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OFFICIAL REPORT
(HANSARD)

Thursday, May 30, 1996

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

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THE SENATE

Thursday, May 30, 1996

The Senate met at 9:00 a.m., the Speaker in the Chair.

Prayers.

SENATOR'S STATEMENT

INAUGURATION OF ICELANDAIR FLIGHTS TO CANADA

Hon. Janis Johnson: Honourable senators, after several years of negotiations, Icelandair has now achieved landing rights in Canada. A memorandum of understanding was signed between the two countries in September of 1995 allowing Icelandair to operate a scheduled international service to Canada. The memorandum is the first of its type to be concluded since the introduction of new provisions for foreign carrier access under the federal government's international air transportation policy.

This month marks the beginning of these regularly scheduled flights. Icelandair will fly every Tuesday and Thursday from Halifax, Nova Scotia, to Reykjavik, Iceland's capital.

Last Tuesday, May 21, I flew on the inaugural flight of the airline from Halifax International Airport to Reykjavik, Iceland, at the invitation of Icelandair. Our delegation was composed of leaders of the Icelandic community in Manitoba, which is the home of the majority of Canadians of Icelandic descent.

Our group included the Honourable Eric Stefanson, Manitoba's Minister of Finance; the Honourary Consul for Iceland in Manitoba, Mr. Neil Bardal; the President of the Icelandic National League, Mr. Laurence Johnson; Mr. Justice Kristjan Stefanson, and Dr. and Mrs. Irvin Olafson.

A host of activities was held for our group when we arrived in Iceland. We were greeted by the Icelandic ambassador to Canada, Einar Benediktsson, and Steinn Logi Bjornsson, the Vice-president of Sales for Icelandair. We met with the Minister of Foreign Affairs, Halldor Asgrimsson, toured Reykjavik, Thingvellir, the home of the first Icelandic Parliament, which is the oldest in the western world, and visited the Westman Islands.

An official dinner was held for us by Prime Minister David Oddsson at his residence, and a banquet was held for us by the Chairman of Icelandair and Eimskip, the Icelandic steamship company, Hordur Sigurgestsson. The excellent hospitality was coupled with discussions about Iceland and the business, trade and tourist opportunities that this new access to Canada will provide. In particular, visitors from the Nordic countries in Europe will increase in the Atlantic provinces due to Icelandair's services, and it will give both areas new economic opportunities in shipping, fishing and trade.

• (0910)

In conjunction with our visit, the flight brought over Canadian business people who had an opportunity to learn about Iceland and to build contacts in the country. They also held a trade show about Nova Scotia during their stay in Reykjavik.

Icelandair's regular flights out of Halifax will add a new and significant dimension to the development of trade opportunities for Atlantic Canada. These flights will also assist in building stronger relations between Canada and Iceland, a relationship already begun by the Icelanders in Manitoba long ago.

I urge honourable senators to visit this most unique and fascinating country which, despite its small size and population, has worked wonders with its fishery, human and natural resources and has produced the most literate nation in the world.

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, in the event that I have an adjournment motion, I should like to ask for leave to revert to the rubric Government Notices of Motions later this day.

By way of explanation, honourable senators, it is our intention to call Bill C-12 first under Government Business. There are a number of senators who wish to speak to that bill. We will then call Bill C-28, and I understand that a number of senators wish to speak on that bill as well.

As a result of discussions between both sides, we have arrived at the understanding that any votes on both Bill C-12 and Bill C-28 will be called by 5:30 p.m. today.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, my colleague opposite and I visited on this question of adjournment more than once last evening and again this morning. There is already a house order dealing with Bill C-12, which states that we shall vote on it no later than 5:30 p.m. tomorrow, unless otherwise agreed to. The other motion that was dealt with last night limits further debate on Bill C-28 to an additional six hours.

Therefore, it seems that the most efficient way to deal with these proceedings is to follow what has been set out by Senator Graham, rather than to come back tomorrow to clean up the votes. Six hours is six hours. The most efficient way to deal with it is to put the matters consecutively.

As I understand it, the agreement is that we will deal with Bill C-12 as the first order of Government Business this morning. If debate is concluded on that item, the vote will be called this afternoon. Bill C-28 will then be called, and the debate on second reading will continue until its conclusion, or after the expiration of six hours, whichever comes first. Then we will go through the rest of the Order Paper. Presumably, we will get to some of the work on the Order Paper. In any event, the votes on Bill C-12 and Bill C-28 will occur no later than 5:30 p.m.

We agree to revert later today to Government Notices of Motions under Routine Proceedings in order to deal with the adjournment motion.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. John B. Stewart, for Senator Kirby, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit later this morning at eleven o'clock, Thursday, May 30, 1996, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Eymard G. Corbin: May we have an explanation?

Senator Stewart: Honourable senators, neither Senator Kirby nor Senator Angus could be here at this hour. The committee has planned a meeting with representatives of the Customs Excise Union. Senators may remember that some time back there was an integration of two branches of the Department of National Revenue, the Customs and Excise Branch and the Tax Branch. The Banking, Trade and Commerce Committee, as I understand it, has arranged to meet today with the representatives of that union, the president and four vice-presidents, who have come to Ottawa to describe how this integration has worked out.

It is the fact that these people have come to Ottawa at the request of the committee and are here now awaiting to serve the committee that makes it desirable that the committee have authority to meet later this morning.

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

Hon. Senators: Agreed.

Motion agreed to.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Mira Spivak: Honourable senators, I give notice that on Friday, May 31, 1996, I will move:

> That the Standing Senate Committee on Agriculture and Forestry have power to sit at 3:30 p.m. on Tuesday, June 4, 1996, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

QUESTION PERIOD

TRANSPORT

MARINE ATLANTIC—INCREASE IN RATES FOR SHIPPING PULPWOOD—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is for the Leader of the Government in the Senate. In the past few days I have been advised of a serious situation in Western Nova Scotia that could have a detrimental impact on the economy of that region. For many years, pulpwood producers have used the services of Marine Atlantic to transport pulpwood to Maine. Marine Atlantic has decided to increase their shipping rate by 73 per cent.

After some discussions, Marine Atlantic agreed to reduce the rate increase to 37 per cent, which is still far too high for producers who are struggling to maintain markets and desperately needed jobs in the forestry industry, an industry which is operating on a marginal basis as it is right now.

