course of 1992.

But what of the Liberal record to which Mr. Wilson refers and to which Senator Carney from British Columbia has also referred? What of the Liberal record? Was it awful?

[Senator MacEachen.]

Senator Carney: Yes.

Senator MacEachen: Let's look at the facts and not the Conservative mythology.

In fiscal year 1974-75, after a long spell of Liberal government, the budget deficit was $2 billion, which is close to a balanced budget. The gross public debt was at $52.8 billion. At the end of the 1970s—and this is where I think we should be careful to anchor our analysis in the world situation, as I think Mr. Wilson is entitled to do if he can find world factors that have disturbed his prognostication; but he has never alluded to world factors, to my knowledge—stagflation, fuelled by oil price increases, had taken their toll. The budget deficit for 1980-81 was $13.5 billion and the gross public debt was $120 billion. That was on the eve of the 1981-82 recession, which caused further deterioration.

For 1983-84, the last full year of Liberal government, the former Minister of Finance, Mr. Lalonde, projected a deficit of $31.3 billion.

Senator Carney: Shocking!

Senator MacEachen: That is about the deficit we have today. In his last year in office he projected a deficit of $31.3 billion. The actual deficit turned out to be $32.4 billion—the last full year of Liberal government rule, an actual deficit of $32.4 billion. What is it day? What is the great progress that has been made in the intervening years?

• (1510)

Senator Murray: Where was it in 1984-85?

Senator MacEachen: I am coming to that. For 1983-84, the last full year of the Liberal government, the former Minister of Finance projected a deficit of $31.3 billion. The actual deficit turned out to be $32.4 billion. He was not on target but it was not the worst record. It was pretty damn good if you compare it with the subsequent errors made in targeting by his successor.

Senator Murray: Are you talking about 1984-85?

Senator MacEachen: I am talking about 1983-84. Mr. Lalonde, in his February-84 budget, projected a deficit of $29.6 billion for 1984-85. Thus, after several years of severe economic adversity accompanied by budget deficit increases, the Minister of Finance of the last Liberal government had designed a budgetary stance to achieve a reversal of this trend, and he had produced an actual deficit of $32.4 in the last year of office.

Perhaps I should also point out that just before the 1981-82 recession the budget deficit of $14.8 billion, for which I was responsible as Minister of Finance, amounted to 4.2 per cent of GDP. The average for the whole of the 1970s was less than 3 per cent.

Now we're dealing with Senator Barootes' point, the relation of the deficit to the size of the economy. Let us apply that test. The average for the whole of the 1970s was less than 3 per cent. It was 4.2 per cent of GDP in 1981-82. This was a period of Liberal government, save for nine months with Mr. Clark. There is hardly any need to point out that this record

has been unmatched by the Conservatives using the test of Senator Barootes', unmatched by the Conservatives working under much better economic conditions, in the 1980s. If one excludes the years 1984-85, which was a shared responsibility between Liberal and Conservative governments, the Conservative average is of a budget deficit of 5.3 per cent of GDP, using the test proposed by Senator Barootes.

Senator Barootes: Give the size of the budget.

Senator MacEachen: I have given you the relationship of the budget deficit to the size of the economy, which is the test you asked me to apply.

Senator Frith: That is the "Barootes formula." He wants to deny it now since it didn't work! Knock that Barootes formula if it doesn't work out!

Senator MacEachen: The reason I returned to this point, the percentage of the deficit to the size of the economy, is because the Minister of Finance and the budget papers are awash with references to the importance of this test. On that test, considering the times, I think it is unfair to accuse Liberal predecessors of fiscal irresponsibility. I think the figures speak for themselves, and they should dispel the myth of irresponsible fiscal management. The high budget deficit immediately following 1981-82 were related to policies designed to promote economic recovery and to alleviate the hardship caused by a severe recession for the Canadian population.

Honourable senators, if you want to compare the difference between the Liberal government and the Conservative government, take a look at the measures that were adopted by the Liberals to ease the burden of the recession. They were considerable. There are none in this budget.

Senator Buckwold: Take a look at the food banks.

Senator MacEachen: They cost money, but they eased the country out of a recession, with the result that in 1984 there was a surging economy with a growth rate of 4.7 per cent, exceeded only once, by a 5 per cent growth rate, by the Conservatives in 1988.

Senator Carney: Would the honourable senator permit another question?

Senator MacEachen: No, honourable senators. I have been courteous with Senator Carney and when I am finished I will be glad to answer. I am following a trend of thought.

Marc Lalonde had planned a budget deficit of $29.6 billion for 1984-85, and we are coming to the question that Senator Murray asked. In November 1984 Michael Wilson projected a deficit of $34.5 billion for 1984-85, and he said:

> . . . with this set of projections and no policy changes, the deficit for this fiscal year would be $34.5 billion . . . This is what we inherited.

Those are the words of the minister. Well, $34.5 billion is what I take as the benchmark established by Mr. Wilson when he became minister. We know that in that single year the actual deficit climbed to $38.3 billion. No longer have we heard reference to $34.5 billion; now $38.3 billion is the benchmark. This figure, and not what he acknowledged as inheriting, became the benchmark in Mr. Wilson's mythology of measuring Liberal management.

I turn now to another point that has to do with exchanges in this house. While debating with Senator Olson on April 10, Senator Murray said, "We are borrowing in order to pay the interest on your debt." In 1984-85 the national debt was $199 billion. For this current fiscal year it reached $388.5 billion. For next year it will be more than $400 billion, which Mr. Wilson said would be the outcome if nothing were done. That is what he said in 1984 when he said, "If we don't do anything, if we leave current policies in place, the debt will be in excess of $400 billion." That is what it is. Next year it will be $419 billion. Even on the assumption that the Conservatives have no responsibility at all for the 1984-85 deficit, which is not correct, Canada is paying interest this year on $189 billion of Conservative debt and next fiscal year on $220 billion of Conservative debt. So much for accuracy and fairness of the government side.

Honourable senators, I do not know what is going on in the government, but I read the papers and see there is widespread expectation that Mr. Wilson has delivered his last budget.

Hon. Senators: Hear, hear!

Senator Perrault: Protect the world. Don't turn him loose on the world!.

• (1520)

Senator MacEachen: If that is to be the case, perhaps it would be appropriate to take an overview of his tenure of office and to conclude with a brief summary of where I think he was right, where he was wrong, and where he made his mistakes. There is no doubt in my mind that Mr. Wilson pursued legitimate objectives when endeavouring to bring down budget deficits, thereby attempting to bring our public debt under control. He was right in that objective. He was right to emphasize public expenditure control. He was right in trying to defeat inflation. In the pursuit of these goals, he constrained the expansion of program spending and produced a positive operating balance.

Now, it will be remembered that Senator Castonguay made much of this point when speaking on third reading of Bill C-62. He said:

> While in 1984-85, when this government took over, there was an operating deficit of $16 billion. There is now a surplus of $9 billion. These figures are definitely impressive by any standard.

That was from November 27 of 1990, page 4000. Those were the days when we really added to the pages of the *Hansard*! Senator Castonguay was, in fact, echoing Senator Murray's statement of October 1990 in this chamber when he said:

> In 1984 the government incurred an operating deficit on all programs other than interest costs of $16 billion. This has been changed into an operating surplus of $13 billion . . . I think that speaks volumes—

Senator Perrault: Sure does! It's a myth!

Senator MacEachen:

> —for the competent and frugal administration of the nation's finances by the government.

Senator Perrault: Frugal?

Senator MacEachen: Well, I already made the point that the figures for 1984-85 ought to be treated with some caution. However, a more serious matter of concern with Senator Castonguay's and Senator Murray's statements is their failure to mention how the surplus came about. How did they achieve it?

Senator Buckwold: Magic!

Senator MacEachen: Program spending for 1984-85 was $86.6 billion, according to the 1986 fiscal plan, page 47. For the current fiscal year it is $108.3 billion, an increase of about $22.3 billion. So program spending has increased by $22.3 billion, but there is still an operating surplus.

I turn now to revenues. For the current fiscal year budgetary revenue is $120.7 billion, an increase of about $50 billion. It is expected to reach about $140 billion in 1992-93. To put it another way, budgetary revenue has increased two times more than program spending over the period covered in Senator Castonguay's statement and will have doubled by 1992-93. That is a reason—the main reason—for the operating surplus. A buoyant economy and sharp tax increases have produced that result. Most of the credit for this achievement by the Minister of Finance should go to the taxpayers and is attributable to the minister's ravenous appetite for the taxpayers' money. It has been achieved principally by an increase in budgetary revenue rather than through frugal and competent administration.

There is another point concerning ways of explaining away budget deficits that was quite appropriately raised by Senator Olson when speaking last year to the 1990 budget. He said:

> To say that "this is program spending and this is debt service charges" is a new kind of bookkeeping that no one else in the world has got away with, and you are not getting away with it either.

Well, I listened to Senator Castonguay, to Senator Murray and to Senator Olson, and this fact certainly caused me to examine the trend in budgetary revenues, which is the principal reason for the operating surplus. I was a bit taken—or, as it were, struck—by the statement made by the Chairman and Chief Executive Officer of the Royal Bank of Canada, Mr. Taylor, who seemed to echo Senator Olson's words when he said in January:

> The Government of Canada talks about an operating surplus, but what does that mean? It's like an individual Canadian saying he or she would have a positive cash flow if it weren't for the mortgage interest. It's true, but it's irrelevant. The fact is that the deficit is again moving in the wrong direction. Depending on how deep the recession bites, it will grow much larger, with smaller tax revenues and larger unemployment benefits.

[Senator Perrault.]

I make those points for honourable senators to digest, accept or reject in any way they wish.

To continue, Mr. Wilson, as Minister of Finance, has, in my opinion, made a number of irretrievable policy mistakes. Early in his mandate, following two years of genuine budget deficit reduction, Mr. Wilson relied on increases in government revenue thanks to higher taxes and an expanding economy, and on an easing up of debt service charges caused by low interest rates, to fight the deficit. He relaxed after two years of genuine progress and said that the deficit would be looked after by economic growth producing increased tax revenue and that it would be assisted by lower interest rates on the public debt. He said the deficit would go down, and he was wrong.

Senator Buckwold: As usual.

Senator MacEachen: I must say that on June 13, 1989, in this very chamber, I mentioned the risks that were inherent in that policy upon which he was relying to reduce the deficit. I warned that if economic expansion slowed down and interest rates went up, the policy failure would be exposed and our public finances would be in deep trouble. What was true in 1989 became evident in 1990, because this is precisely what happened. That was his first mistake.

The second mistake was his failure to pay attention to the strong warnings of inflation, rising interest rates and the upward movement of exchange rates in 1988. In my opinion, that was the time to launch timely macroeconomic policies to cool off a situation that was rapidly getting out of hand, but I think his mind, and the government's mind, were on winning a general election, and Canadians subsequently had to pay the price for this improvidence.

The third mistake was to ignored signs of an impending recession late in 1989 and early in 1990, and to press on with high-interest-rate and high-exchange-rate policies to the point of generating a full-fledged, made-in-Canada recession. Perhaps the minister was simply too obsessed with the GST to realize that this new tax measure was ill-timed and inflationary.

● (1530)

In any event, he did proceed with the GST and ignore the oncoming recession. That was another error. The cost paid by all Canadians for these cumulative mistakes has been a dramatic increase in the tax burden, particularly for individuals. Tax increases under this government must hold a record for the century. It is just unbelievable. The price also includes a grave mortgage on Canada's future in the form of federal debt which, before year end, will have doubled under the Conservatives since 1984. Canada has joined the ranks of the most internationally indebted countries and our future ability to manage monetary policy will be even more constrained.

Honourable senators, I believe that these costs are manageable in the sense that tax policy can be changed and the debt brought under control in the medium term. What is irretrievable is the gradual destruction of the federal government and its place in the balance of the Canadian federation, and that cost has been allowed to creep in insidiously under the guise of

expenditure control. For this reason Mr. Wilson will be judged severely not only for poor or indifferent economic management but for lack of vision when faced with the greatest current challenge to Canada's existence as a dynamic and united country.

When one looks at the record one is driven to say that the minister was damned good at public relations and at soothing the Canadian population into believing that each new budget had a solution in the future which had eluded him in the past. The clear and realistic plan of budget deficit reduction failed, the economic renewal plan failed and the five-year plan for further deficit reduction is in the course of failing. The expenditure restraint plan is adding stress on the federal fabric of this country. This does not inspire much confidence in the latest inventions, the economic recovery plan and the inflation targets.

All along the Minister of Finance kept asserting and repeating that his policies were working, that the plans were on target and that tomorrow would be a much better day. That is what he has said again in the budget for the seventh time: "Tomorrow will be a much better day." So we were not surprised when the Minister of State for Finance, Mr. MacDermid, said on March 18 that the government would spend $1.5 million in publicizing the last Wilson budget, the purpose of which is to say that tomorrow will be a better day. That has been the PR achievement of the Wilson era. However, the reality has been the opposite.

It is also worth noting that when Mr. Wilson had to take tough economic decisions he was influenced by the political desires of the Prime Minister and his colleagues. He gave up fighting budget deficits halfway through the first Conservative mandate for fear of the political damage that might ensue; he postponed fighting inflation because of the coming general election, and he pressed on with the GST. The country is now paying for the results of these policies and will continue to do so even if Mr. Wilson moves on. The problems which he leaves will have to be confronted by a new minister, who I hope, when he takes on those responsibilities, will not fail.

Senator Carney: Or she.

Senator MacEachen: Or she; and why not one from the Senate.

Senator Frith: Carney for Finance!

Senator MacEachen: And we will have to face those problems.

Honourable senators, in closing, I have a couple of tables that I would like to include, if senators wish, in order to ensure that my budget figures are correct.

(*For tables see appendix, page 5635*)

On motion of Senator Murray, debate adjourned.

PRIVACY COMMISSIONER

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO REPORT—DEBATE CONCLUDED—DIVISION DEFERRED

On the Order:

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

That the Standing Senate Committee on Legal and Constitutional Affairs be instructed to report no later than Friday, April 19, 1991, the motion respecting the appointment of the Privacy Commissioner.-(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, you can tell a weak government by its eagerness to resort to strong measures. That is a quote from Benjamin Disraeli and applies very well today. You notice the word is "eagerness," not "willingness." Any government has to resort willingly at times to strong measures, but the word is "eagerness." What is the eagerness of this government to resort to strong measures that has us here this week? The House of Commons is adjourned. As far as we can see, the Senate cleaned up all of the government's business except the Financial Administration Act. The study of the Financial Administration Act in the committee was to continue until the end of the month, so what are we doing here?

We tried to get some advantage out of it by a very excellent speech on Tory financial and fiscal policies and the regime of Michael Wilson, but we would not have been here for that reason and we would not have been here for the Financial Administration Act. We are here for Mr. Bruce Phillips; that is what we are here for. I figure, on the basis of the public accounts, that it is costing the taxpayers between $70,000 and $80,000 for us to be here for Mr. Phillips. The taxpayers are putting up that amount of money which would not be spent if the Senate had not been called in order to make sure that Mr. Phillips gets his job.

What is it, honourable senators, that Mr. Phillips knows about this government that the Prime Minister is prepared to ask the Leader of the Government in the Senate to call the Senate back for the sole purpose of making sure that Mr. Phillips gets his job? What did Mr. Phillips say to the Prime Minister? We can imagine what he said to the Prime Minister. Mr. Phillips said, "Look, I understand there is a chance that you are going to prorogue. Do you realize that I do not have my job and I will not get my job if you prorogue? You had better call the Senate back and force them to give me my job. You now have the majority in the Senate; bring back those 104-plus people in the stuffed Senate. Bring them all back for me, Bruce Phillips." What does he know? What does the government owe him that it is prepared to bring Parliament back in order to get one man his job?

● (1540)

Senator Barootes: You could have settled it last week, but you refused to report back.

Senator Frith: My question was what does Mr. Phillips know? What is his influence? What leverage has he got on the government to force back the Upper House of Parliament to get him his job? Senator Barootes' answer is: "We could have cleared it up last week." I do not know what that has to do with the question.

What does the government owe him in order to make it easy for him to have Parliament called back to get him his job? And what is more relevant: what will Bruce Phillips owe them—

Some Hon. Senators: Oh, oh!

Senator Frith: —for having done it? What will this servant of Parliament, what will this watchdog on the government—

An Hon. Senator: Watch.

Senator Frith: —owe them? Can honourable senators imagine the situation of his acting as a watchdog, as an agent of Parliament and saying something unpleasant to the government?

Senator Perrault: A pit bull terrier, that guy.

Senator Frith: What would the government say? "Mr. Phillips, are you criticizing us? Do you realize that in April of this year we called Parliament back to get you your job, and you are going to criticize us? We have brought 104 or more people back, brought them from all across the country just to get you your job, and you have the nerve to criticize us?"

Some Hon. Senators: Shame! Shame!

Senator Frith: What kind of a parliamentary watchdog could he be?

Senator Perrault: A trained poodle.

Senator Frith: I know Bruce Phillips, and in my opinion it has nothing to do with whether, under proper auspices and in the proper job, he could not do such a job. However, he is never going to be able to do that job in these circumstances. Nobody could in those circumstances, not just Bruce Phillips. Nobody who has that kind of partisan background and whose appointment is going to be confirmed in these circumstances can ever be independent.

Senator Perrault: Putting a rabbit in charge of the lettuce patch.

Senator Frith: Honourable senators, the sad part of all is that this is just another example of the extent to which this government is prepared to go to make Parliament irrelevant.

Some Hon. Senators: Hear, hear!

Senator Frith: Think of where we stand now as Parliament. Let us take the picture. Here is a prime minister, not just this Prime Minister, any prime minister in Canada. He or she wants something. He comes into a cabinet. Whom are we looking at in the cabinet? If I am speaking as the prime minister, I have picked each one of you. If I have a majority in the House of Commons, and I am speaking of the relevance of Parliament in Canada today, for a government that has a majority in the House of Commons, my question is, "I have the following proposal. I want it. I have picked every one of you in the cabinet for your job. There are 150 or more out there and every one of them wants your job."

Senator Perrault: Slavering for the job.

Senator Frith: "I am going to fire you if I want to, and I am going to appoint them if I want to. Any questions?" Not very many.

An Hon. Senator: Yes, sir!

Senator Frith: "Yes, sir" would be the answer. Now, having gone that far, I go out into the House of Commons. There are those 150-odd all wanting to be members of the cabinet, all there because I won an election for them. I am not talking about Brian Mulroney now. I am talking about any prime minister under our system, certainly as it has developed. Is there anyone in the House of Commons who is going to defeat me? Are they going to say no to me? Are they going to give up their chance to be in cabinet? No. Well, then, what about the Opposition? What can the Opposition do? It can stand up and complain, but what do I say to the Opposition? I say, "You can stand up and complain, but only for so many minutes, because that is the rule in the House of Commons; and you can only debate this as a whole for so much time. So if you want to get up and speak for 15 minutes, or whatever our rules will allow you, or you want to speak for a few hours or days on it, that is fine, but I am telling you, I am going back to my red book. This is if I am a cabinet minister or if I am the prime minister and I am going to be signing my correspondence. You go ahead and talk, but I am telling you that next Tuesday at 5:45 I am going to have my way, whether you like it or not!"

Senator Buckwold: Appalling!

Senator Frith: This government has made it even worse by the amendments they just made to the House of Commons. So what is the relevance of any member of the House of Commons under our present system, whether they are on the government side or the Opposition side? They have hog-tied themselves, paralyzed themselves by their rule changes. So what does that leave? That leaves the Senate.

Now the Senate has the problem of less political muscle because it is not elected, and, if it has a government majority, what can it do? Therefore, except for a minority Parliament, we really might just as well—on the basis of the trends that we are making, including what has brought us here today as an example for a parliamentary watchdog, and if it is a majority government— send everyone home until the next election, because the prime minister is going to get whatever he wants.

The only time that Parliament has any relevance is in a minority government if we are going to keep up with these trends. Here is an example—a small example, I admit—of where the government is simply saying, "We want our way. We have not followed parliamentary procedures, we have not respected Parliament even for the appointment of a parliamentary officer, and there are not that many of them. Most of the appointments to senior federal government positions are made by the executive, by the Governor in Council, by the prime minister effectively. There are only a few select posts that have

been left for Parliament. The office of Privacy Commissioner is one of them.

The reasons, of course, for selecting them by a different method than just a statement that they have been appointed are:

> First, that the officials report to the legislative rather than the executive branch, maintaining independence from the government. Second, that because of the quasi-judicial or ombudsman-like role of these posts, the confidence of all parliamentarians in these officials is crucial. Third, non-partisan appointments are generally thought to have a greater credibility and respect with the public at large. Therefore, the importance of consensus among parliamentarians in the selection, which has always existed in the past, is of central importance to the effectiveness of the parliamentary appointment.

That is being ignored in this case, again even in this little thing, one of the few little things that have been left to Parliament—one of the few. "Look, we force all sorts of things through you. We have closure, we have time allocation, we can ram anything we want past you, but there are a few appointments that you all have to agree on. It has nothing to do with party politics. It is a parliamentary thing. You all have to agree."

• (1550)

"What we do is to consult with all the parties before we make these appointments." Some of them, mind you, are important posts. If the procedure that was followed for Bruce Phillips is to be followed now—if that is the precedent that this government wants to establish—then why can the Prime Minister not decide what Chief Electoral Officer he would like? All he has to do is to follow the Bruce Phillips' precedent, the Privacy Commissioner precedent. He simply has to introduce it in the House. He does not talk to the Opposition about it. He does not talk to Parliament about it. He talks to his own cabinet and caucus about it.

If this appointment does not go through, why can't the Prime Minister say, "I appoint Bruce Phillips as Chief Electoral Officer." He asks members of his caucus if it is okay, and they say it is. So they bring it to Parliament. Members of the Opposition will stand up and say, "Wait a minute, you are supposed to consult us. This office of Chief Electoral Officer is one of the five or six appointments that you are supposed to make with the consensus of all of Parliament." The government will say, "That's too bad. Remember, we did it with the Privacy Commissioner. We are going to do it for Chief Electoral Officer too." "What about the Senate?" they will ask. The reply will be, "We have straightened the Senate out too. They were worried about the Privacy Commissioner in the Senate so they sent it to a committee." They will ask, "What did the committee do?" They will be told that the committee did not want to approve it. "So what did you do about that?" will be asked. The reply will be, "We got Senator Murray to bring in a motion instructing them to do it. Who the hell do they think they are, these senators? What does this committee think it is? I want this man. Instruct them to do it, Mr. Murray. Is that clear? What is the next item on the agenda? Tell them to do it."

The really sad thing about all this is that the people do not seem to care. That shows us when we really become irrelevant as parliamentarians. It is the media's job to criticize politicians. In a free country the press has an important role to do that, without wishing to do it, I am sure, in the long run; but by doing it week after week, month after month, year after year, decade after decade, in giving the impression that politicians are all venal people, that they are not interested in the principles of Parliament, that they are interested only in their own advantage and that they are irresponsible, I suppose we cannot blame the people for not caring. They will say, "What are they making such a fuss about? What difference does it make whether the government has decided that even this one of a very few parliamentary posts will now be hammered and made by executive decision?" I think it is sad that the people do not care. I think that the principle involved in this thing is just as important to Senators Johnson, Murray or Phillips as it is to me. If we are parliamentarians, it is important. But the people just do not seem to care.

If it develops that this motion passes and that the committee is forced to report and we have to speak on the actual appointment itself, something which is not before us at this moment, then I will want to ask a number of questions. These are matters about which the committee is worried. I hope that we will think of many of the principles that are involved, especially as to whether the Privacy Act has been complied with here.

Concerning the wording of the Privacy Act in requiring a resolution of approval from the Senate, does that mean that something more positive and more active than consent is required? In other words, is simple assent all right, or does it require examination, consideration and a more positive act? Is it reasonable to ask someone with prior affiliations to act not only as a sentinel for Canadians through the Privacy dossier, but to stand up to the very institutions with which he was affiliated and that are often those most questioned by Canadian individuals in regard to privacy? I have a great many such questions that I want to ask.

All I am dealing with at the moment is the significance of Senator Murray's motion in the context of where Parliament stands these days. That is really the objection. The real objection is that, again, it is a matter of just another bit of parliamentary relevance being chipped away. It is the method, the way it is done. It is not Bruce Phillips as a person. In my opinion, it would be the equivalent of a Liberal government appointing me to the job. I think that would be ridiculous. Everyone knows that I am an avid supporter of the Liberal Party, and have been a supporter of the Liberal government. It would be as if I had done all these things that I have done in support of the Liberal Party and there was then an election and the Liberal Party got in and nominated me Chief Electoral Officer or Privacy Commissioner. I tell honourable senators that I do not think that will ever happen; but, if it did happen, and I were crazy enough to accept it, I hope you would turn

me down, because I would be the wrong person for the job. I hope you would all turn me down.

Some Hon. Senators: We will.

Senator Frith: Thank you. Do I have that undertaking?

Some Hon. Senators: Yes.

Senator Frith: I would be just as inappropriate for this job as Bruce Phillips is. Any procedure that appointed me to the job, similar to the procedure the government wants to use to appoint Bruce Phillips to the job, would be just as inappropriate.

Hon. Finlay MacDonald: Why? Would you not be professional?

Senator Frith: I thought I had made that point clear.

Senator MacDonald: Why? Are you not suited for the job?

Senator Frith: I thought I had made that point clear. I am glad the honourable senator has given me a chance to repeat it, since he did not get my point.

I think that I could do the job, just as I think Bruce Phillips could do the job; but the problem is that he can never be seen to be doing the job, because what is the job? The question is not Frith or Phillips for the job; the question is the job. The job is to be an independent watch-dog on the government. Most important, it is to appear to be independent, to have people have the confidence that the person is independent. In other words, it would be an embarrassment to me, as it should be an embarrassment to Bruce Phillips, to take this job, because no one is going to believe that he has the independence, just as no one would believe that I would have the independence if a Liberal government appointed me.

That is why. It is because he would not have a chance to be professional. No matter how professional Bruce Phillips or I would be, no one would think we were being professional, not only because of our backgrounds and our affiliations with the government, but because of the way the government went ahead to force the appointment through against every precedent and every convention—all of those precedents, all of those conventions—established for the very good reason that they establish the confidence of the body I represent.

To continue the analogy, my position would be the same as Bruce Phillips' position if this matter had gone through the House of Commons and all the Conservative and NDP members had voted against me, while the only people who voted for me were Liberals. Who is going to believe me? It would then come to the Senate and the Senate would try to say, "No, this is not the right thing to do," and the government would then force it through and force me on the people, as it is planning to do in this case.

I think it is wrong. That is why I think we have a chance here. I am making an appeal on this motion to all of my colleagues in this place not to proceed with this motion. I think it is an embarrassment for all senators. What can Senator Murray do? He has been told what he has to do. He takes the job. He is a member of cabinet. It is a question of cabinet solidarity. It is also a question of his being told, "We want this thing. We are going to bring everyone back, and force a motion through the Senate. That is your job. You are our representative in the Senate."

I have an invitation for all of my colleagues. It is to forget about this thing. Leave it in the committee. That is the best solution. I have an invitation to Senator Murray to withdraw his motion. He has had a long career in politics. He has had a career here as Leader of the Government in the Senate. He has been very severely criticized for some of his enterprises. I do not know how enthusiastic he was about them, but I do know him well enough to know that he understands political duty, and he understands with regard to a lot of things that the Prime Minister has asked him to do, that he had to do it whether he liked it or not.

● (1600)

Senator Bonnell: He could resign.

Senator Frith: He could, but I have another suggestion. Perhaps earlier on, in connection with other pieces of legislation, when what seemed to be reasonable amendments were being proposed, he may have found some of those amendments attractive but was told by the Prime Minister and by cabinet to turn them down. One can imagine what kind words Harvey Andre would have in cabinet meetings for any suggestions that came from the Liberal dominated Senate, as it then was.

What about Meech? Certainly, when someone is examining Senator Murray's career, he will take into account what happened with Meech. As a skilful negotiator, I should have thought that Senator Murray, with experience in negotiation, would never have liked the seamless web approach. Who knows what might have happened in the case of Meech Lake if there had not been a seamless web but a compromise had been made. If some amendments had been accepted, it would have passed in this place, and it did not pass in the Senate. Incidentally, I am sure that the Prime Minister said, "Lowell, not a change. Nothing changes, and don't you give me any argument about it."

Senator Simard: What is the offer? Do not keep us waiting all afternoon, tell us what the offer is, please.

Senator Frith: You will hear it.

I think what the Prime Minister asked Senator Murray to do was ignominious, to ask him to make no concession, to give him the job of federal-provincial relations, which surely means some compromise, not just "my way or no way;" but he had to do that.

Then, on the GST, he was up against Senate rules. Instead of moving to amend those rules, I suppose Harvey Andre and his colleagues said, "No, ram it through. In a pinch we will get Charbonneau to break the rules if we have to, but just ram it through and don't try to change any of the rules."

What about amendments to the GST? Maybe Senator Murray said, "Look, these amendments on books, co-ops and on energy are pretty reasonable amendments, Brian, maybe we should accept some of those and, if we do that, a lot of political support that the Opposition has will at least be changed." I am

assuming that he suggested that they might be accepted and was told, "No, sir, do it my way or no way."

Think of all the things that Senator Murray has done for the Prime Minister. Now we read in the paper that the Prime Minister is going to dump him.

Senator MacDonald: We have heard the same thing about you.

Senator Frith: Yes, you have heard the same thing. That convinces me that I am probably right that he is; is that your point? You know something that I do not know. Well, in that case, even more so, is it going to make any difference if this goes through? Surely not. The chances are that, having done all these things for the Prime Minister, he is now asking him to do this, which I think must go against every fibre, certainly every parliamentarian fibre, that Senator Murray has, if he is being asked to do this in addition to a whole lot of other little things. I do not know whether he had anything to do with Senator Carney's having to leave the constitutional amendment committee.

Senator Simard: If you do not know, do not talk about it.

Senator Frith: Whether or not he did, I say that Senator Murray has done everything, and a lot of things he should not have done, as asked for by the Prime Minister; and, on this last thing that he is being asked to do, I suggest that Senator Murray tell the Prime Minister, "No, I will not do that. I am going to withdraw that motion and end my career with a bang instead of whimper."

The Hon. the Acting Speaker: May I inform honourable senators that if Senator Murray speaks now it will have the effect of closing the debate on his motion.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know whether the Deputy Leader of the Opposition was issuing a farewell to me or indeed his own valedictory.

Senator Frith: Probably both; easily could be both.

Senator Murray: If I were preparing to leave my post tomorrow, how could I possibly leave with a resolution, ten months old, sitting in a Senate committee? This is not the kind of unfinished business that one would want to leave. The ten months that this committee has kept this resolution indicates to me that the time has come for the Senate to decide.

My motion before the Senate is to direct the committee to report. I am not trying to direct the committee how to report. I am not asking it to approve or disapprove Mr. Phillips' nomination; I am asking that it report so that we can facilitate a decision on this matter by the Senate, after ten months.

Is ten months enough for a committee to have? Any reasonable person would agree that ten months on a matter of this nature is more than enough and that the Senate does have an obligation to deal with this item that has come to us from the House of Commons.

• (1610)

We are here, Senator Frith said, for Bruce Phillips. No, honourable senators, we are here to fill an important post in the service of Parliament and of Canada.

Senator Perrault: Come on!

Senator Murray: The Privacy Act, under which we are moving to appoint a commissioner, and its twin, the Access To Information Act, have a long and honourable parliamentary history.

Senator Perrault: Don't dishonour it now!

Senator Murray: The names of some of our most distinguished former parliamentarians, such as Ged Baldwin, are associated with this legislation. There was a bill before Parliament in 1979-80, the first government bill brought in on privacy and access to information, and it was introduced by the administration of Prime Minister Clark. It died with the defeat of that government. The Trudeau government resurrected it between 1980 and 1984. The bill was finally passed, and provided for the appointment of a privacy commissioner and the twin legislation provides for the appointment of an access to information commissioner through a procedure set out in the legislation.

It is important to fill the position because there are powers assigned to the Privacy Commissioner that cannot be exercised by an acting commissioner. They can only be exercised by the commissioner who has been duly appointed by the Governor in Council after an affirmative vote by both houses of Parliament. So it is important, because we consider the post of Privacy Commissioner to be important, to fill it. We have been waiting for 10 months for the Senate committee to report on this matter.

Senator Bonnell: What happened to your committee? Why didn't the chairman call a meeting?

Senator Murray: My friends opposite have a majority on that committee, as they have on all committees. If they had wanted to deal with the matter, it would have been dealt with.

Senator Frith: The chairman can call committee meetings. He doesn't need a majority to call a meeting.

Senator Murray: Senator Frith has said that the process we have followed in this case makes Parliament irrelevant. Again for the record, I want to point out that the legislation provides that the appointment of a privacy commissioner shall be made by Governor in Council after approval by the House of Commons and the Senate. It must be stated that there is no mention in the legislation of any consultation among the political parties. If they had intended that there should be such consultation, they probably would have included such a provision in the act itself.

Senator Frith: You didn't need to, because it has always been done.

Senator Murray: The honourable senator says it has always been done. Well, it has not always been done.

Senator Frith: You have found another exception, have you.

Senator Murray: The record is very mixed in this regard.

Senator Frith: No, there shouldn't be any exception. It just proves the rule.

Senator Murray: I referred in my remarks last June to the experience I have had in various incarnations around here, including, for example, the years I spent as Chief of Staff to Mr. Stanfield when he was Leader of the Opposition. I well recall the consultation that took place under both the Pearson government and the Trudeau government with regard to some of these appointments. The consultation consisted of a telephone call from our old friend Marc Lalonde, who was in Prime Minister Pearson's office and later in Prime Minister Trudeau's office saying, "Here is what we are going to do."

Senator Frith: Did you do that in this case?

Senator Murray: Honourable senators, I can't say whether that was done in this case or not.

Senator Frith: Why are you accepting it?

Senator Murray: A telephone call is hardly a consultation. It is a notification.

Senator Frith: It depends on the response. You have to make the call to start it. Did you object to them?

Senator Murray: These notifications were usually done the day ahead. In some cases we were asked a second—

Senator Frith: So did you ever object?

Senator Murray: Oh, yes.

Senator Frith: Did they go ahead anyway?

Senator Murray: Oh, yes, absolutely.

Senator Bosa: Did you object to the appointment of Gordon Fairweather?

Senator Murray: I am telling the honourable senator that the record is very mixed with regard to consultation.

Senator Frith: If it is, you made no call in this case, not even a call.

Senator Murray: I well remember the appointment of D'Iberville Fortier in 1984, I believe, as Commissioner of Official Languages, which was sprung on us. I had never heard of the nomination until the moment it was brought forward. There was no real consultation.

Senator Frith: You got a call, and you did not make any calls. So it is no precedent.