• (0920)

Producers are certainly willing to absorb reasonable increases and have even offered to go on a stand-by basis with their product, which means that tourists and perishable goods such as fish would have first access to the space. That proposal was also rejected by Marine Atlantic, which would rather have empty space on the vessel than accept stand-by, despite the fact that stand-by is a well-established practice in the airline industry.

I ask the minister if she will undertake to intervene in this serious matter and speak with her colleague, the Minister of Transport, so that he can have a discussion with Marine Atlantic so they can see the error of their ways.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will pass my honourable friend's question and suggestions on to my colleague today.

MARINE ATLANTIC—INCREASE IN RATES FOR SHIPPING PULPWOOD—EFFECT ON EMPLOYMENT IN NOVA SCOTIA

Hon. Gerald J. Comeau: I have a supplementary question. I wish to stress the urgency of this, because we have a small window of opportunity. The vessel is now operating with empty space and will do so for the next few weeks. Unless Marine Atlantic recognizes its errors now, the window is fast closing, and it will be too late. I would ask the minister to look at this urgently, because 60,000 Nova Scotians have lost their jobs and are looking for work right now. This number is in fact growing. We must have fast action on this matter.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, if my honourable friend will send me the facts that he has outlined in his question today, I will transmit those today to the office of my colleague, the Minister of Transport.

JUSTICE

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—CIVIL ACTION FOR LIBEL—INVOCATION OF CANADA EVIDENCE ACT—GOVERNMENT POSITION

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

According to yesterday's *Ottawa Citizen*, the issue of May 29, 1996, the RCMP commissioner, Mr. Murray, in a very strange course of action, attended an editorial board meeting of the same newspaper, at which he said that the government would invoke the national security aspect of the Canada Evidence Act in the hopes of being exempt from answering questions in the civil case launched by Mr. Mulroney.

In a case of national security, which would normally involve things that would threaten the security of the nation, such as acts of subversion or terrorism or political violence, it seems to me that invoking the act would not just be the decision of the Solicitor General, the client in this case, Mr. Gray, but would require the decision of the Minister of National Defence or perhaps even of cabinet itself.

Could you enlighten us concerning who is making these decisions on behalf of the Government of Canada in these matters?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I read the same story in *The Ottawa Citizen* yesterday. I also went back and re-read the press release that had been put out by Commissioner Murray when seeking an extension of the hearings.

Commissioner Murray has indicated that the course of the hearings might have an impact on or impede the progress of the investigation which is undertaken within the RCMP. I do not have them before me, but in the statements of the judges in the two cases when those extensions were turned down, there was an indication that, if circumstances warranted during the course of the hearings, there were other mechanisms that could be used.

Ultimately, however, it will be the court that will decide —

Senator Lavoie-Roux: Well, let the court decide, then.

Senator Fairbairn: It will be the court that will decide the appropriateness of the use of these mechanisms. If it is seen at some point that there is a conflict, it will ultimately be the judge and the court that will decide what applies.

Senator Tkachuk: I asked who makes these decisions. Surely we have someone who is responsible for making these decisions on behalf of the Government of Canada.

The client in this case is the Solicitor General and the Government of Canada. They are being sued. Other people can be sued, but in reality the Government of Canada has been sued. The Solicitor General obviously has to be leading this court case on behalf of the Government of Canada.

This was not just a case of a press release going out; there was an editorial board meeting of *The Ottawa Citizen* at which these matters were discussed.

When you make a decision not to answer questions because of national security, does that not require other people in addition to the Solicitor General to help make that decision? Perhaps they were worried about terrorist acts or violence in the streets over this matter. Perhaps he would have consulted the Minister of Defence or maybe the Prime Minister himself.

Surely someone must be in charge of this thing. We have been running around here talking about this person or that person, but sooner or later the government must say the Solicitor General is in charge and is making the decisions.

Did he make this decision on his own, or did that require consultation with cabinet?

Senator Fairbairn: Honourable senators, I was not party to the discussions that went on with the editorial board of *The Ottawa Citizen*. I do not know the context of those discussions.

Senator Doyle: Oh, oh!

Senator Fairbairn: The quote that has sparked my friend's interest — and indeed others' interest — is a quote purported to be from Mr. Murray.

> We have no intention of bringing forward aspects of the criminal investigation in any civil case.

There cannot be any decision at this point in time to invoke the Canada Evidence Act, because nothing has transpired in the course of the case. When the case proceeds, if there is a moment when there is a perceived difficulty by the RCMP with what is taking place in the courtroom and what is taking place within the RCMP investigation, as perhaps the judge even recognized that there could be, presumably, at that point in time, there will have to be discussions within the court. Ultimately, the judge and the court will decide.

Senator Tkachuk: I have one more supplementary question. I do not want to get into any technical terms. If there are any lawyers here, please help me on these matters, because I want to find out what happens.

At the moment the matter is at the Examination for Discovery stage. When a Canadian government witness is asked a particular question that he does not want to answer, he will invoke national security and the Canada Evidence Act in order not to answer the question, and then the matter will be argued in a court of law.

Surely, a general policy must be applied by the government. We have been told that somehow the government is not involved; somehow ministers are not involved; it is just bureaucrats running around making decisions. I do not believe it.

In October of 1994, Mr. Gray said to the media, as was reported in *The Globe and Mail*, that he understood that the RCMP had obtained a copy of *On the Take* by Stevie Cameron and were reviewing it. The RCMP confirmed that and said that a

decision was forthcoming on whether to launch a formal investigation. It seems to me that Mr. Gray was paying very close attention to this file to know that some constable in Ottawa had run to a bookstore and obtained a copy of *On the Take*. Did this constable then run into the minister's office and say, "Minister, I am doing good work today"? Did this constable say, "I have a copy of *On the Take* and there is good stuff in here"? Did this constable say, "We are also watching television, minister, and we are working hard"?

• (0930)

Honourable senators, the Solicitor General has a strong interest in this file. He knew what was going on at all times. If he knows that some policemen are buying copies of *On the Take*, then he must be running this file and making all the decisions. All I am asking is this: Did the Solicitor General make this decision and this general policy to invoke the Canada Evidence Act in connection with this matter, or was that decision made within cabinet itself?

Senator Fairbairn: Honourable senators, early in his question my honourable friend stated that he did not believe that ministers were not involved in the investigation, and did not know about the investigation. Obviously, he is saying that to me, since I am the one who conveys the information to him, to the best of my ability and knowledge, that ministers are not, and have not been, involved in the investigation, and do not know the substance of the investigation.

Senator Lynch-Staunton: Why not?

Senator Fairbairn: My honourable friend has indicated to me, as have others, that he simply does not believe what I am conveying to senators in this chamber, and there is very little that I can do to change the view of my honourable friend.

On the question of what will happen in the courts in Montreal, what I have tried to convey to my honourable friend today is that, like him, I did not attend the meetings of the editorial board of *The Ottawa Citizen*. I have no idea what discussion took place at that board, or what the context was of that discussion. This is not the place to discuss, in a hypothetical way, how that case will unfold within the court. That is for the court to decide.

As the case proceeds, the Commissioner of the RCMP has said that, if there is a conflict with the process of the investigation, he would be open to invoking certain sections of the Canada Evidence Act.

I notice that my friend Senator Cogger is nodding.

As happened in the last two instances in that court, when motions were put forward on the part of the RCMP for an extension, those motions were rejected by the judge for a variety of reasons, and the suggestion was made that, when the proceedings resumed, other mechanisms were available to the defence, if needed. If that takes place — and again, it is hypothetical — ultimately the judge and the court will decide.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have two supplementary questions. First, the RCMP says that it will ask for the protection of the Canada Evidence Act. As Senator Fairbairn points out — and I hope the RCMP is listening — it is not up to the RCMP to decide whether the Canada Evidence Act can be used in its defence; it is up to the judge to decide whether that statute is applicable.

As *The Ottawa Citizen* has pointed out, the Canada Evidence Act is normally invoked to block testimony that threatens national security. However, it cannot be used lightly.

My question is this: What aspects of the Airbus affair involve national security?

Senator Fairbairn: Honourable senators, I have no idea at all what might or might not be involved in the investigation. Again, we are dealing with a hypothetical situation arising out of comments in a newspaper. As this case unfolds, it will be for the court to decide, from the questioning back and forth, whether circumstances warrant the use of this particular law.

I cannot presume in any way to be prophetic about what may happen in the course of these proceedings. It would be foolish and improper for me to do so. That decision is for the court. We are here in the Senate. What happens in the court is under the jurisdiction of a judge. In that court, the proceedings thus far, obviously, have been under the jurisdiction of a judge. That will continue to be the case. I can make no comment on the process that will evolve in that courtroom.

Senator Lynch-Staunton: I am glad to hear the minister suggest that the Senate should not involve itself in a court case by asking too many pertinent questions.

Senator Fairbairn: I did not suggest that.

Senator Lynch-Staunton: I suggest that the Leader of the Government in the Senate read her own words. I would suggest that her statement would be even more applicable to Bill C-28.

In any event, assuming that the government had no knowledge of the investigation in its initial stages, how can the minister still maintain that the government is still ignorant of the course of the investigation, even today, as we speak? We were told a few minutes ago that they have no knowledge of it, no matter what we may think, and they are not part of it. How can the Leader of the Government in the Senate maintain that today, when both the RCMP and the Government of Canada are co-defendants in a court action in Montreal? Their lawyers are sitting side by side, exchanging ideas and information for a joint defence. How can the minister maintain today that the government is ignorant of the investigation when its representatives are in a courtroom in Montreal, sitting next to representatives of the RCMP, preparing a joint defence as a result of that investigation?

Senator Fairbairn: Honourable senators, I can only reiterate what I have been saying for months now: that ministers do not have knowledge of this investigation. It would be improper, inappropriate and dangerous if they did. That is fundamental. We are defendants in a libel case in Montreal. That court case is running its course. It is proceeding, from my honourable friend's point of view, perhaps at a good pace. However, we cannot and will not put ourselves in the position of being involved in the substance of an investigation which is part of the ongoing discussion in that court case. That will take place in the court, and under the watchful eye of the judge.

I am truly sorry that my honourable friends do not believe the comments that I have been making in the Senate, but I will continue to make them. I do not for a minute, Senator Lynch-Staunton, say that this is not a place where questions can be asked. Of course it is. I am simply saying that I cannot delve into the realm of predicting the progress of an ongoing court case. I simply cannot do that.

Senator Lynch-Staunton: Perhaps we can clarify one thing so that we do not need to go over old ground repeatedly: Do we understand the minister to say that the Government of Canada has a complete and total hands-off policy on any RCMP investigation, of any kind, anywhere in this country? Is that the policy of this government, to detach itself as much as possible, take no interest as far as possible, and to receive no information on any investigation being conducted by the RCMP?

Senator Doody: To whom are the police responsible?

• (0940)

Senator Fairbairn: Senator Lynch-Staunton, that is a very wide-ranging comment.

Senator Lynch-Staunton: It certainly is.

Senator Fairbairn: I certainly will look at this item again in *Hansard* and pass along your questions. However, I will not make any blanket statements in this house involving any investigation that may be taking place anywhere in the land. In an investigation of this type, in no way are ministers involved in the conduct of that investigation, or in driving it, or in suggesting anything about it. We are not involved in that investigation. In fact, I would say to the members of the opposition in this chamber that if the day ever comes that ministers of the Crown can involve themselves in these kinds of investigations, that will be the point in time when Canadians should become severely worried and distressed.

Senator Lynch-Staunton: May I ask, then: What is it about this kind of investigation that removes from the government its responsibility for keeping an eye on, and confirming its jurisdiction over, the police forces for which it is responsible? What is special about this kind of investigation that makes it so different from any other? Certainly, it is an investigation of certain Canadians who the RCMP feel may have broken laws, but these kinds of investigations go on all the time. The individuals involved may be better known than most Canadians under investigation, but the nature of the investigation, which is to look into possible criminal activities, is not unusual for the RCMP; it is their normal responsibility. Surely the RCMP has many similar investigations going on all the time, and, equally surely, the minister responsible is kept informed.

What is it about this particular investigation, from which, it seems, the government simply wants to absolve itself completely?

Senator Fairbairn: I have said to my honourable friend that it would not be right for members of the government to involve themselves in police investigations — not just this one but any one. He has asked me a blanket question. As Senator Murray said yesterday, I do not have responsibility for any departments, and I am very careful about putting words into anyone else's mouth. I will, therefore, seek a proper and thoughtful answer for my honourable friend. I will not answer him off the top of my head, because that would be improper.

However, the one thing that I will say — and continue to say — is that if political ministers are involving themselves in criminal investigations involving the RCMP, that is wrong. It is wrong for Canadians, it is wrong for politicians, and it is wrong for our system of justice.