Senator Murray: Notification is hardly consultation.

Senator Frith: It is a start. You didn't even bother to start consultation.

Senator Murray: The honourable senator cannot really assert that there has been consultation on these matters in every case in the past.

Senator Frith: Don't shoot the piano player; he is doing the best he can.

[Senator Frith.]

Senator Murray: It is interesting that in several cases there is legislation on the books that requires consultation among the parties. That is the case with the legislation governing the Canadian Security and Intelligence Service in which the Security Intelligence Review Committee is appointed by the Governor in Council, not after a parliamentary vote, but after consultation among the political parties. The same holds true for the Canadian Institute for International Peace and Security.

It is also interesting to note that when this legislation was going through Parliament back in 1982 an effort was made by the New Democratic Party to establish a higher threshold of approval in the case of the commissioner of privacy. Mr. Svend Robinson, then as now a New Democratic Member of Parliament, took the position that there should be a provision that would ensure a very large measure of consensus for this appointment.

Senator Frith: I remember that, and I agreed with him.

Senator Murray: My friend says he agreed with him, but when the matter came up in an amendment proposed in the committee by Mr. Svend Robinson, requiring a two-thirds approval by the members present and voting for the Privacy Commissioner, you did not support it.

Senator Frith: That is not the same thing.

Senator Murray: You didn't support it.

Senator Frith: I was not there; I was never in the House of Commons.

Senator Murray: At the Justice and Legal Affairs Committee of the House of Commons—

Senator Frith: I was never a member of that committee.

Senator Murray: I am glad to know, however, that you supported it.

Senator Frith: What are you trying to prove, that there is something here between me and Mr. Robinson?

Senator Murray: The honourable senator is making a case that it should not be sufficient for the government of the day or for a simple majority of the House of Commons or the Senate to approve of such an appointment.

Senator Frith: That's right.

Senator Murray: That was exactly Mr. Robinson's point, that there should be a higher threshold of approval. He proposed that two-thirds of the members present and voting should be required to approve the appointment of a Commissioner of Privacy and a Commissioner of Information. The sponsoring minister at the time was the Honourable Francis Fox. Mr. Fox simply stated that these positions, privacy and access to information, were being filled on the same basis as the Commissioner of Official Languages, the Chief Electoral Officer and the other officers that Senator Frith mentioned. Mr. Fox concluded that a simple majority should suffice, period. In the event, he and his Liberal colleagues—and I may say their Progressive Conservative colleagues on that commit-

tee—together voted down Mr. Svend Robinson's attempt to provide for a higher threshold of approval.

• (1620)

Senator Frith: Honourable senators, may I ask Senator Murray a question arising out of that? Obviously, Senator Murray has done a good deal of research. Can he give us one example of such an appointment—and we know we are talking about this class of appointment—that was made in spite of recorded voted opposition by the two major opposition parties?

Senator Murray: No, I cannot, honourable senators, but I do not think that the answer speaks very well for honourable senators and honourable members of the other place who have voted against the appointment of an experienced and reputable journalist to a position of this kind because he had spent two years in a political office. I do not think that particular stand on the part of honourable senators and their counterparts in the House of Commons speaks very well for them.

The honourable senator speaks of the need for objectivity in a position of this kind, and the appearance of objectivity, but where more than the bench must we have people who are non-partisan, who are objective, and who also have the appearance of objectivity? Yet my honourable friends opposite have appointed people to the courts right out of the Liberal caucus, right out of the Liberal cabinet.

Senator Simard: That's right!

Senator Murray: In one of their last acts, in June of 1984, they did that with a number of their colleagues.

Senator Frith: Come on! This is hardly the question I asked you, but go ahead. None of those judges are parliamentary agents, which is what we are discussing here. We are not discussing judicial appointments. We are discussing appointments of agents of Parliament. Your answer to my question was that there never has been a case where anyone was so appointed against the voted opposition of the major parties. So that is the answer to my question.

Senator Murray: What I am saying, honourable senators, is that what we are really discussing here is integrity and objectivity, and the appearance of integrity and objectivity, and there is no one that I know of in this caucus or among my friends on the other side who raised a syllable of objection when Mark MacGuigan, Yvon Pinard, Bud Cullen, Jean-Eudes Dube and a number of other people went directly from the Liberal caucus in the House of Commons, or indeed from the cabinet, right to the bench.

Senator Frith: They were appointed in accordance with traditions and procedures established—

Senator Murray: That is what we are doing now.

Senator Frith: No, we are not. You cannot give us a single example of anyone who was appointed to this kind of job against such opposition. That is all I was asking. We are not talking about judicial appointments. That is another debate, as you say.

Senator Murray: But why are you objecting to this appointment? Do you question his integrity? Do you question his objectivity?

Senator Frith: No. The question is about following the procedures which make it clear that this person is an agent of Parliament. That is all. It has never been done against such opposition. That was my question and that was your answer.

Senator Murray: The procedures are set out in the Privacy Act. The procedure is that the person is appointed—

Senator Frith: You cannot give us an example of its ever being done against opposition.

Senator Cogger: Order!

Senator Murray: —by the Governor in Council after an affirmative vote by the Senate and the House of Commons. When an attempt was made some years ago to have a higher threshold, such as two-thirds approval or a wider consensus, it was rejected by the government of the day on the basis that a simple majority should suffice. So let us have the report back here; let us, by all means, discuss the suitability of Mr. Phillips for the post; and let us discuss, if you wish, the process that was followed. I am saying that the experience has been mixed over the years and no one has adduced evidence to the contrary. There is every reason why we should bring forward this report from the committee now, or at any rate before Friday, so that the Senate will have an opportunity to vote on this matter.

Senator Frith: Nice try!

Senator Murray: Honourable senators, I have said enough on this matter, I think. I have tried to be non-contentious and non-controversial. Apparently I was not unprovocative judging by the speech we have heard from Senator Frith and the numerous interruptions of my remarks. Having said that, and because the issue is anticipated in Senator Frith's remarks, I want once again to state that, for my money, on the basis of an acquaintance that goes back almost 30 years, Bruce Phillips is an eminently well-suited candidate for this post. He has all the objectivity, experience, integrity and ability needed to fill the position with distinction. I hope, honourable senators, that in your wisdom you will see it this way when we come to the second vote by Friday, which will be for the confirmation or otherwise of Mr. Phillips in this position.

Senator Frith: And none of that can change if one-third of Parliament does not want him to represent it.

Senator Murray: A simple majority should suffice.

Hon. John B. Stewart: I should like to ask a question or two. Senator Murray has made the point that the procedures for the appointment of the Chief Justice of Canada are not as stringent as those prescribed in the case of the Privacy Commissioner since, in the case of the Privacy Commissioner, there has to be a positive resolution of each of the two houses of Parliament. That is a significant point. I understood the Honourable Leader of the Government in the Senate to say that the procedure laid down by statute for this appointment is

comparable to that for the Chief Electoral Officer. Did I understand him to say that?

Senator Murray: I think that was Senator Frith's point.

Senator Stewart: But I believe you confirmed it in your statement.

Senator Murray: I think so, yes.

Senator Stewart: I am not disputing that statement; rather I want to ask a question, and to put that question in a caricature form. Let us say that we had a Liberal government.

Senator Simard: No, no! A nightmare!

Senator Stewart: The precedent now being established will apply whether there is a Conservative government, a Liberal government or a New Democratic Party government. Let us say that we had a Liberal government with a majority in the House of Commons and a majority in the Senate, and let us say that the Liberal Prime Minister proposed Mr. Eddie Goldenberg as the Chief Electoral Officer of Canada and that his nomination was opposed, I would think understandably, by the Conservatives and the New Democrats in the House of Commons and that it was opposed by the Conservative senators. The question is: Would that be the kind of appointment that was contemplated when Parliament enacted provisions stating that these special appointments would be made on a basis even more demanding than those that apply to the appointment of the Chief Justice of Canada?

Senator Murray: Honourable senators, I am sure there are many positions that Mr. Goldenberg could fill with considerable distinction. For all I know, he may be looking for some of those appointments in the near future. I must say that the analogies that the honourable senator tries to draw, first of all, in the respective positions held by Bruce Phillips for, I believe, two years and Mr. Goldenberg for his entire life, and, secondly, between the Chief Electoral Officer and the Privacy Commissioner, really do not compare at all. You are talking about sending the campaign manager, in the case of Eddie Goldenberg, to take charge of Elections Canada. In the case of Mr. Phillips, we are talking about a man who has spent 35 years of his life in the journalistic profession, two or three years in Washington serving the ambassador of the Government of Canada, Mr. Gotlieb, and two years in the Prime Minister's office as Director of Communications, going to a position of Commissioner of Privacy—

Senator Frith: For Parliament.

Senator Murray: —for which, because of his background as a journalist, I believe him to be—and most people believe him to be—eminently suitable.

● (1630)

I want to share something with the honourable senator since he mentioned the Chief Electoral Officer. One of the early appointments to that position way back in 1920 was a man by the name of O.M. Biggar, whose appointment was brought forward by the Conservative government of the day. There was an exchange in the House of Commons about that appointment on June 26, 1920, in which Mr. MacKenzie King, the Leader of the Opposition, speaking of Mr. Biggar, said:

> . . . I mentioned to the minister at the time that so far as I was aware, Mr. Biggar, at the last election, was a supporter of the Union Government. As my hon. friend knows, I was opposed to the Union Government. If being a supporter of the Government was an evidence of partisanship, Mr. Biggar was certainly a partisan on that occasion. On the other hand I have reason to believe that Mr. Biggar in the judgment that he exercised at that time, took the position he did from an independent mind. He took, I believe, the course which seemed to him right and proper. I have the highest admiration for his character. I think he will prove an honourable and an efficient public servant, and although the fact that he supported this Government in the last election is a misfortune, I do not think that should be held against him indefinitely. I am prepared to say that as far as we on this side of the House are concerned we have implicit confidence in his integrity and ability.

That was a rather higher standard of objectivity and, if I may say so, of charity demonstrated in 1920 by MacKenzie King than we are having here today.

Senator Stewart: I thank the honourable Leader of the Government for his reply. That reply makes my point. I do not suggest that either Mr. Phillips or Mr. Goldenberg is not an admirable person. That is a matter of personal judgment. The question is whether the two Opposition parties in the House of Commons are prepared to support Mr. Phillips for the post of Privacy Commissioner and whether the Opposition in the Senate is prepared to support Mr. Phillips' nomination. They have given an unequivocal negative response. I took Mr. Goldenberg as an example. I am not saying that he would not be a good Chief Electoral Officer, but I can understand why Opposition parties might not be prepared to support his nomination. Senator Murray should realize that our resistance to his motion is not directed specifically against a particular person. The two Opposition parties, perhaps rightly, perhaps wrongly, came to the conclusion that they did not want Mr. Phillips. As Senator Frith has said, it is difficult to see, given that background, how Mr. Phillips can perform satisfactorily. Mr. King, in the comment that Senator Murray just now has quoted, made the point perfectly. He said that the man had a partisan background, but that partisanship was not in itself decisive against such an appointment. That was said, of course, in the committee on Mr. Phillips' nomination. Partisanship is not decisive. It was not decisive in the case of Mr. Fairweather, for example. A lot of people can be partisan and become excellent judges or fill those posts to the satisfaction of everyone. The truth of the matter—

Senator Murray: What is the point? Why do you oppose him?

Senator Stewart: The truth of the matter is that—

Senator Frith: He doesn't get it, he doesn't understand it.

Senator Stewart: The truth of the matter is that when Mr. Biggar was to be appointed, Mr. King said that he understood that Biggar had been partisan but that he had confidence in him. The same was said in the case of Mr. Fairweather. The same is not being said in the case of Mr. Phillips. It is not a question of explaining why people react as they do. One does not have to justify why one refuses to marry a particular person.

Senator Barootes: On a point of order, Mr. Speaker and honourable senators, it appears to me that the closing speech was being made in this debate, and I have waited to hear a decision. Now we are hearing intervening speeches and, as far as I am concerned, that is out of order.

Senator Stewart: Perhaps Senator Murray would deal very briefly with my question. Will he not agree that the parties in opposition have made it clear that they are not satisfied with the proposed appointment and that because of their dissatisfaction is it not improper for the government to use its majority to pass the nomination?

Senator Murray: Honourable senators, I cannot accept that proposition because the honourable senator is putting forward the proposition that Her Majesty's Loyal Opposition, or the opposition parties, should have a veto over parliamentary officers. That is a proposition that cannot be put forward and defended.

Senator Frith: And has been followed.

Senator Murray: No, it has not been followed.

Senator Frith: You have not been able to give a single case of an exception; you have not. Do not keep saying that, because you have admitted that you cannot give an example of its ever happening against parliamentary opposition.

Senator Murray: Honourable senators, when the question was put to Parliament and to the parliamentary committee, "Should there be some higher threshold than a simple majority?", the answer was no.

Senator Frith: That is not the point, for God's sake. You know it's not the point.

Senator Murray: We do not accept that there should be a veto, but if the committee wishes—

Senator Frith: I cannot believe you are saying this.

Senator Murray: —to suggest that in the future something requiring consultation should be put in this legislation, such as exists with the CSIS legislation and with the legislation regarding the Canadian Institute of International Peace and Security, that can be considered. If the committee wishes to bring in a suggestion that at some future time these acts should be amended to provide that there must be unanimity or to provide that there has to be the approval of the leaders of all the parties in Parliament, we can consider that. However, the law provides that a simple majority of approval in the House of Commons and the Senate should suffice. When challenged on it the government of the day insisted on that position. That is the law, and the honourable senator has not been able to show that a veto has ever been attempted or exercised in any other circumstance.

I ask for the report to come forward so that the Senate can decide. I hope that my friends will take advantage of the opportunity to do something they have not done and state what failings of character, integrity, ability or background Mr. Phillips has which render him unsuitable for this position.

DIVISION DEFERRED

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Murray, P.C, seconded by the Honourable Senator Doody:

> That the Standing Senate Committee on Legal and Constitutional Affairs be instructed to report no later than Friday, April 19, 1991, the motion respecting the appointment of the Privacy Commissioner.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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 "yeas" have it.

And two honourable senators having risen:

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

Hon. Orville H. Phillips: Honourable senators, after consultation with the opposition whip and under rule P-3.(e), I move that the vote be deferred until four o'clock tomorrow. I would point out that the rule calls for a 30 minute bell to ring at 3:30 for a recorded voted at four o'clock.

Hon. Royce Frith (Deputy Leader of the Opposition): And it also calls for 5:45. The rule provides for 5:45, so I take it Senator Phillips and Senator Petten have agreed on this.

Hon. William J. Petten: Honourable senators, the government whip and I have discussed this and we agree that the vote should take place at four o'clock with the bells starting to ring at 3:30. So that there will be no doubt anyone's mind, the bells will start at 3:30 and the vote will be at four o'clock.

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

Hon. Senators: Agreed.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave I move that all remaining orders, inquiries and motions stand.

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

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 5625*)

THE BUDGET, 1991

BUDGET DEFICITS FOR FISCAL YEARS 1984 to 1996

BUDGET DEFICITS
(billions of dollars)

FISCAL YEAR	LONG TERM PROJECTION	BUDGET PREDICTION *	ACTUAL
1984-85		34.5 (A) (by Wilson,on Nov. 84)	38.3
1985-86	34.9 - Nov. 84	33.7	34.4
1986-87	32.7 - May 85	29.5	30.6
1987-88	25.9-Feb. 86 (B)	29.3	28.1
1988-89		28.9	28.7
1989-90	28.6 - Feb. 88	30.5	29.0
1990-91	3.1- Mulroney, June 83 (C) 16.0-May 85(D) 22.0-Feb.86(E)	28.5	30.5
1991-92	26.8-Feb.90 (F)	30.5	
1992-93	19.5 - Feb.88(G) 24.0 - Feb. 91		
1993-94	15.0 -April 89 14.0 - Feb. 90 16.6 - Feb. 91		
1994-95	10.0 - Feb. 90 10.0 - Feb. 91		
1995-96	6.5 - Feb. 91		

* With the exception of 1984-85, "Budget Prediction" indicates the projected deficit for the fiscal year to which the budget applies.

(A) Economic and Fiscal Statement, Nov. 8, 1984 - "With this set of projections and no policy changes, the deficit for this fiscal year would be $34.5 billion...This is what we inherited" (p.4).

(B) The Fiscal Plan, February 1986, p. 18.

(C) The Globe & Mail, June 9, 1983;
The Citizen, July 11, 1984.

(D) The Fiscal Plan, May 1985 - "By the end of the decade, the measures introduced in this budget together with the actions taken last November will directly reduce the deficit by about $20 billion..." (p. 3). The Fiscal Plan forecast a deficit of almost $36 billion for the 1984-85 fiscal year (p. 24). Consequently, the deficit for the end of the decade would be $36 billion less $20 billion, or $16 billion.

(E) The Fiscal Plan, February 1986, p. 18.

(F) The Budget, February 20, 1990, p. 102.

(G) The Fiscal Plan, February 1988 (p. 37) - "From a peak of $38.3 billion in 1984-85, the deficit declines steadily through the planning period, dropping to below $20 billion by 1992-93" (p. 39).

THE SENATE

Wednesday, April 17, 1991

The Senate met at 2 p.m, Hon. Rhéal Bélisle, Acting Speaker, in the Chair.

Prayers.

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

NINTH ANNIVERSARY OF ENACTMENT

Hon. Noel A. Kinsella: Honourable senators, today, April 17, is an important day in contemporary Canadian history, for today we mark and celebrate the coming into force of the Canadian Charter of Rights and Freedoms. The Charter, to which many honourable members of this house contributed in its making, serves as a cornerstone for the practice of freedom in Canada.

It is therefore appropriate that this day serves also to anchor National Citizenship Week, being celebrated this year from April 14 to April 20. The theme of this year's National Citizenship Week has two components. The first is to encourage individual Canadians to reflect upon the common values and beliefs that characterize Canadian citizenship and that have contributed so much to our nation's cultural, spiritual and material wealth. The second is to nurture and strengthen those citizenship values for the benefit of future generations. In the years ahead our sense of fairness and justice, our commitment to peaceful democracy and our belief as Canadians in equality of opportunity and respect for diversity will gain deeper meaning as they are tested by the events around us.

Honourable senators, we must ensure that our sense of common purpose is strengthened by this process so that the great legacy of Canadian citizenship will pass on as that which brings all Canadians closer together.

GOODS AND SERVICES TAX

USE OF REVENUES TO REDUCE NATIONAL DEBT—QUESTION OF PRIVILEGE

Hon. Sidney L. Buckwold: Honourable senators, I rise on a question of privilege involving the response received from the government to my question further to the proposed Debt Servicing and Reduction Fund. You will recall that the government has indicated through the recent budget of Mr. Wilson that every penny of revenue from the GST, a tax which we are all aware has replaced the manufacturers' sales tax, will go to debt servicing and reduction. Members on this side and others asked that at least the surplus funds received from this unpopular tax, which I think will be fairly substantial, would be designated to debt reduction.

For those honourable senators who were not here or who did not read the *Hansard,* as reported on March 26 at page 5511, I read from the budget debate. Mr. Wilson said:

> As part of our Plan for Economic Recovery, we will ensure that all GST revenues are allocated solely to the effort to bring the public debt under control. This will be done through legislation to establish the Debt Servicing and Reduction Fund into which all GST revenues will flow.

I then said that I was delighted to see this. I referred to Senator Lawson's amendment, which asked for surplus revenues to go to debt reduction. I wanted an explanation of how this was going to work, in view of the fact that there was $20 billion worth of former revenue from the manufacturers' sales tax. I wanted to know where that was going to be replaced if all the revenue from the GST was going to debt reduction, which was the impression given by the minister and, of course, applauded by newspaper editorials and others who said how marvellous it was that, finally, with the GST we were going to have debt reduction of all revenue.

The response to this question came from the government last Wednesday. I would like to read it to you. It is in the record. It was never discussed or read; it was just tabled. I think it is very important. I will read just three paragraphs of the government's response, among other things. It reads:

> The Government, in establishing the Debt Servicing and Reduction Fund, has gone considerably farther than what was suggested by Senator Lawson in his proposed amendment to Bill C-62. Senator Lawson had suggested that any surplus revenue, that is revenue in excess of $21 billion, be applied to the reduction of the federal debt.
>
> The Government is proposing that all Goods and Services Tax revenues, net of the rebate to lower-income Canadians and the applicable credits, be allocated to a special fund, called the Debt Servicing and Reduction Fund. This Fund will also receive the net proceeds from privatization and debt contributions made by the general public. Public debt charges will be the only expenditure allocated to this Fund.
>
> This means that all revenues collected from the Goods and Services Tax will be allocated to this fund, not just that amount in excess of what would have been collected under the manufacturers' sales tax. This will provide Canadians with the assurance that all revenues from the Goods and Services Tax will go directly to the payment of the interest on the public debt and therefore to deficit and debt reduction. By allocating all revenues to the Fund,

none of the Goods and Services Tax revenues can be used to fund new program spending.

I did some research on just how they are going to work this magic. That was the response, and I think all of you who are following will say that that is great, they are going to take all that money and we will have a reduction in debt. Let me read into the record an analysis of what the Debt Servicing and Reduction Fund is and what it is not.

> The federal budget, tabled in February, 1991, contained proposals to create a new Debt Servicing and Reduction Fund, (DSRF) into which would flow all GST and privatization revenues as well as any donations to the government for debt reduction. To the extent financially possible, this fund will finance debt service charges and debt reduction. The legislation establishing this fund is forthcoming.

That is a review of what I have just said.

> The existence of this new fund is neither necessary nor sufficient for future deficit reductions! That is, future deficit reductions are not assured because of the existence of this fund nor would deficit reductions be precluded by its absence.

It really does not mean a thing.

> The budgetary deficit measures the extent to which the total spending (program spending plus interest charges) exceeds total revenues (GST revenues plus all other tax and non-tax revenue). Whenever total spending exceeds total revenues, the budget is in deficit and the net debt of the federal government increases.
>
> If we take one component of total revenues and apply it against one component of total spending, the deficit will not change. To alter the deficit requires a behavioral change on the part of the government. The Debt Servicing and Reduction Fund does not necessarily provide that change; rather, it might simply be a rearrangement of the line items in the Public Accounts.

I will not go into the detail of the line elements, although I have it available here. I can only tell you that by simply rearranging the Public Accounts presentation, a new debt service retirement fund has been created simply as a subtotal on the way to calculating the deficit.

● (1410)

If this is all that the DRSF is, it is a meaningless feature of economic policy. Although the legislation creating the fund is not yet public, let us assume that it will include some behavioural content. In particular, let us assume that the legislative intent is to convert any positive balance in the DSRF—that is, the Debt Servicing Reduction Fund—into a reduction in the deficit. In other words, let us assume that any positive DSRF balance cannot be used to justify a negative non-DSRF balance. Such a restriction could be effective in predicting that the non-DSRF balance will be positive next year, 1992-1993.

It could be positive. However, its practical significance is nil since the DSRF is not expected to be in surplus at any time in the foreseeable future. Indeed, what is particularly interesting about the Summary Statement of Transactions from the 1991 budget is the fact that future deficit reductions are really coming from rapidly increasing non-Debt Servicing and Reduction Fund balances, not from changes in the Debt Servicing and Reduction Fund.

Even if any DSRF surplus were required to be used to purchase existing government securities and to reduce outstanding debt, there is no assurance that the deficit debt would be reduced. As long as non-DSRF budgetary items are free to be altered, the deficit and the debt will not be constrained by the existence of this fund.

Honourable senators, the importance of legislative limits on program spending becomes evident. These limits are more important in controlling the deficit than in the proposed Debt Servicing and Reduction Fund. Even with these spending limits, deficit reduction is not assured, because line 5 in the new public accounts—that is, non-GST revenues—are still free to fluctuate or to be changed by government policies.

I conclude by saying that by itself the Debt Servicing and Reduction Fund cannot control and does not reduce the deficit. The deficit identified contains too many elements that are outside the realm of the DSRF. It is worth repeating that the annual deficit is the difference between total spending and total revenue. It does not matter that GST revenues go to pay debt charges or paying off the debt. If they did not, some other taxes would pay for those costs. Because GST revenues are used exclusively for paying interest costs, they are no longer available to finance existing programs the way those programs were financed by the old federal sales tax.

Comparing the budgetary provisions creating the Debt Servicing and Reduction Fund to the amendment of Senator Lawson can be misleading. As honourable senators will recall, the government, in its response, said that this is much better than Senator Lawson's proposal. Honourable senators will remember that on the amendment that was brought forward, and supported by those of us on this side and some others, Senator Lawson said that any surplus revenue more than the present manufacturers' sales tax should be directly applied. The response was, "Oh, no, this is much better."

However, I say that Senator Lawson's provision applies to all GST revenues, not what is simply called a debt reduction fund. Therefore it is incomprehensible to me how the government could say that this fund will have the effect of reducing the deficit better than Senator Lawson's proposal, which is impossible, or whether, in fact, it reduces it at all.

In the government's scheme, GST revenues apply to interest charges before they apply to debt reductions, and the large amount of interest charges guarantees that it will be a very long time before they are actually applied against debt reduction. In Senator Lawson's scheme, excess GST revenues would be applied to debt reduction much faster. Therefore it is inaccurate to suggest that the government, in establishing the Debt Servicing and Reduction Fund, has gone considerably farther than what was suggested by Senator Lawson in his proposed amendment to Bill C-62.

Once again we have seen the government mislead the public and give information which is not based on facts. This is another illustration of smoke and mirrors, of hocus-pocus, of funny financing, and trying to convince the Canadian public that, suddenly, GST revenues are going to reduce the deficit. That has been the headline in any number of newspapers, as I have said. It is not generally understood that this has been just another of Mr. Wilson's attempts to fool the Canadian public. I think it is important that we have it clearly on the record just what this Debt Service Reduction Fund means. It is just another way of manipulating the figures. It makes no difference to the bottom line.

Here is a headline from today's *Globe and Mail*: "Survey Shows GST Slash Spending." I will not read you the article from Senator Doyle's famous former paper. Here is another one: "Trips to the US Up 27.3 %." Honourable senators, the economy is in a shambles. A good part of it is due to the impact of the GST on the purchasing habits of the Canadian public. There is no doubt that they are holding back in their spending. There are any number of surveys that have been made that have indicated that spending has dropped. The poll conducted in March by the Angus Reid Group found that 41 per cent of people in Atlantic Canada cut their spending because of the GST. Elsewhere it was 45 per cent in Quebec, 48 per cent in Ontario, 45 per cent in Manitoba and Saskatchewan, 39 per cent in Alberta and 40 per cent in British Columbia.

We wonder why the economy is on the point of bankruptcy. Honourable senators, should get out into the streets to find out what is happening in the retail trade and in the service industries of this country. They will discover the impact of the GST, which we on this side said was a tax that should not have been applied at this time, that it was inappropriate in its present form because of its recessionary and inflationary nature. We are seeing the chickens come home to roost. We have watched bankruptcies soar and retail spending drop. We have watched cross-border retail transactions increasing by leaps and bounds. From this we see some of the damage that has been done to the economy by an uncaring government; a government that is prepared to give a misleading answer to my question, saying that it is going to reduce the debt by the GST. In fact, it is just a bunch of flim-flam and nonsense.

● (1420)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this is all very interesting, but whatever it is it is not a question of privilege. Once again, the honourable senator has demonstrated the need for some positive changes in our rules to define what is a question of privilege and how it should be dealt with when it is brought up.

Having said that, I suppose I cannot complain, because the honourable senator, with his speech, has cut into the time that would otherwise have been spent on the Oral Question Period.

Honourable senators, the subject matter the honourable senator raises, and the subject matter of the question and answer about which he is speaking, will be the subject of a bill to be brought in by the Minister of Finance in the next little while. That bill will establish the Deficit and Debt Reduction Fund. It will indicate how this will be done.

The honourable senator and others will have an opportunity to express their views on it at that time, and to ask questions of the responsible minister when the bill goes, as it surely will, to one of our committees.

[Senator Buckwold.]

LAW DAY, 1991

CANADIAN CHARTER OF RIGHTS AND FREEDOMS—NINTH ANNIVERSARY

Hon. Nathan Nurgitz: Honourable senators, I rise today, April 17, on a day that has come to be known in our country as Law Day.

The notion that all people have certain inalienable rights marks the beginning of modern, democratic, civilized society. It began for western nations when King John, at Runnymede in 1215, put his name to a document that guaranteed certain rights to his subjects that were independent of their position in society. To quote, "To no one will we sell, to no one deny or delay right or justice."

Today this principle seems self-evident. Yet, when it was accepted grudgingly by King John, it represented a great step toward a different kind of society, one that would more and more become anchored in the notion that freedom and liberty depended to a large extent on the respect for individual human rights.

More than seven and a half centuries later Canada has continued in this tradition of the Crown guaranteeing fundamental rights.

Today Canada celebrates the ninth anniversary of the Canadian Charter of Rights and Freedoms that gives all Canadians inalienable rights, including democratic rights, legal rights, mobility rights, equality rights and minority language education rights.

It is with pride and a sense of accomplishment that Canadians can mark this ninth anniversary of the Charter, which will contribute to the future evolution of the Canadian legal system as our society heads toward the 21st Century.

DISTINGUISHED VISITORS IN GALLERY

WAYNE R. CHAPMAN, QC, PRESIDENT OF THE CANADIAN BAR ASSOCIATION
MISS CARMEN BROWN, WINNER OF NATIONAL HIGH SCHOOL LAW DAY ESSAY CONTEST

Hon. Gérald-A Beaudoin: I should like at this time to draw the attention of honourable senators to the presence in the gallery of the President of the Canadian Bar Association, Wayne R. Chapman, QC, of Saint John, New Brunswick. Mr. Chapman is visiting us as part of the celebrations associated with Law Day. He is accompanied by the winner of the National High School Law Day essay contest, Carmen Brown, of Kelowna, British Columbia.

Law Day, commemorated across Canada on the anniversary of our Charter of Rights and Freedoms, is sponsored by the Canadian Bar Association. It is aimed at providing the general public with an increased awareness of our legal system and how it works.

[*Translation*]

In recognition of the work accomplished by the Canadian Bar Association to promote legal training and provide information on our legal system across Canada, I should point out that the association, which represents lawyers at the national level, has joined the Department of Justice and provincial legislatures in helping the public learn about our legal system and its institutions.

[*English*]

Across the country, thousands of lawyers and notaries are going out into the communities they serve to demystify the law and inform their fellow citizens about their constitutional rights and freedoms. Canadians from all walks of life coast to coast will be learning about how the law works and how it should work for them.

[*Translation*]

In many cities there will be information booths, visits to the court house, mock courts and other activities open to the public and designed to make Canadians more familiar with legal matters.

[*English*]

Hundreds of high school students across Canada participated in the essay contest as part of this year's Law Day activities. The subject of this year's contest was environmental law. Carmen Brown was selected as the national winner from the provincial finalists. As winner, Carmen received an award from the Chief Justice of the Supreme Court of Canada earlier today.

I ask honourable senators to join me in acknowledging Mr. Chapman and Miss Carmen Brown, and the work done by the Canadian Bar Association, regarding Law Day, 1991.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would not want to let the occasion of the anniversary of the Canadian Charter of Rights and Freedoms to pass with praises being given only by members of the Conservative Party and not by members of the Liberal Opposition.

I should say that when I was sitting on the other side—the government, then Liberal, side—of the house, when the Charter was passed, the praises for it from the Conservative side of the house were not as fulsome as they are today. However, I think we can all agree that we rejoice in its existence.

I should like to take a moment to congratulate the President of the Canadian Bar Association and his colleagues for what may seem like a small thing but which, to me, seems like a very creative idea. In today's *The Ottawa Citizen*—and, I take it, in many other newspapers, there is a listing of all the lawyers in the region, categorized by their specialty. For Law Day the public is entitled to phone and ask questions of any of these specialists in their field. All lawyers on the list are categorized. Some of my colleagues in Perth are in several categories. The public is invited to call for free legal advice. I think that is a very creative idea, and I am sure it has been accompanied by other creative ways to celebrate Law Day.

I join with my colleagues in congratulating the Canadian Bar Association for the development of the idea of Law Day and the very creative and successful way in which it is promoting it.

Hon. Senators: Hear, hear!

VETERANS AFFAIRS

PRESENTATION OF PETITIONS

Hon. M. Lorne Bonnell: Honourable senators, I have before me several petitions from branches of the Royal Canadian Legion of Canada. They were presented to the chairman of our committee, Senator Jack Marshall, from New Brunswick; from Richmond, Melbourne and other cities in the province of Quebec; from Angus, Agincourt, Ajax, Toronto, Mississauga and Nepean in the province of Ontario; from Dubuc, Tribune and Weyburn in the province of Saskatchewan; and from Hastings and London in the province of Ontario.

● (1430)

I have others from London, Ontario, from Winnipeg, Manitoba, from Winfred, Alberta, from Branch 628 in Chatham, Ontario, from Smiths Falls, Ontario, from Vancouver, British Columbia, and Prince Edward Island.

Senator Murray: What part?

Senator Bonnell: The regions of Morell, Charlottetown, Rustico.

Let me tell honourable senators what these veterans are asking for. The petition states:

> WHEREAS Canada once again has become involved in an international war, this time under the auspices of the United Nations, and has dispatched a substantial number of armed forces to the theatre of war, and
>
> WHEREAS there remain a number of inequities and anomalies in Canada's treatment of the veterans of previous conflicts and peacekeeping operations, most notably in Canada's treatment of veterans of the merchant navy, veterans living abroad, veterans who were prisoners of war, veterans blinded as a result of wartime service, veterans of United Nations emergency special and peacekeeping forces, and
>
> WHEREAS a Subcommittee on Veterans Affairs of the Standing Senate Committee on Social Affairs, Science and Technology has just finished a study of these inequities and anomalies and has tabled its Report, *It's Almost too Late.*
>
> WHEREFORE the undersigned, your petitioners humbly pray and call upon Parliament to urge the govern-

ment to take immediate steps to consider and implement the recommendations of the aforesaid *Report, to wit:*

1. THAT at the earliest possible opportunity, the Government of Canada introduce legislation to extend full veterans benefits to all Canadian merchant seamen who served in dangerous waters in Canada's armed conflicts;

2. THAT the *War Veterans Allowance Act* be amended to define as a veteran all merchant seamen—

Senator Simard: Honourable senators, I rise on a point of order.

Senator Bonnell: What is your point of order? Is it against the veterans?

Senator Simard: Yesterday, or the day before, Senator Frith told us that he tried to remain within the bounds of tradition and fairness and he was allowed to proceed with a brief explanation of the petition.

I submit, Senator Bonnell, that you are in breach of this policy and tradition and what is accepted in this house, and perhaps you will consider keeping this presentation a little briefer than you had in mind. We want to hear from people in P.E.I. and the rest of Canada, but I believe there is other business in this house that needs to be attended to.