An Hon. Senator: Hear, hear!

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—OVERSIGHT OF POLICE AUTHORITIES—GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, I have a supplementary question. Perhaps the minister could reflect upon a fundamental principle which is captured by the statement of classical vintage, *quis custodiet ipsos custodes*: Who is guarding the guardians?

My question is: Is the policy of the present ministry — that is, of the present Government of Canada — that it does not provide oversight of the police authorities in this country?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as I said to Senator Lynch-Staunton, on the kinds of questions that are being asked here, I wish to consult elsewhere in order to get a thoughtful and proper answer. It is not for me to make my own philosophical or categoric responses to these questions.

Of course there are rules of procedure clearly set out within our system; we all know that. What I am saying here today, with the knowledge that I have, is that it is not for ministers to have an active role —

Senator Lynch-Staunton: I am not saying that. I am not asking for that.

Senator Fairbairn: — in any way within the investigations that we have been discussing.

Senator Kinsella: As a member of the ministry, do you as minister, or collectively with your colleagues in the ministry, now believe that you do not have a responsibility to provide oversight to police activities in this country?

Senator Fairbairn: I believe that the Government of Canada always has a responsibility to see that our system of justice in this country works.

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—FACTORS INVOLVED IN MINISTER'S DECISION TO SEEK DELAY IN LAWSUIT—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: I have a supplementary question on this matter, since the Leader of the Government in the Senate has indicated that she would be reflecting on some broader issues of justice.

As someone who worked in the justice system, am I correct that you said when the minister was consulted by the RCMP with respect to seeking a delay in this civil suit, that the minister made his decision based on the representations of the RCMP that they needed further time for the investigation? Is my recollection correct on that?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would be pleased to send my honourable friend a copy of the press release in which this was stated and outlined.

Senator Andreychuk: If that is the case, what concerns me is: Did the minister, in making his decision at that point, exercise his duty not only to the principle of not getting involved in the active conduct of the investigation, but also to weighing other factors in determining that they should seek a delay?

In my opinion, the minister at that time knew that a citizen's rights may be impacted so detrimentally that his character and reputation would be irretrievably damaged by the damning statements that were made. Did he weigh the fact that it was in the best interests of the public to continue the investigation, as opposed to weighing other points of justice that are clearly within the mandate of the minister to decide?

I can certainly concede that ministers of justice in provincial governments must weigh the competing interests of citizens. Sometimes they are collective interests; sometimes they are individual interests. Sometimes we continue with an investigation and sometimes we seek to stop an investigation because there are higher and more laudable principles.

What concerns me is: Why did the minister not exercise his full discretion in determining what would be in the best interests of Canada and the people of Canada, and particularly the individual citizens involved?

Senator Fairbairn: Honourable senators, the minister took his responsibilities fully, I am sure. Again, I will send my honourable friend a copy of the release that was sent out. That is all I can say on the matter.

Senator Andreychuk: As I understood it, the only factor he took into account was the continuation of the investigation. I would like that confirmed or denied, because I believe there were other principles that he should have taken into consideration if he were exercising his discretion appropriately.

Senator Fairbairn: I will, as always, see what appropriate answer I can give to my honourable friend, but as I indicated, the situation was laid out very clearly in this communication, and that was the path that was followed. I have no doubt that the minister responsible acted in good faith within his responsibilities.

The Hon. the Speaker: Honourable senators, the time period for Question Period has expired.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on April 30, 1996 by the Honourable Senator Thérèse Lavoie-Roux concerning the closure of the Canadian Centre for Magnetic Fusion.

NATURAL RESOURCES

CLOSURE OF CANADIAN CENTRE FOR MAGNETIC FUSION—GOVERNMENT POSITION

(*Response to question raised by Hon. Thérèse Lavoie-Roux on April 30, 1996*)

Point 1: It is true that fusion may lead to an environmentally sound technology for electricity generation on a large scale.

Response:

However, fusion technology will require considerable development before it could make any contributions to energy or environment, and that is if a commercially viable technology can be developed. This development will be very expensive and will take over 30 years. To put the cost in perspective, the next step in its development is the International Thermonuclear Experimental Reactor (ITER), a joint project of Japan, the European Union, Russia and the United States, which is expected to cost $10B to construct and another $10B to operate over its lifetime; and this is only an experimental reactor.

Point 2: The government made a 30-year commitment to fund the Tokamak de Varennes.

Response:

The government did not make a 30-year commitment to fund the Tokamak de Varennes. The only commitment is an agreement among three parties: Atomic Energy of Canada Limited, Hydro-Québec and Institut national de la recherche scientifique. In this agreement, any of the parties could withdraw provided that it gives one year's advance notice.

Point 3: What rationale does the government have for scrapping 15 years of internationally acclaimed research?

Response:

Today, the federal government has a serious deficit problem. It must take steps to deal with that problem to prevent it from being an onerous burden on present and future generations of Canadians. Dramatic cuts had to be made to all parts of the federal government, including the natural resources portfolio. The government has to focus its energy R&D expenditures on priority areas which can bring benefits in the short to medium terms to help reduce the deficit and debt, provide jobs and deal with environmental concerns.

With a decreasing budget, the government could no longer continue to support a high risk costly energy technology option such as fusion, which is not likely to show any energy or environment benefit until the latter half of the next century. These resources would be better spent on priority areas which would provide benefits in the short to medium term.

Point 4: Will the cancellation of the magnetic fusion project enhance the bringing to market of this type of technology?

Response:

The federal government did not cancel the project. The project is jointly funded by three parties: Atomic Energy of Canada Limited (AECL), Hydro-Québec and Institut national de la recherche scientifique. The federal government's decision is to terminate its funding for the project. If the other parties wish to continue with the project, they may do so. The federal government has given them one year, in accordance with the agreement with AECL, to seek other partners or increase their share of the funds for the project.

Fusion technology is not going to be marketable for at least another 30 years, and that is if a commercially viable technology can be developed.

Point 5: The project is being scrapped with no consideration being given to the consequences, the people, the money or the consequences for long-term research.

Response:

The federal government is not scrapping the project. Hydro-Québec can continue if it still believes fusion is a high priority for generating electricity in the long-term.

In this time of serious fiscal restraint, the federal government cannot support all research programs even though they may be good. The focus had to be on good research that can help deal with our national problems of deficit, job creation and environment in the short and medium terms. Fusion is good research, however, the benefits may not be realized until the latter half of the next century.