Senator Bonnell: Honourable senators, I never thought Senator Simard was against the veterans, but apparently he is. Again he is making speeches under presentation of petitions. I do not see why he does not make his speech and ask questions in the appropriate place.

Senator Simard: Respect the rules.

Senator Bonnell: Honourable senators, the petition continues:

3. THAT the Government of Canada prepare and place in the Peace Tower [of the Parliament Buildings in Ottawa] a Book of Remembrance honouring merchant seamen who died of enemy action in Canadian armed conflicts and, further, that suitable monuments to their sacrifices be erected;

Who would be against that?

4. THAT the residency requirement of the *War Veterans Allowance Act* and Part XI of the *Civilian War Pensions and Allowances Act* be amended to permit otherwise qualified veterans to apply for benefits from outside Canada;

5. THAT the Canadian government take immediate steps to negotiate an agreement with the United Kingdom to exempt [payments under the] *War Veterans Allowance Act* from British taxes;

6. THAT the rates of compensation provided for under the *Prisoners of War Compensation Act* be reviewed with the objective of taking into account the severity of the prisoner of war regime forced on veterans by the award of additional compensation for each month deemed extremely severe, and that two additional categories be added at appropriate rates of compensation for those veterans who served 30 months or more as prisoners of war;

7. THAT for the purposes of establishing entitlements to the Veterans Independence Program, receipt of prisoner-of-war compensation be treated as proof of undiagnosed medical disability;

8. THAT the Veterans Independence Program immediately be extended to civilians who served in support of the wartime armed forces, as enumerated in [the definition of "civilian" in] Part XI of the *Civilian War Pensions and Allowances Act*, and that these benefits be comparable to those offered to military veterans;

9. THAT the cuts to the heavy housekeeping components of the Veterans Independence Program be fully restored;

10. THAT the *Veterans Allowance Act* be amended:

(1) to establish a common age at which both men and women qualify for benefits and that this common age be 55;

(2) to make eligible for benefits all those Canada service veterans of World War I and World War II who volunteered for unrestricted active duty, who were assigned to serve within the boundaries of Canada, who served for no less than 365 days, and who are in need;

11. THAT the Pension Commission give careful consideration to the psychological problems that may arise when the stresses of retiring and aging are combined with those of blindness, and that these problems [be taken into consideration by the Commission when it assesses] applications for exceptional incapacity; and

12. THAT peacetime service personnel pensioned under the Special Duty Area Pension Order be eligible for benefits under the Veterans Independence Program.

MAY WE REMEMBER BEFORE IT IS TOO LATE, AND AS IN DUTY BOUND YOUR PETITIONERS WILL EVER PRAY.

Honourable senators, I want to table this last petition. I am most pleased that other senators appreciate our veterans and listen to their concerns, especially when they come from so many different branches across Canada. I am surprised that Senator Simard did not agree with them.

[*Translation*]

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Jacques Hébert: Honourable senators, I have the honour to present a number of petitions signed by 973 citizens who maintain their opposition to the goods and services tax and want to see this unfair and unpopular legislation repealed.

I have one signed by 28 petitioners from British Columbia. Here is another one from British Columbia, signed by 27 petitioners. Here is one more with 27 names from British Columbia.

I have another one here from Alberta, signed by 27 petitioners. Here is another one, with 27 names, from Saskatchewan and another one with 24 names, from Manitoba. I have another one with 24 names, from Manitoba as well.

Here we have 24 petitioners from New Brunswick, 16 from Nova Scotia, and 27, again from Nova Scotia. We also have 30 petitioners from Newfoundland.

Here we have 556 petitioners from Ontario and 136 from Quebec.

As you can see, opposition to this unfair and unpopular legislation is widespread.

[*English*]

BUSINESS OF THE SENATE

Hon. Jack Marshall: Honourable senators, I missed my chance when questions of privilege were raised. I was going to introduce a question of privilege tomorrow, but I understand there may be some agreement to adjourn this evening, so I will do so when I get the first opportunity later this day.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have some petitions, and I am obliged to Senator Simard for pointing out that this might be a good opportunity to remind us of the importance of this right.

• (1440)

I remind honourable senators of the following sources of support for this right of petitions. I shall read a short excerpt from a couple of texts. *Beauchesne's* at page 209 Chapter 16 starts off with citation 666:

> The right of petitioning the Crown and Parliament for the redress of grievances is acknowledged as a fundamental principle of the constitution and has been exercised without interruption since 1867.

Erskine May gives us more of the history. They start off their chapter 32 on the subject with the subheading "Course of Development of the Form of Petitioning":

> The right of petitioning the Crown and Parliament for redress of grievances is acknowledged as a fundamental principle of the constitution. It has been uninterruptedly exercised from very early times, and has had a profound effect in determining the main forms of Parliamentry procedure . . . Public petitions may pray for an alteration of the general law or the re-consideration of the general administrative decision, and they may also pray for redress of local or personal grievances; they are to be distinguished from petitions relating directly to private business.
>
> The rights of petitioners and the power of the House to deal with petitions were laid down by two resolutions of the Commons in 1669.
>
> That it is the inherent right of every commoner in England to prepare and present petitions to the House of Commons in the case of grievance, and the House of Commons to receive the same.
>
> That it is an undoubted right and privilege of the Commons to judge and determine, touching the nature and matter of such petitions, how far they are fit and unfit to be received.

I suppose that is related to the procedure in the other place, to have them checked beforehand to see whether they are regular. Finally, I have a quotation from a book entitled "Constitutional and Legal History of England," which deals with petitions and refers to advances in the rights of the subjects. The heading on page 151 is "Their Influence Over Legislation," and it reads:

> The second advance was the winning of the right to petition the king as a body for redress of grievances, a right from which later legislative powers sprang. Wherever the king went in the Middle Ages he was besieged by suitors requesting justice or favours of one kind or another . . . Conciliar meetings held to consider these petitions were thus very important, and a special name of Parliament was first given to those held for such purposes.

It is interesting that the first time the word "Parliament" was used was in connection with this right to petition. It is not as if Parliament existed and then decided to give subjects the right. These conciliary meetings that the king arranged were really the beginnings of Parliament. So petitioners really created Parliament. It is hardly surprising that they still expect to speak to Parliament. Continuing on:

> Originally "colloquium," or "parliament" (talkfest, from the French parler, to speak), was considered merely another name for "council," and the technical significance of the term as applied to special sessions of this body developed but slowly.

Then I have some quotes on the procedures, and that brings me to the question of procedures. As Senator Simard said yesterday, I should not read the full petitions. I will simply say that I have two, addressed to me, that arrived today, one from Ontario fully signed with approximately 25 names, mostly from Kirkland Lake, and another from Montreal, Quebec. I was also asked to present a large number of petitions on behalf of Senator MacEachen's office. These are older petitions. There is a batch of about 12 with about 27 signatures per page. Then there are some with signatures on both sides amounting to 40 or more. There is also a bunch with around 26—it looks like about 50. So 50 by 25 comes to about 1,000 names; and then I have about 50 names from the two petitions I received today.

Hon. M. Lorne Bonnell: What are the two you received today asking for?

Senator Frith: They are the same as the ones I mentioned earlier; namely:

> Wherefore . . . we humbly pray and call upon the Senators and the MPs . . . to do everything possible to abolish

the new Goods and Services Tax, and we strongly demand a general election immediately.

That is the burden of the two petitions I received today. The others are all against the GST.

Senator Simard: They don't say that they will all vote Liberal.

Senator Frith: No. In fact, I did not present them for that purpose.

Senator Simard: So they are nonpartisan?

Senator Frith: I do not know, but I don't think they are from Liberal organizations. I think the two I presented came from a group, but I do not think it is a Liberal group. In fact, I am sure it is not, as it is not a party organization. Many of the others were from Peterborough. Senators will remember that there was a very active anti-GST group in Peterborough, but I do not think they had any particular party affiliation—not to my knowledge, anyway.

Hon. P. Derek Lewis: From what part of the country did that large bunch come?

Senator Frith: They were all from parts of Ontario. As I say, a very large proportion of them were from Peterborough, which is not far from Ottawa, just down No. 7 Highway, and from Lakefield, Apsley and communities in that area.

PRIVATE BILL

UNIVERSITY OF EMMANUEL COLLEGE—BILL TO AMEND ACT OF INCORPORATION—REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Hon. Nathan Nurgitz, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Wednesday, April 17, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-SEVENTH REPORT

Your Committee, to which was referred the Bill S-20, An Act to amend the Act of incorporation of the University of Emmanuel College, has in obedience to the Order of Reference of Tuesday, April 9, 1991, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NATHAN NURGITZ
Chairman

THIRD READING

The Hon. the Acting Speaker: When shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Senator Buckwold is not here, but I notice that the order paper indicates that third reading will be at the next sitting of the Senate, so perhaps it might be appropriate to suggest the next sitting. I do not mind moving on behalf of Senator Buckwold that it be read at the next sitting of the Senate.

Hon. M. Lorne Bonnell: Honourable senators, I wonder if I might move, on behalf of Senator Buckwold, that, with leave of the Senate and notwithstanding Rule 45(1)(*b*), the bill be read the third time now.

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

Hon. Senators: Agreed.

On motion of Senator Bonnell, for Senator Buckwold, bill read third time and passed.

• (1450)

QUESTION PERIOD

PRINCE EDWARD ISLAND

FIXED LINK—STATUS OF REPORT OF ENVIRONMENTAL ASSESSMENT AND REVIEW PANEL

Hon. M. Lorne Bonnell: Honourable senators, I read in *The Ottawa Citizen* of April 17 that the controversial fixed link to Prince Edward Island is to proceed, according to sources in Ottawa. The article says:

> The 13-kilometre, $1-billion bridge proposal has been stalled since last August by a federal environmental assessment and review panel decision that the bridge would block sea ice during spring break-up and damage the valuable inshore fishery.
>
> In response, the federal government appointed a so-called "ice panel" to look at the question again. A member of the panel says it will report Thursday that ice is no problem, giving the green light to the federal government to proceed.

Can the minister tell us if that is the case?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators, I cannot. The honourable senator knows it is not in order to ask ministers to comment on press reports. The situation is as I described it on an earlier occasion. We are awaiting the report of the so-called "ice experts." To my knowledge we have not yet received it. When we have received it, it will be a question of working with the consortium to see whether they can accommodate the recommendations of the ice experts in a way that will be economically feasible and environmentally sound.

Senator Bonnell: The minister is telling me, then, that this report from the ice experts has not been presented to the minister or the government at this time?

Senator Murray: The honourable senator asked me, in effect, whether the report had been received today. To the best of my knowledge, the answer to that question is no.

Senator Bonnell: I have a supplementary, honourable senators. The press release goes on further to state:

> Premier Joe Ghiz, who received the report last week, said Tuesday if the panel said ice was no problem, the fixed link should probably go ahead.

How is it that the Premier of Prince Edward Island says he received the report a week ago and yet the Government of Canada, which set up the panel, has not yet received a report? Can you tell me how that could be?

Senator Murray: Well, honourable senators, I do not exclude the possibility that the report has been received by one or other of my cabinet colleagues. What I have said is that, to the best of my knowledge, the report has not yet been received.

Senator Bonnell: By yourself, I suspect, but you do not know. There might be half a dozen of your cabinet colleagues who have the report. The cabinet may have it but you do not, probably because you are not there. As a result, we have to go by what you know, which apparently is nothing. The people of Prince Edward Island are waiting to find out if their fishery is going to be destroyed by ice, and the people of Canada want to know how much this billion dollar project is going to cost if the design is to be changed.

Senator Murray: Honourable senators, I am sure the people of Prince Edward Island would like to know—and I would certainly like to know—where Senator Bonnell stands on this project. He has not yet come off the fence.

Senator Bonnell: You have to build it before you can stand on it.

Senator Barootes: Apparently he stands on both sides of the Northumberland Strait.

THE ECONOMY

EFFECT OF ACROSS-THE-BORDER SHOPPING ON CANADIAN COMMUNITIES—REPORTS OF PROPOSED ADVERTISING CAMPAIGN—REQUEST FOR DETAILS

Hon. Raymond J. Perrault: Honourable senators, I have a question for the Leader of the Government in the Senate.

An Hon. Senator: Louder!

Senator Perrault: Adjust your hearing aid. You should probably turn it down.

Senator Frith: And fasten your seat belts, too!

Senator Perrault: During the course of the committee hearings across the country regarding the GST, witness after witness, particularly those located in southern sections of Canada, warned that disaster was looming because many citizens living in southern Canadian communities such as southern Ontario, southern British Columbia and southern Alberta would go across the border to shop in nearby, adjacent American communities. Our fears were dismissed. We were accused of mindless and negative opposition to the GST, which was hailed as the great saviour of the country and a more equitable way to tax.

Last week it was reported that the government is now so concerned about the loss of sales to U.S. merchants that a very costly advertising and public relations campaign will be launched by the government in a propaganda campaign, an advertising initiative to persuade Canadian shoppers not to spend so much money—over a billion dollars a year from Ontario people alone—in shops across the line in the United States. If that does not indicate that the government is now seized with the same concern that we were seized with months ago, then I know nothing at all about politics or political strategy.

Senator Barootes: This is not a confessional!

Senator Perrault: My question for the Leader of the Government is this: Is a major advertising and promotion campaign being launched by the government to encourage people to buy Canadian? If so, I should also like to know whether the advertising agency has yet been appointed, the name of the agency that is about to embark upon this alleged political public relations safari, the name of the president of that agency, and what goals have been established by the government to stem the haemorrhage of dollars now going from southern Canada to the United States by people who want to evade the GST.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there being no plan for any such advertising campaign, the other questions put by the honourable senator are not applicable.

Senator Perrault: Then let me get this clear. Are we being told that the government has no plan to meet this emergency situation, as it has been described in the newspapers from coast to coast? Are these only rumours? Is the leader saying that the information which has appeared in the media is not factual?

Senator Murray: Once again, honourable senators, I do not know what media the honourable senator is talking about or what information he is referring to. What I have told him in answer to his question is that there is no plan for an advertising campaign such as he has just described.

Senator Perrault: Then I would ask the Leader of the Government to obtain information from his cabinet colleagues about the nature and gravity of this alleged situation. The reports, which appeared in journals from coast to coast and on television and radio, stated that Ontario alone is losing $1 billion in annual retail sales as a result of Ontario shoppers going to nearby American communities. The allegation is made that U.S. shopping centres are being established across the border from Vancouver, in Washington State, almost 90 per cent on the basis of Canadians spending their money there.

It is tough enough for business people to stay in business these days without having this terrible problem that we in the province of British Columbia and other provinces know only

too well. As some members of the Senate will know, there is a small town of Blaine, just across the American border, where a huge, brand new shopping centre has been established. Recently, when the owner of the shopping centre was interviewed, he said that almost 100 per cent of his business is done with people from British Columbia. That is a terrible concern to our merchants there. It is beyond politics. What we are going to do about it is not a political issue. It is not a partisan issue at all. It is an economic fact of life which is driving some people in Southern Canada completely out of business.

• (1500)

We are all aware, honourable senators, of the "Going Out of Business" signs in shop windows all across the land—in Ontario, Alberta, Saskatchewan, Quebec, the Atlantic provinces, and British Columbia. That is why I find it very difficult to understand that the Leader of the Government has no knowledge even of any rumours, let alone reports, that this serious situation exists.

Again, will he undertake to obtain information about the situation if any information is available?

Senator Murray: Yes, honourable senators, I will attempt to obtain an up-to-date report from my colleagues, in particular Mr. Jelinek, the Minister of National Revenue, on this matter. My honourable friend says that he will treat the matter as a non-partisan one. I am glad to hear that. He will surely support the initiative which the government is taking to meet with other concerned governments at the provincial and municipal level to discuss this.

I would like to make one final point. Shopping decisions by Canadian citizens and others are influenced by many factors, not only by the imposition of the GST. There are also questions of productivity, competitiveness and taxes at the provincial level. There is the management and merchandising in the retail sector. There are many factors to be taken into consideration, and there will be ample opportunity to discuss these among the government representatives and with the private sector.

Finally, I should make the point that only three months into the implementation of the GST it is quite premature to draw any conclusions on its impact on our economy.

Senator Perrault: I appreciate the cooperative attitude of the Leader of the Government in the Senate, but there is a troubling aspect of this concern being expressed by the merchants. Recently a spokesman for American retail business said that the fact that so many Canadians prefer to shop in the U.S., where gasoline prices are now alleged to be one-half to one-third of those in Canada, is the greatest bonanza that has ever occurred for the United States. People in the lower mainland of British Columbia go to Blaine, Washington, to fill up their tanks at for less than the cost of gasoline in Canada. Milk prices are said to be about 50 per cent less than the Canadian price. There are all sorts of reasons for these things; but for the Canadian merchant, trying to pay his taxes and stay in business, it is a real disaster. Many senators are aware of that.

[Senator Perrault.]

FOREST PRODUCTS INDUSTRY

CANADA-UNITED STATES MEMORANDUM OF AGREEMENT ON SOFTWOOD LUMBER

Hon. Raymond J. Perrault: I want to ask a second question which relates to the agreement that we concluded with the United States a few years ago to tack a special impost on Canadian lumber exports to the United States. I remember that Conservative members of Parliament and members of the Senate spoke in support of this measure. They said it was an amicable accommodation that would lead to cooperation between Canada and the United States. All of us remember the high-flown phrases. I am sorry my British Columbian colleague is not in her place, because she played a key role in bringing this agreement into force.

Simon Reisman was in British Columbia a few weeks ago and he said that in retrospect he does not think we should have signed the deal. He said that we felt we had to sign at the time, that, after all, "we had to give up something." Imagine, our most important export is our forest products, and Simon Reisman came to B.C. and said that in retrospect he does not think we should have signed the forestry deal after all, and that we should have "hung tougher"—exactly what we said in 1986. Some negotiation! The Americans were never able to prove that we were competing unfairly, but we accepted this deal. We are now having emergency meetings on the west coast involving labour and management, major forest companies and government officials truly concerned about the effect the draconian, unfair forestry deal is now having on the lumber industry.

Does the Leader of the Government in the Senate now agree with Simon Reisman that the deal should not have been signed? Reisman defends his actions by pleading that "we had to give up something." John Crosbie came out to B.C. recently. Imagine, the main supporter of this deal a few years ago was John Crosbie, and he stood up at a meeting in Vancouver and said that he does not think we should have signed the deal, that we are going to have to negotiate out of it. Another question is, then: Are active plans being made now to renegotiate this forest deal with the United States?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first, I suspect that my friend is taking considerable liberties with the statements he is attributing to Mr. Simon Reisman. Although Mr. Reisman is no longer in the employ of the Government of Canada, I will undertake to do some research to verify the authenticity of the comments that the honourable senator has attributed to him indirectly and the context in which the comments may have been made.

With regard to the memorandum of agreement on softwood lumber, I can only tell the honourable senator that the government is of the view that conditions have changed since 1986. We believe that the memorandum of understanding has served its purpose but that, however, negotiations with the United States would not go forward until we had the agreement on this matter of at least all of the producing provinces.

Senator Perrault: Of course, that is one of the problems. At least one of the provinces has been exempted from this arrangement and is quite happy with the status quo. I think it is the province of New Brunswick; is that not correct?

Senator Murray: Correct.

Senator Perrault: I do not think we will ever have a unanimous position.

Senator Murray: I did not say unanimous.

Senator Perrault: The concern of British Columbians and others in western Canada lies in the fact that the Americans were never at any time able to make a case for the imposition of these extra charges on the Canadian lumber industry, and it is now beginning to hurt. At the time we said that the impact of this arrangement with the United States would not be apparent until we entered a time of economic recession and then its full impact would be felt, and that is what has happened.

Surely it has to be admitted, even by government supporters, that when the honourable minister responsible for industrial development in this country now states publicly that the lumber deal should be renegotiated, and that he will do everything in his power to do so, we have a serious problem on our hands. I am not asking the Leader of the Government to divulge cabinet secrets; I do not expect that at all. However, when we get the gloomy news from the forest industry, which is so important to the economic health of Canada, that the profit outlook is the worst in years, that earnings have dropped 40 to 50 per cent, we have to become concerned because all of us are being adversely affected.

I would at least like the assurance from the Leader of the Government in the Senate that the situation is being actively considered and investigated by cabinet and that we are not going to have to wait until there is a consensus involving all of the provinces before we act.

Senator Murray: Honourable senators, I can tell Senator Perrault that the responsible minister, the honourable John Crosbie, has been consulting actively with the provinces and indeed with the industry in those provinces. We believe that the memorandum of understanding has served its purpose. We are prepared to embark on negotiations with the United States, but we do want to have the support of at least the main producing provinces.

CANADA-UNITED STATES FREE TRADE AGREEMENT

SALES OF PORK—PROTECTION OF CANADIAN POSITION

Hon. Raymond J. Perrault: Is the Leader of the Government able to give us an update on the pork situation in Canada? It seems to me that the philosophy of some of our American friends is: "Heads we win, tails you lose." Every time we have a dispute within the ambit of the Free Trade Agreement the so-called dispute settling mechanisms never seem to operate as well as they were predicted to do in the heady days when the agreement was signed.

Pork producers in Canada are now saying that they have been betrayed, that the Americans not only want to shift the goal posts but want to tilt the playing field itself.

Can the Leader of the Government tell us whether any progress is being made to protect the Canadian position as far as pork sales are concerned?

● (1510)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, for the moment all I can do is remind the honourable senator that two days ago the names of the members of the Extraordinary Challenge Committee, which will review the decision of the dispute settlement panel in this matter, were named by my colleague, the Minister of International Trade. The committee will be chaired by the Honourable Arlen M. Adams, formerly a judge of the US Court of Appeals. The other two members are the Honourable Mr. Justice Willard Z. Estey, formerly Chief Justice of Ontario and Justice of the Supreme Court of Canada, and the Honourable Mr. Justice Gregory T. Evans, also a former Chief Justice of Ontario.

Senator Perrault: The Leader of the Government has given us the names. They appear to be good names. However, there was one comment made last week that the chairmanship was of particularly vital importance to Canada and that it was felt to be very important to have a Canadian chairman of that committee.

Can the Leader of the Government tell us precisely how the chairman was selected? Does the chairman have any experience in pork production, or has he been mostly involved in judicial matters?

Senator Murray: Honourable senators, the committee members are selected from a ten-person roster comprised of retired Canadian and American judges. Each party selects a member and those two select a third, or, if necessary, the third is drawn by lot from the roster. The agreement requires that the Ministers of International Trade and Finance are by statute required to make the selection for Canada.

Honourable senators, my information is that the parties to the dispute will be filing briefs the day after tomorrow, Friday, April 19. I am also informed that the Extraordinary Challenge Committee should issue its decision within 30 days of the formation of the committee. However, I should note that it can extend the time limit in the interests of fairness. The committee can affirm the decision of the panel under review, vacate it or remand it back to the panel for reconsideration consistent with the committee's instructions.

PRIVACY COMMISSIONER

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE INSTRUCTED TO REPORT

The Hon. the Acting Speaker: Honourable senators, according to the agreement that was reached yesterday with respect to the division on the deferred vote, the bell must start to ring

at 3:30 p.m. It is now 3:30 p.m. Please call in the senators.

• (1600)

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

Honourable senators, it is moved by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:

> That the Standing Senate Committee on Legal and Constitutional Affairs be instructed to report no later than Friday, April 19, 1991, the motion respecting the appointment of the Privacy Commissioner.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins	Lavoie-Roux
Balfour	Lynch-Staunton
Beaudoin	MacDonald
Beaulieu	(*Halifax*)
Buchanan	Macquarrie
Carney	Marshall
Chaput-Rolland	Murray
Cochrane	Nurgitz
Cogger	Oliver
Comeau	Ottenheimer
Di Nino	Phillips
Doody	Poitras
Doyle	Robertson
Everett	Ross
Forrestall	Rossiter
Johnson	Simard
Kelleher	Spivak
Kelly	Sylvain
Keon	Teed
Kinsella	Tremblay—39

NAYS

THE HONOURABLE SENATORS

Bonnell	Graham
Bosa	Haidasz
Buckwold	Hastings
Cools	Hébert
Corbin	Kenny
Davey	LeBlanc
Denis	(*Beauséjour*)
Fairbairn	Leblanc
Frith	(*Saurel*)
Gigantès	Lefebvre

[The Hon. the Speaker.]

NAYS

THE HONOURABLE SENATORS

Lewis	Rizzuto
MacEachen	Robichaud
Marchand	Stewart
Marsden	Stollery
Neiman	Thériault
Perrault	Watt—31
Petten	

ABSTENTIONS

THE HONOURABLE SENATORS

Waters—1

The Hon. the Acting Speaker: I declare the motion carried.

Let the doors be opened.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, in view of the fact that the Standing Senate Committee on Legal and Constitutional Affairs will be meeting this afternoon, I recommend that the Senate do now adjourn until the call of the bell, which I suppose will be around 5.15 or 5.30. The committee will then report back to the Senate.

Senator Frith: We will see if the committee is ready to report.

Senator Corbin: I have one question for Senator Doody. Will he be tabling answers to written questions today?

The Hon. the Acting Speaker: Delayed answers were not called.

Senator Corbin: That is why I asked the question. Will answers to written questions be tabled today?

Senator Doody: I do have two answers, honourable senators, although not in response to Senator Corbin. With leave, I will place them on the record now.

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

Hon. Senators: Agreed.

• (1610)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable Senators, I have delayed answers to two questions and would ask that they be printed as part of today's proceedings.

NATIONAL DEFENCE

CLOSURE OF CFB SUMMERSIDE, P.E.I.—STATUS OF SEARCH-AND-RESCUE OPERATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question asked by the Honourable Lorne Bonnell on April 9, 1991, regarding National Defence—Closure of CFB Summerside in PEI—Status of Search and Rescue Operation.

(*The answer follows:*)

The Department of National Defence remains on schedule in its plans for the closure of CFB Summerside. In the meantime, Canadian Forces personnel may be transferred to CFB Summerside in order to fill certain positions necessary to maintain operations while the base is being closed. To date, only one such replacement has been required.

The independent consultant's report in question fails to identify a myriad of other costs that would be incurred should 413 Transport and Rescue (T&R) Squadron remain at Summerside.

The equipment and personnel of 413 (T&R) Squadron represent less than half of the actual resources that would have to be committed to its operations at an isolated site. The airfield would have to be kept fully operational 24 hours a day, seven days a week, and this would in turn require a large complement of personnel for snow and ice removal, air traffic control and airport emergency services. This is assuredly more than the Slemon Park Corporation would require. Thus the additional costs would have to be met by the Department of National Defence. Furthermore, the unit would require aircraft maintenance, logistics, communications and personnel support, and several other base services.

The basing of 413 (T&R) Squadron at the existing CFB Greenwood airfield would not require any additional support resources for the established, fully operational facility. Other support functions would require only slight augmentation, a fraction of what would be needed at Summerside.

It should be pointed out that the Search and Rescue operation for the Maritime Region as a whole will not be downgraded by the relocation of 413 (T&R) Squadron from Summerside to CFB Greenwood.

FOREIGN AFFAIRS

SRI LANKA—CANADIAN AID TO VICTIMS OF CIVIL WAR

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is in response to a question raised in the Senate on April 10, 1991 by the Honourable Lorna Marsden regarding Sri Lanka—Canadian Aid to Victims of Civil War.

(*The answer follows:*)

The Mothers' Front was established last July by the mothers of Sri Lankans who have been incarcerated or killed, or who have disappeared during the past eight years of ethnic and political conflict in Sri Lanka.

Its purpose is to encourage a greater accountability on the part of the Sri Lankan Government regarding the whereabouts of those who have been incarcerated or who have disappeared.

The Mothers' Front is at present operating under the auspices and sponsorship of the opposition parties. As yet, it does not receive any Canadian support. Once it establishes its political independence however, it will become eligible for support from the Development Assistance Program, which has been reoriented in the last year to assist self-help groups and organizations such as the Mothers' Front.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the Standing Senate Committee on Legal and Constitutional Affairs will be meeting this afternoon. I would recommend that the Senate adjourn to the call of the bell, and we will then report back to the Senate chamber.

The Senate adjourned during pleasure.

At 5:20 p.m. the sitting of the Senate was resumed. The Hon. the Acting Speaker in the Chair.

PRIVILEGE

Hon. Stan Waters: Honourable senators, in the previous vote, I do not believe the Speaker called for abstentions.

Hon. Orville H. Phillips: Yes, he did.

Senator Waters: I would like my vote to be recorded as an abstention and not as a "no" vote, which is how I believe it was recorded.

The Hon. the Acting Speaker: Senator Waters, I did call for abstentions in French, but with the noise it is possible that you did not hear me. However, your vote will be correctly recorded.

Senator Waters: Thank you.

PRIVACY COMMISSIONER

THIRTY-EIGHTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Nathan Nurgitz, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Wednesday, April 17, 1991

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-EIGHTH REPORT

Your Committee, to which was referred the Resolution approving the appointment of Bruce Phillips as Privacy Commissioner, has in obedience to the Order of Reference of Wednesday, June 27, 1990, considered the said Resolution and now reports as follows:

A motion in the Committee that the Resolution be approved was defeated.

The Committee recommends that the Senate do not approve the Resolution.

Respectfully submitted,

NATHAN NURGITZ
Chairman

MOTION TO ADOPT THIRTY-EIGHTH REPORT NEGATIVED

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

Hon. Nathan Nurgitz: Honourable senators, with leave of the Senate and notwithstanding Rule 45(1)(*e*), I move that the report be now adopted.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I do not think there is any need for us to have a debate on this motion at this point. The position of the parties is getting fairly clear. I may have a very short word to say on the main motion itself, depending on what happens to this vote, but I wonder if the whips could agree on a five or ten minute bell?

Hon. Orville H. Phillips: Perhaps, in fairness to the senators in the Victoria Block, we could change that to a 15-minute bell. I do not think they could get over here in five minutes.

Senator Frith: All right. The bells will start now and the vote will take place at 5:45.

Hon. Jack Marshall: Honourable senators, there were five senators waiting in the Victoria Building as soon as the bells rang. The bus was across the street. The driver must have left from the Confederation Building and returned here rather than go around on the regular calls. That is why we were late—and wet—and it's stupid.

An Hon. Senator: That's nothing new!

Senator Phillips: Senator Marshall has confirmed the point that the bell should ring for 15 minutes. I think they can get over here on a 15-minute bell. I am sure the two whips will be making checks with the offices.

Senator MacEachen: Check the buses!

[Senator Nurgitz. .]

Senator Phillips: And the buses. The Black Rod previously assured me that the buses would be running at this time, so I think we should have a 15-minute bell.

The Hon. the Acting Speaker: Is it agreed to vote at 5:45?

Senator Frith: We can then just have the record show that the "yeas" and "nays" have been called, that there has been an appeal under Rule 49(3), and that we are having a vote under Rule 49(3) on a 15-minute bell—the bell to start immediately and the vote to take place in 15 minutes.

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.

• (1740)

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

Honourable senators, it is moved by the Honourable Senator Nurgitz, seconded by the Honourable Senator MacDonald (Halifax) that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Bonnell
Bosa
Buckwold
Cools
Corbin
Davey
Denis
Everett
Fairbairn
Frith
Gigantès
Graham
Hastings
Hébert
Kenny
LeBlanc
(*Beauséjour*)
Leblanc
(*Saurel*)
Lefebvre
Lewis
MacEachen
Marchand
Marsden
Neiman
Perrault
Petten
Rizzuto
Robichaud
Stewart
Stollery
Watt—30

NAYS

THE HONOURABLE SENATORS

Atkins	Lavoie-Roux
Balfour	Lynch-Staunton
Beaudoin	MacDonald
Beaulieu	(*Halifax*)
Buchanan	Macquarrie
Carney	Marshall
Chaput-Rolland	Murray
Cochrane	Nurgitz
Cogger	Oliver
Comeau	Ottenheimer
Di Nino	Phillips
Doody	Poitras
Doyle	Robertson
Forrestall	Ross
Johnson	Rossiter
Kelleher	Simard
Kelly	Sylvain
Keon	Teed
Kinsella	Tremblay—37

ABSTENTIONS

THE HONOURABLE SENATORS

Waters—1

The Hon. the Acting Speaker: I declare the motion lost.

Let the doors be opened.

MOTION RE APPOINTMENT ADOPTED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): As Your Honour has just pointed out, the motion to adopt the report of the committee has been defeated. If I heard and understood the Deputy Leader of the Opposition correctly when he spoke earlier this afternoon, there would be a disposition to proceed, as we on this side wish to proceed, with a vote on the resolution to approve the appointment of Bruce Phillips as Privacy Commissioner. If that is the case, I move, seconded by the Honourable Senator Doody, with leave of the Senate and notwithstanding Rule 45(1)(*h*):

> That, in accordance with Section 53 of the *Privacy Act*, Chapter P-21, R.S.C. 1985, this house approves the appointment of Bruce Phillips as Privacy Commissioner.

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

Some Hon. Senators: No.

Senator Frith: Honourable senators, I want to take this occasion to put very clearly on the record our position, based not on differences of opinion—and there are differences of opinion about the effect and interpretation of the Privacy Act—but on the facts. As Senator MacEachen reminded me, Jean-Paul Sartre said that the facts speak for themselves, and I just want to make an intervention on those facts upon which we agree.

• (1750)

We agree that the Privacy Commissioner is an agent of Parliament. It is a fact that 106 members of the House of Commons voted in favour of Mr. Bruce Phillips as Privacy Commissioner. It is a fact that 60 representing the opposition parties unanimously voted against Mr. Phillips. In the Senate I assume we can have a vote without having a bell, but have a vote to give us a chance to register on this nomination.

Incidentally, looking at the House of Commons record, approximately 60 per cent more or less, all of them on the government side, voted in favour of Mr. Phillips and 40 per cent of the parliamentarians he is to represent voted against his nomination.

In the Senate, if we have the same vote, then the split will be a little over 50 per cent, something between 45 and 53 per cent that voted in favour, all of them on the government side, and some 48 per cent against. That is why we feel that Mr. Phillips should not be appointed Privacy Commissioner. Of the people he is to serve only a little over half want him to serve in that position.

Therefore, we ask the Prime Minister to remember the provisions of Section 53—I am not going to get into any question about qualifications, convention, custom, or anything else, but simply the facts, the vote of the people that this man is to represent. The provision of the act says that "the Governor in Council"—which means, of course, the Prime Minister and the cabinet—

> . . . shall by commission under the Great Seal appoint a Privacy Commissioner after approval of the appointment by resolution of the Senate and House of Commons.

I ask the Prime Minister and the cabinet to recognize the fact that although the resolution may have been passed in both places, the numbers speak for themselves, that almost half of the people whom he is to represent do not want him to take that position, for whatever reason. Therefore, we ask cabinet to not make the appointment.

Senator Murray: Honourable senators, I do not, and cannot, quarrel with the recitation of the facts that have been put forward by the Deputy Leader of the Opposition. It is a fact that the opposition parties in the other place and here are opposed, as Senator Frith says, "for whatever reason," to this appointment. It is also a fact that the statute provides that the House of Commons and the Senate by simple majority shall approve of this appointment; but I say simply for the record that I regret very much that honourable senators opposite and their counterparts in the House of Commons could not, as Senator Frith puts it, "for whatever reason," support the

nomination of Bruce Phillips. This is especially regrettable in view of the distinguished qualifications that Mr. Phillips—

Hon. Senators: Oh, oh!

Senator Murray: For the record, and very briefly at this time before we vote, let me state that Mr. Phillips had a long and distinguished 35-year career in journalism, including service with the Canadian Press, the *Calgary Herald*, and Southam News. He served the latter organization for three years in Washington as resident correspondent; but he capped his journalistic career with 16 years service as the Ottawa correspondent with the CTV network.

Honourable senators, I have about a page and a half to read, and if honourable senators would permit me to put some biographical notes on the record, we could then proceed.

Some Hon. Senators: Oh, oh! Put the vote.

Senator Murray: During his time as a journalist Bruce Phillips was publicly and privately supportive of the efforts of various people outside Parliament, particularly Mr. Baldwin, MP, former member of the other place, to advance the cause of access to information. His efforts included written communications with the prime minister of the day, Mr. Trudeau.

Mr. Phillips also provided financial and editorial support to the access committee, a private sector advisory group. It was through efforts such as these in support of Mr. Baldwin, MP, and the access committee that eventually brought the Trudeau government to introduce the interrelated access to information and privacy legislation that we have today.

Senator MacEachen: More mythology.

Senator Murray: Soon after the present government took office the Prime Minister informed Mr. Phillips that the new government intended to take some major initiatives in Canada-U.S. relations and that Mr. Phillips' Washington media experience could be of value to Canada.

Senator Perrault: Violent partisan; that is what it is.

Senator Murray: The Prime Minister asked Mr. Phillips to serve as the senior official in charge of public affairs at the Canadian embassy in Washington. Mr. Phillips agreed to take this position with the Public Service of Canada. He subsequently served as a senior communications official in the Prime Minister's Office.

I again wish to state that I regret the opposition of honourable senators to this appointment, but, as I said yesterday, I believe Mr. Phillips has all the integrity, experience and ability that is required for this important position in the service of Parliament.

Some Hon. Senators: Oh, oh!

Senator Murray: I would again commend this nomination to the support of all honourable senators.

Hon. Senators: Hear, hear!

Hon. C. William Doody (Deputy Leader of the Government): Would honourable senators agree not to see the clock while we finish with this proceeding?

[Senator Murray.]

Hon. Senators: Agreed.

Hon. M. Lorne Bonnell: Honourable senators, I did not intend to participate in this debate, but when I heard—

Senator Murray: I think I have closed the debate.

Senator Bonnell: How did you close it?

Senator Murray: On a point of order, it was—

Senator Bonnell: The Hon. the Speaker never said you were to close the debate.

Senator Murray: That is correct, but I moved the motion, Senator Frith spoke and I rose. I believe I closed the debate.

Senator Bonnell: Well, you only believe you did, but the Hon. the Speaker would ordinarily stand up in his place and say that if Senator Murray speaks now, honourable senators will realize that the debate will be closed. The Hon. the Speaker did not do that. Therefore, the debate is not closed, and I want to say this—

Senator Phillips: Make it brief.

Senator Bonnell: I am surprised. I am—

Senator Cogger: Disturbed.

Senator Bonnell: —disturbed and upset.

Senator Hastings: Shocked.

Senator Bonnell: And I am shocked that Senator Murray—

Senator Carney: And you are mad.

Senator Bonnell: No, I am not mad at all. I do not get mad. I get even. I am surprised that Senator Murray felt he had to stand up and say all those nice things about Mr. Phillips. Nobody on this side of the house disagrees with those nice things. He did all those things. We are not here to say that we are against this appointment because of who Mr. Phillips is. We are here to say that we are against the appointment because of the way the government handled the situation.

Some Hon. Senators: Hear, hear!

Senator Bonnell: They did not consult the opposition. They did not consult any of the opposition parties in the other House. There was no consultation between the government and the opposition in this house. It could have been Senator Murray getting appointed. We have the same thing. We say no. The Government of Canada has to realize that this is a parliamentary appointment.

Consequently, honourable senators, I want the record to show that I am not against Mr. Phillips. Senator Murray has said a lot of things about his being great, but there are a lot of other things he does not know about. He did a lot of things and he is probably a fine gentleman. He probably has a lovely wife and family, but that is not the point. The point is that the Government of Canada is usurping power that Parliament did not give it. Parliament did not give it the power to make parliamentary appointments, and it should consult the opposition parties, whether the Reform Party, the Liberal Party or the NDP. This is a parliamentary appointment.

• (1800)

Hon. Raymond J. Perrault: Honourable senators, I shall not prolong the debate. However, this is so clearly the kind of appointment that should have the concurrence of the other parties that I cannot understand why the government is so insistent on pushing this person on us.

When the Speaker of the House of Commons is elected there is an old tradition of gaining the support of both the opposition and the government. A short list could have been developed in this case. Perhaps the name of Mr. Phillips could have been on such a short list. An effort should have been made to reach agreement with respect to the appropriate nature of this appointment.

Secondly, I want to say that, as Leader of the Government in the Senate for a period of time, on three or four occasions I contacted Mr. Phillips about certain gross inaccuracies he had uttered about the Senate. He said, "I would be very delighted to meet with you." That is the last I heard of Mr. Phillips.

He is a violently partisan person who has always been an implacable foe of the Senate. His philosophy is: "Don't confuse me with the facts, my mind is made up." I speak only from my own experience of him.

Hon. Peter A. Stollery: Honourable senators, I too would like to say a word about this appointment, to remind honourable senators that by using this method of appointing officers of Parliament who do not have the general support of Parliament weakens their position and makes them subject to removal by the same process. Since, normally, officers of Parliament are in place for a term, if this process goes ahead, as I suspect it will, then they can be removed just as equally by another parliamentary majority. If I were one appointed under those circumstances, that would make me very uncertain about my position.

The Hon. the Acting Speaker: Honourable senators, it was moved by the Honourable Senator Murray, PC, seconded by the Honourable Senator Doody, with leave of the Senate and notwithstanding Rule 45(1)*(h)*, that in accordance with Section 53 of the Privacy Act, Chapter P-21, R.S.C. 1985, this house approves the appointment of Bruce Phillips as Privacy Commissioner.

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 "yeas" have it.

And two honourable senators having risen.

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

Senator Phillips: Honourable senators, I do not think there is much purpose to be served in ringing the bell. We can proceed with the vote now.

Senator Petten: I agree, honourable senators.

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

Motion agreed to on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins	Lynch-Staunton
Balfour	MacDonald
Beaudoin	(*Halifax*)
Beaulieu	Macquarrie
Buchanan	Marshall
Carney	Murray
Chaput-Rolland	Nurgitz
Cochrane	Oliver
Cogger	Ottenheimer
Comeau	Phillips
Di Nino	Poitras
Doody	Robertson
Doyle	Ross
Forrestall	Rossiter
Johnson	Simard
Kelleher	Spivak
Kelly	Sylvain
Keon	Teed
Kinsella	Tremblay—38
Lavoie-Roux	

NAYS

THE HONOURABLE SENATORS

Bonnell	Leblanc
Bosa	(*Saurel*)
Buckwold	Lefebvre
Cools	Lewis
Corbin	MacEachen
Davey	Marchand
Denis	Marsden
Everett	Neiman
Fairbairn	Perrault
Frith	Petten
Gigantès	Rizzuto
Graham	Robichaud
Hastings	Stewart
Hébert	Stollery
Kenny	Watt—30
LeBlanc	
(*Beauséjour*)	

ABSTENTIONS

THE HONOURABLE SENATORS

Waters—1

The Hon. the Acting Speaker: I declare the motion carried.

Let the doors be opened.

FORESTRY

PLIGHT OF FOREST PRODUCTS INDUSTRY—NOTICE OF INQUIRY

Leave having been granted to revert to Notices of Inquiry:

Hon. Raymond J. Perrault: Honourable senators, I give notice that at the next sitting of the Senate I will call the attention of the Senate to the plight of the forest products industry in British Columbia and in certain other provinces of Canada.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave, I move that all remaining orders, motions and inquiries stand.

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

Motion agreed to.

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 speak briefly to the adjournment motion.

We have had some discussion about the adjournment motion. I propose to move that the Senate adjourn until Tuesday, May 21. The reason for this is that we have to come back to deal with one bill before a probable prorogation. I cannot be certain about the date; it may be earlier than May 21. The House of Commons has adjourned to the call of the Chair, which makes it all very uncertain from where we stand. In any event, if we have to come back earlier, we will see to it that ample notice is given to all senators in order that they have an opportunity to get here in time. I am sorry that I cannot be more definite than that. It is possible that we will be away until May 21. It is probable that we will be back the week before.

• (1810)

In any event, the Standing Senate Committee on National Finance is now studying the bill to amend the Financial Administration Act. I understand that it will be meeting tomorrow and for however long it takes the committee to study the bill. We will deal with that bill in all remaining stages before prorogation. With these few caveats, I move, with leave of the Senate and notwithstanding Rule 45(1)*(g)*:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, May 21, 1991 at 9 a.m.

If there is any change in that, honourable senators, we will be so advised by the Chair.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, May 21, 1991, at 9 a.m.

THE SENATE

Wednesday, May 8, 1991

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

Prayers.

HUBERT D. GRIFFITH, ESQUIRE

EDITOR OF DEBATES AND CHIEF OF REPORTING SERVICES—TRIBUTES ON RETIREMENT FROM THE SENATE

Hon. Orville H. Phillips: Honourable senators, on April 2 of this year a long-time servant and officer of the Senate retired. I am referring to Hugh Griffith, the Editor of Debates. Hugh was born in England. I had always thought he had the distinction of being a Welshman until I saw his c.v., which states that he was born in Portsmouth, England. Therefore, he is deprived of that privilege.

After a period of service in the British army and the civil service, Mr. Griffith came to Canada in 1957, and became employed as a court reporter in the Supreme Court of Ontario. Then, in 1959, he came to the Hill. He made the mistake a lot of us make; he went to the House of Commons first. It did not take him very long to correct that mistake; he joined the Senate as a reporter in 1960. In 1972 he was appointed Associate Editor of Debates. In 1981 Hugh became assistant editor and in 1985 he became Editor of Debates.

He is retiring after serving the Senate for 30 years or one third of a century. My home in Ottawa is very close to Hugh's. My wife and I used to go for walks and we would meet Hugh and his charming wife, Mary ,and we would have a little chat. However, both of us have eased off on the walking and we do not see one another as much as we used to.

I mentioned the fact that he has served in this chamber for 30 years. He frequently sat over in the corner to the Speaker's left, always managing to the appear interested in and enjoying the debate. Not only that, he has managed to stay young looking.

Honourable senators, Hugh and his wife, Mary, his daughter Megan, and son-in-law John, are in the south gallery. We hope that he enjoys a long retirement and maintains his good health to enjoy it.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I welcome the opportunity to support what Senator Phillips has said. I do so for the reasons he mentioned and also because I have liked and admired Hugh Griffith for a long time. There are some jobs where success can be measured in an inverse ratio to the evidence of success. Another way of putting it is that the art is in concealing the art. Hugh Griffith is first class, a gold medalist in his field. We in the Senate are lucky to have had 30 of his Parliamentary years. Not all of his career was with the Debates Branch of the Senate, but most of it was spent here, and I say we were lucky. I greatly admire anyone who is very good at his job and just does it. It's a rarity, and is valued because of that—just to do the job and do it well. By doing it well it goes, in a sense, unnoticed.

I also learned a lot from Hugh Griffith. We often had discussions about language, including syntax and the origin of words. I received a great deal of help from him, as I think many of us did.

So, I repeat, I am glad to join Senator Phillips as joint cheerleader in asking senators again to express their heartfelt appreciation to Mr. Griffith on this occasion, especially when he is here with his family. We sincerely and deeply appreciate his years of excellent service to the Canadian Senate.

Hon. Senators: Hear! Hear!

DISTINGUISHED VISITORS IN GALLERY

GORDON OLMSTEAD, PRESIDENT, CANADIAN MERCHANT NAVY ASSOCIATION OF CANADA, AND PRISIONER OF WAR ASSOCIATION
DANNY BORDELEAU, VICE PRESIDENT AND GOVERNMENT LIAISON, CANADIAN MERCHANT NAVY ASSOCIATION OF CANADA

Hon. Jack Marshall: Honourable senators, before the petitions, I would call the attention of the Senate to the presence in the gallery of Mr. Gordon Olmstead, president of Canadian Merchant Navy and Prisoners of War Association, and his good wife, Mrs. Olmstead.

Hon. Senators: Hear! Hear!

Senator Marshall: I should also like to call attention to Mr. Danny Bordeleau, vice-president and government liaison to the Canadian Merchant Navy Association of Canada.

Hon. Senators: Hear! Hear!

VETERANS AFFAIRS

PRESENTATION OF PETITIONS

Senator Marshall: Honourable senators, I have the honour to present 14,514 signatures on 678 petitions from veterans of Canada across the country to implement the 12 recommendations of the Senate subcommittee report entitled, "It's Almost Too Late."

PRIVATE BILL

CANADIAN MERCHANT NAVY—BILL TO AMEND—FIRST READING

Hon. Jack Marshall presented Bill S-21, to amend certain statutes of Canada to give fair and discreet recognition to the wartime service of the Canadian Merchant Navy.

He said: Honourable senators, as I have already indicated, Messrs. Olmstead and Bordeleau are in the gallery; they are two citizens who, on behalf of their comrades, have been fighting for the past 50 years to have the governments of Canada, past and present, recognize the Canadian Merchant Navy, which has served its country on a parallel with every other military force in Canada.

Hon. Senators: Hear! Hear!

Bill read first time.

MOTION FOR SECOND READING—POINT OF ORDER—DEBATE ADJOURNED

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 44(1)(*f*), it is moved by Senator Marshall, seconded by the Honourable Senator Phillips, that this bill be placed on the Orders of the Day for second reading at the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Lowell Murray (Leader of the Government): On a point of order, honourable senators, all of us enormously admire the work that our colleague Senator Marshall has done over the years on behalf of the war veterans of this country.

Hon. Senators: Hear! Hear!

Senator Murray: He has continued that work in the Senate that he undertook many years previously, and notably so during his years in the House of Commons.

Not only has he been a very effective spokesman in Parliament for the interests of veterans and others who served this country in whatever capacity during the wars, he has taken up the cause of many individual veterans and their families across this country. There are countless individual veterans and their families who can attest to Senator Marshall's keen interest and devotion to their welfare. They are materially better off because of his intervention on their behalf over the years.

Having said that, one of the responsibilities of a minister of the Crown is to protect the prerogatives of the Crown. One of those prerogatives is the royal recommendation which must attach to any money bill. As honourable senators know, money bills must originate in the House of Commons and they must have a royal recommendation attached to them. I want to invite the attention of honourable senators to section 53 of the Constitution Act of 1867, as well as to section 54 of the Constitution Act, to point out that a bill which appropriates funds must begin in the House of Commons and must receive a royal recommendation from the Governor General.

I also invite the attention of the Senate to rule 62 of our own chamber and to the ruling made on February 27, 1991 by His Honour the Speaker in which His Honour gave examples from the authorities of matters addressed in legislation which require royal recommendations.

With regard to Bill S-21, which Senator Marshall has presented to us today, I would draw your attention to clauses 1, 2 and 3 of that bill which would amend the Pension Act, to clauses 4 and 5 which would amend the War Veterans Allowance Act and to clauses 6 and 7 which would amend the Civilian War Pensions and Allowances Act. Those amendments clearly extend the purposes and objects of the currently authorized program expenditures under the Pension Act and the War Veterans Allowance Act. So it is quite obvious, to me at any rate, that Senator Marshall's bill, S-21, would have the effect of appropriating public revenues and would involve new charges upon the Consolidated Revenue Fund.

There have been many rulings, as I have indicated, on the subject of money bills. There is a ruling of June 6, 1980, in which the acting speaker of the Senate ruled on amendments to the Unemployment Insurance Act. There is also a Speaker's ruling of June 13, 1989 concerning two bills also introduced by our friend, Senator Marshall, which contained amendments to the War Veterans Allowance Act which were intended to widen the scope of eligible recipients for veterans' benefits.

Honourable senators, my submission is that this bill infringes on the financial initiative of the Crown, that it requires a royal recommendation and cannot, therefore, be introduced in the Senate. I would ask Your Honour to reflect on these matters and, at your convenience, to let us have a ruling on this matter.

Senator Marshall: Honourable senators, I did not think my bill would get such attention as it did from my leader. My purpose in introducing the bill is simply to recognize members of the Merchant Navy in the respect that they deserve as veterans. They are now deemed to be civilians. I always express the view that when the bullets and the bombs came after them they did not say, "Do not hit him, he is a civilian."

• (1410)

I am asking to have the benefits under Parts I and XI of the Civilian War Pensions and Allowance Act—and they are all entitled to every benefit that is contained therein—apply to the other section of the act, which is comparable and parallel, namely, the War Veterans Allowance Act. Any other benefits that a war veteran gets under the War Veterans Allowance Act—and the one that is highlighted is the Veterans Independence Program for aging veterans—can be done by Order in Council if the will is there and there is the government's determination that these merchant seamen did serve their country on the same basis as everyone else who served Canada in time of war. I am trying to transfer the merchant seamen from one phase of the act to the other—that is, from the Civilian War Pensions Allowances Act to the War Veterans Allowance Act.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators I would like the opportunity to read both the bill and Senator Murray's comments. Therefore, I move the

adjournment of the debate on the point of order so that I can do so.

On motion of Senator Frith, debate adjourned.

GOODS AND SERVICES TAX

PRESENTATION OF PETITIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, some will be pleased to hear—some perhaps not so pleased—that the petitions against the GST continue to roll in.

To remind honourable senators, the petitions all read as follows—and I will not read each petition unless encouraged to do so. Some of the petitions are in French and some are in English, but the wording is essentially the same. I will remind honourable senators that they read as follows:

> Whereas the new universal 7% Goods and Services Tax adopted by the Conservative government will create serious, unjust and inhuman difficulties to Canadians; whereas the implementation of this tax—

I always like to underline the fact that the impression abroad is accurate that, although it was adopted by Parliament, it was only adopted by supporters of the Conservative government because of majorities achieved in different ways in both houses. It goes on to read:

> —adopted by the Conservative government will create serious, unjust and inhuman difficulties to Canadians; whereas the implementation of this tax will constitute an unprecedented assault on the income of Canadians, not only by forcing them to pay higher taxes, but also by confronting them with a rise in inflation, interest rates and unemployment; whereas the methods used by the Government are unworthy of a democratic country. They are rather the work of lawmakers who want to implement a dictatorship, snapping their fingers at the general opposition of the population.

Some Hon. Senators: Shame.

Senator Frith: It goes on to state:

> Wherefore the undersigned, your Petitioners, humbly pray and call upon the Senators and the MPs, the true representatives of the people, to do everything possible to abolish the new Goods and Services Tax, and we strongly demand a general election immediately.

An Hon. Senator: That is right.

Senator Frith: It goes on to state:

> The Canadian producers are carrying out their jobs perfectly by flooding the market with products, but they cannot produce money. The government must therefore set up a National Credit Office to create the money required by the existence of new wealth and abundance.

You can imagine by the wording of that particular petition that it does have a familiar western ring, although these are not from the west.

Senator Olson: But the message is getting around.

Senator Frith: Honourable senators, the population referred to is exercising its ancient and undoubted right to directly petition members of Parliament, and of the Senate, to present, on their behalf, petitions asking for the action set out in the petitions.

In accordance with our rules I will simply tell honourable senators where these petitions are from and how many there are. The first batch numbers 14, each with about 25 names. I give that number so that the arithmetic can be done quickly.

There are 14 from Donnelly, Falher, Girouxville and Eaglesham, Alberta.

I have another 15 petitions from New Brunswick. They are from Bas Caraquet, Acadiaville, Saint John, Pokesudie, Le Goulet, Rogersville, Tracadie, Shippegan and Charlottetown—someone must have snuck one in here. I do not think there is a Charlottetown in New Brunswick. That one has slipped in with the ones from New Brunswick, I am sure to their honour. The others are from Collette, Chatham, Newcastle, Tide Head, Atholville and St. Quentin.

From Ontario I have 13 petitions, all of them fully signed. I say that so that the arithmetic can be worked out as we go along to give honourable senators an idea of the number of citizens involved in these petitions. They are from Sudbury, Lively, Spanish, Espanola, Hamilton, Virginiatown, Kirkland Lake, Moonbeam, Kapuskasing and Timmins.

I had a little difficulty with the next group because there is an RR number, which I think is in Ontario, but I am not clear. The address is given, but not the town.

I must say, since I think it was Senator Simard who was interested in the political origins of some of these that—

Senator Simard: Just table them.

Senator Frith: —this particular one identifies itself as coming from the Reform Party.

There is a large batch of signatures mostly from Quebec, although some are from Ontario, in one petition.

I then have a large batch of 117 petitions with, as I have said, 20 to 25 names on each from Noranda, Rouyn-Noranda, Evain, St. Modeste, Rimouski, Val d'Or, Montreal, St. Leonard, Ville d'Anjou, Matagami—

• (1420)

Hon. Jean-Maurice Simard: All change for Shawinigan!

Senator Frith: By the remark: "All change for Shawinigan," Senator Simard is obviously saying that the reciting of these names reminds him of the train schedule and the announcements about departures of the trains that used to cross the country in larger numbers than they do now. I can tell him that these petitions do continue and they do have all the force and momentum of the trains to which he has referred. These petitions keep coming in just as those trains kept running.

To continue, honourable senators, the petitions come from St. Odilon, St. Anges, Chicoutimi, Malartic, Shawinigan, St. Mathieu du Parc, Huntingdon, and Granby.

Honourable senators, today I have about 5,000 names of those who continue to be opposed to the GST; and let us

remember the number of petitions that keep coming in, despite government assurance—particularly from the Minister of National Revenue—that Canadians are happily swallowing this GST. Honourable senators, the people are telling us that they are not!

Some Hon. Senators: Hear, hear!

OFFICIAL LANGUAGES

THIRD REPORT OF STANDING JOINT COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Dalia Wood: Honourable senators, I have the honour to present the third report of the Standing Joint Committee on Official Languages concerning Standing Order 32(5) and section 85 of the Official Languages Act: Consideration of the document entitled: *Draft of the proposed regulations respecting communications with and services to the public in either official language.*

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: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix, p. 5678.*)

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-SIXTH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Gerald R. Ottenheimer, Acting Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, May 8, 1991

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

SEVENTY-SIXTH REPORT

Your Committee has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on National Finance for the proposed expenditures of the said Committee with respect to its examination and consideration of such legislation and other matters as may be referred to it. The said supplementary budget is as follows:

Professional and other services	$10,065

Respectfully submitted,

GERALD R. OTTENHEIMER
Acting Chairman

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

Senator Ottenheimer: 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.

Motion agreed to and report adopted.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTY-SEVENTH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Gerald R. Ottenheimer, Acting Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, May 8, 1991

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

SEVENTY-SEVENTH REPORT

Your Committee has examined and approved the supplementary budget presented to it by the Joint Chairman of the Special Joint Committee on the Process for Amending the Constitution of Canada, as authorized by the Senate on January 30, 1991. The said supplementary budget is as follows:

Professional and other services	$ 85,080
Transport and Communications	49,800
All other expenditures	16,800
	$151,680

Respectfully submitted,

GERALD R. OTTENHEIMER
Acting Chairman

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

Senator Ottenheimer: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be examined now.

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

Hon. Senators: Agreed.

Senator Ottenheimer: Honourable senators, I move that the report be adopted.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND-TWENTY-THIRD REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

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

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

TWENTY-THIRD REPORT

Your Committee, to which was referred Bill C-91, An Act to amend the Financial Administration Act and other Acts in consequence thereof, has, in obedience to the Order of Reference of Tuesday, April 9, 1991, examined the said Bill and now reports the same with the following amendment:

Pages 3 to 5, clause 6: Strike out lines 42 to 46 on page 3, lines 1 to 47 on page 4, and lines 1 to 23 on page 5, and renumber the subsequent clauses and any cross-references thereto accordingly.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

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

Senator Leblanc (Saurel): With leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be considered now.

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 45(1)(*f*), it is moved by Senator Leblanc (Saurel), seconded by Senator Adams, that the report be now adopted.

Honourable senators, is it your pleasure to adopt the motion?

[*English*]

Hon. Orville H. Phillips: Has the chairman of the committee any remarks to make at this time?

Hon. Royce Frith (Deputy Leader of the Opposition): He is moving the adoption.

REFERRED TO COMMITTEE OF THE WHOLE

Senator Phillips: Honourable senators, I move that the report be not now adopted but that the bill, as amended by the committee, be referred to a Committee of the Whole presently.

The Hon. the Speaker: It is moved by the Honourable Senator Phillips, seconded by the Honourable Senator Doyle, that the report be not now adopted but that the bill, as amended by the committee, be referred to a Committee of the Whole presently.

Is it your pleasure, honourable senators, to adopted the motion?

• (1430)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as you can imagine, our position is that the report of the committee ought to be adopted, thereby amending the bill as provided in the motion of adoption. However, we are content to have this motion carry on division so that we can obtain more evidence on the points raised in Committee of the Whole.

Motion agreed to, on division.

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 Ottenheimer in the Chair.

Hon. Lowell Murray (Leader of the Government): Mr. Chairman, in anticipation of this procedure I had asked my colleague, the Honourable Gilles Loiselle, the President of the Treasury Board, to appear before the Committee of the Whole this afternoon to make a brief statement and to answer questions from members of the committee with regard to the outstanding matters referred to in the report of the Standing Senate Committee on National Finance. I must confess that I had suggested to my colleague that there was no need for him to be here much before 3 o'clock. He may not have arrived yet. I will see if he is here. If he has arrived, I will bring him into the chamber. If he has not arrived, I beg the indulgence of the members of the committee for a few moments.

Senator Frith: Agreed.

Pursuant to rule 18 of the Rules of the Senate, the Honourable Gilles Loiselle, P.C., President of the Treasury Board, was escorted to a seat in the Senate Chamber.

[*Translation*]

Senator Murray: Mr. Chairman, I believe everyone here knows my cabinet colleague, the Hon. Gilles Loiselle, President of the Treasury Board.

Mr. Loiselle started his professional career as a journalist at the Ottawa newspaper *Le Droit* in 1953. Subsequently, he entered Quebec's diplomatic service as First Counsellor with the Quebec General Delegation in Paris, from 1967 until 1972. He was Director General of Communications from 1976 to 1977. He was Quebec's General Delegate in London from 1977 to 1982. He was Assistant Deputy Minister for Canadian Affairs and Quebec Cultural Affairs from 1982 to 1984. From 1984 to 1988, he was Quebec's General Delegate in Rome.

Mr. Loiselle was elected to the House of Commons for the first time in the 1988 federal election. He was sworn in as a member of the Privy Council and appointed Minister of State

for Finance in January 1989. Subsequently, he was appointed President of the Treasury Board, and such, he will appear before us this afternoon to talk about Bill C-91.

Mr. Loiselle will make a short statement, after which honourable senators are invited to ask their questions concerning the many recommendations contained in the report of our Standing Senate Committee on National Finance.

Mr. Chairman, I invite my colleague, Mr. Loiselle, to take the floor.

Hon. Gilles Loiselle (President of the Treasury Board): Mr. Chairman, with your leave, I would like to thank the Leader of the Government in the Senate for his kind words. I must say that to be in this august assembly today, where I see so many people whom I have met at some time in the course of my career, is a unique experience. I see Senator Hébert, whom I met in Africa in the Fifties. I see friends I met in London, Quebec City, Montreal and elsewhere in this country. To be among you is a very moving experience, indeed.

Hon. Royce Frith (Deputy Leader of the Opposition): But not as a senator, not yet!

Mr. Loiselle: My misfortune, perhaps, honourable senators.

Mr. Chairman, I would like to thank honourable senators for giving me this opportunity to comment briefly on Bill C-91, which provides for about seventy amendments to the Financial Administration Act.

The main purpose of these amendments is to provide for better financing in the increasingly complex day-to-day management of public funds, in a world that is becoming increasingly competitive.

I would say that these amendments represent a very substantial part of the government's efforts to improve our administration's management and efficiency.

[*English*]

The bill contains provisions that will improve the collection of moneys due to the Crown and this will help reduce the deficit. The bill also opens opportunities for further improvements in cash management practices. It improves the accountability and control regime affecting crown corporations. It reduces red tape for suppliers and collectors of public money and reduces the paper burden on departments. It positions the government to take full advantage of modern technologies in its financial transactions.

● (1440)

It provides enhanced opportunities for better management of the public debt. Finally, it offers more flexibility in the funding and delivery of government services, thereby permitting departments to be more responsive to the needs of the public they serve. I think everyone will agree that the government must continue to reduce its operating costs and to provide its programs and services in the most efficient manner possible. This bill will help us achieve that objective.

Mr. Chairman, I understand that some honourable senators have raised three issues for which they seek additional clarification. I will try to address them clearly and directly in the next few minutes and my officials and I will be pleased to answer any questions.

[Senator Murray.]

First, some senators have questioned whether the provisions of clause 6 constitute a tax or a penalty. Honourable senators, I would say that the answer clearly and unequivocally is no.

A very lucid view was expressed on this issue by Mr. Justice La Forest in the allocation of taxing power under the Canadian constitution which was published by the Canadian Tax Foundation in 1981. His opinion focused directly on the distinction between a tax and a charge. In his view, one of the essential attributes of a tax is that it bear no relation to the value of the service received. The distinguishing feature of a charge is its closed relationship to the service provided. Clearly a fee or charge requires a linkage between the fee or charge and the cost of the service or function being provided.

Honourable senators, I believe that this linkage is clearly established in clause 6. Clause 6 has nothing to do with penalties, however, which carries with it the notion of a punishment as a consequence of a breach of contract for the commission of an offence. Clause 6 permits us to recover costs from the users and beneficiaries of services and facilities. It relates to the pay-as-you-go principal of good management and not punishment.

The second issue follows on the first. It relates to the delegation of taxing powers by Parliament. There are no taxing powers being delegated in clause 6. Clause 6 is about implementing user fees equitably, economically and efficiently. It is about implementing fees openly and after public input. Indeed with clause 6, prior to fees being set, consultations will be had with affected parties, and their full impact, both on affected groups and on federal programs, will be rigorously analyzed. The results of these consultations and analyses will have to be taken into account in fee setting decisions.

It is not therefore about delegation of parliamentary authority; it is about providing Canadians with the opportunity to voice their views and to have meaningful input in user fee decisions pertaining to services they use or benefit from directly. These changes should provide greater comfort and assurances to honourable senators, indeed to all Canadians.

The third and last issue, Mr. Speaker, relates to the use of the Governor General's special warrants. In my testimony to the Standing Senate Committee on National Finance on April 11, when questioned on this matter, I indicated that I fully agreed with honourable senators that the purpose of special warrants was certainly not to circumvent the power of Parliament to approve spending. We have looked at section 30 of the Financial Administration Act and have had extensive discussions. The general conclusion was that special warrants represent a safety valve which allows the administration of government to continue when Parliament is not sitting. Concerns were expressed to the effect that any change to clause 30 would limit the essential flexibility needed to conduct the day-to-day business of government when Parliament is not sitting.

Under the current mechanism, Mr. Chairman, there is some balance in that the Governor General is not compelled to agree to issue warrants. He or she can always refuse such warrants if it is felt that they would be used for purposes other than carrying out essential services until such time as the government can quickly go back to Parliament. In these circumstances, it was felt that an amendment to section 30 was not warranted at this time.

In closing, Mr. Speaker, I wish to thank you for having given me the opportunity to speak to this bill. I now ask honourable senators to support its quick passage. Thank you.

Senator Stewart: Thank you, Senator Ottenheimer. I thank Mr. Loiselle for his succinct statement and for addressing some of the reasons why some of us voted against the inclusion of clause 6.

I want to ask him two or three questions with regard to Governor General's special warrants. He already has traversed that terrain, so my questions are for greater certainty. First, is it the view of the government that the interpretation of section 30 of the Financial Administration Act followed by the government in 1989 was strictly in accordance with the intention of Parliament when it enacted that section of the Financial Administration Act? My second question I believe is answered by implication, but perhaps we had better have the implication spelled out. Is it the view of the government that it is desirable that section 30 of the Financial Administration Act be not amended? The third question is: Is it the view of the government that, while an attempt to abuse section 30 is possible, the right of the Governor General to refuse to accept the advice of the government that she or he sign a special warrant sought by the government is an adequate safeguard to prevent abuse?

In relation to the last question, I shall read for the benefit of the committee what the minister said when he appeared before the Standing Senate Committee on National Finance on April 11. This appears in issue 52 at page 14. He mentioned the possibility of abuse; he then wen on to say:

● (1450)

> There is also balance in as much as if the Governor General feels this device is being used for purposes other than just carrying on until such time as we can quickly go back to Parliament, he can always refuse such warrants.

I gather from what he said then and from what he said earlier today that he regards the possibility of the Governor General saying no, of exercising a reserve power of the Crown, as an adequate safeguard to prevent any abuse of special warrants by a government.

Those are my three questions with regard to special warrants. Perhaps we can deal with them now. Then I shall go to another topic.

Mr. Loiselle: I thank the honourable senator for his very valid question. We are dealing here with a delicate matter which has been available to governments over many decades and obviously must be used with great care and only to allow the government to continue operating, not to try to do indirectly what one would not want to do directly. I would suggest to the honourable senator that in all instances, shortly after decisions are made to use Governor General's warrants, the government will be before the House of Commons and will have to answer for the use that has been made of them.

With regard to his first question about the use that the government made of special warrants in 1989, it is my very clear view that the use we made of special warrants while Parliament was in recess was perfectly in accordance with section 30.

The second question that the honourable senator put to me was whether it is the view of the government that it would be desirable to amend section 30. We can discuss this difficult problem. I think it was put there originally precisely for this purpose. People know that there are circumstances in which you need to continue paying salaries and pensions, and so on and so forth, and you would not want to disrupt the functioning of the government. On the other hand, you would not want government to make all kinds of decisions without checking with Parliament. So I agree with that. However, the examples we have had in the past are very much in line with what I have said and I repeat very clearly that the use of special warrant has to be very limited. We can always discuss whether there are other ways of doing that. I personally would certainly be open to a good discussion on this to see whether there are other ways of allowing government business to be carried on. Everyone understands that this is more or less a routine matter, and the fears which are in the back of the honourable senator's mind, and rightly so, are addressed.