• (0950)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED
TO PERMIT ELECTRONIC COVERAGE

Leave having been given to revert to Notices of Motions:

Hon. Mabel M. DeWare: Honourable senators, if the committee receives Bill C-12 today, it will ask the Senate for permission to allow electronic media coverage of the committee's proceedings. Since the Senate will probably not meet tomorrow or Monday, with leave of the Senate and notwithstanding rule 58(1)(*f*) today, I move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to permit coverage by electronic media of its public proceedings on Bill C-12, an act representing employment insurance in Canada, with the least possible disruption of its hearings.

Honourable senators, we hope to have our first meeting on Monday.

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

Hon. Senators: Agreed.

Motion agreed to.

CANADA'S CONSTITUTIONAL MONARCHY

NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiries:

Hon. Anne C. Cools: Honourable senators, pursuant to rules 57(1), (2) and 58(2), I give notice that on Wednesday next I will call the attention of the Senate to Canada's constitutional monarchy; and to the history of the sovereign's representative in Canada, namely, the Governor General; and to the historic and constitutional principle that in a constitutional monarchy the sovereign does not enter the lower house; and to the presence of His Excellency the Governor General in the House of Commons chamber on Wednesday, May 29, 1996.

CHILD ABUSE AND NEGLECT

DEATH OF SARA PODNIEWICZ—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rules 57(1), (2) and 58(2), I give notice that on Wednesday next I will call the attention of the Senate to the child abuse and neglect (CAN) death of six-month old Sara Podniewicz, known as Sara Olsen, at the hands of her parents, Lisa Olsen and Michael Podniewicz, on April 24, 1994 in Toronto, Ontario; and to her autopsy; and to her parents' conviction and sentence for second degree murder; and to their treatment of their other children; and to the actions of the Catholic Children's Aid Society, the Canadian Mothercraft Society and Corrections Canada in this case.

ORDERS OF THE DAY

EMPLOYMENT INSURANCE BILL

SECOND READING

Leave having been given to proceed to Item No. 4:

On the Order:

Resuming the debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Forest, for the second reading of Bill C-12, respecting employment insurance in Canada.

Hon. Erminie J. Cohen: Honourable senators, I rise today to speak to Bill C-12, which was sent to us by the other place for our careful consideration of its merits and shortcomings. I should

like to point out that the bill does, indeed, have some merits, and that it is by no means a bad piece of legislation in every respect. However, it has certain shortcomings which we in this chamber have the opportunity and the solemn duty to address. We must make the most of the opportunity available to us to make Bill C-12 better for the Canadians to whom it was designed to serve.

Honourable senators, this is, indeed, a complex piece of legislation, one which will have far-reaching effects on the lives of hundreds of thousands of ordinary Canadians from all regions, and not least my own. I ask honourable senators to consider that 145,000 people are officially out of work in the four Atlantic provinces alone. Consider, too, that unemployment rates in Atlantic Canada range from 10.7 per cent in New Brunswick to 19.7 per cent in Newfoundland. Within the provinces, the official figures run as high as 33.4 per cent in parts of Newfoundland. In my City of Saint John, 10.5 per cent of the labour force is officially out of work. That is better than some of the other parts of the region, but it is still totally unacceptable.

Also keep in mind, honourable senators, that these figures would be much higher if they were to include the thousands of people who have given up looking for work because there is none to be found. If you give up because there are no jobs, Statistics Canada says you are not unemployed. Using the same logic, I guess if you stop eating because there is no food, you are not hungry.

While the government likes to talk about all the jobs it is creating, Atlantic Canada has had a net loss of 4,000 jobs since November. Meanwhile, the number of unemployed has jumped by 15,000 in the same period.

Honourable senators, I have mentioned these figures and, of course, the Atlantic region is just one part of the Canadian picture, to impress upon you the magnitude of the impact that the employment insurance bill will have. These are not just statistics. When we talk about the number of unemployed Atlantic Canadians, we are talking about 145,000 human lives — people who must feed, clothe and house themselves and their families. It is up to us to ensure that Bill C-12 does not make it harder for them and for their counterparts in other regions to do that.

Given the bill's complexity and its potential impact on the lives of so many Canadians, it can be difficult in even the best of circumstance to develop a full and proper understanding of it. In our case, the task is made more daunting by the strict time constraints which have been imposed on this chamber for its study. It is further complicated by the restriction which has been imposed on travel by the committee.

That being said, however, several of its provisions have already given rise to significant concerns which deserve the full attention of this chamber. While some of my colleagues will speak to other aspects of the bill, I have chosen to focus today on the potentially negative impact that Bill C-12 in its present form will have on young people, especially students.

Honourable senators, before addressing the specifics of the bill insofar as it affects Canada's youth, I should like to remind you of the government's stated commitment in the last Speech from the Throne.

> Young Canadians want the opportunity to put their energies and talents to use. Young Canadians deserve a climate of opportunity. This must be a national objective.

As part of this impressive and much-needed commitment to Canada's young people, the Throne Speech went on to pledge that:

> The Government will challenge business and labour and all levels of government to work together to create new approaches to assist young people in finding jobs.

I think it is also appropriate to remind this chamber of the words of the new Minister of Human Resources Development, the Honourable Doug Young, who introduced Bill C-12 in the other place. He was quoted in the *Telegraph-Journal* of February 6, 1996 as having said:

> We have a major challenge facing Canada. It is a unity question. It is an equity question. It covers a lot of ground. And that question is: What are we doing to provide opportunities for youth to alleviate some of their frustrations? It runs the whole gamut from training—making sure that it is more focused—to student loans and right out to job opportunities...youth deserve an awful lot of attention.

Honourable senators, it is with these commitments in mind that I invite you to take a closer look at the so-called first-dollar coverage that is a key feature of the employment insurance bill and the effect that it will have on young people, primarily students who work part time.

Briefly, Bill C-12 extends EI coverage to all workers who are employed in insurable employment for 15 or fewer hours a week by any one employer. This means that those workers, many of whom are students, would be required to pay EI premiums on every dollar they earn right from the first one. It also means that, as a result, they could be entitled to receive EI benefits if they lose their jobs.

Honourable senators, there are, indeed, many part-time workers who I am sure would welcome this provision of the bill, as I do on their behalf. I am speaking primarily of the growing number of multiple job holders, people who, because they cannot find full-time jobs or for other reasons, work at two or more part-time jobs, each fewer than 15 hours a week. Under Bill C-12, they could qualify for some income protection in the event that they lose their jobs, and could also qualify for special EI benefits in the form of maternity, sickness or parental leave. Thus, the intent behind first-dollar coverage appears to be quite laudable.

• (1000)

However, it also appears that this provision will have some unintended and most unfortunate consequences. That is because Bill C-12 fails to make an important and necessary distinction. It extends the same treatment to part-time workers who could readily qualify for EI coverage and who are likely, in the event of job loss, to be able to benefit from it, and those for whom mandatory coverage would simply mean a decrease in their take-home pay, with little likelihood of ever being able to collect benefits.

Workers in this last category are not at all well served by the bill's "one-size-fits-all" approach. Included are the many young people, mainly students, who work 15 or fewer hours a week in the retail, tourism, food service, and hospitality industries. These part-time jobs are of vital importance to students. Not only do they provide valuable experience in the work force, post-secondary students need them to support their day-to-day financial needs. In the case of many high school students, these jobs are an important means of earning money toward college and university tuition fees.

I might point out that the savings factor is becoming more critical as the federal government has cut funding for post-secondary education in the Canada Health and Social Transfer. The result is higher and higher tuition fees. What is more, the Honourable Doug Young, in the same *Telegraph Journal* article from which I quoted earlier, hinted that he thought tuition fees should be even higher on the grounds that they do not reflect the value of the education that students receive, so part-time jobs can only become more and more important to students.

The government might argue that the current unemployment insurance system distorts the labour market by exempting from UI coverage part-time jobs of fewer than 15 hours a week. The argument goes that it encourages employers to arrange their staffing schedules so as to limit the number of hours worked by individual employees, thereby avoiding paying UI premiums on their behalf.

However, the fact of the matter is that in the service sector where students' part-time jobs tend to be concentrated, work schedules are often arranged so that more staff are working during times of peak customer demand. This results in short, heavily staffed shifts. This also provides more flexibility for student workers who are then able to chose shifts that fit their school schedules and their available time commitment.

With mandatory first-dollar coverage, students would see a drop in their earnings from their part-time employment. This could have the effect of encouraging them to work longer hours to make up the difference, jeopardizing their studies. In the case of high school students, such a situation might even affect their chances of moving on to post-secondary studies.

All of this goes against the government's stated commitment to help build a climate of opportunity for Canada's youth. Honourable senators, I am certain you will agree that the Government of Canada should be doing as much as possible to encourage young people to pursue post-secondary studies or, at the very least, take care not to inadvertently create obstacles in this important area.

Just what kind of coverage would student workers be paying EI premiums for? To qualify for benefits, Bill C-12 would require new entrants and re-entrants to the labour force to have accumulated 910 or more hours of insurable employment in the 52 weeks before their benefit period begins. That is the equivalent of 60.5 weeks of part-time work at 15 hours a week. That is more than the period of time available to qualify.

Therefore, these workers would first have to shed their status as new entrants or re-entrants. This means that in the last 52 weeks before their 52-week qualifying period, they will have to have accumulated at least 490 hours of insurable employment. That is the equivalent of 32.5 weeks of part-time work at 15 hours a week. Students working part time at 15 hours a week would basically have to work for almost two years before they could even have a hope of qualifying for benefits.

Even then, just what level of benefits would they be eligible to receive? They would be downright negligible. Their weekly benefit would be 55 per cent of 15 hours a week at minimum wage.

Bill C-12 provides for EI premiums to be refunded to workers whose insurable earnings, or insurable earnings minus EI premiums, are $2,000 or less in a year. However, most students would not qualify. For example, a student working 15 hours a week for $5 an hour would earn $3,900 over the course of a year.

Honourable senators, as you can see, for students who work part time, Bill C-12 has a number of immediately apparent disadvantages. These students would experience a drop in their already small pay cheques which might encourage them to work longer hours, to the detriment of their education. They would face difficulty in qualifying for employment insurance and then would enjoy only limited access to benefits, and most would not qualify for a refund of their premiums. I believe these are reasons enough for this chamber to reconsider the first-dollar coverage required by Bill C-12.

Thus far, we have only been looking at one side of the employment insurance equation, the student or employee side. It is equally important to consider the employer side, for the employers of part-time student workers will also have to pay EI premiums on their behalf, adding to the already considerable burden of payroll taxes they must bear.

The service sector where, as I have already noted, many part-time jobs held by students are concentrated, tends to be very labour intensive and will, therefore, be hit hard by this provision of Bill C-12. Because of low profits and the highly competitive nature of the service industries, companies in this sector are not in a position to pass on to consumers the increased costs they will face because of expanded EI premiums. Therefore, it is pretty much a certainty that these costs will be taken out of their human resources budgets. The result will be fewer positions for their employees, fewer hours of work for those who remain, and lower pay.

For example, the Canadian Restaurant and Food Services Association estimates that first-dollar EI coverage will cost the food industry alone $35 million, and it expects this will jeopardize between 5,000 and 10,000 part-time jobs. Meanwhile, the Retail Council of Canada is also looking at the possibility of considerable job losses.

Honourable senators, these part-time jobs are being put directly at risk by Bill C-12's first-dollar coverage provision. These jobs are vital to students in all regions, whether they are helping high-school students to save for their university or college education, or helping post-secondary students pay their day-to-day living expenses while they pursue their studies. With fewer such jobs available, more students might be forced to radically alter or even give up their plans for a higher education.

I believe that this unfortunate situation is not one which the government, in drafting Bill C-12, intended to occur. After all, it certainly flies in the face of the importance that the government places, and with reason, on furthering the educational and job prospects of Canada's young people. Rather, it seems likely that the effects of first-dollar coverage were overlooked in favour of the increased revenues to the UI fund that will result from this provision.

Fortunately, it is not too late for changes. Honourable senators, we must seize the opportunity that is before us to make the employment insurance bill better in this extremely important regard; to make it better for our young people so that they can be assured of a better future in Canada. We must not forfeit the opportunity that is available to us to make Bill C-12 better for all Canadians and, in this case, particularly students working part time for 15 or fewer hours a week.

Hon. Gerald J. Comeau: I appreciate the opportunity to speak on second reading of Bill C-12, respecting employment insurance in Canada. Honourable senators, at the outset I would make it clear that I do not support this proposed legislation, a comment which will be no surprise to some.

Senator Taylor: I am surprised.