With regard to the balance which is achieved through the very real power of the Governor General to refuse to sign these warrants, I think this is very real. If it were seen that the government was using the fact that Parliament was not sitting as an opportunity to try to do something that would not be desirable, it would certainly be fully within the Governor General's prerogative to do so. This occurred in the province of Saskatchewan, for example. The Lieutenant Governor there refused to issue warrants.

So it is a balance. In this country we try to have reasonable management of our affairs. We may not achieve perfection but we want things to continue to function, and this is a very pragmatic, practical approach that has not on any occasion, to my knowledge, been abused. However, as I have said, I would be prepared to discuss whether there are other ways of achieving the same room to manoeuvre.

Senator MacDonald: Mr. Minister, I would like to welcome you along with your associate, Mr. Mel Cappe, who is well known to us all. He is a very distinguished public servant.

The objectives which you mention are all very admirable—the modernization of the management and efficiency of our affairs, cash management practices, reduction of red tape and paperwork. Only a very imaginative soul would cast the level of light on those objectives. However, the amendment which is suggested by the Finance committee is against Chapter 6 which really says that it is an enhanced authority to levy user fees and to adjust the levels of such fees without further

recourse to Parliament. In your opening remarks before the committee you said that although many of the measures in the bill are designed to modernize financial management, the underlying principles of parliamentary control that date back to confederation have not been tampered with. In addition you said that the fundamental principles of fairness are embodied throughout.

In your remarks today you said that there would be consultation with the affected parties before any fees are levied, and the fees, of course, would be levied by the Governor in Council, not by the Parliament of Canada. There would be no debate. Is that not rather a "trust us" attitude, your attitude toward fairness? All you are doing is consultation.

Mr. Loiselle: Mr. Chairman, the process of consultation will be a very precise process. Very clear rules will have to be respected so that the process is not just the appearance of a process. A very clear linkage will have to be made. I suggest that cost-recovery has been with us for a very long time. For example, our railway system was more or less government owned. We would provide general services, but for passengers, of course, there was a fee. Such decisions of good management, of increasing or decreasing the number of hours of opening, which have an effect on costs, are not taxes, they are just good management. But in this case, in order to be sure that the intent of our legislation is respected, there will have to be regulatory approval of the process that will have to be followed so that clear consultation is very publicly expressed and due process is followed. It is not something that can be done because you feel that you would like to get some money out of someone. It is a very rigorous process that we have followed in the past with great success and we intend, of course, to continue to follow in the future.

Senator MacDonald: Mr. Chairman, you could surmise that my questions are largely influenced by the presentations made by the shipping federation and the ship owners. Consultatively how do you answer the accusation that you are possibly tinkering with a national transportation system without public debate on the issue? They go into matters which are rather technical. It is true that Transport Canada has the authority to collect recovery fees at the present time, but in terms of class of users they maintain that it is virtually impossible to determine the terms of individual users—that is, the ship owners essentially, because many of the services made available by transport, navigational buoys, VTN services, are provided on a global basis with regard to the individual needs or requests of the ship owners. Will the determination of this, which is terribly important to the eastern ports and their competitive position vis-a-vis American ports, be the subject of public hearings? Is that what you mean by consultation?

Mr. Loiselle: The implementation of Transport Canada's cost-recovery proposal, to which the honourable senator is referring, is not related to the proposed amendments to the Financial Administration Act. It is proceeding under the existing act. Through our act we will restrict the amount that can be charged to the costs of providing the services or facilities.

[Senator MacDonald.]

Our amendment is an improvement on an existing situation. Of course, we will be very diligent in seeing that all departments, and in this particular case the Department of Transport, ensure that full consultation takes place before we decide to recommend the approval of the fees. This will be done, I can assure you, and we will increase, through the amendments that are before you, the proposed controls over the established fees. We will have more control. It is important to be consistent in our policy of linkage between the service provided and the fees that are being charged.

• (1500)

Bill C-91, the bill before us, ensures that user charges are levied. Classes of users will at most only have to pay for the services they receive. They will not be forced to subsidize services provided to other classes of users. In the case that you raised, that is an important point. It will ensure that classes of users are not averaged but that the service provided is clearly linked to the fees that are being implemented. This amendment allows us to deal with the concerns you have raised.

Senator Stewart: Mr. Chairman, I believe that I have the floor. Senator MacDonald arose to ask a supplementary question.

The Chairman: Yes; I recall that you had asked a question and then Senator MacDonald rose. Senator Stewart then asked a supplementary question but yielded to Senator MacDonald. Perhaps we could continue with the status quo at that time. I will recognize Senator Stewart and then the other senators whose names I have on the list, if that is agreeable to honourable senators.

Hon. Senators: Agreed.

Senator Stewart: In his initial statement the minister made reference to a distinction between fees and charges on the one hand and taxes on the other hand. I want some help in clarifying my thinking on this distinction.

In the document entitled "Policy on External User Charges for Goods, Services, Rights and Privileges" promulgated by the Treasury Board under date of December 7, 1989, at page 25 in the guidelines set forth therein, the following instruction is given—this is an instruction to the various departments. It states:

> It should be recognized that existing authorities may be insufficient to impose the appropriate charges determined in accordance with this policy. In such cases, departments must accept the legal constraints, while seeking to establish an appropriate legislative framework at the earliest opportunity.

At page 30 of the guidelines we read that the amendment—that is, an amendment to give appropriate parliamentary authorization—should be drafted to provide explicit authority to establish user charges in accord with this policy.

Finally, on pages 10 and 11 of the guidelines we read:

> Where the link between the amount of the charge and the cost of the service to individual or particular groups of

> users is unclear and the difference large, charges may amount to a form of taxation.

There would appear to be a point at which what ostensibly is a fee or a charge undergoes a qualitative change and becomes a tax.

In 1988, when the emergencies powers bill was being considered in a committee of this house, the Honourable Perrin Beatty dealt with the right to tax. I had asked whether the sweeping powers to be conferred by the measure on the Governor in Council in certain circumstances would permit the Governor in Council to impose taxes. Mr. Beatty was emphatic in his reply. He said—this is found in *Senate Debates* of May 31, 1988 at page 391:

> 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.

I am trying now to discover if it still is the government's view that a bill always is required for a tax. Is a bill which imposes the tax immediately always required in the case of taxes. Can the power of tax be delegated? I am raising this question to see if the interpretation of the Constitution set forth by Mr. Beatty gives assurance that the powers that the government is seeking in the present bill cannot be used for a change that in reality is a tax.

• (1510)

I want to ask the minister if the position taken by Mr. Beatty, when he spoke for the government in 1988, is the present position of the government.

Mr. Loiselle: Mr. Chairman, of course I cannot comment technically on the various points that have been raised by the honourable senator. I agree that, politically, there has to be a frontier somewhere at which point a tax is slipped into on the one side and a user fee on the other.

We have some definitions which may not be absolutely perfect but which may help us see where this particular frontier is. What is the difference between a tax and a user fee? We could say that government services such as those of the Department of National Defence which generate broad public benefits are and should be financed through general tax revenues. However, many services delivered by the government are provided primarily for the benefit of specific users and consumers of such products and services. In those circumstances a charge to such groups can be a more equitable financing mechanism than can general taxation. Charges for these services do not exceed costs and cannot be construed as a tax.

To understand the intent of the government, something which I think is well understood on the other side of the House, I must say that we cannot deny the fact that we are here looking at ways to improve the management of services with a policy that is based on the fact that those who benefit should pay. We want to reduce the burden on the general taxpayer for financing activities which benefit specific users. The advantage to that is that it brings in a market discipline to bear on government services. That can lead those who receive these benefits to a more realistic demand for them. If the money is just pumped from general revenue there is no equity and balance. When a group of well-identified users ask for a special service, if the discipline of market is brought in, that will cause them to ask certain questions and to help us to improve the discipline that is so needed.

Therefore, there is, in my mind, a very clear distinction, but I would not claim to be in a position to give the honourable senator legal advice on this. The advice I have is that there is clearly a difference between the two.

Senator Stewart: We all appreciate the minister's explaination of the government's good intentions. The problem is that we know about good intentions. What I was asking was if the conventional wisdom, as some have called it, pronounced by the minister's colleague, Mr. Beatty, can be relied upon as assurance that what the government is now asking this house to authorize cannot become a valid tax. The minister is accompanied by learned counsel. Is there the possibility that at some point an aggrieved person can say, "The charge that you are imposing has passed over that line between a charge and a tax; it has become a tax. Consequently, in accordance with the interpretation of the law given by Mr. Beatty, that charge is *ultra vires* the Governor in Council." May we have the minister's assurance that there is at least that limitation on the power to impose what the bill calls fees and charges?

Mr. Loiselle: Mr. Chairman, I can certainly tell the honourable senator that our intent is very clear. There are quite a few ways for people who feel that we have gone overboard to raise the issue. Of course, all the money that we obtain from user fees, and so on, as well as the use which is made of it, is reported to Parliament and is open for discussion.

As far as going beyond the law, I would say that the courts are there for that very purpose. We could be challenged in the Federal Court. I have made our intention clear. I think that the honourable senator agrees with what we are trying to achieve in good management, but he is afraid that at one point it may go beyond and slowly remove from Parliament the capacity to make these very important decisions. That is not at all our intent.

Should at some point in time a particular decision be questioned, we could always discuss it at the time or go to court. The law is pretty clear in that respect, as is our position. It could be demonstrated easily that we have gone beyond user fees to what would appear to be a tax.

Senator Stewart: The implication of the last proposition is that if you have moved over into taxation, the order in council or regulation would be a nullity, be reason of being *ultra vires*. Is that correct?

Mr. Loiselle: I would be tempted to say yes because of the policy on which this is based. It is not at all our intention to try to remove the present taxation system on general services. Our efforts to have better management, something with which I know most senators agree, is something that has existed for

decades in Canada. It is something which we think should be used more often to bring in more market discipline. It is not intended to try to do otherwise.

Senator Stewart: I do not think we will disagree much on the ends that you intend to accomplish, but I am uncertain about the means you propose to use.

You seem to be saying that if you slide over into taxation you will have acted *ultra vires*. I am looking at a decision of the Supreme Court of Canada in the agricultural products marketing case back in 1978 where this question of the constitutional limitation on Parliament to authorize taxes only by a bill was dealt with, albeit indirectly. Chief Justice Laskin, at page 1229 of the report in the Supreme Court of Canada Reports said:

● (1520)

> In the present case, I need not come to any definite conclusion as to whether ss. 53 and 54 lay down prescriptions which are cognizable in the Courts. In my opinion, for reasons that follow, I do not agree that the levies authorized by s. 2(2) can be characterized as taxes, having regard especially to the context in which authority to impose or exact them is given.

In other words, the Chief Justice did not decide that conventional wisdom with regard to sections 53 and 54 is correct. At the same time, he did not decide that it is not correct.

However, another distinguished member of that court went farther towards challenging the conventional wisdom. I quote now from Mr. Chief Justice Pigeon's comments at page 1290, where he said:

> It does not appear to me that appellants' attack based upon the alleged absence of a message from the Governor General recommending its enactment, comes within the scope of the question submitted. Nothing in the order of reference or in the material submitted therewith, raises any issue with respect to the regularity of the adoption of the *Act* as opposed to its intrinsic validity depending on Parliament's legislative authority.

He goes on to say that that is not a fully germane question. Then he said:

> However, it appears to me that the appellants are entitled to request that consideration be given to ss. 53 and 54 of the *B.N.A. Act* in the following manner. It may be contended that, in authorizing a board or agency to impose and to use levies or charges, Parliament is indirectly doing what it may not do directly, namely, having a tax levied and appropriated otherwise than by means of a bill voted in the House of Commons on the recommendation of the Governor General. In my view this attack fails for two reasons. I agree with the Chief Justice that adjustment levies, as well as levies for expenses, are not taxes.

Then, honourable senators, listen to what he said next. He said:

> Furthermore, ss. 53 and 54 are not entrenched provisions of the constitution, they are clearly within those parts which the Parliament of Canada is empowered to amend by s. 91(1). Absent of special requirement such as s. 2 of the *Canadian Bill of Rights*, nothing prevents Parliament from indirectly amending by ss. 53 and 54 by providing for the levy and appropriation of taxes in such manner as it sees fit, by delegation or otherwise.

The implication of Mr. Justice Pigeon's decision is that if Parliament, explicitly or by implication, conferred upon the Governor in Council a power—called a fee or a charge, but, in fact, a tax—to impose such a fee or charge which was a tax, there would be nothing in sections 53 and 54 by reason of which that order in council could be found invalid. Mr. Justice Pigeon was supported in his opinion—although not necessarily on this point—with regard to the questions before the court by several other judges.

Consequently, it seems to me that the argument that these are only fees and charges, and the argument, by implication, that there is a point beyond which they cannot be collected because they really are taxes, must fall. That is why I was seeking assurance from the minister that, regardless of what they are called, they can only be for the strictly defined purpose of a fee or a charge, and that if a Government, deliberately or otherwise, slips over into taxation, the regulations or orders will be struck down. However, it seems to me that the decision in the Agricultural Marketing case says that the conventional wisdom, is not valid. I have heard nothing from the minister this afternoon which gives any assurance that we are not delegating powers which are not limited by sections 53 and 54 as interpreted by conventional wisdom.

I do not know whether the minister has had time to take advice from his learned counsel. Certainly, if he has I, for one, would like to have assurance that the views expressed in the Agricultural Marketing case is wrong.

Mr. Loiselle: Mr. Chairman, I have listened very carefully to the very interesting points made by the honourable senator. In this respect the amendments to the bill are extremely useful inasmuch as they will help in defining, much more precisely, what is a user fee; in stating, for example, that in no case should they exceed the cost; and in setting out under which conditions and after what process they can be implemented.

I think we are progressing in the same direction in making sure that we move away from the confusion by defining more precisely, as we have in this bill, user fees and when they can be implemented, with what authority, and with what regulatory power. This will help us to make the distinction between the two.

Of course, I am aware of very rich jurisprudence which exists in this regard. However, I would repeat that I am not a lawyer and am not competent to pass judgment, particularly on Judge Pigeon, whom I knew and who always impressed me considerably.

Senator Olson: Honourable senators, I want to raise somewhat the same matter and also a matter that Senator MacDonald raised respecting some of the fees that may be charged in the future for shippers and shipping.

I will raise a couple of questions which have to do with agriculture. I am sure that almost any senator could look at a government service in any sector and have some great difficulty in determining the actual cost to the government for providing that particular service. I also agree with Senator MacDonald that all of the great objectives of modernizing, streamlining, helping with the debt, and so on, are desirable. If you want to do all these things, fine, but then ask Parliament for permission to do them.

● (1530)

Senator Simard: Read the bill!

Senator Olson: I have read the bill very carefully. I do not want to get into an argument with Senator Simard, because he is usually off in left field, but I want the minister to try to explain how the government is going to determine what are the costs to the government. I will give you some pretty complicated questions with respect to that—and, by the way, I sat on Treasury Board for quite a few years, so I know what kind of representation is made there. For example, there is a great deal of service that is provided by the federal government, through the research stations and through the Health of Animals Branch, to the producers of animals that go into our food chain. Is that a service only to the primary producers, who in this case would be the users of the service, or is it a service that is provided for the general welfare of the general public? That is a good question, but under this bill you are seeking to put all of that under the discretionary authority of the Governor in Council. We need an answer to that.

Another example I could give you is the matter of the agricultural research stations that have provided all the new seed that Canadian farmers have used for the last 60 years, or perhaps even longer than that. The government set up plant breeding stations. The main one that we have is in Winnipeg, and, just to give you one example, there are usually between 4,200 and 4,800 separate families of wheat growing in that research lab all the time, and whenever they find one that appears to be superior to what is then in general use, that particular genetic material is taken out and tested against all the diseases and other problems that a farmer or a primary producer could have with it, and then, after all that is done, it is licensed for sale and for use in Canada. Up until very recently it was against the law of Canada to produce a seed of wheat that does not meet all those tests and receive that licence. The reason is very simple. Canadian farmers—or the Canadian Wheat Board as their agent—have been able to sell wheat all over the world for the last 40 or 50 years on the basis of a grade submitted. Every other country in the world also has to provide a sample and has to guarantee that the sample is representative of what will be shipped. So, in that area, there are hundreds of millions of dollars spent by the federal government in these research stations to protect the health of animals and the quality of Canadian agricultural products.

I have given you only two specific examples, but the situation is the same for potatoes, for apples, and for all the rest of the products. How much of that are you going to consider as user fees for the primary producers, who are the first and most immediate direct customers of the service that is provided by those research stations? That is not spelled out in the bill, but what is said in the bill—and I know the government is looking for all the authority it can get—can be found on page 4 under the proposed section 19.2, which states that any charge cannot exceed the cost to Her Majesty in the right of Canada of providing the service. I understand that. However, there is almost no limit to how much you can put in there as the cost inputs that went into delivering the service, whether it is for some new variety of some seed or for some new service to dispose of, or deal with, a serious health problem in animals. So it seems to me that you need to tell us how you intend to arrive at that cost figure.

I can understand the shippers having some concern as to what you are going to charge for navigation services and the various other things that the federal government provides. It is also interesting to note that you can vary the service. You are asking for authority to have varied services; in other words, you do not need to charge everybody the same for exactly the same service. Is that right or not right? I think it is right. I think that you have provided, in clause 6 or 7, that you can charge a person in one part of the country a different fee or charge, however you define it, for exactly the same service as someone somewhere else. The bill says that. You can do it one of two ways, either by way of the charge in the first place or by way of remission. Then you have two or three ways of remitting the charges or setting up partial fees. On page 6, the bill says that you can grant a partial remission.

The authority that you are seeking under this bill is enormous, and when Senator Stewart complains that you are really taking unto the cabinet, and, unfortunately, unto the bureaucrats in the various departments, the right to set down certain charges and be discriminatory in laying down those charges, we find it is provided in this bill.

Senator Simard: Read the bill!

Senator Olson: I have read the bill and I probably understand it better than you do, Senator Simard.

Senator Simard: That seems to be your problem.

Senator Olson: Yes, that is my problem; I understand it too well. We need to understand why you are seeking all this authority, but you come along with these explanations in law, citing some jurisprudence as to what is a charge, what is a fee and what is a tax. Well, I know one thing for certain: For every one of those, someone has to pay something. You do lay some limits on one of those items, where a fee or a charge other than a tax cannot cost more than it cost the federal government to provide the service. Well, I want to tell you there is so much room in most of the government services that that is absolutely ineffective and irrelevant. That is particularly so with regard to the research stations. Everything will depend on the amount of research you are going to throw into that cost. We do not know that. It does not say that in the bill.

There is a simple solution to all of this. When you want to charge the user fees or charges, or whatever you want to call

them, just ask Parliament, as has been done in this country ever since Confederation.

You came along with a bill a few weeks ago regarding plant breeders' rights. I objected to it then and I object to it now. We were told that the market would decide how much these plant breeders and other would charge for their services. That is really just some kind of market-oriented baloney because there is no one doing that in Canada, and anyone who wants to bring any seed into Canada has to subject it to all of the tests for health and so on to ensure that there will be no contamination of the plants that are already growing in Canada, whether it is a grain, a legume or anything else. Those charges are paid, by and large, by the federal government's Department of Agriculture. So how are you going to sort that out? Under this bill you are seeking to give the Governor in Council the authority to transfer that authority from Parliament to the Governor in Council, and what we have seen them do lately cannot give Canadians any confidence that they will be competent and reasonable in doing it.

• (1540)

That is why I am concerned. That is why people in my riding are concerned, that the government would transfer the authority to invoke charges on the Canadian people without asking Parliament. It is the same thing for shipping. I think it will involve trucking. It will certainly involve agriculture. So far the minister has only said, "Trust us". The Conservatives know why they are at 14 per cent, because people do not trust them, that is why. They do not trust anything that you do anymore. They do not even believe what you say. So we need some assurance before we give you this kind of authority, because the right to tax has always been asked of Parliament first, not in a little room where you have cabinet meetings once in a while and sometimes only with a few of the ministers. If we ever get to Question Period, there are a few things I would like to sort out there as well, but that is another argument.

All I ask of the minister is that he give us some assurance that he is not simply transferring the authority to charge fees and taxes, all of which are the same thing, except that by your definition they really do not have a lot of validity to a lot of services provided by the federal government anyway. We would like to know where the limits will be.

Mr. Loiselle: Mr. Chairman, I think I can give you all the assurance that we are not inventing anything. I think it was in 1957 that a bill was passed in which it was written:

> Where a service or the use of a facility is provided by Her Majesty to any person and the Governor in Council is of opinion that whole or part of the cost of providing the service or the use of the facility should be borne by the person to whom it is provided, the Governor in Council, on the recommendation of Treasury Board, may

Et cetera. This is not my bill. This is a bill that Canada has been living under for decades. What we are doing to address the problems you have raised is putting in more precise definitions to avoid potential abuse of these user fees and to be sure that we all know what is meant.

[Senator Olson.]

So, with respect, I would say to the points the honourable senator has raised that we are trying to obtain an authority to use discretionary power. We are restricting the authority that has lain with the government for more than 50 years.

Senator Olson: Honourable senators, that is reassuring. I have to ask, then, why are you bringing in clause 6? Why are you asking for it today? Clause 6 reads in part:

> The Governor in Council may, on the recommendation of the Treasury Board,
>
> (a) by regulation prescribe the fees or charges to be paid for a service or a use of a facility provided by or on behalf of Her Majesty in the right of Canada, . . .
>
> (b) authorize the appropriate Minister . . .

I suspect that that refers to the Minister of Agriculture in some cases. If you have that authority, why are you asking for it in this bill?

Mr. Loiselle: Mr. Chairman, clearly we have this authority. We are saying, first, that we will do it by regulation so that the situation is clear and accessible to the public. If you read proposed section 19.3 below, you will see that in effect it says "without respect to other acts." We are saying now that we will continue to do what has been available to governments for decades, but we will make it subject to other acts. We are restricting, sir, with respect, "subject to the provisions of any Act of Parliament." We are, I would say, being much more respectful of government than has been the case in the past. The authority to implement user fees has been there. We are restricting it, defining it, making sure that it is used for the purpose intended and not something else. So all these measures are more restrictive ways of doing what has been within the authority of government since 1957.

Senator Olson: I will accept that, but I am not voting for the bill because I am suspicious. However, I accept that those intentions are there.

Senator Simard: Sit down.

Senator Olson: Pardon me. Why do you want my to sit down? Can't you stand any criticism? It is our job to look at these kinds of bills and to pick out the weaknesses and abuses that this government has wrought on the people of Canada over the past few years. I intend to do that with all the vigor at my disposal, whether you like it or not.

Senator Murray: Honourable senators, if I may, I do not contest for a second the right of my honourable friend to make his points as he puts it with all the vigor at his disposal. We look forward to his presentation, but I think we have now gone beyond the point where members of the committee have questions to put to the minister and that he has answers to provide. We are now into a debate on the matter. I would be very pleased to hear my honourable friend.

With the indulgence of the committee, I thank the President of the Treasury Board for having appeared here this afternoon. He has been here for an hour and a quarter and has answered the questions that have been put to him quite thoroughly. So I would invite him to depart so we may continue the debate.

Senator Barootes: Surely you understand.

Senator Olson: Honourable senators, I understand very well. I want to close by saying that I wanted to raise these reservations. I do not see any purpose in coming to Parliament for authority the government already has. The government already has the authority by a bill that was passed in 1975 or 1976. Why are we messing around with it now? It does not make any sense.

Senator Simard: Read the bill.

Senator Olson: If I read a bill I understand it. Apparently you have read it and you still do not understand it. Anyway, I don't want Senator Simard to divert me from my very logical argument. I am satisfied that I have raised the questions. I did not get a satisfactory answer except to say, "Trust us." The people of Canada do not trust you, but we will see what happens when you start setting fees that appear to be unreasonable to a lot of people.

Senator Phillips: Honourable senators, I move that the clause deleted from the bill by the National Finance committee be reinstated in the bill.

The Chairman: It has been moved by the Honourable Senator Phillips that the clause deleted from the bill by the Standing Senate Committee on National Finance be reinstated in the bill. Are honourable senators ready for the question ?

Some Hon. Senators: Question.

The Chairman: Those in favour?

Some Hon. Senators: Yea.

The Chairman: Those contrary?

Some Hon. Senators: Nay.

The Chairman: In my opinion the "yeas" have it.

Senator Frith: On division.

Motion agreed to, on division.

Senator Phillips: Honourable senators, I move that the committee report the bill without amendment.

Motion agreed to, on division.

The Hon. the Speaker: Honourable senators, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gerald R. Ottenheimer: Honourable senators, the Committee of the Whole, to which was referred Bill C-91, to amend the Financial Administration Act and other Acts in consequence thereof, has examined the said bill and has directed me to report the same to the Senate without amendment.

• (1550)

THIRD READING

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

Hon. Orville H. Phillips: With leave now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No. Debate, please.

Hon. John B. Stewart: Honourable senators, when defending the use made by the Mulroney government of Governor General's special warrants in 1989, Senator Murray told the Senate that it should not pay too much attention to what deputy ministers, or even ministers, say when they ask the Senate or the House of Commons to approve a clause in a bill. What senators should focus on are not their words, but the words in their bill. Senator Murray told us, on May 17, 1989, in *Debates of the Senate,* at page 243, that it would be more relevant to square the actions of the government in 1989, not with what Mr. W. C. Clark, the Deputy Minister of Finance, said when the Financial Administration Act was being amended in 1951, or with what Mr. Donald Fleming, the Minister of Finance, said when the Financial Administration Act was being amended in 1958, but with the words of the act.

We should heed Senator Murray's advice today as we examine Bill C-91, yet another bill to amend the Financial Administration Act. In Committee of the Whole this afternoon, again and again the minister told us that his intentions were all good, that the intentions of the present government were all good. Of course, Senator Murray was smiling as he listened to the minister, because he remembered how insignificant are the intentions and words of ministers when they urge the Senate or the House of Commons to adopt a clause. It is the words in the clause that count, said Senator Murray. Forget the salesmanship of the deputy minister or indeed of the minister. They may change their minds; indeed they themselves may be changed. There will be successors whose intentions may not be the same as those of the minister of the day.

Clause 6 of the proposed bill, the clause that the committee on National Finance set aside, would amend section 19 of the Financial Administration Act. The government just now revived clause 6. Presently section 19 of the Financial Administration Act reads as follows:

> Where a service or the use of a facility is provided by Her Majesty to any person and the Governor in Council is of opinion that the whole or part of the cost of providing the service or the use of a facility should be borne by the person to whom it is provided, the Governor in Council on the recommendation of the Treasury Board may
>
> (a), subject to provisions of any Act relating to that service or the use of that facility, by regulation prescribe the fee or charge to be paid by the person to

whom the service or the use of the facility is provided; or

(b), notwithstanding the provisions of any act relating to that service or the use of that facility, but subject to and in accordance with such terms and conditions as may be specified by the Governor in Council, authorize the appropriate Minister to prescribe the fee or charge to be paid by the person to whom the service or the use of the facility is provided.

What the government wants the Senate to agree to today is to drop the condition in the present act, namely "where the Governor in Council is of opinion that the whole or part of the cost of providing the service or the use of the facility should be borne by the person to whom it is provided." Under clause 6 we are to move from a situation in which fees and charges are thought of as exceptional to a situation in which they are to be regarded as the norm.

At present section 19 provides that the Governor in Council is to decide whether the whole or a part of the cost is to be recovered by a fee or charge. Clause 6 makes no direct mention of recovering part of the cost. What it does say is that

the fee or charge may not exceed the cost to Her Majesty in right of Canada of providing the service or the use of a facility to the users or class of users.

The clear implication is that full cost is to be recovered unless the government decides for its own reasons not to recover the full cost. That full cost is to be the base, and is shown by the Treasury Board paper to which I made reference in the committee earlier today, the paper entitled "Policy on External User Charges for Goods, Services, Rights and Privileges". The principle stated therein is that

Charges for using public facilities (other than by sale, lease, license or loan) and for services provided by the government must be for the full cost, subject to the exceptions in Appendix A.

How is full cost to be determined? Here again we have the guidance of the Treasury Board policy statement.

"Full cost is the sum of all costs (direct, indirect, cash and non-cash) the government incurs supplying a good, service, property, or limited right of privilege. These include goods or services that other departments provide without charge (e.g., legal services, accommodation, issuing cheques, employer contributions to insurance plans); costs financed by separate authorities (e.g., some employee benefits, termination pay); the financing costs of inventories and annualized capital costs including finances."

Indirect costs—to be included in determining full cost—include administrative overhead, accommodation, shared capital and shared inventories. Conceivably even a part of the deputy minister's salary is to be included in full costs.

Nor are benefits to the public at large to modify the meaning of the expression "full costs." I quote again from the Treasury Board policy statement.

[Senator Stewart.]

Full costs means the full cost of providing the service regardless of any broader public benefits over and above the specific benefits to users or other direct beneficiaries.

• (1600)

According to the Treasury Board recovery less than full cost is justified in certain cases. These are specified in the appendix, Appendix A, to which I made reference. Less than full cost is to be recovered, for example, where full recovery would reduce consumption of the good, service, right or privilege sufficient to compromise achieving program or other important government objectives. Again, recovery may be less than full cost where full recovery would have a serious unintended—that is, presumably unintended by the Treasury Board—detrimental impact on the financial position of particular groups or classes of users. So it is possible for the Treasury Board or a department to back off from full cost, to abate the fee or charge.

Not only does the Treasury Board urge the departments of the government to adhere firmly to its policy with regard to user fees, but it offers incentives to the departments. They are told in Appendix C, page 14, of the policy paper that:

..increased revenues user charges for goods and services will generally be used to reduce dependence on appropriations to finance the supply of these goods and services.

"Bring in more money for fees and charges and we will reduce your need to go to Parliament for appropriations." Among the specific rewards offered to departments, the Treasury Board states that it will:

Provide a performance bonus calculated in proportion to the increased revenues from user charge initiatives (i.e. increases in proportion of costs recovered through charge increases or improved collections). This bonus would reward revenue-raising effort and would be applied to the cost of justified departmental needs for which funds would not otherwise be available.

In other words, the department is being told to go out and squeeze your users as much as you can.

Senator Simard: No, no, no.

Senator Stewart: That is exactly what the policy says. "Raise as much money as you can, and we will reward you, and not only that, somehow or other we will make money available to your without you having to go to Parliament for appropriation."

Senator Simard: Are you guys collecting government taxes?

Senator Stewart: I am sorry, I did not hear the honourable senator.

Senator Simard: I have a question. Are you telling us that your policy would be to favour the bad taxpayers, people who are late and refuse to pay, that the government should not do anything about it? Is this what you are telling us?

Senator Stewart: No. I am interested in Senator Simard's view that what we are talking about here is taxes.

Senator Simard: That is right, collecting taxes. You say we shouldn't do anything about it.

Senator Stewart: I thought the Government's position is that we are talking about collecting revenue, ostensibly at least in the form of fees and charges.

Senator Simard: Come on, we are talking about taxes and user fees and everything else.

Senator Stewart: The government policy statement, which I commend to Senator Simard's attention, says that if a department brings in a lot of money, squeezes its users, it will be rewarded. Somehow or other this is to be done by allowing them to have money, perhaps without appropriation. Or perhaps they are saying that when departmental estimates are being prepared the Board will allow departments that have been good revenue raisers to inflate their votes somewhat. Is that what is being said?

Senator Simard: No.

Senator Stewart: If it is not, I should like to know what is being said.

Under the present section 19 any fee or charge is to be paid by the person to whom the service or the use of the facility is provided. The Treasury Board now wants the Senate to authorize the imposition of fees on classes of users of a service or facility—not on persons, but on classes of users. Those are the words to notice. The declared intention of the Treasury Board is to charge each member of a class of users an average fee or charge.

This approach is alarming to those of us who try to represent what I will call the warm water areas of the country, the areas of the country where transportation and fisheries are very active. It is generally agreed that those areas of the country rely more on federal government activity than many inland and urban areas. We have fisheries; we have marine transportation; we have the coast guard; we have navigation aids. All these are under federal jurisdiction. Now the Treasury Board is saying that it wants to be able to set up classes of users and to fix a fee or charge that will be imposed equally upon each member of the class.

In the committee of the other house the Government explained how beneficial this would be. They said that a class conceivably will include people in the north, where costs are high, and also people in the south, perhaps in Halifax, Yarmouth, Sydney, Vancouver, and "we will impose an average fee or charge on all those within the class."

• (1610)

In other words, they propose to shift the cost of providing extra support for the people in the north from the general taxpayer to those in the same class of users in the south, perhaps to shipping interests, perhaps to fishermen, in Nova Scotia and British Columbia. That is the declared intention of the government.

The Treasury Board wants the Senate to agree to give it—that is, the Treasury Board—the right to define each and every one of these classes of users. The classes of users are not to be established by Parliament. The definition of a class of users is to be created by the Treasury Board—that is, by the Governor in Council on the advice of the Treasury Board.

Under clause 6, which the government asks us to vote for this afternoon, the fee or charge to be paid by a user or to be averaged within a class of users is not to exceed the cost to the government of providing the service or the use of the facility to the user or the class of users. However, in no place whatsoever in the bill is "cost" defined. We are told in the Treasury Board policy paper—and policy papers come and go, of course—that cost includes everything that they can possibly tie, directly or indirectly, to the cost of the service or the facility.

As I said earlier, the factors to be considered by departments when fixing charges below full cost are set forth in that Appendix A. At first glance at least, these seem reasonable grounds for abatement, but the question for us to ask this afternoon is whether the grounds of abatement ought to be established by the Treasury Board or by Parliament. Assuming for a moment that we are prepared to say that full-cost recovery ordinarily is desirable, are we prepared to leave the important matter of establishing the grounds of abatement to the Treasury Board—that is, to those whom in eastern Nova Scotia are called Rideau Canal fishermen and the like?

Senator Simard: Come on.

Senator Stewart: You should listen to fishermen, real fishermen, when they talk about the Department of Fisheries and Oceans. Senator Simard, if you wish to make an address on this point—

Senator Simard: I will, after.

Senator Stewart: You were an active participant in the work of the committee. You pretend to understand the bill; I invite you to rebut what I am saying.

Senator Simard: When you sit down, then I will.

Senator Stewart: I will sit down soon. I had hoped to be able to give these few comments without having to contend with filibustering, but, if Senator Simard persists, I can only try to rebut the nonsense that he is trying to put on the record of the Senate. And now we have Senator Barootes trying to assist Senator Simard in his filibustering efforts—Senator Barootes, who did not even deign to come near the committee.

Senator Barootes: We will take it as read.

An Hon. Senator: He was on holidays.

Senator Stewart: Cost recovery no longer is of little importance either in financial or constitutional terms. This is shown by the Estimates for the current fiscal year. How much do you suppose it amounts to? Part I of the Estimates, pages 72-73, shows that user fee revenues in 1991-92 are expected to be upwards of $3.5 billion and climbing.