Senator Comeau: Senator Taylor may be surprised, but I am sure that after he has heard my comments which will demonstrate that the Liberals can in fact change their stripes, as they did when they become government, he will understand why I cannot support this bill.

The passage of Bill C-12 will marginalize and further devastate some of the most vulnerable people in our society. It is for these people that our present unemployment system was designed back in 1940. Since that time, we have witnessed numerous amendments to the legislation.

The early proposals for change were with a view to improving and extending coverage of unemployment insurance benefits. Years later, changes were required to fine tune the requirements and make it more responsive to the needs of Canadians.

In 1990, the previous government introduced Bill C-21 that, among other things, raised the qualifying period for UI benefits depending on a particular region's unemployment rate. This legislation also disqualified workers from receiving benefits for 7 to 12 weeks following the waiting period if they quit their jobs voluntary, were fired for misconduct, or refused a suitable job.

The reaction to these legislative changes from our friends opposite was fierce and unrelenting.

• (1010)

I wish to quote one member of Parliament who, coincidentally, has become the Minister of Fisheries, the Honourable Fred Mifflin. He said:

> The major problem is that we're taking money out of the fund and diverting it into another area. This idea that the government is using Bill C-21 takes some of the safety net away... so if you fall off the trampoline you may well not fall in the net, you may go through it.

That quote comes from the St. John's *Evening Telegram* of September 19, 1989.

Here we are in 1996, and the massive changes to the UI system that the Liberal government is trying to ram through Parliament make Bill C-21 pale in comparison. If Mr. Mifflin were to describe the effects of Bill C-21 as it is today in Bill C-12, he might say something to this effect: "It is not only taking the safety net away. Bill C-12 throws gasoline on the safety net, lights a match, watches it go up in smoke, and there are no fire extinguishers around to help."

Honourable senators, the hypocrisy is incredible. However, I do not need to waste time pointing out what has become obvious to Canadians. Whether it is the GST, free trade, the NAFTA, helicopters or UI, this party has become a master at, having promised one thing to the electorate, doing the absolute opposite now that it is in office

What I wish to briefly comment upon is the impact this legislation will have on my region of the country, Atlantic Canada. Contrary to the arguments of the Liberal government, most people are unemployed by circumstances, not by choice. These circumstances can range from fluctuations in the economy to an issue with which I am most familiar in Atlantic Canada, that of seasonal work.

Bill C-12 will drastically shrink the benefits of seasonal workers. In my province of Nova Scotia alone, this bill will mean that unemployment insurance benefits will be reduced by $55 million in 1997-98 and by $85 million by the year 2001-02. The new eligibility rules will make it particularly difficult for seasonal workers. Unless you are a low-income Canadian, you will have your benefit rate cut by 1 percentage point for every 20 weeks of benefits received. In our region of the country, where seasonal work is still a fact of life, it is very unfortunate. We would like to be employed year round, but it is an unfortunate fact of life. This measure will have serious repercussions.

Honourable senators, a few changes were made to the original bill as it worked its way through the other place, but they did deal with the gap issue, which eliminates the need for jobs to be carried out in consecutive weeks in order to qualify for benefits. However, this was little more than an exercise that tinkered at the edges of the bill. It did nothing to repair the fundamental problems that this legislation will cause for thousands of Canadians.

In examining this bill, honourable senators, one particular point that I found most disturbing was the fact that in his economic and fiscal forecast, the Minister of Finance, the Honourable Paul Martin, indicated that the UI fund has a surplus this year of $5 billion. It is expected that there will be an additional $5 billion surplus next year. Rather than using those funds to cut premiums, the Liberal government has chosen to hold on to that money and use it to meet its deficit targets. For this government to use those funds from the UI system to finance its deficit is appalling. Those premiums should be cut to provide employers with some leverage to create new jobs, but, instead, the money will be put into a plan which, the government admits, will be used not for UI but for deficit financing. During its testimony before the Commons committee, the Canadian Federation of Independent Business strongly condemned the government for using the UI system as a slush fund for more program spending.

Another serious flaw of this bill is the new family income supplement. Under the current statute, if a UI claimant has dependents and a low income, that claimant receives 60 per cent, rather than 55 per cent, of average weekly earnings. Under Bill C-12, the government will create a new supplement for claimants with family incomes below $26,000. To try and assist those people in need through the UI system makes absolutely no sense whatsoever. This type of measure should be implemented through the child tax benefit to ensure that all low-income families have access to the system, not just those people on UI. In fact, the Child Care Advocacy Association of Canada made this very point when they appeared before the House committee. The association noted at the time — and I agree — that the UI system is not an appropriate place for income or needs testing to deal with family income or security. I am not sure what the thinking of the government was in instituting this change, but I certainly think it should be examined further in committee.

Honourable senators, I should like to conclude my comments with a brief observation. As this government moves through its mandate, it has become increasingly clear that Atlantic Canadians have been disproportionately affected by decisions of the federal Liberals. Atlantic Canadians have had to deal with numerous base closures, the elimination of the Feed Freight Assistance Program, the reduction in tax credits for research in Atlantic Canada, and most recently the news that the new blended sales tax will cost Nova Scotians an extra $84 million a year. Add that to the $7 billion that Paul Martin has stripped out of federal transfers to health, welfare and post-secondary education.

It is quite obvious to most Atlantic Canadians that since the Liberals hold 31 of the 32 seats in our region, the lack of opposition gives the Liberals free rein to do as they wish, and this bill is no exception. How else could one explain such a heartless move at a time when 60,000 Nova Scotians are unemployed, up 14,000 since December? These measures alone take $2.1 billion out of our UI system. Add to that the $2.4 billion that was removed in the 1994 budget and the $700 million taken out by the budget in 1995 and you have very little left of a system that was designed to help those people most in need.

Contrary to the Liberal's campaign promises of jobs and a better system for all Canadians, what we are witnessing is not a job creation program or a more equitable unemployment insurance program, but simply a grand scheme to eliminate the deficit on the backs of the less fortunate.

Honourable senators, the Liberals have created two distinct classes of those who need our assistance — the deserving poor and the undeserving poor. With this bill, those who this government feels do not deserve our help will have the door shut on them. This is certainly not what I envisaged our country would become, and I hope that all efforts by all fair-minded senators in this chamber will help correct this ill-fated plan.