I doubt that when Parliament enacted the present section 19 of the Financial Administration Act it ever anticipated that the power to impose fees and charges, however delegated by Parliament, would be used as extensively as they have been used. Clause 6 today asks us to give a nod of approval to what

has been done. It also asks us to enlarge the power of the Treasury Board, acting through the Governor in Council, to raise revenue by what Bill C-91 calls fees and charges.

We should be told what the government will do under the proposed new section 19 and under comparable sections of other statutes. We should be told, first, in the case of each department, the full costs of each service and each facility. Second, in the case of each service and facility we should be told what abatements from real cost have been allowed by reasons of the exceptions set forth in Appendix A. The Treasury Board has this information.

The Treasury Board paper, on page IV, states:

> Where not already included in the External User Fee Revenue Plan, departments must be in a position to supply the TB with a list of their activities that provide specific benefits to external users. These lists must identify: the full cost of the activities, and, in the case of property, its value; the current charging policy and its rationale; appropriate charges, if not already in place, conforming to this policy, and plans and a timetable for implementing them; and progress towards setting appropriate charges and attaining any user fee revenue targets the TB has approved. Where appropriate charges are less than amounts in accordance with requirements 2 to 4 (i.e. full cost recovery or market rates), departments must document, and be in a position to provide, the rationale based on the provisions governing exceptions in Appendix A.

In other words, we should know what the costs of the various goods and facilities provided to users are, and we should know what abatements from the full costs have been made.

I want to move now to that part of clause 6 that should add a new section, section 19(1), to the Financial Administration Act. In that part of the clause we are asked to give the Governor in Council the power to fix the fee or charge to be paid for a right as well as for a privilege. However, if we look at the Treasury Board paper we find that it does not refer to rights but, rather, to "limited rights."

A question I wanted to ask the minister, before Senator Murray imposed closure by whisking the minister away, was why a change is being made in language, away from "limited rights"—the language used in the Treasury Board paper—to the all-inclusive term "rights" in this bill. In the proposed part of the section the Governor in Council is to have power to fix the fee or charge to be paid for a right.

What does that mean? What is the distinction that is intended between right, on the one hand, and privilege on the other? Moreover, honourable senators will notice that these rights or privileges may be conferred by any form of authorization, written or oral. License permit or other authorization—what does "other authorization" mean?

● (1620)

What does "other authorization" mean? Does that mean the nod of a customs officer indicating that you have the right to proceed into Canada with the goods you wish to import? Could a fee or charge be imposed for that right conferred in that way?

[Senator Stewart.]

In explaining proposed section 19.1 to the legislative committee of the House of Commons, Mr. Barry Lalonde of the Treasury Board secretariat said, "We are trying through these changes to introduce the notion of rights and privileges, and that is simply to reflect intellectual property, drilling rights and those kinds of things where in fact the government is providing someone the right to do something and there should be an appropriate charge for that".

Honourable senators will notice that, unlike the earlier part of the new section, section 91 will not set a limit beyond which the fee or charge for a right—a drilling right, for example—may not go. Neither does it state how the amount of the fee or charge for such a right is to be established. All that is to be left to the good intentions of the people who work for the Treasury Board or in various other departments.

What is the point of the proposed new section 19.3 at lines 15 to 19 of the original draft of the bill? It states:

> "Regulations and orders under section 19 and 19.1 are subject to the provision of any Act of Parliament relating to the service or the use of the facility, or to the right or privilege . . .

This seems innocuous in that it merely makes statutory a principle of common law. However, if at some time in the future section 19.3 is repealed, the effect of the repeal will be to obliterate a major tenet of common law.

Then we have the second part of proposed 19.3. It seems odious. It states that a fee or charge may be required even though Parliament has required the government to provide a service or a facility, or where Parliament has required the government that a right or privilege must be conferred. There may be a charge for a right that has been conferred by Parliament. It sounds very strange.

Again and again we hear the minister say, "Our intentions are good, trust us."

Senator Corbin: You better not believe them.

Senator Stewart: The fishermen in the Atlantic provinces would not heed those words today because right now they are protesting against the new dockside monitoring policy introduced by the government. I wonder if honourable senators realize what the government is doing. It is saying to the fishermen, "You come to us for a licence to fish, a licence to carry on your livelihood. Well, we say to you, you have to join an association, which association will hire a dockside monitor. Of course, the association will pay that dockside monitor. As a condition of your licence you must make a contribution to the association equivalent to your share of the cost of paying the monitor. Otherwise, you do not get a licence."

When we asked the Department of Fisheries and Oceans what authority it has for imposing this requirement we are told that under the Fisheries Act the minister has absolute authority. But that is not what the Treasury Board paper says. It says in the parts I read out earlier today, "Be careful because when

you amend your act to permit charges you must ask Parliament for specific authority to impose a fee or a charge. Vague, general language is not enough." But that is not what the Department of Fisheries and Oceans is doing. It is saying, "The minister has absolute authority. He can do whatever he likes. Parliament has spoken in global language and that includes fees, charges, and payments such as these to be made to pay for dockside monitoring."

That the fishermen of Atlantic Canada have good reason to be sceptical when they are asked by Treasury Board, "Trust us." What did we hear this afternoon? We heard, "Our intentions are good, trust us. Trust us to decide for what services, facilities, rights and privileges a fee or a charge will be imposed". That is what the minister is asking for in this bill. He is saying, "Trust us to decide what the full cost for a service or a facility is to be." He is saying, "Trust us to decide what, if any, abatements, from the full cost for a service or facility will be allowed. Trust us to decide what users are to be included in a class of users to which an average fee or charge is to be applied. Trust us to decide what users of a facility, a wharf, a navigation aid, a breakwater are to be charged and 'who' are not to be charged. Trust us. Trust us and all our unknown successors." That is what we are being asked to vote for—

Senator Simard: Amen.

Senator Stewart: Senator Simard says, "Amen" to the Government; and I do not.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I know that some are wondering why we are making such a fuss about this matter. I also know that I might not convince some of those same people or others that there is good reason to put some fuss on the record about it.

The comments of the minister were candid and appreciated, as was noted by Senator MacDonald from Halifax, and do provide a background for putting something further on the record about it when he enumerates a long list of advantages and conveniences to the government and the Crown with regard to the collection of money.

What I want to put on the record are two perspectives on principle from the point of view of the people. The first is the historical enshrinement of the people's point of view. I then want to put something on the record from a less historical point of view as to effects and application of the same principle in contemporary or present times.

I think the most useful way I can do this on the first branch—that is, on the historical point of view—is to refer to the leading case on the principles that are raised in this legislation, in the report of the committee on the legislation and, of course, the report that ensued from the deliberations of the Committee of the Whole.

• (1630)

I will not bore you with the details of the case, because I think you will quickly see that the facts of that case raised the same issues we are concerned with here today and stimulated some useful comments by Lord Justice Atkin, one of the common law's most eminent jurists. The case is called: Attorney General v. Wilts United Dairies.

I am referring to a case book by D. L. Kier, Master of Balliol College, Oxford, and F. H. Lawson, M.A. and Doctor of Common Law of Gray's Inn, Barrister-at-Law. The title of this book is *Cases in Constitutional Law*.

Briefly, this was a wartime case and the analogy is that a food administrator thought he was permitted, by statute, to levy what was argued to be a tax by way of a licence fee. Because of what he thought was statutory authority, he issued orders providing, among other things, that excepting under certain licensing no milk could either be purchased within an area comprising the counties of Somerset, Devon, Dorset and Cornwall, or bought outside that area for distribution. This case was before the Court of Appeal in England. An appellant company which dealt with milk got a licence, but only on condition that it agreed to pay twopence for every gallon of milk purchased.

The other aspect relevant to our consideration is that he had certain powers to use the money to defer costs, which is exactly the same principle we have before us.

Lord Justice Atkin said:

> The question of law that arises is whether the Food Controller had any legal authority for requiring the defendants to agree to pay the sums in questions as a condition of the licence required.

I do not want to go too deeply into the facts, but I do want to elaborate sufficiently so that you will know what raised the principles to which Lord Atkin referred that I think are engaged by the legislation before the Senate today. Lord Atkin goes back quite deeply in history and into some very important traditions and principles of constitutional law. At page 164 of the case book he said:

> The present charge is in respect of money claimed on behalf of the Crown by the Food Controller as a condition of a grant of a licence. It could not be disputed that the Food Controller could only acquire the right to make such a charge by statutory authority. No power to make a charge upon the subject for the use of the Crown could arise except by virtue of the prerogative or by statute, and the alleged right under the prerogative was disposed of finally by the Bill of Rights (1 W. and M., sess. 2, c.2). It may be convenient at this stage to remind ourselves of this statute, an act for declaring the rights and liberties of the subject. After reciting that the late King, by the assistance of divers evil counsellors, judges, and ministers, employed by him, did endeavour to subvert and extirpate . . . the laws and liberties of this kingdom . . . by levying money for and to the use of the Crown—

I might just mention that those are the same words used by the minister. Lord Justice Atkin went on to say:

> —by pretence of prerogative for other time and in other manner than the same was granted by Parliament . . . all of which are utterly and directly contrary to the known laws and statutes and freedom of this realm, the lords and

> commons declare that levying money for or to the use of the Crown [as above] is illegal: and pray that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the above declaration are the true ancient and indubitable rights and liberties of the people of this kingdom and shall be strictly holden and observed . . . and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come, all which their Majesties are contented and pleased shall be declared and enacted and established by authority of this present Parliament and shall stand, remain and be the law of this realm for ever, and the same are by their said Majesties by and with the advice and consent, &c., declared, enacted and established accordingly.

All that does is to say that prerogative is gone. The two ways to levy were by prerogative and by statute. What Lord Atkin was saying was that the prerogative, the right to levy taxes, was disposed of by the Bill of Rights. What does that leave? He goes on to say:

> Though the attention of our ancestors was directed especially to abuses of the prerogative, there can be no doubt that this statute declares the law that no money shall be levied for or to the use of the Crown except by grant of Parliament.

It is not by prerogative, it is but by grant of Parliament. He goes on to say:

> We know how strictly Parliament has maintained this right—and, in particular, how jealously the House of Commons has asserted it predominance in the power of raising money.

That was raised earlier today.

He then goes on at that point to discuss the question of the rights of the lords on which we have some difference of opinion. I am not sure to what extent Senator Beaudoin and I differ on this, but I think we agree that there is no question that the House of Lords either accepts or rejects money bills. We argue that here there is the possibility of also amending money bills.

He went on to say:

> In these circumstances, if an officer of the executive seeks to justify a charge upon the subject made for the use of the Crown (which includes all the purposes of the public revenue), he must show, in clear terms, that Parliament has authorized the particular charge.

Of course, this is background because this statute does, in fact, attempt to do that.

Further on that page, he said:

> I am clearly of opinion that no such powers, and indeed no powers at all, of imposing any such charge are given to the Minister of Food by the statutory provisions on which he relies.

[Senator Frith.]

• (1640)

> I will express no opinion upon the Defence of the Realm Consolidation Act, 1914, itself, whether the provisions of the statute should be construed as authorizing regulations to be made giving the executive power to impose charges upon the subject. But I am satisfied that the powers given by regulation 2F include no such powers.

To be fair, that is why I said I am not drawing these comments of Lord Atkin to your attention, honourable senators, in the same way that I would be trying to use a case in a court, because this case, as far as the statute was concerned, only said that the particular regulation did not give the Food Controller that right there. Here, there is a different issue. Here, the issue is the background. At this stage, I am simply saying why we are making a fuss about it. It is because it is so clear, and we in the Senate should always be very conscious of these principles of constitutional law that impose very strict obligations, duties and rights on Parliament when it comes to levying taxes—or anything that is like levying taxes, though by another name.

Now, Senator Stewart has covered the specific situation very well. However, I do want to put on the record one citation that is relevant to the issue discussed by Senator Stewart, the minister and, I believe, Senator Olson, as to when such a levy or imposition is a tax. There was an interesting and informative exchange, I found, between the minister and Senator Stewart about when does an imposition or a provision go over onto the tax side of the border or, you might say, over the precipice. I remember, and I am sure Senator Beaudoin and others may remember, the fairly famous precipice theory of Mr. Justice Brandeis in the United States.

Before he became a judge he was one of the leading lawyers in America, particularly on anti-trust cases. He gave much guidance, not only to his clients but to those of us who were practising law—and at one time I was on the Attorney General's side prosecuting combines cases. He would say to his clients, on the question of conspiracies or agreements in restraint of trade, "I can tell you roughly where the edge of the precipice is, where your conduct might lead to an inference, for example, of actions in restraint of trade, but I will always advise you to stay well back from the precipice because I can never be sure that, if you get too close to it, you might not trip on a root and fall over." The question then, as Senator Stewart underlined, is: When will we know that such an imposition is a tax and, if he understands the government's position correctly, therefore *ultra vires*? I can give you one of the many tests, I think a well known one—and we are on quite an international front here because this was an appeal from the Supreme Court of Cyprus which went to England. The name of the case is Constanfinides—which sounds like a Greek name, Senator Barootes—versus Electricity Authority of Cyprus.

Senator Barootes: The year?

Senator Frith: 1982.

Senator Barootes: Was your first one from World War I or World War II?

Senator Frith: The first one was from World War I. Do you like them newer?

Senator Barootes: At least you are doing them in chronological order.

Senator Frith: I am glad you appreciate this thoughtful, chronological development. Anyway, although Senator Barootes and I may not agree on some of these principles, which seem to appear to him to be a bit ancient because they go back some years—

Senator Barootes: That is not fair. You do not know what I mean and you do not know what my principles are. You do not know how far back my history goes. Mine goes back a lot farther than yours.

Senator Frith: Exactly, and that is why I am glad I gave you the opportunity to deny that you did not have the same deep respect that I have for ancient tradition.

Senator Barootes: Thank you.

Senator Frith: The quotation from the case is as follows:

> that an imposition is a tax if it is found—

Senator Simard: Are you on scene one, part three now?

Senator Frith: Does it matter? You can read about which scene it is. Just enjoy the play.

Senator Simard: We don't enjoy your plays.

Senator Frith: Are you the kind of person who—

Senator Simard: I knew you would take the bait.

Senator Frith: —goes to a play or to see Shakespeare and cannot enjoy it unless someone tells you what is happening? Do you expect the people to stop every once in awhile and tell you if it is Act I, page three, line six? Is that what you want?

Senator Simard: Go ahead. I just wanted to remind you that you were not at the playhouse. This is the Senate here, and I will pick my own show.

Senator Frith: In fairness, honourable senators, the metaphor of the stage, and of act and scene, was raised by Senator Simard, not by me. I thought he was the one who wanted to put on a performance. I did not mention those things; he was the one who mentioned them.

Senator Simard: Thank you.

Senator Frith: So are you relaxing to enjoy this, then?

Senator Simard: Oh, yes.

Senator Frith: The quotation says:

> that an imposition is a tax if it is found to fulfil certain characteristics, namely, (a) it is compulsory and not optional,

Does that apply to the case before us? I say yes.

> (b) it is imposed or executed by the competent authority,

Does that apply here? Yes.

> (c) it must be enforceable by law,

Does that apply here? Yes.

> (d) it is imposed for the public benefit and for public purposes,

Does that apply here? Yes.

> and (e) it must not be for a service for specific individuals but for a service to the public as a whole, a service in the public interest;

There is perhaps something debatable about that. It continues:

> that it does not matter that those who pay the tax do not receive the benefit which others paying the same tax receive, the purpose of the imposition being to help or finance an essential public service which constitutes in the words of Article 24.1 of the Constitution a public burden

The constitution being referred to there, I take it, is the Constitution of Cypress.

So that gives the background, the traditions, and the constitutional principles that are engaged by what is before us.

As to the peoples' perspective versus the Crown's and government's perspectives in the present day, I refer to a letter I received from the Shipping Federation of Canada. This does not deal with the First World War or Cypress or 1914 or 1982, but with May of 1991, our present instant month. It is from the Shipping Federation of Canada. It is addressed to me and it reads:

● (1650)

> We have had the opportunity to review the testimony of the Treasury Board and Transport Canada witnesses who appeared before the Standing Committee on National Finance on April 18, 1991.
>
> The testimony of the witnesses was to the effect that Transport Canada's cost recovery policy could be implemented under section 19 of the Financial Administration Act as it now stands just as easily as it could under the Amendments to the Act contained in clause 6 of Bill C-91.
>
> We do not think so. There is no doubt that the present wording of section 19 gives broad powers to the Governor in Council with respect to cost recovery but it does, by its own terms, require determination of "the cost of providing the service or the use of the facility" to "the person to whom it is provided". Clause 6 of Bill C-91, . . .

Which is the clause objected to.

> . . . on the other hand, would permit the collection of fees or charges to be paid for a service or use of a facility "by the users or classes of users of the service or facility".

That is the exact words that we have heard. The letter goes on:

> The point we wish to make is that the word "person" in the present Act, while it may include more than one individual or corporation having a joint interest in a service or use of a facility, does not include "classes" of persons.
>
> The practical effect of this, insofar as concerns the services dealt with in Transport Canada's cost recovery policy, is that while the costs may be identifiable in terms

> of "classes of users", they are virtually impossible to determine in terms of individual users, i.e., the shipowners. This is essentially because many of the services made available by Transport Canada, e.g. navigation buoys and VTS, are provided on a global basis, without regard to the individual needs or requests of the shipowners.
>
> Bill C-91, if passed with clause 6, will permit this Government or any subsequent Government to levy charges on groups or classes of users without the necessity and protection of parliamentary debate. At the stroke of a pen . . .

Incidentally, these words are from the Shipping Federation of Canada, someone presently directly involved in the application of this legislation.

Senator Simard: Do you agree with everything they say?

Senator Frith: No, I don't. Why would you say that? I am presenting to the Senate what they say. I do not know what that has to do with my agreeing with anything that they say. What the devil does that have to do with it?

Senator Olson: He just wants to know if we have read the bill.

Senator Frith: He doesn't; he is just making a silly intervention. It has nothing to do with what they say. I am reading a letter the shipping federation sent about the bill that is before us, and it is before every senator including Senator Simard.

Senator Simard: So why are you reading it if we have it? It is on the record of the committee?

Senator Stewart: Why don't we adjourn so they can cool down?

Senator Simard: That is up to you.

Senator Hébert: He never cools down.

Senator Frith: Anyway I was trying to put forward to honourable senators the position taken by the shipping federation. As I have said, I wanted to put on the record the historical perspective and the actual present day perspective. This is a Canadian group that has some views they want us to take into account. I am not talking about believing everything they say. I do not know what Senator Simard is talking about. That is all I am trying to do. This deals specifically with the legislation before us. So where was I?

> At the stroke of a pen, commercial shipping, pleasure boaters and fishermen each could be liable for a substantial portion of the $500 milion that Transport Canada intends to recover for navigation services provided. The fact that some of these users may hardly use these services at all need not enter the picture.
>
> We hope this will help to explain the message our witnesses intended to convey when they appeared before the committee on April 16.
>
> In conclusion, we do appreciate the Government's need to pass Bill C-91 and we are not unsympathetic in this respect. However, in view of the impact on the maritime transportation sector at large, we respectfully request that the Bill be allowed to proceed as reported by the committee, that is without clause 6.

[Senator Frith.]

So for those 2 reasons—the historical context and the very important practical present day context of the principles engaged by clause 6—I will be voting against third reading of the bill. Of course, I would vote for third reading of the bill with clause 6 deleted.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, I would like to take five minutes because I think any parliamentary system worthy of the name should give both sides a chance to be heard.

Besides being the sponsor of Bill C-91, I also have the privilege of representing one of the Atlantic Provinces. I know Senator Stewart was anxious to take us over this terrain a little earlier this afternoon.

He gave us the impression, as he did in committee, that the people of New Brunswick and the Maritimes generally did not want to pay their share of external user fees or simply did not want to pay their fair share of taxes, while my colleagues and I know perfectly well that the people in my region are Canadian citizens with all that entails, and that when they receive a legitimate request to pay their share of taxes, they do their duty.

Don't let anyone tell us this bill is going to force more fees on fishermen who don't have the ability to pay.

After my colleagues and I made sure that all the documents available at the department and Treasury Board were available to us, and after answering questions by honourable senators of the Opposition during three of four committee meetings, I am amazed today that Senator Stewart and Senator Frith are still raising issues that have already been explained satisfactorily. I think the people at Treasury Board are to be commended for their receptiveness and their generosity in making all this information available.

Senator Finlay MacDonald, who was not on the committee, asked some legitimate questions that deserved a reply. The President of the Treasury Board, Mr. Gilles Loiselle, answered a number of questions as he and his officials had done in committee. I am sick and tired of all this rhetoric about public servants or Rideau Canal fishermen determining the needs and solving the problems of Atlantic fishermen. I think we have officials who are well informed, experienced and sensitive, and who do not, always receive their due with their minister. That is where the minister comes in. Generally speaking, officials are sensitive to the needs of fishermen and other sectors. It is sheer nonsense to say that by a stroke of the pen, marine shippers, owners of ships on the Atlantic or the Pacific coast, will have to pay enormous user fees that are not based on their ability to pay.

The fact remains that the regulatory review process will be applied. I repeat, it is absolutely false and reeks of political rhetoric to say or to imply that a government or an official can, out of the blue, prescribe regulations imposing horrendous fees on anyone at all.

Senator Olson, you are such a great talker. You tried to convince us that this process was something new. As a former minister and a member of the Privy Council, you ought to know that at the time, during the halcyon years of the Liberal government, the formula existed. Regulations were prescribed. If I am not mistaken, the regulatory process has not been changed but improved, to make it more open and subject to debate by members of Parliament, for instance.

It is absolutely false to say that our government is making a mockery of democracy, that it can prescribe a tax or user fee on the spur of the moment, and that as a result, taxpayers will suffer.

• (1700)

[*English*]

Senator Olson: It didn't get better. It got worse.

Senator Simard: Senator Stewart, I have something for you. You said that civil servants, the poor taxpayers, would now be, to use your word, squeezed, whether in the maritimes or elsewhere, because this bill provides for the supply of money to the departments to encourage them to collect; not new user fees, not to surcharge people or invent new user fees because user fees will be implemented and changed, but once user fees have been approved by Parliament or through legislation—

Senator Olson: Where does it say that in the bill?

Senator Simard: I will come back to clause 6. In fact, I will take more than five minutes because you seem to be enjoying this. I am enjoying it, too.

Senator Frith: Which act is this and which scene is this?

Senator Simard: It must be assured that the departments do their work and collect even if it means more money to collect. The department will be encouraged—yes, the word is right—to go and collect the outstanding accounts so that bad taxpayers, late taxpayers, are not subsidized at the expense of good taxpayers who pay their taxes on time.

You have had your say. You have had two weeks. Do not use up my five minutes, or my extended five minutes. I am glad that as we finish this session we can deal with another major piece of the legislative agenda of this government.

We have debated over the last two years the UI legislation, the GST legislation, and this one is in the same category. It will not hurt anyone. It will bring sanity to the fiscal finances of the federal government. It will reduce the deficit.

Senator Olson: You are going to collect.

Senator Simard: It will still provide enough flexibility to protect people who are in need.

I am going to close on clause 6 because obviously you have an interest, and, as a Maritime senator, I too have an interest. I want to be able to go back to my people and say that I stood up in the Senate and tried to counteract what these people have told us. Not only did they get all the information that the department provided to you people over there, but you keep repeating what you said at second reading without taking into account what information you were given.

I am going to deal with section 6, because I am surprised and disappointed that the Liberal senators are still trying to make a case for the deletion of clause 6. Clause 6 has been misconstrued by some as conferring a broader authority to impose user fees. I was concerned, but I got my answer.

Senator Olson: We did not get it here.

Senator Simard: But you have been getting it today from me, as Senator Stewart got it in various committee meetings that he attended. Honourable senators on the Senate committee for National Finance were apprised by senior officials from Transport Canada and Fisheries and Oceans that cost recovery—if you would only listen—

Senator Frith: Is this what is called filibustering your own bill?

Senator Simard: You have had your time. You have had your slot.

Senator Frith: Filibuster away. It is your bill.

Senator Simard: I am going to leave my text here for a while. I want to deal with this. I hope in the new Parliament that the rules will provide for both sides of the house to have time allotted to them so that both sides can be heard. You have tried for the last two or three years, as a matter of fact for the last six years, ever since you lost your majority in the Senate, to determine the length of debate.

Senator Frith: No, far from it.

Senator Simard: Now, having determined the length of debate, you have used all of it.

Senator Frith: You have got the wrong side.

Senator Simard: I am telling you that I am not interested in that. Sometime we will deal with that.

Senator Frith: No time indication in the Senate.

Senator Simard: I hope the time when the Liberals decide everything in this house and the other place is over.

Senator Frith: No closure.

Senator Simard: Honourable senators, we were all apprised by senior officials from Transport Canada and Fisheries and Oceans that cost recovery plans are being pursued on the basis of existing authorities including, but not exclusively, the Financial Administration Act as it currently stands. Further assurance was given that clause 6 was required for all the good reasons I will elaborate on in a moment, but it is not intended to confer broader powers.

I want to turn to the reason why it is important that clause 6 be retained and why we voted for its retention. These amendments are intended to facilitate the consistent and equitable application of the government's cost recovery policy to strengthen the safeguards in the policy and to clarify the language of the act.

• (1710)

With clause 6 Canadians will be better served and protected when the user fee policy is applied.

Let me briefly go over the area of improvement. I dealt with the items other than section 6 in the first speech and the minister has certainly supplied all the answers that were required of him. Clause 6 will ensure that the Financial Administration Act can no longer be used to override the provisions of any other act of Parliament. It does not matter how often Senator Stewart says it is otherwise, the legal experts say, and any reasonable person would agree, that this act does not get new powers, it cannot override other legislation. It will make the setting of fees under the Financial Administration Act subject to the provision of any act rather than "notwithstanding the provisions of any act." That is the key. You will agree, Senator Frith, that this is far from the broadening of authority.

I guess I will skip the rest. I could table it and consider it as read if you would allow me. I know this is not done. You can read it next week, I will have it in the Saint John *Telegraph*. Thank you, sir, I hope you support the bill.

The Hon. the Speaker: Honourable senators, it is moved by the honourable Senator Phillips, seconded by the honourable Senator David, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): On division.

Motion agreed to and bill read the third time and passed, on division.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

May 8, 1991

Sir,

I have the honour to inform you that the Honourable John Sopinka, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 8th day of May, 1991, at 5.45 p.m. for the purpose of giving Royal Assent to a bill.

Yours sincerely,

JUDITH A. LAROCQUE
Secretary to the Governor General

ADJOURNMENT

Hon. Orville J. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move that when the Senate adjourns today, it do stand adjourned until Monday next, May 13, 1991, at three-thirty o'clock in the afternoon.

[Senator Simard.]

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

Hon Senators: Agreed.

Hon. Lowell Murray (Leader of the Government): Mr. Speaker, if I may on the motion, I should confirm for the information of honourable senators that it is the intention of the Prime Minister to advise prorogation of this Second Session of the Thirty-fourth Parliament very shortly and that when honourable senators return here on Monday next it will be for the official formal opening of the Third Session of the Thirty-fourth Parliament which will take place in this chamber with a Speech from the Throne by his Excellency the Governor General.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Orville J. Phillips: Honourable senators, I move that all remaining orders, inquiries and motions stand.

Hon. H.A. Olson: Before you make that motion, we are down to notice of motions and then there is item six under routine orders call Question Period. Are we going to get there?

Senator Phillips: I think the honourable senator is well aware of the routine normally followed in this chamber, which is that Royal Assent follows third reading.

Hon. Royce Frith (Deputy Leader of the Opposition): We have 20 minutes before Royal Assent.

Senator Olson: Honourable senators, according to the clock on the wall it is 5.20. The Governor General is going to arrive, I believe, at 5.45. If you have some useful thing to do with these next 25 minutes I will withdraw from that, otherwise I should like some explanation of how Question Period is going to be handled, because there have been some changes in the government since we were last here. We need some explanation of that.

Senator Phillips: Honourable senators, I move that the Senate do adjourn during pleasure to await the arrival of the Honourable the Deputy to his Excellency the Governor General at approximately 5.35.

Senator Frith: I guess the question, honourable senators, is whether the government is asking us not to proceed to Question Period at the moment but to await the representative of the Governor General. Is the Deputy Governor General here right now?

Senator Phillips: Yes.

Senator Frith: Then we can proceed with that and have Question Period after Royal Assent. There is no problem with that, is there?

Senator Olson: I particularly did not want to disappoint Senator Kenny, because he looks forward to Question Period every day.

Senator Phillips: I would point out that the Deputy to His Excellency was waiting throughout Senator Simard's remarks.

Senator Frith: I hope those remarks were piped into his chambers for his edification and entertainment. I think I should reverse that, entertainment and edification.

The Hon. the Speaker: Is it your pleasure to adjourn until 5.45?

Hon. Senators: Agreed.

The Senate adjourned during pleasure.

• (1720)

ROYAL ASSENT

The Honourable John Sopinka, 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 Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act to amend the Financial Administration Act and other Acts in consequence thereof (*Bill C-91, Chapter 24, 1991*)

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, May 13, 1991, at 3.30 p.m.

APPENDIX

(*See p. 5658*)

OFFICIAL LANGUAGES

THIRD REPORT OF STANDING JOINT COMMITTEE

THE SENATE OF CANADA LE SÉNAT DU CANADA

The Standing Joint Committee of the Senate and of the House of Commons on Official Languages has the honour to present its

THIRD REPORT

In accordance with its Order of Reference of Thursday, November 8, 1990, and pursuant to Standing Order 32(5), and section 85 of the *Official Languages Act*, (R.S.C., 1985, 4th Suppl., Chapter 31), your Committee has considered the document entitled: "Draft of the proposed regulations respecting communications with and services to the public in either official languages".

Your Committee adopted the following Report which reads as follows:

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INTRODUCTION

The *Official Languages Act* which replaces the 1969 legislation, was passed in July 1988.

On November 8, 1990, the President of Treasury Board, the Honourable Gilles Loiselle, laid before Parliament the document entitled *Draft of the proposed Regulations respecting communications with and services to the public in either official language*. Pursuant to Standing Order 32(5) and section 85 of the *Official Languages Act* (RCS 1985, 4th Supp., chapter 31), your Committee proceeded with consideration of this document.

Starting on December 4, 1990, your Committee heard from a large number of witnesses in the course of 16 public hearings. It also received letters and briefs which it took into consideration during its deliberations. (A list of the witnesses who appeared before the Committee is appended.)

The first chapter of this Report situates the *Draft of the proposed Regulations* in its context and reviews its broad outlines. The second presents an overview of the testimony given during the public hearings and the opinions expressed in the briefs submitted to us. In the final chapter your Committee makes its recommendations.

BRIEF DESCRIPTION OF THE DRAFT PROPOSED REGULATIONS

A. The context

The public's right to communicate with federal institutions in either official language is entrenched in the 1982 *Canadian Charter of Rights and Freedoms* (sec.20(1)). Part IV of the 1988 *Official Languages Act* makes it a duty of federal institutions (which comprise government departments and agencies, Crown corporations, and Air Canada by virtue of its divestiture legislation) to ensure that this right is respected.

The *Act* stipulates that federal institutions must ensure that the public can obtain services in French and English at the following offices: their head or central offices (sec. 22); all offices located in the National Capital Region (sec. 22); and all offices of any federal institution that reports direct to Parliament (sec. 24(2) and (3)).

The *Act* imposes the same obligation on offices where there is significant demand for service in both official languages (sec. 22(b)) and on offices where the nature of the office makes it reasonable that services be available in both official languages (sec. 24(1)). It empowers the government to make regulations on these two matters (sec. 32).

The *Act* also gives it the power to regulate services provided to travellers by a third party under contract to a federal institution (sec. 23(2)).

B. The broad outlines of the *Draft proposed Regulations*

The regulatory proposals cover three areas: significant demand, nature of the office and services for travellers provided under contract. The proposals regarding significant demand fall into two groups: general rules based for the most part on census data about the numbers and proportion of official-language minority communities, and specific rules about particular services, based mainly on volume of demand since the use of census figures is not appropriate in these cases.

For purposes of the proposed regulations, a linguistic minority population is defined as the official-language minority population in a given province as determined by Statistics Canada using a method that weighs the knowledge of the Official Languages, the mother tongue and the language used in the home. The populations in question are thus francophones outside Quebec and anglophones inside Quebec.

1. Significant demand

a. General rules

The draft regulations propose six general rules that can be summarized as follows:

RULE 1—Minority in a census metropolitan area is at least 5,000: at least one office of each department or agency would provide services in both official languages.

RULE 2—Minority in a census metropolitan area is less than 5,000: at least one office of certain departments or agencies would provide services in both official languages.

RULE 3—Minority is at least 500 and 5% of total population: at least one office of each department or agency would provide services in both official languages.

RULE 4—Minority is at least 500 but less than 5% of total population: one office of certain departments or agencies would provide services in both official languages.

RULE 5—Minority is between 200 and 500 and at least 5% of total population: one office of certain departments or agencies would provide services in both official languages.

RULE 6—Minority is less than 200 and at least 5% of total population: offices would provide service in both official languagaes where the measured volume of demand in the minority language is at least 5% of total demand.

The draft regulations distinguish between major urban centres, on the one hand, and small localities and rural areas, on the other. Census metropolitan areas (CMAs) refer to large urban centres with at least 100,000 inhabitants. A number of the rules pertain to census subdivisions (CSDs) which form the cornerstone of the census and may refer to a municipality, a small town or a rural area.

A sliding scale of services is provided for depending on the relative and/or absolute size of the minority and its distribution. In CMAs with an official-language minority of at least 5,000, each federal agency would have to provide services in both official languages in at least one office; if it has several offices, it would have to provide such services in a proportion of offices at least equal to the proportion of the minority population in the CMA. Where fewer than 5,000 inhabitants of the CMA belong to the minority, certain key services (income security, post offices, employment centres, income tax, Secretary of State) would have to be available in the minority language at one or more offices, based on the same rule of proportionality.

In CSDs with a minority population of at least 500, representing at least 5 per cent of the population as a whole, all federal institutions would have to offer bilingual services in at least one office, or according to the proportionality rule if an institution has more than one office. In CSDs with a minority population of at least 500 and representing less than 5 per cent of the total population, and in CSDs with a minority population of at least 200 and less than 500 people but which corresponds to at least 5 per cent of the total population, the key services listed above would have to be available in both official languages, as would those of the RCMP. In census subdivisions (CSDs) where the minority is a very small part of the population, federal offices would have to offer services in the minority language as well if demand for them represented at least 5 per cent of the total according to customer preference studies.

This part of the proposed regulations also includes a provision regarding services offered to the provincial language majority, which is explicitly guaranteed service in its own language in all federal offices in that province that offer services to the public.

b. Specific rules

These rules apply to particular services where demographic parameters would not be relevant. A large number of them are in the transportation sector. Bilingual services to the travelling public would be guaranteed where demand represents at least 5 per cent of the annual total. Services would also be available in both official languages where weight of numbers suggests significant demand: airports handling at least 1,000,000 passengers a year, border crossings in Ontario, Quebec and New Brunswick handling at least 500,000 people, and the main border post in each of the other provinces (other than airports). Air Canada flights departing from or arriving in the National Capital Region, Montreal or Moncton, or entirely within Ontario, Quebec or New Brunswick, would have to offer bilingual services, as would certain rail and ferry links.

The specific rules also cover some other special cases where demographic data are not applicable, and where services are being specifically provided for a restricted, fully identifiable clientele: one example is inspection of food-processing establishments. Services would have to be available in the other official language as well where at least 5 per cent of the clientele have expressed a preference for it.

2. Nature of the office

The regulatory proposals on nature of the office define services that must be offered in both official languages whatever the demand. These cover the four areas set out in the *Act*: health, safety and security of the public; location of an office or facility; national or international mandate of an office; and any other circumstances considered appropriate.

3. Contracts for services to the travelling public

This part of the draft regulations deals with services offered in airports, railway stations and federal ferry terminals as well as on board federal trains and ferries where there is significant demand for service in both languages. Among the services in question are concessions such as restaurants, car-rental agencies and self-service equipment, as well as services provided by carriers (ticket sales, boarding procedures, public announcements). The draft regulations provide that these services could be guaranteed in both official languages by face-to-face communication, in writing, by telephone or any other suitable means.

OVERVIEW OF EVIDENCE

A. The President of the Treasury Board

The President of the Treasury Board, the Honourable Gilles Loiselle, pointed out to members of the Committee that the proposals were designed to set out in precise regulatory terms the scope of the right to be served by federal institutions in one's official language and, at the same time the limits to that right. He stressed that, with regard to significant demand, the demographic rules respond to differences in the distribution and density of the anglophone and francophone minority populations. He noted that the two rules that apply to the largest urban areas in Canada—those with a population of more than 100,000—would ensure services to the 63 per cent of Canada's linguistic minorities who live in these twenty-five major cities. He emphasized the fact that the regulations on areas outside the major cities are particularly important for French-speakers: 58 per cent of the francophones outside Quebec live in smaller cities, towns and rural areas. Moreover, to deal with the different types of concentration of minority populations, closely related rules are being proposed based on census subdivisions, the basic building blocks of the census.

In connection with the impact of the strictly demographic rules for cities and rural areas, the Minister mentioned that 94 per cent of the minority population of Canada would receive at least the key services, if not all services, from federal offices in their locality under these proposals. The proposals would cover 92 per cent of French-speaking persons outside Quebec and 96 per cent of English-speaking persons in Quebec. Mr. Loiselle pointed out that these demographic rules would not have the effect of imposing bilingual federal services from coast to coast. He stated:

> There is a remarkable fact about the 94 per cent of the minority population covered by the demographic rules. Aside from those living in the major urban centres, they live in only 441 out of 5,507 census subdivisions. The regulatory proposals identify those concentrations and provide for an appropriate level of service. This is not wall-to-wall bilingualism by any means.
>
> I should add that in an office required to offer services in both languages only some employees would need to be bilingual—enough to serve the minority language clientele.* (17:9)

*The first number refers to the issue number and the second to the page number of the *Minutes of Proceedings and Evidence* of the Standing Joint Committee of the Senate and the House of Commons on Official Languages.

With regard to the issue of cost, the President of the Treasury Board remarked that the adoption of the proposals would not radically alter the way federal services are now offered by federal institutions. He mentioned that it was estimated that between 1,500 and 3,000 existing positions would have to become bilingual. This represents less that 1 per cent of the roughly 400,000 federal employees and would cost between $15 and $20 million across 150 institutions. The overall level of possible cost is considered to be low enough to be absorbed in existing budgets, with very few exceptions.

In conclusion, the President of the Treasury Board reassured those who might be concerned about the possibility of job losses because of the increase in the number of bilingual positions resulting from the adoption of the draft regulations, saying:

> No one will lose his or her job as a result of official languages requirements. Generous access to language training at government expense will be maintained and the special measures to protect public servants when, for example, unilingual positions are declared bilingual, will continue in place.(17:10)

B. The Commissioner, national federations and provincial associations

The Commissioner of Official Languages, the *Fédération des Francophones Hors Québec* (FFHQ), *Alliance Québec* (AQ), the *Société des Acadiens et des Acadiennes du Nouveau-Brunswick* (SAANB), the *Société Franco-Manitobaine* (SFM) and the Canadian Parents for French, suggested amendments aimed at widening the scope of the draft regulations.

In his overall assessment of the draft regulations, the Commissioner observed that:

> It should be said from the start that the regulations are based largely on demographic data that by themselves can serve only as a *general* basis for the evaluation of demand. In our view, these proposals represent an improvement in the status quo for most institutions. But generally speaking, these draft regulations do not go beyond the existing situation. They do, however, recognize a significant demand in offices in a number of large urban centres and cities of lesser size, and this should improve the quality of services by consolidating them for increased administrative efficiency and for the greater convenience of the minority community. In addition, the regulations take account of minorities in rural areas and certain specific service areas.
>
> As for the travelling public, the proposals may perhaps be needlessly complex. The draft regulations seem to have been devised more in terms of the current capability of some departments and corporations to offer services in both official languages than in terms of the rights of the travelling public.(18A:6)

The Commissioner felt that the regulations are equitable and reasonable. Equitable, because they provide identical treatment for both majorities, and because the two minority communities will benefit from the same services under the same circumstances. Reasonable, because, considering the criterion of significant demand recognized in the *Charter* and in the *Act*, it guarantees fundamental language rights through a variable scale of services, according to criteria that appear to be realistic. The Commissioner ended his assessment by saying:

> The new criteria set out in the regulations should provide a more coherent and realistic framework for a methodical application of the provisions of the *Act*, provided that active offer is applied on a continuing and consistent basis; without it, the user would have much difficulty relating to the services offered.(18A:7)

The Commissioner made seven main recommendations and a number of other suggestions and observations. Two of the recommendations substantially modify the draft regulations, namely:

- the recommendation calling for the deletion of the 5 per cent standard for census subdivisions and for the retention only of the criterion of absolute numbers (500 or 200, as the case may be).
- the recommendation proposing that, in census metropolitan areas (CMA) with fewer than 5,000 persons of the minority official language, the range of key services be broadened to include some agencies of particular interest to minority communities.

Associations representing minority official language groups also sought to improve the draft regulations, notably by recommending that the population criteria be expressed in absolute numbers, without reference to a percentage of the population. They also proposed that the volume of demand for services criterion be eliminated. In fact, these two recommendations produced the broadest consensus among minority groups.

The Commissioner, the FFHQ, Alliance Québec and Canadian Parents for French asked that it be clearly specified in the draft regulations that the organization of services (location of offices and conditions of service) must be carried out in close consultation with the minority clientele. The above-mentioned and certain groups representing small minority language communities stressed the importance of issuing clear guidelines and directives on the active offer of service in both official languages.

Certain briefs also called for changes to the rules on specific circumstances surrounding significant demand. The Commissioner suggested that the criteria respecting services for the travelling public be revised to take into account local significant demand and the presence of foreign travellers, particularly at border crossings. The Commissioner, the FFHQ and the SAANB expressed the view that with respect to airports, the draft regulations constituted a step backward from the present situation. They objected to the fact that services to the travelling public at airports were subject to the criterion of 5 per cent of overall demand over a year, except in the case of large airports that handle one million passengers per year and where services in both languages would be guaranteed.

The Commissioner, the FFHQ and ACFO expressed concern about the reference to "a province in which the English or French linguistic minority population is equal to at least 5 per cent of the total population in the province" in the rules on places of entry into Canada handling at least

500,000 travellers per year, on services on board certain Air Canada flights and on services on VIA Rail routes as justification for providing services in both languages. These witnesses argued that an eventual decline in the relative number of francophones in Ontario following a massive influx of immigrants could result in the province's exclusion from the above-mentioned provisions. They recommended that New Brunswick, Quebec and Ontario be specifically identified to ensure that a modest gap in future census results would not have a completely disproportionate effect on the situation.

The Committee studied with particular sympathy the briefs and letters from organizations representing small, isolated or fragmented minority language communities such as the Committee for Anglophone Social Action (Gaspé, Quebec), la *Fédération franco-ténoise* (N.W.T.), la *Société Saint-Thomas d'Aquin* (P.E.I.), the Townshippers Association (Que.), the *Association francophone de Campbell River* (B.C.), etc. To assure the survival of small communities, these groups argued that the regulations had to take into account the vitality of small linguistic minorities—that is, their size and determination to retain their language and culture by enrolling their children in minority language schools and classes, by supporting their own churches, newspapers, festivals, cultural events, etc. Reliance on percentages of the local population and percentages of demand in their opinion offered their communities no hope of improved services and might lead to an actual reduction in the availability of federal services in their language. Testimony before the Committee also established that federal policy and the regulations might influence the financial viability of the weekly and monthly newspapers which serve minority language communities.

The Association de la presse francophone and the Association of Quebec Regional English Media (AQREM) of their members testified about the importance of their members to the vitality of minority language communities and particularly to small communities that could not support a local daily newspaper. Whether English or French these weekly and monthly newspapers felt that their survival was prejudiced by the failure of the government to include regulations under Article 30 of the *Official Languages Act* (dealing with communications with the public by federal institutions) that would ensure a fair distribution of federal commercial advertising expenditures between majority language dailies and minority language weekly/monthly newspapers. So far this issue has arisen only in relation to the commercial advertising policy of Air Canada, a Crown Corporation that was "privatised", but nevertheless remains subject to the *Official Languages Act* for some purposes. The interpretation of Article 30 is now before the courts, and, legal opinion is that it is questionable whether the government could regulate under the Article in any event.

Two groups which appeared before the Committee opposed the regulations as being too generous toward the minority language communities. Fearing the costs involved in providing bilingual service and the possibility that the threat of these costs would lead to closing small rural post offices, RCMP detachments, etc., the Alberta Association of Municipal Districts and Counties asked that the 5% of the general population standard be raised to a much higher figure. The Alliance for the Preservation of English in Canada appeared before the Committee to oppose any extension of the official use of the French language beyond the provisions of the *Canada Act 1867* and in particular, to protest federal official languages policy over the past 30 years or so.

C. Public service unions

The Professional Institute of the Public Service and the Public Service Alliance of Canada shared with the Committee their concerns about the implementation of the official languages policy within the federal public service. Union representatives also discussed the impact of the adoption of the regulations on their membership, in particular an increase in the number of positions designated bilingual, greater use of imperative staffing to fill these positions, and even more restricted access to language training at government expense.

D. Departments and Other Federal Institutions

To determine how much difficulty and additional costs federal departments and other institutions anticipated in implementation of the regulations on communications with and service to the public as tabled, the Committee heard testimony from senior officials of nine departments and institutions responsible for providing services to the Canadian public across the country. On balance this testimony was reassuring and made it clear that the regulations as drafted could be implemented without major difficulties or major additional costs. The most frequently anticipated problems related to long waiting periods for second language training and to the potential loss of acquired second language proficiency by officials serving in isolated posts where the opportunity to use the second language is occasional rather than frequent. Among specific problems raised, Transport Canada referred to the areas of search and rescue, maritime communications and vessel traffic services which required very high levels of technical skills and were very safety-sensitive. Canada Post testified that it already provided bilingual service in 95% of the localities with significant demand, but that providing bilingual service in the 5% of isolated post offices within one year would prove costly and disruptive.

RECOMMENDATIONS

In framing its recommendations for changes to the Draft Regulations, the Committee has kept in mind a number of realities.

First these regulations must help give effect to the constitutional guarantees, as stated in the preamble of the Act itself, "relating to the right of any member of the public to communicate with, and to receive available services from, any institution of the Parliament or government of Canada in either official language. . ."

Secondly, many of the concerns raised and proposals made by our witnesses cannot be addressed in the regulations themselves.

Finally, the issue of incurring large additional costs must be a major concern in an era of large federal deficits and taxation saturation.

The proposal to make the number of bilingual offices be in the same proportion to the total as the minority-language community is to the community at large struck us as perfectly reasonable, since the effect would be to focus the demand, which should encourage greater administrative efficiency and improve the quality of service. However, application of the proportionality rule to metropolitan census areas containing sizeable minority-language communities could lead to a reduction in the number of offices offering services in the minority language. To rectify this shortcoming,

RECOMMENDATION NO. 1

The Committee recommends that the Treasury Board review the application of paragraph 5(1)(b) of the proposed regulations to census metropolitan areas that have at least 5,000 persons of the English or French linguistic minority population on a case-by-case basis to ensure that this provision is consistent with the *Canadian Charter of Rights and Freedoms* and the spirit of the *Official Languages Act*.

The Committee recognizes the validity of the concerns expressed by certain witnesses who argued that a slight difference in the results of future censuses could bring about a province's exclusion from the application of the regulatory provisions referring to a "province in which the English or French linguistic minority population is equal to at least 5 per cent of the total population in the province". Therefore,

RECOMMENDATION NO. 2

The Committee recommends that paragraph 6(2)(*c*) and subparagraphs 7(4)(*c*)(ii) and (iii) and 7(4)(*d*)(i) and (ii) be modified by adding, immediately after the phrase "to at least 5 per cent of the total population in the province", the following words: "before or after the date of registration of these Regulations by the Clerk of the Privy Council".

The intelligent use of modern technology can not only extend bilingual service into areas with relatively small minority language communities, it can also reduce the need for bilingual counter staffing and help to reduce costs.

Facsimile machines and 800 lines can give rapid access to personal service in the client's preferred language and bilingual automated information systems with video display can guide the client to the service or information required. Consequently,

RECOMMENDATION NO. 3

The Committee recommends the use of new technology to provide services in both official languages in areas where local bilingual human resources are limited.

Minority language communities across the country are very concerned about those sections of the regulations which tie the delivery of services in the minority language to circumstances where demand for them represents at least 5% of total demand. The elimination of this criteria, however, would be prohibitively expensive and would require the withdrawal and rewriting of the regulations. Much of the concern also related to the process of measuring this demand and the fear that these customer preference studies will be carried out by departmental officials without the knowledge of the local minority language community.

RECOMMENDATION NO. 4

The Committee recommends that in any case where the implementation of the regulations will require the percentage of the demand for services in either official language to be ascertained, the methods to be used be determined after consultation with the local linguistic minority population and that, to the extent feasible, the actual determination of the level of demand be carried out by a person or entity other than the federal institution concerned.

Successful implementation of the regulations will depend on the quality of the "active offer" of service in the minority language made by federal institutions to members of the public.

RECOMMENDATION NO. 5

The Committee recommends that the Treasury Board issue directives under paragraph 46(2)(*c*) of the *Official Languages Act* respecting the active offer of services in either official language by federal institutions, pursuant to section 28 of the *Act*.

Weekly and monthly minority language newspapers are very important to the vitality of minority language communities and particularly to small communities that cannot support a local daily newspaper. Their economic survival may depend to a significant degree on a fair distribution of federal commercial advertising expenditures between majority language dailies and themselves.

RECOMMENDATION NO. 6

The Committee recommends that in complying with section 30 of the *Official Languages Act* federal institutions make use of media of communication of the linguistic minority population in a manner consistent with the purpose of the *Act*.

Many federal institutions organize their service delivery on the basis of service areas that do not coincide with census boundaries. The service area of one office, for example, might include one or more towns as well as the surrounding region. Changes to the boundaries of these service areas are of critical importance to members of the local minority language community. Consequently,

RECOMMENDATION NO. 7

The Committee recommends that the local linguistic minority population be consulted before the service area of an office or facility referred to in paragraph 5(1)(*d*) and (*g*) are modified.

CONCLUSION

The task of formulating regulations governing the provision of federal services to the public in either official language was obviously very complex. The regulatory provisions had to spell out clearly and in detail the scope of the public's right to receive federal government services in the language of its choice, and the limits to this right had to be defined. The provisions also had to take into account the differences in distribution and density between francophone

and anglophone minority populations. The proposed Regulations would cover 92 per cent of francophones outside Quebec and 96 per cent of anglophones inside Quebec, which strikes us as an acceptable outcome given the dispersion of the francophone minorities outside Quebec.

The Committee wishes to stress that the results will depend on the spirit in which the *Act* and its Regulations are implemented. The draft proposed Regulations establish a set of standards that could, in certain special circumstances, be prejudicial or inconvenient to minority groups. The Committee urges the competent authorities to display generosity toward minority official-language groups and more especially toward the less numerous and more isolated groups.

APPENDIX A

LIBERAL PARTY DISSENTING OPINION WARREN ALLMAND, M.P. AND BOB KILGER, M.P.

Re: Proposed Regulations Respecting Communications with and Service to the Public in either Official Language

Despite many recommendations by the Commissioner of Official Languages and the minority language associations (as witnesses before the Committee) to change the Draft Regulations, the Committee agreed to only 2 changes. Since the purpose and spirit of the *Official Languages Act of 1988* is to improve the rights of the Official Language minorities, then the Regulations should be an extension of this same spirit—and the Committee should have been more sensitive to the Recommendations made by the Commissioner and the minority language associations.

We accordingly urge the Minister and the Government, despite the majority report, to seriously consider the following recommendations made by the witnesses:

1. **Five Percent of Population**—The Commissioner pointed out that there was unanimous dissatisfaction with the use of a general criterion of 5% of population. He said that a criterion based on the proportion of the population bears no relation to absolute numbers and establishes unwarranted distinctions between minoirity official language groups of equivalent size. As an example he referred to the situation that 960 francophones in Riverview, N.B. would constitute "significant demand" because they were 6.2% of the population—but 910 anglophones in Valleyfield, Québec would not constitute "significant demand" because they were only 3.3% of the population.

There was an overwhelming consensus among the witness-groups that the criteria for "significant demand" be based on absolute numbers without reference to a percentage of population.

This position was supported by the Fédération des Francophones Hors Québec (FFHQ), Alliance Québec (AQ), Fédération acadienne de la Nouvelle-Écosse (FANE), Société franco-manitobaine (SFM), Société des Acadiens et Acadiennes du Nouveau-Brunswick (SAANB), Canadian Parents for French (CPF), and others.

The alternative would be to base the criterion on absolute numbers or a percentage of population whichever was the lesser.

2. **Five Percent Demand**—There was similar support for the elimination of the "5% of demand" rule as a criterion for "significant demand" since this would be difficult to measure in a fair way and would put a lot of pressure on the minority population to continually use their language in opposition to contrary community pressures.

3. **Urban Areas**—There was also concern that the rule for large urban areas (CMAs) with a minority population of at least 5,000 might substantially reduce the bilingual services now available because the rule requires only "at least one office" to provide such services. Even if more than one office was provided they may not be sufficient to provide bilingual services in all the distinct and separate communities within the CMA. For example the Montréal CMA includes the cities of Brossard and Châteauguay which are on the south shore of the St. Lawrence and which have minority populations of 14,970 and 12,370 respectively. There are other examples. The witnesses were concerned that these communities might not continue to be served in both languages.

4. **Consultation**—These groups also suggested that the draft regulations specify that the organization of services (the location of office and the conditions of service) be carried out in close consultation with the minority clientele.

5. **Key Services**—The Commissioner and other witnesses recommended that in urban areas (CMAs) with less than a 5,000 minority population, the key services to be provided in both languages be broadened to include additional agencies—such as the Federal Business Development Bank, Canada Mortgage and Housing Corp., and the CBC/Radio Canada. This would depend on the interests and needs of the minority language community.

6. **Acquired Rights**—Several witnesses recommended that a clause be added guaranteeing acquired rights so that second language services presently available will not be reduced when it comes time to implement the regulations because the minority population might temporarily or marginally fall below criteria levels.

7. **Airports**—The FFHQ and the Voice of English Québec (VEQ) both recommended that airports in urban areas (CMAs) with a minority population of at least 5,000 should automatically provide bilingual services in the same way as airports with 1 million passengers per year. This would add St. John, Québec City, Sudbury and Hamilton to Toronto, Vancouver, Montréal, Ottawa, Calgary, Winnipeg, Edmonton, and Halifax which are already covered in the 1 million rule. The Government had proposed that in all airports with less than 1 million passengers, the minority language must demonstrate a 5% demand which is not easy to measure.

8. **Provincial Capitals**—Five minority language associations recommended that all provincial and territorial capitals should be designated as regions in which the federal government must provide its services in both languages. We think this is reasonable since many public and private conferences take place in provincial capitals and there is an important issue of national symbolism.

9. **Interpretation**—The Commissioner and Canadian Parents for French recommended that the rules of interpretation in the Regulations provide for the most generous rule rather than the most specific rule. We support this recommendation.

10. **Interim Directives**—The *Official Languages Act* was passed in July 1988 but the Government did not table the draft regulations for Service to the Public until November 8, 1990 (2 1/2 years later). Due to the legal process it will still take another year before these Regulations become law. As a result we support the Commissioner in suggesting that the Government issue without delay the directives for ensuring immediate compliance with the Act in all cases where the circumstances already allow.

11. **Other Regulations**—We also support the Commissioner and previous Reports of this Committee that the Government table the Regulations to implement Part V (Language of Work) and Part VI (Equitable Participation) of the *Official Languages Act of 1988*. It is almost 3 years since the Act was passed and there is still no sign of these Regulations.

Respectfully submitted

Warren Allmand, M.P.
Robert Kilger, M.P.

APPENDIX B

DISSENTING OPINION PHIL EDMONSTON, NDP OFFICIAL LANGUAGES CRITIC

"Let Truth and Falsehood grapple, whoever knew Truth put to the worse in a free and open encounter?"

John Milton
Areopagitica

Canada's official languages policy has become the scapegoat for much of the Post-Meech polarization between French and English speaking Canadians. Former Air Canada President Pierre Jeanniot sees bilingual cereal boxes as the main villain creating Canadian disunity. And Spicer Commission Chairman, Keith Spicer concludes, "Our telephone callers dislike official bilingualism. . . there is virtually no endorsement of existing official language policy."

Hogwash!

There is no massive popular resistance to the federal government's official language policy. Polls tell us that 75 percent of Canadian parents want their children to be bilingual. Throughout Canada, enrolment by English-speaking students in French immersion schools increased by 8 percent last September.

Spicer's finding was based upon an insignificant 6.9 percent of calls the commission received that referred in any way to bilingualism. This fact casts considerable doubt upon the chairman's intellectual honesty and judgment. As far as Jeanniot and his cereal boxes are concerned, his comments show even corporate executives can say dumb things.

This Committee's Report

I regret this committee completed its work during in-camera sessions. Secret meetings are neither necessary nor appropriate.

I agree with this committee's report. We have ameliorated some of the consequences of new regulations, while being mindful of the financial constraints placed upon the government.

Nevertheless, I believe that we have failed to respond to several serious potential problems with the regulations that were raised by our witnesses.

The 5 percent rule: The requirement that minority-language communities must make up 5 percent of local demand before having the right to full services in their own language may produce anomalies in access to services.

The President of the Treasury Board has argued before this committee that basic services are guaranteed to all regardless of their percentage of the population, but that is surely not an adequate answer, since there will be some denial of service or there would be no need for the rule.

Treasury Board has also represented that deleting the 5 percent rule would produce approximately $20 million in extra costs to the government for a relatively marginal increase in the number of people served in their own language.

I am prepared to give the government the benefit of the doubt on this issue for the time being, but as these regulations are implemented, this committee must carefully monitor the quality of essential services provided by Transport Canada, the Unemployment Insurance Commission, and Canada Post, three departments sharply criticized by a number of witnesses. If the 5 percent rule has the effect predicted by the many minority-language groups who appeared before us during our work on this report, the rule will have to go.

New Brunswick: I regret that we did not find a way to recognize the special status of New Brunswick. The requests by Acadians to keep federal practice in line with the spirit of full equality between the two linguistic communities in that province were convincing and deserved our support.

Unequal treatment within the public service: The essence of bilingualism involves retooling the federal public service to ensure it can provide essential services in both languages where numbers warrant. One of the instruments used to achieve this end are bilingualism bonuses.

In the case of *Gingras vs the Queen*, an RCMP officer was able to prove last year before the Federal Court of Canada that in at least one important federal service—the RCMP—federal government employees have been callously denied equal treatment under this bonus program since 1976.

The Treasury Board failed to provide this committee with a plausible explanation for why it has refused to pay the bonuses to RCMP officers, nor why it has chosen to appeal the Gingras ruling. This arbitrary, provocative action has created a serious morale problem within the RCMP acerbating tensions along linguistic lines. Furthermore, it flies in the face of the spirit of official bilingualism.

Since this issue directly affects the application of bilingualism as a practical proposition within the public service, I regret no relief was available in the *Official Languages Act*'s new regulations. I will ensure this committee continues to visit this issue until RCMP officers eligible for bilingualism bonuses receive them.

1-800 lines: Much has been made during our discussions of "technological solutions" designed to provide bilingual services to Canadians. I hope that the Ministry of Transport and other government departments will retain the suggestion that 1-800 numbers be used to enable members of minority-language communities to communicate with the government in their own language for access to services and information not locally available.

The Future of Bilingual Government Services

As a Quebecer, I'm proud that my province has an exemplary record in the provision of services in English to its English-speaking minority. Furthermore, I'm mindful of the fact that it is in Quebec where the majority of Canada's bilingual citizens reside (30 percent of the French population and 60 percent of the English residents are bilingual).

This said, I regret that my province passed Bill 178 forbidding the use of English on outdoor signs in the province. Bill 101 was working fine and the outdoor sign law was both unnecessary and offensive. For some, Bill 178 was a betrayal of the spirit of bilingualism and served as both a catalyst and justification for dumping bilingualism altogether.

Fortunately, most Canadians recognize it's only common sense that taxpayers be *served by* their government in the language of their choice. That's why federal and provincial government services in both official languages will continue to expand.

APPENDIX C

DISSENTING OPINION
MRS. LOUISE FELTHAM, M.P. FOR WILD ROSE

In the Draft of the Proposed Regulations Respecting Communications with and services to the Public in either official language I do not agree with rule 6 of the general rules of significant demand.

It is my opinion that Rule 6 should be deleted. The rule states that when a minority is less than 200 and at least 5% of total population: offices would provide service in both official languages where the measured volume of demand in the minority language is at least 5% of total demand. It is my feeling that this is not only impractical but very costly. In the case of a town whose population is 100 people it would mean that only 5 people would create the need for services in both official languages. This type of excess expenditure is very difficult to justify.

APPENDIX D

LIST OF WITNESSES
(in order af appearance)

Individual/Organization	Date	*Issue No.
The Treasury Board:	December 4, 1990	17
The Honourable Gilles Loiselle President of the Treasury Board and Minister of State (Finance);		
Madeleine Ouellon, Deputy Secretary, Official Languages Branch;		
Marcus Hotz, Policy Division, Official Languages Branch;		
Louis Reynolds, General Counsel, Legal Services, Secretary of State;		
Warren Newman, Counsel, Human Rights Law.		
Office of the Commissioner of Official Languages:	December 5, 1990	18
D'Iberville Fortier, Commissioner of Official Languages;		
Jean-Claude Nadon, Director General, Complaints and Audits Branch;		
Marc Thérien, Director General, Policy Branch.		
Alliance Québec:	December 6, 1990	19
Robert Keaton, President;		
Vicki Pearcival Hilton, Director of Governmental and Legal Affairs;		
Marie-Andrée Bastien, Executive Director.		
Association de la presse francophone:	December 11, 1990	20
Roger Duplantie, Président;		
Wilfred Roussel, General Director;		
André Thivierge, Director of Communications and Marketing.		
Association of Quebec Regional English Media (AQREM):		
Allan Davis, Executive Director.		
Fédération des fancophones hors Québec:	December 13, 1990	21
Guy Matte, President;		
Aurèle Thériault, Director General;		
Yvon Samson, Liaison Officer.		
Office of the Commissioner of Official Languages:		
D'Iberville Fortier, Commissioner.		
The Royal Canadian Mounted Police:	January 30, 1991	22
R.G. Moffat, Deputy Commissioner, Administration;		
André Bourgeois, Policy Advisor;		
Roy Berlinguette, Senior Superintendent, Official Languages Directorate.		
Employment and Immigration Canada:		
Michèle Jean, Associate Deputy Minister;		
David Newman, Director, Personnel Corporate Services;		
Peter Freibergs, Interim Chief, Official Languages Division, Personnel Services.		
Transport Canada:		
Huguette Labelle, Deputy Minister;		
Ran Quail, Associate Deputy Minister, Commissioner, Canadian Coast Guart;		
David Wightman, Assistant Deputy Minister, Aviation;		

Individual/Organization	Date	*Issue No.
Victor Barbeau, Assistant Deputy Minister, Airports Group; Ted Cherrett, Director General, Coordination.		
Office of the Commissioner of Official Languages: D'Iberville Fortier, commissioner.		
Canada Post Corporation: Georges Clermont, Group Vice-President; Harold A. Dunstan, Vice-President, Human Resources & Administration; Gilles Hébert, General Manager, Retail Operations; Gilbert Deschênes, Director, Equality Rights & Official Languages.	February 19, 1991	23
Office of the Commissioner of Official Languages: D'Iberville Fortier, Commissioner.		
Agriculture Canada: Louis Tousignant, Assistant Deputy Minister, Food Production & Inspection Branch: Charlie Stoll, Assistant Deputy Minister, Agriculture Development Branch; Michelle Comeau, Director General, Personnel Branch; Claude Desrochers, Director, Official Languages Division, Personnel Branch.	February 19, 1991	24
Health and Welfare Canada: Margaret Catley-Carlson, Deputy Minister; Diane Desaulniers, Acting Director, Official Languages Bureau; Rod Ballantyne, Director General of the Personnel Administration Branch.		
Revenue Canada:	February 20, 1991	25
Customs and Excise: R. Hubbard, Deputy-Minister; H.J. Giles, Assistant Deputy Minister, Customs Operations Branch; A. Leblond, Director, Official Languages Directory; R. Tittley, Regional Director, Montreal Region; M. Reteff, Assistant Deputy-Minister, Human Resources Branch.		
Taxation: Pierre Gravelle, Deputy Minister; Richard S. Rittenberg, Assistant Deputy Minister, Human Resources Branch; Marcel L. Pilon, Director, Official Languages Division.		
Office of the Commissioner of Official Languages: D'Iberville Fortier, Commissioner.		
Alberta Association of Municipal Districts and Counties: Norman Stanger, Director.	February 26, 1991	26
Public Service Commission: Robert Giroux, Chairman; Hélène Beauchemin, Director General, Language Training Program.		
Alliance for the Preservation of English in Canada: Ron Leitch, Chairman.	February 26, 1991	27

Individual/Organization	Date	*Issue No.
Canadian Parents for French:	February 28, 1991	28
Pat Brehaut, President;		
Marilyn Miller, Vice-President.		
Professional Institute of the Public Service of Canada:	March 5, 1991	29
Iris Craig, President;		
Joe Pellisek, Co-Chairman, Committee on Official Languages, Former Member of the Board;		
Michel Petit, Co-Chairman, Committee on Oficial Languages, Member of the Board;		
Hélène Paris, Research Officer.		
Public Service Alliance of Canada:	March 5, 1991	30
Joane Hurens, Executive Vice-President;		
Luise Czernenko, Director, Social and Occupational Rights Branch.		
The Treasury Board:	March 6, 1991	31
Madeleine Ouellon, Deputy Secretary, Official Languages Branch;		
Warren Newman, Counsel, Human Rights Law;		
Cornelius von Baeyer, Special Advisor;		
Gérard Finn, Director, Policy Division;		
Marcus Hotz, Director, Evaluation Division, Official Languages Branch.		
Office of the Commissioner of Official Languages:		
D'Iberville Fortier, Commissioner.		

Respectfully submitted,

DALIA WOOD
Joint Chairman

The Thirty-fourth Parliament was prorogued by Proclamation on Sunday, May 12, 1991.

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 May 17, 1989

1 Appropriation Act No. 1, 1989-90 ..... C-14

Assented to June 29, 1989

2 Criminal Code (pari-mutuel betting) Act amendment C-7
3 Canadian Transportation Accident Investigation and Safety Board Act C-2
4 Borrowing Authority Act, 1989-90 ..... C-11
5 Department of Labour Act amendment C-8
6 Statute Law (Superannuation) Amendment Act C-24
7 Non-Smokers' Health Act amendment C-27
8 Judges Act amendment C-30
9 Canadian Environmental Protection Act amendment C-22
10 Electoral Boundaries Readjustment Act (Saint-Laurent) C-239
11 Electoral Boundaries Readjustment Act (Markham) C-240
12 Electoral Boundaries Readjustment Act (Fredericton) C-241
13 Electoral Boundaries Readjustment Act (Renfrew) C-245
14 Electoral Boundaries Readjustment Act (Restigouche) C-252
15 Electoral Boundaries Readjustment Act (Windsor-Lake St.Clair) C-254
16 Appropriation Act No.2, 1989-90 ..... C-35

Assented to October 4, 1989

17 Radio Act amendment C-6
18 Customs Tariff Act amendment C-17
19 Canadian Exploration and Development Incentive Program Act amendment C-19

Assented to November 7, 1989

20 Income Tax Conventions Act S-2
21 Appropriation Act No.3, 1989-90 ..... C-42

Acts passed during the Session—*Cont'd*

PUBLIC ACTS—*Cont'd*

Assented to December 12, 1989

22 Excise Tax and Excise Act amendment C-20
23 Appropriation Act No.4, 1989-90 ..... C-50

Assented to December 15, 1989

24 Government Services Resumption Act C-49
25 Forgiveness of Debts (sub-Saharan Africa) Act C-10
26 Advance Payments for Crops Act and Prairie Grain Advance Payments Act amendment C-36

Assented to December 21, 1989

27 Department of Forestry Act C-29
28 Canada Elections Act amendment C-47

Assented to January 30, 1990

1 Department of Industry, Science and Technology Act C-3
2 Energy Supplies Emergency Act, Access to Information Act amendment C-4
3 Musuems Act C-12
4 Nordion and Theratronics Divestiture Authorization Act C-13
5 Governor General's Act amendment C-31

Assented to March 29, 1990

6 Railway Act amendment C-5
7 National Energy Board Act amendment C-23
8 Federal Court Act, Crown Liability Act, Supreme Court Act amendments C-38
9 Crop Insurance Act amendment C-48
10 Small Businesses Loans Act amendment C-56
11 Appropriation Act No.5, 1989-90 ..... C-70
12 Appropriation Act No.1, 1990-91 ..... C-71

Assented to May 10, 1990

13 Canadian Space Agency Act C-16

Assented to June 12, 1990

14 Geneva Conventions Act, National Defence Act and Trade-marks Act amendments C-25
15 Criminal Code (arson) Act amendment C-53
16 British Columbia Courts Act amendment C-59
17 Ontario Courts Act amendment C-60
18 Divorce Act (barriers to religious remarriage) amendment C-61
19 Borrowing Authority Act, 1990-91 ..... C-65

Assented to June 19, 1990

20 Plant Breeders' Rights Act C-15
21 Health of Animals Act C-66
22 Plant Protection Act C-67
23 Electoral Boundaries Readjustment Act (Brampton-Malton) C-294
24 Electoral Boundaries Readjustment Act (Montmorency-Orléans) C-296
25 Electoral Boundaries Readjustment Act (Elgin) C-298
26 Electoral Boundaries Readjustment Act (Selkirk) C-308

Acts passed during the Session—*Cont'd*

PUBLIC ACTS—*Cont'd*

Assented to June 19, 1990—Cont'd

27 Electoral Boundaries Readjustment Act (Surrey-White Rock) C-309
28 Electoral Boundaries Readjustment Act (Laval) C-310
29 Electoral Boundaries Readjustment Act (Laval-des-Rapides) C-311
30 Electoral Boundaries Readjustment Act (Gloucester) C-305
31 Electoral Boundaries Readjustment Act (Langelier) C-307
32 Electoral Boundaries Readjustment Act (Duvernay) C-312
33 Appropriation Act No. 2, 1990-91 ..... C-75

Assented to June 27, 1990

34 Income Tax Act amendment C-51
35 Income Tax Act and related Acts amendment C-52
36 Customs Act amendment C-55
37 Integrated Circuit Topography Act C-57
38 Immigration Act amendment C-77

Assented to October 23, 1990

39 Income Tax and Related Acts amendment C-28
40 Unemployment Insurance, Employment and Immigration Department and Commission Act amendment C-21

Assented to November 6, 1990

41 Hibernia Development Project Act C-44

Assented to November 8, 1990

42 Income Tax Act (child tax credit) amendment C-86

Assented to December 17, 1990

43 Statute Law in Relation to War Veterans Act C-87
44 Canadian Laws Offshore Application Act C-39
45 Excise Tax Act, Criminal Code, Customs Tariff, Excise Act, Income Tax Act, Statistics Act and Tax Court of Canada Act amendment C-62
46 Marriage (Prohibited Degrees) Act S-14

Assented to December 21, 1990

47 Bank Act (extension) amendment C-90
48 Northwest Territories Act amendment C-92

Assented to January 17, 1991

1 Fisheries Act, Criminal Code Act amendment C-74
2 Yukon Place Mining Act, Yukon Quartz Mining Act amendment C-68
3 Department of Multiculturalism and Citizenship Act C-18
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7	Canadian Heritage Languages Institute Act	C-37
8	Canadian Race Relations Foundation Act	C-63
9	Government Expenditures Restraint Act amendment	C-69
10	Petro-Canada Public Participation Act	C-84
11	Broadcasting Act	C-40
12	European Bank for Reconstruction and Development Agreement Act	C-88
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16	Canadian Centre for Management Development Act	C-34
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21	Bretton Woods and Related Agreements Act amendment	C-93
22	Farm Income Protection Act	C-98
23	Borrowing Authority Act, 1991-92	C-97

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49	The Salvation Army Act	S-9

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50	Eastern Synod of the Evangelical Lutheran Church in Canada Act	S-11
51	Ukrainian Greek Orthodox Church of Canada Act amendment	S-13

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52	Canadian Institute of Chartered Accountants Act	S-10
53	Desjardins Mutual Life Assurance Company Act amendment	S-15

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STATUS OF LEGISLATION

AT PROROGATION

(2nd Session, 34th Parliament)

GOVERNMENT BILLS (HOUSE OF COMMONS)

BILL C–2

An Act to establish the Canadian Transportation Accident Investigation and Safety Board and to amend certain Acts in consequence thereof

First and second readings and referral to Transport and Communications Committee, June 21, 1989. Report from Committee (without amendment), June 27. Third reading, June 28. Royal Assent, June 29. *Chapter 3, 1989.*

BILL C–3

An Act to establish the Department of Industry, Science and Technology, to repeal the Department of Regional Industrial Expansion Act and to make consequential amendments to other Acts

First reading, June 27, 1989. Second reading and referral to Social Affairs, Science and Technology Committee, June 28. Report from Committee (without amendment), December 12. Third reading, January 23, 1990. Royal Assent, January 30. *Chapter 1, 1990.*

BILL C–4

An Act to amend the Energy Supplies Emergency Act and to amend the Access to Information Act in consequence thereof

First reading, December 12, 1989. Second reading and referral to Energy and Natural Resources Committee, December 20. Report from Committee (without amendment), third reading and Royal Assent, January 30, 1990. *Chapter 2, 1990.*

BILL C–5

An Act to amend the Railway Act

First reading, March 13, 1990. Second reading and referral to Transport and Communications Committee, March 14. Report from Committee (without amendment) and third reading, March 15. Royal Assent, March 29. *Chapter 6, 1990.*

BILL C–6

An Act to amend the Radio Act and certain other Acts in consequence thereof

First reading, June 22, 1989. Second reading and referral to Transport and Communications Committee, June 27. Report from Committee (without amendment), October 3. Third reading and Royal Assent, October 4. *Chapter 17, 1989.*

BILL C–7

An Act to amend the Criminal Code (pari–mutuel betting)

First reading, May 4, 1989. Second reading and referral to National Finance Committee, May 18. Report from Committee (without amendment), June 13. Third reading, June 20. Royal Assent, June 29. *Chapter 2, 1989.*

BILL C–8

An Act to amend the Department of Labour Act

First reading, June 21, 1989. Second reading and referral to Social Affairs, Science and Technology Committee, June 22. Report from Committee (without amendment), June 28. Third reading and Royal Assent, June 29. *Chapter 5, 1989.*

BILL C–10

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 certain countries in sub–Saharan Africa

First reading, October 17, 1989. Second reading and referral to Foreign Affairs Committee, October 18. Report from Committee (without amendment), December 13. Third reading, December 14. Royal Assent, December 15. *Chapter 25, 1989.*

BILL C–11

An Act to provide borrowing authority

First reading, June 20, 1989. Second reading and referral to National Finance Committee, June 21. Report from Committee (without amendment), third reading and Royal Assent, June 29. *Chapter 4, 1989.*

BILL C–12

An Act respecting museums

First reading, December 13, 1989. Second reading and referral to Social Affairs, Science and Technology Committee, December 14. Report from Committee (without amendment), January 24, 1990. Third reading and Royal Assent, January 30. *Chapter 3, 1990.*

BILL C–13

An Act to authorize the divestiture of Nordion International Inc. and Theratronics International Limited

First reading, December 13, 1989. Second reading and referral to Banking, Trade and Commerce Committee, December 20. Report from Committee (without amendment), January 24, 1990. Third reading and Royal Assent, January 30. *Chapter 4, 1990.*

BILL C–14

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1990

First and second readings and referral to National Finance Committee, May 9, 1989. Report from Committee (with one amendment), adoption of Report and third reading, as amended, May 11. Message from Commons disagreeing with Senate amendment, May 15. Referral of Message to National Finance Committee, May 16. Report from Committee (the Senate does not insist on its amendment) and Royal Assent, May 17. *Chapter 1, 1989.*

BILL C–15

An Act respecting plant breeders'rights

First reading, May 8, 1990. Second reading and referral to Agriculture and Forestry Committee, May 16. Report from Committee (without amendment), June 12. Third reading, June 14. Royal Assent, June 19. *Chapter 20, 1990.*

BILL C–16

An Act to establish the Canadian Space Agency and to provide for other matters in relation to space

First reading, December 19, 1989. Second reading and referral to Social Affairs, Science and Technology Committee, December 20. Report from Committee (without amendment), May 1, 1990. Third reading, May 2. Royal Assent, May 10. *Chapter 13, 1990.*

BILL C–17

An Act to amend the Customs Tariff

First reading, June 27, 1989. Second reading and referral to Banking, Trade and Commerce Committee, June 28. Report from Committee (without amendment), October 3. Third reading and Royal Assent, October 4. *Chapter 18, 1989.*

BILL C–18

An Act to establish the Department of Multiculturalism and Citizenship and to amend certain Acts in relation thereto

First reading, May 15, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, June 7. Report from Committee (without amendment), January 16, 1991. Third reading and Royal Assent, January 17. *Chapter 3, 1991.*

BILL C–19

An Act to amend the Canadian Exploration and Development Incentive Program Act

First reading, June 28, 1989. Second reading and referral to Energy and Natural Resources Committee, June 29. Report from Committee (without amendment), third reading and Royal Assent, October 4. *Chapter 19, 1989.*

BILL C–20

An Act to amend the Excise Tax Act and the Excise Act

First and second readings and referral to Banking, Trade and Commerce Committee, November 9, 1989. Report from Committee (without amendment), third reading and Royal Assent, December 12. *Chapter 22, 1989.*

BILL C–21

An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act

First reading, November 7, 1989. Second reading and referral to Special Committee on Bill C–21, November 9. Report from Committee (with ten amendments), February 14, 1990; adoption of Report, as amended, and third reading (with nine amendments), February 21. Message from Commons agreeing with 4(a), amending 1, 4(b), (c) and (d) and 8, and disagreeing with the others; question and message referred to Special Committee on Bill C–21 (revived), March 14. Report from Committee (agreeing with 1 and 4(b) and insisting on the others) adopted March 20. Message from Commons agreeing with 5(b); disagreeing with 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9; amending 4(c), (d) and 8, May 10. Senate agreed to Commons amendments and did not insist on its amendments, October 22. Royal Assent, October 23. *Chapter 40, 1990.*

BILL C–22

An Act to amend the Canadian Environmental Protection Act

First and second readings and referral to Energy and Natural Resources Committee, June 28, 1989. Report from Committee (without amendment), third reading and Royal Assent, June 29. *Chapter 9, 1989.*

BILL C–23

An Act to amend the National Energy Board Act and to repeal certain enactments in consequence thereof

First reading, December 14, 1989. Second reading and referral to Energy and Natural Resources Committee, December 20. Report from Committee (without amendment), March 22, 1990. Third reading, March 27. Royal Assent, March 29. *Chapter 7, 1990.*

BILL C–24

An Act to amend certain legislation respecting superannuation and other pensions

First reading, June 22, 1989. Second reading and referral to Social Affairs, Science and Technology Committee, June 27. Report from Committee (without amendment), June 28. Third reading and Royal Assent, June 29. *Chapter 6, 1989.*

BILL C–25

An Act to amend the Geneva Conventions Act, the National Defence Act and the Trademarks Act

First and second readings and referral to Foreign Affairs Committee, February 20, 1990. Report from Committee (without amendment), May 31. Third reading, June 5. Royal Assent, June 12. *Chapter 14, 1990.*

BILL C–27

An Act to amend the Non–smokers' Health Act

First reading, June 27, 1989. Second reading and referral to Social Affairs, Science and Technology Committee, June 27. Report from Committee (without amendment), June 28. Third reading and Royal Assent, June 29. *Chapter 7, 1989.*

BILL C–28

An Act to amend the Income Tax Act, the Federal–Provincial Fiscal Arrangements and Federal Post–Secondary Education and Health Contributions Act, the Old Age Security Act, the Public Utilities Income Tax Transfer Act, the War Veterans Allowance Act and a related Act

First reading, December 21, 1989. Second reading and referral to Banking, Trade and Commerce Committee, January 24, 1990. Report from Committee (with certain amendments), May 16. Report sent back to Banking, Trade and Commerce Committee, June 5. Report from Committee (with two amendments), adoption of Report and third reading, June 14. Message from Commons disagreeing with the amendments, June 19. Senate does not insist on its amendments, October 18. Royal Assent, October 23. *Chapter 39, 1990.*

BILL C–29

An Act to establish the Department of Forestry, to amend the Forestry Development and Research Act and to make related amendments to other Acts

First reading, November 7, 1989. Second reading and referral to Agriculture and Forestry Committee, November 9. Report from Committee (without amendment), December 14. Third reading, December 19. Royal Assent, December 21. *Chapter 27, 1989.*

BILL C–30

An Act to amend the Judges Act

First reading, June 27, 1989. Second reading and referral to Legal and Constitutional Affairs Committee, June 27. Report from Committee (without amendment), June 28. Third reading and Royal Assent, June 29. *Chapter 8, 1989.*

BILL C–31

An Act to amend the Governor General's Act

First reading, December 20, 1989. Second reading and referral to Legal and Constitutional Affairs Committee, December 21. Report from Committee (without amendment), January 24, 1990. Third reading and Royal Assent, January 30. *Chapter 5, 1990.*

BILL C–34

An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof

First reading, May 22, 1990. Second reading and referral to National Finance Committee, June 14. Report from Committee (without amendment), February 28, 1991. Third reading, March 6. Royal Assent, March 27. *Chapter 16, 1991.*

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, 1990

First and second readings, June 28, 1989. Third reading and Royal Assent, June 29. *Chapter 16, 1989.*

BILL C–36

An Act to amend the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act

First reading, November 28, 1989. Second reading and referral to Agriculture and Forestry Committee, November 29. Report from Committee (without amendment) and third reading, December 14. Royal Assent, December 15. *Chapter 26, 1989.*

BILL C–37

An Act to establish the Canadian Heritage Languages Institute

First reading, October 22, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, December 21. Report from Committee (without amendment), January 23, 1991. Third reading, January 24. Royal Assent, February 1. *Chapter 7, 1991.*

BILL C–38

An Act to amend the Federal Court Act, the Crown Liability Act, the Supreme Court Act and other Acts in consequence thereof

First and second readings and referral to Legal and Constitutional Affairs Committee, February 20, 1990. Report from Committee (without amendment) and referral to Legal and Constitutional Affairs Committee, March 28. Report from Committee (without amendment), third reading and Royal Assent, March 29. *Chapter 8, 1990.*

BILL C–39

An Act to apply federal laws and provincial laws to offshore areas and to amend certain Acts in consequence thereof

First reading, June 19, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 27. Report from Committee (without amendment), September 26. Third reading, November 29. Royal Assent, December 17. *Chapter 44, 1990.*

BILL C–40

An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication

First reading, December 14, 1990. Second reading and referral to Transport and Communications Committee, December 19. Report from Committee (with 3 amendments), January 24, 1991. Report rejected, January 31. Third reading and Royal Assent, February 1. *Chapter 11, 1991.*

BILL C–42

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1990

First reading, October 24, 1989. Second and third readings, October 25. Royal Assent, November 7. *Chapter 21, 1989.*

BILL C–43

An Act respecting abortion

First reading, May 30, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 26. Report from Committee (without amendment), January 23, 1991. Third reading negatived, January 31.

BILL C–44

An Act respecting the Hibernia Development Project and to amend certain Acts in relation thereto

First reading, October 9, 1990. Second reading and referral to Energy and Natural Resources Committee, October 26. Report from Committee (without amendment) and third reading, October 29. Royal Assent, November 6. *Chapter 41, 1990.*

BILL C–47

An Act to amend the Canada Elections Act

First and second readings and referral to Legal and Constitutional Affairs Committee, December 19, 1989. Report from Committee (without amendment) and third reading, December 20. Royal Assent, December 21. *Chapter 28, 1989.*

BILL C–48

An Act to amend the Crop Insurance Act

First reading, March 22, 1990. Second reading and referral to Agriculture and Forestry Committee, March 27, 1990. Report from Committee (without amendment), third reading and Royal Assent, March 29. *Chapter 9, 1990.*

BILL C–49

An Act to provide for the resumption of certain government services

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment), third reading and Royal Assent, December 15, 1989. *Chapter 24, 1989.*

BILL C–50

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1990

First reading, December 8, 1989. Second and third readings and Royal Assent, December 12, 1989. *Chapter 23, 1989.*

BILL C–51

An Act to amend the Income Tax Act

First reading, May 22, 1990. Second reading and referral to National Finance Committee, May 30. Report from Committee (without amendment), June 19. Third reading, June 26. Royal Assent, June 27. *Chapter 34, 1990.*

BILL C–52

An Act to amend the Income Tax Act and related Acts

First reading, June 13, 1990. Second reading and referral to National Finance Committee, June 14. Report from Committee (without amendment), third reading and Royal Assent, June 27. *Chapter 35, 1990.*

BILL C–53

An Act to amend the Criminal Code (arson)

First reading, May 8, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, May 15. Report from Committee (without amendment), May 31. Third reading, June 5. Royal Assent, June 12. *Chapter 15, 1990.*

BILL C–54

An Act to amend the Criminal Code (joinder of counts)

First reading, October 9, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, December 20. Report from Committee (without amendment), January 16, 1991. Third reading and Royal Assent, January 17. *Chapter 4, 1991.*

BILL C–55

An Act to amend the Customs Act

First reading, June 19, 1990. Second reading and referral to a Committee of the Whole for next sitting, June 26. Report from Committee (without amendment), third reading and Royal Assent, June 27. *Chapter 36, 1990.*

BILL C–56

An Act to amend the Small Businesses Loans Act

First reading, March 21, 1990. Second reading and referral to Banking, Trade and Commerce Committee, March 22. Report from Committee (without amendment), third reading and Royal Assent, March 29. *Chapter 10, 1990.*

BILL C–57

An Act to proavide for the protection of integrated circuit topographies and to amend certain Acts in consequence thereof

First reading, May 22, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, June 12. Report from Committee (without amendment), June 19. Third reading, June 26. Royal Assent, June 27. *Chapter 37, 1990.*

BILL C–59

An Act to amend various Acts to give effect to the reconstitution of the courts in British Columbia

First reading, May 8, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, May 15. Report from Committee (without amendment), May 23. Third reading, May 24. Royal Assent, June 12. *Chapter 16, 1990.*

BILL C–60

An Act to amend various Acts to give effect to the reconstitution of the courts in Ontario and to provide for other related matters

First reading, May 8, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, May 17. Report from Committee (without amendment), May 23. Third reading, May 24. Royal Assent, June 12. *Chapter 17, 1990.*

BILL C–61

An Act to amend the Divorce Act (barriers to religious remarriage)

First reading, May 8, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, May 16. Report from Committee (without amendment), May 30. Third reading, May 31. Royal Assent, June 12. *Chapter 18, 1990.*

BILL C–62

An Act to amend the Excise Tax Act, the Criminal Code, the Customs Act, the Customs Tariff, the Excise Act, the Income Tax Act, the Statistics Act and the Tax Court of Canada Act

First reading, April 11, 1990. Second reading and referral to Banking, Trade and Commerce Committee, May 3. Report from Committee, September 26. Report rejected, October 25. Motions in amendment to motion for 3rd reading — No. 1, negatived November 6; No. 2, negatived November 7; No. 3, negatived November 8; No. 4, negatived November 13; No. 5, negatived November 14; No. 6, negatived November 15; No. 7, negatived November 20; No. 8, negatived November 22; No. 9, negatived November 27; No. 10, negatived November 29. Third reading, December 11. Royal Assent, December 17. *Chapter 45, 1990.*

BILL C–63

An Act to establish the Canadian Race Relations Foundation

First reading, December 17, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, December 20. Report from Committee (without amendment), January 23, 1991. Third reading, January 24. Royal Assent, February 1. *Chapter 8, 1991.*

BILL C–65

An Act to provide borrowing authority

First reading, May 16, 1990. Second reading and referral to National Finance Committee, May 24. Report from Committee (without amendment), June 7. Third reading and Royal Assent, June 12. *Chapter 19, 1990.*

BILL C–66

An Act respecting diseases and toxic substances that amy affect animals or that may be transmitted by animals to persons, and respecting the protection of animals

First and second readings, and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 14, 1990. Royal Assent, June 19. *Chapter 21, 1990.*

BILL C–67

An Act to prevent the importation, exportation and spread of pests injurious to plants and to provide for their control and eradication and for the certification of plants and other things

First and second readings, and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 14, 1990. Royal Assent, June 19. *Chapter 22, 1990.*

BILL C–68

An Act to amend the Yukon Placer Mining Act and the Yukon Quartz Mining Act and to make provision for the application of certain orders

First reading, December 17, 1990. Second reading and referral to Aboriginal Peoples Committee, December 20. Report from Committee (without amendment), January 15, 1991. Third reading, January 16. Royal Assent, January 17. *Chapter 2, 1991.*

BILL C–69

An Act to amend certain statutes to enable restraint of government expenditures

First reading, June 13, 1990. Second reading and referral to National Finance Committee, June 19. Report from Committee, (without amendment), January 23, 1991. Third reading, January 29. Royal Assent, February 1. *Chapter 9, 1991.*

BILL C–70

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1990

First and second readings, March 27, 1990. Third reading, March 28. Royal Assent, March 29. *Chapter 11, 1990.*

BILL C–71

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1991

First and second readings, March 27, 1990. Third reading, March 28. Royal Assent, March 29. *Chapter 12, 1990.*

BILL C–72

An Act to establish the Canadian Polar Commission and to amend certain Acts in consequence thereof

First reading, December 17, 1990. Second reading and referral to Aboriginal Peoples Committee, January 15, 1991. Report from Committee (without amendment), January 17. Third reading, January 22. Royal Assent, February 1. *Chapter 6, 1991.*

BILL C–74

An Act to amend the Fisheries Act and to amend the Criminal Code in consequence thereof

First reading, December 14, 1990. Second reading and referral to Fisheries Committee, December 20. Report from Committee (without amendment), January 14, 1991. Third reading, January 15. Royal Assent, January 17. *Chapter 1, 1991.*

BILL C–75

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991

First reading, June 7, 1990. Second reading, June 13. Third reading, June 14. Royal Assent, June 19. *Chapter 33, 1990.*

BILL C–77

An Act to amend the Immigration Act

First reading, June 14, 1990. Second reading and referral to a Committee of the Whole for next sitting, June 19. Report from Committee (without amendment), June 26. Third reading and Royal Assent, June 27. *Chapter 38, 1990.*

BILL C–79

An Act to amend the Parliament of Canada Act

First reading, December 14, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, January 23, 1991. Report from Committee (with five amendments) and adoption of Report, February 28. Third reading as amended (with further amendments), March 6. Amendments agreed to by Commons, March 27. Royal Assent, April 11. *Chapter 20, 1991.*

BILL C–81

An Act to implement the United Nations Convention on Contracts for the International Sale of Goods

First reading, December 14, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, December 19. Report from Committee (without amendment), January 31, 1991. Third reading and Royal Assent, February 1. *Chapter 13, 1991.*

BILL C–82

An Act to amend An Act to provide for the appointment of a Port Warden for the Harbor of Quebec and An Act to amend and consolidate the Acts relating to the office of Port Warden for the Harbour of Montreal, and to validate certain fees and charges established pursuant thereto

First reading, December 17, 1990. Second reading and referral to Transport and Communications Committee, December 21.

BILL C–84

An Act respecting the privatization of the national petroleum company of Canada

First reading, December 19, 1990. Second reading and referral to Energy and Natural Resources Committee, December 21. Report from Committee, January 30, 1991. Report rejected, January 31. Third reading and Royal Assent, February 1. *Chapter 10, 1991.*

BILL C–86

An Act to amend the Income Tax Act (child tax credit)

First reading, November 6, 1990. Second reading and referral to Social Affairs, Science and Technology Committee; report from Committee (without amendment) and third reading, November 7. Royal Assent, November 8. *Chapter 42, 1990.*

BILL C–87

An Act to amend the statute law in relation to war veterans

First reading, November 13, 1990. Second reading and referral to Social Affairs, Science and Technology Committee; report from Comittee (without amendment) and third reading, November 20. Royal Assent, December 17. *Chapter 43, 1990.*

BILL C–88

An Act to provide for the membership of Canada in the European Bank for Reconstruction and Development

First reading, January 22, 1991. Second reading and referral to Foreign Affairs Committee, January 29. Report from Committee (without amendment), January 31. Third reading and Royal Assent, February 1. *Chapter 12, 1991.*

BILL C–90

An Act to amend the Bank Act (extension)

First reading, November 20, 1990. Second reading and referral to Banking, Trade and Commerce Committee, December 18. Report from Committee (without amendment), December 20. Third reading and Royal Assent, December 21. *Chapter 47, 1990.*

BILL C–91

An Act to amend the Financial Administration Act and other Acts in consequence thereof

First reading, March 25, 1991. Second reading and referral to National Finance Committee, April 9. Report from Committee (with one amendment); Bill referred to Committee of the Whole; Report from Committee (without amendment); third reading and Royal Assent, May 8. *Chapter 24, 1991.*

BILL C–92

An Act to amend the Northwest Territories Act

First reading, November 27, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, December 18. Report from Committee (without amendment), December 20. Third reading and Royal Assent, December 21. *Chapter 48, 1990.*

BILL C–93

An Act to amend the Bretton Woods and Related Agreements Act

First reading, February 26, 1991. Second reading and referral to Foreign Affairs Committee, March 7. Report from Committee (without amendment), March 27. Third reading, April 9. Royal Assent, April 11. *Chapter 21, 1991.*

BILL C–94

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending the 31st March, 1991

First reading, December 14, 1990. Second and third readings and Royal Assent, January 17, 1991. *Chapter 5, 1991.*

BILL C–97

An Act to provide borrowing authority

First reading, March 25, 1991. Second reading and referral to National Finance Committee, March 27. Report from Committee (without amendment), third reading and Royal Assent, April 11. *Chapter 23, 1991.*

BILL C–98

An Act authorizing agreements between the Government of Canada and the provinces to provide for protection for the income of producers of agricultural products and to enable the Government of Canada to take additional measures for that purpose

First reading, April 9, 1991. Second reading and referral to Agriculture and Forestry Committee, April 9. Report from Committee (without amendment), third reading and Royal Assent, April 11. *Chapter 22, 1991.*

BILL C–99

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1991

First and second readings, March 26, 1991. Third reading and Royal Assent, March 27. *Chapter 19, 1991.*

BILL C–100

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1992

First and second readings, March 26, 1991. Third reading and Royal Assent, March 27. *Chapter 18, 1991.*

MEMBERS' PUBLIC BILLS (HOUSE OF COMMONS)

BILL C–223

An Act respecting a Day of Mourning for Persons Killed or Injured in the Workplace

First reading, December 19, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, January 16, 1991. Report from Committee (without amendment), January 31. Third reading and Royal Assent, February 1. *Chapter 15, 1991.*

BILL C–239

An Act to change the name of the electoral district of Saint–Laurent

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 28, 1989. Royal Assent, June 29. *Chapter 10, 1989.*

BILL C–240

An Act to change the name of the electoral district of Markham

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 28, 1989. Royal Assent, June 29. *Chapter 11, 1989.*

BILL C–241

An Act to change the name of the electoral district of Fredericton

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 28, 1989. Royal Assent, June 29. *Chapter 12, 1989.*

BILL C–245

An Act to change the name of the electoral district of Renfrew

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 28, 1989. Royal Assent, June 29. *Chapter 13, 1989.*

BILL C–252

An Act to change the name of the electoral district of Restigouche

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 28, 1989. Royal Assent, June 29. *Chapter 14, 1989.*

BILL C–254

An Act to change the name of the electoral district of Windsor—Lake St. Clair

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment) and third reading, June 28, 1989. Royal Assent, June 29. *Chapter 15, 1989.*

BILL C–258

An Act respecting the establishment of the Centennial Flame Research Award to publicize the contributions to Canadian public life of persons with disabilities

First reading, December 14, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, January 15, 1991. Report from Committee (without amendment), March 6. Third reading (with six amendments), March 7. Amendments agreed to by Commons, March 26. Royal Assent, March 27. *Chapter 17, 1991.*

BILL C–260

An Act to amend the Canada Pension Plan (spousal agreement)

First reading, December 19, 1990. Second reading and referral to Social Affairs, Science and Technology Committee, January 16, 1991. Report from Committee (without amendment), January 23. Third reading, January 24. Royal Assent, February 1. *Chapter 14, 1991.*

BILL C–294

An Act to change the name of the electoral district of Brampton—Malton

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 23, 1990.*

BILL C–296

An Act to change the name of the electoral district of Montmorency—Orléans

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 24, 1990.*

BILL C–298

An Act to change the name of the electoral district of Elgin

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 25, 1990.*

BILL C–305

An Act to change the name of the electoral district of Gloucester

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 30, 1990.*

BILL C–307

An Act to change the name of the electoral district of Langelier

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 31, 1990.*

BILL C–308

An Act to change the name of the electoral district of Selkirk

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 26, 1990.*

BILL C–309

An Act to change the name of the electoral district of Surrey—White Rock

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 27, 1990.*

BILL C–310

An Act to change the name of the electoral district of Laval

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 28, 1990.*

BILL C–311

An Act to change the name of the electoral district of Laval–des–Rapides

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 29, 1990.*

BILL C–312

An Act to change the name of the electoral district of Duvernay

First reading, June 12, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, June 13. Report from Committee (without amendment) and third reading, June 14. Royal Assent, June 19. *Chapter 32, 1990.*

GOVERNMENT BILLS (SENATE)

BILL S–2

An Act to implement conventions between Canada and the Grand Duchy of Luxembourg and Canada and the Polish People's Republic and an agreement between Canada and Papua New Guinea for the avoidance of double taxation with respect to income tax

First and second readings and referral to Foreign Affairs Committee, April 19, 1989. Report from Committee (without amendment) and third reading, May 21. Passed by the Commons, October 6. Royal Assent, November 7. *Chapter 20, 1989.*

SENATORS' PUBLIC BILLS

BILL S–3

An Act to amend the War Veterans Allowance Act (Equality of Male and Female Persons) (Senator Marshall)

First reading, May 15, 1990. Bill ruled out of order and withdrawn, June 13.

BILL S–4

An Act to amend the War Veterans Allowance Act (Residence in Canada) (Senator Marshall)

First reading, May 15, 1989. Bill ruled out of order and withdrawn, June 13.

BILL S–6

An Act to amend the Tobacco Restraint Act and to amend the Tobacco Products Control Act (Senator Haidasz, P.C.)

First reading, May 18, 1989.

BILL S–7

An Act to amend the Criminal Code (protection of the unborn child) (Senator Haidasz, P.C.)

First reading, September 26, 1989. Bill ruled out of order and withdrawn, February 28, 1991.

BILL S–8

An Act to amend the Copyright Act (Senator Marsden)

First reading, November 21, 1989. Second reading and referral to Banking, Trade and Commerce Committee, February 13, 1990. Report from Committee (without amendment), May 10.

BILL S–12

An Act to amend the Unemployment Insurance Act (Senator MacEachen, P.C.)

First reading, December 15, 1989. Second reading and referral to a Committee of the Whole; report from Committee (with one amendment) and third reading, December 19.

BILL S–14

An Act respecting the laws prohibiting marriage between related persons (Senator Nurgitz)

First reading, February 15, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, May 15. Report from Committee (with certain amendments) and third reading, June 7. Passed by the Commons, December 11. Royal Assent, December 17. *Chapter 46, 1990.*

BILL S–17

An Act to amend the Unemployment Insurance Act (Senator Thériault)

First reading, June 12, 1990. Second reading and referral to National Finance Committee, June 13. Report from Committee (without amendment) and third reading, June 14.

BILL S–18

An Act to further the aspirations of the aboriginal peoples of Canada (Senator Watt)

First reading, June 19, 1990. Bill ruled out of order and withdrawn, February 27, 1991.

BILL S–19

An Act to amend the Penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament (Senator Hastings)

First reading, November 14, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, January 15, 1991. Report from Committee (without amendment), January 16. Third reading, January 17.

BILL S–21

An Act to amend certain statutes of Canada to give fair and discrete recognition to the war–time service of the Canadian merchant navy (Senator Marshall)

First reading, May 8, 1991.

SENATORS' PRIVATE BILLS

BILL S–5

An Act to authorize The Safeguard Life Assurance Company to be continued as a corporation under the laws of the Province of Quebec (Senator Cogger)

First reading, May 18, 1989. Second reading and referral to Legal and Constitutional Affairs Committee, June 20. Report from Committee (without amendment), June 28. Third reading, June 29. Passed by the Commons, November 6. Royal Assent, November 7. *Chapter 29, 1989.*

BILL S–9

An Act to amalgamate the two corporations known, respectively, as "The Governing Council of The Salvation Army, Canada East" and "The Governing Council of The Salvation Army, Canada West", and to make necessary provisions regarding the charter of the amalgamated corporation (Senator Balfour)

First reading, November 28, 1989. Second reading and referral to Legal and Constitutional Affairs Committee, December 12. Report from Committee (without amendment) and third reading, December 20. Message from Commons with one amendment; Senate agreed to Commons' amendment without amendment, March 13, 1990. Royal Assent, March 29. *Chapter 49, 1990.*

BILL S–10

An Act respecting the Canadian Institute of Chartered Accountants (Senator Leblanc (*Saurel*))

First reading, November 29, 1989. Second reading and referral to Banking, Trade and Commerce Committee, December 12. Report from Committee (with two amendments), May 2, 1990. Adoption of Report, May 3. Message from Commons with one amendment, June 1. Senate agreed to Commons' amendment without amendment, June 6. Royal Assent, June 12. *Chapter 52, 1990.*

BILL S–11

An Act to restructure the Eastern Canada Synod of the Lutheran Church in America under the name of the Eastern Synod of the Evangelical Lutheran Church in Canada (Senator Macquarrie)

First reading, December 13, 1989. Second reading and referral to Legal and Constitutional Affairs Committee, December 21. Report from Committee (without amendment), January 24, 1990. Third reading, January 30. Pawsed by Commons, April 3. Royal Assent, May 10. *Chapter 50, 1990.*

BILL S–13

An Act to amend an Act to inforporate the Ukrainian Greek Orthodox Church of Canada (Senator Hastings)

First reading, January 24, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, March 20. Report from committee (without amendment), March 28. Third reading, April 11. Passed by Commons, April 26. Royal Assent, May 10. *Chapter 51, 1990.*

BILL S–15

An Act to amend the Act of incorporation of Desjardins Mutual Life Assurance Company (Senator Bolduc)

First reading, February 21, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, March 27. Report from Committee (without amendment), April 11. Third reading, May 1. Passed by Commons, June 1. Royal Assent, June 12. *Chapter 53, 1990.*

BILL S–16

An Act to amend the Act of incorporation of The Canadian Institute of Mining and Metallurgy (Senator MacDonald *(Halifax)*)

First reading, May 9, 1990. Second reading and referral to Legal and Constitutional Affairs Committee, May 22. Report from Committee (without amendment), May 31. Third reading, June 5. Passed by Commons, June 12. Royal Assent, June 19. *Chapter 54, 1990.*

BILL S–20

An Act to amend the Act of incorporation of the University of Emmanuel College (Senator Buckwold)

First reading, March 26, 1991. Second reading and referral to Legal and Constitutional Affairs Committee, April 9. Report from Committee (without amendment) and third reading, April 17.