I look forward to seeing this bill go to committee. It is indeed unfortunate that the Liberals did not have the confidence in their own bill to allow the committee to travel to the regions of our country that will be most seriously affected. Let us hope that the few witnesses who were given permission to appear will be able to persuade the committee to give serious consideration to meaningful amendments, if not complete rejection of this bill.

Hon. Brenda M. Robertson: Honourable senators, I intend to speak today about the impact of the unemployment insurance changes on Canadians living in my province of New Brunswick. First, however, I must say a few words about the depths of concern in the province of New Brunswick because of the almost unprecedented levels it has reached. This deep concern was expressed through various activities by a broad cross-section of groups and individuals from all areas of the province. It included the New Brunswick legislature, the premier, the bishops of Bathurst, Edmundston, Saint John and the administrator of the diocese of Moncton, the CLC, numerous groups involved with the Citizens Coalition Against Changes to UI, and many others. The point here, honourable senators, is that a broadly based movement practically exploded, bringing together diverse elements of New Brunswick's society which otherwise would not find common cause to right a wrong.

Honourable senators, the basis of that common cause was described by the Premier of New Brunswick in his November letter to the Prime Minister pleading for changes to Bill C-12. Our premier wrote:

• (1020)

> ...the proposal has fatal flaws ... it is deliberately targeted to Atlantic Canada and Eastern Quebec and will be seen as such by the citizens. For the province of New Brunswick alone, the impact of these changes will remove approximately $175 million per year from our economy. This is a little short of devastating.

Let me examine for a minute how the bill will have an impact on New Brunswick: UI costs $800 million per year in our province; 40,000 to 50,000 New Brunswickers file for monthly benefits; about 100,000 New Brunswickers may file a claim in one year.

Without the changes, UI would have transferred $580 million to New Brunswick claimants in 1997 and 1998, but with the changes, claimants will receive 11 per cent less, or $515 million. In 2001 and 2002, without the changes to the legislation that are being presented to us, the program would transfer $630 million, but under the new bill, claimants will receive 15 per cent less, or $533 million.

Under the changes, honourable senators, 5,000 fewer New Brunswickers will qualify for Employment Insurance, or EI, although proponents will argue that 3,000 who do not qualify now will be eligible after the changes. It will be interesting to follow that argument.

Net benefits will decline with the changes. Claimants who now receive $1.63 in benefits for every dollar in contributions will see benefits fall, following the changes, to $1.57 in 1997-98, and to $1.55 in the year 2001-2002. The reductions will be in the order of 19 per cent in logging and forestry, and 18 per cent in mining, construction and agriculture.

Honourable senators, that this bill is targeted at victims of structural unemployment has been well established by representations from many New Brunswickers and Atlantic Canadians, as well as by my colleagues Senator Murray, Senator Phillips and Senator Comeau this morning, and by Senator Cohen.

In Atlantic Canada, quite frankly, it is accepted as a given that we are the target of Bill C-12. There is no doubt about it: We are the target. One disturbing aspect of being singled out, however, is that it is used as an argument in official Ottawa or a justification for protecting the integrity of the Employment Insurance system.

For example, the intensity rule, which will see the benefit rate for repeat users reduced, is presumably proof that the government is getting tough with those abusers or so-called abusers of the system. In the perverse logic of the federal government and its advisors, this is seen as a proactive measure which will introduce a new degree of integrity into the Employment Insurance program, thus enhancing its public support, presumably from central Canada's captains of industry, and western reformists. Honourable senators, that may be so.

That having been said, however, Atlantic Canadians have a different perspective on both the abusers and what the federal government is up to. To illustrate, let me quote from a February debate on a motion of the New Brunswick legislature which urged changes to Bill C-12. Specifically, I am quoting from a speech by a former federal minister of employment, now the Leader of the Opposition in New Brunswick, who said:

> We have generations of New Brunswickers who have used UI over the years as a supplementary income device. They were not "abusers". They used it because of the nature of the very work and the very economy of their regions. We cannot say that the people in the fishing communities along the Bay of Fundy or on the Acadian Peninsula have abused the system.
>
> Let's look at our woodcutters.
>
> Has it crossed the minds of some people in Ottawa why people work at the pulp mills in Bathurst or Saint John or Edmundston or Newcastle, 12 months a year, at $25 or $26 an hour ... does Ottawa know why these people work year round in the pulp mills...
>
> It is because there is this guy called the woodcutter who gets up at 4 a.m. and cuts trees in New Brunswick's forests. That person stops cutting trees in the forests sometime in December or January, not because it is time for him to go to Florida, but because there is about 10 feet of snow in the bush and he can't cut trees any more.
>
> Then he goes on UI for maybe two or three months. That person's work and his contribution to our economy is more than what Ottawa wants to believe. That person's contribution to our economy allows hundreds of other New Brunswickers to work full-time.

Honourable senators, seasonal employment is a reality in Atlantic Canada. Tragically, reduced benefits for seasonal workers will be a reality as a result of Bill C-12. To view this bill in a wider context, as Senator Murray has pointed out, it means that fewer people will be covered and will be working longer hours for smaller benefits, paid out over a shorter period of time.

Honourable senators, to single out Atlantic Canada should be completely unacceptable to any fair-minded Canadian, and especially to those of us from Atlantic Canada who sit in this chamber and in the other place. Regardless of where Canadians live, this unacceptable legislation should be revealed as a thinly veiled sop to those who fundamentally do not support an Employment Insurance program, period.

Bill C-12, honourable senators, illustrates an approach to public policy-making that has long concerned me. What it comes down to is that Bill C-12 is essentially policy-making in a vacuum. It is an incoherent approach to social policy-making because, in isolation, the bill cannot possibly reflect the multiplicity of pressures influencing our society.

What I am referring to specifically are demographic changes in terms of the composition and the work patterns of the family, an aging population, new immigrants arriving, and global economic changes resulting in the restructuring of the Atlantic and Canadian economies, limits on public spending, the problems of family violence, illiteracy, and so on and so forth.

I know from my own experience as a provincial minister responsible for health and social policy reform that government policy responses to these pressures are uneven and uncoordinated, usually crossing federal and provincial jurisdictions, and resulting as often in duplication as in missing the mark completely. In that sense, I very much regret this government's lack of leadership in initiating a comprehensive review of Canada's social policy programs. This government is missing the opportunity to build, in partnership with the provinces, a modern and integrated set of social programs. Sadly, Bill C-12 is going in the opposite direction and represents piecemeal dismantling of our social safety net.

As a minimum, the Employment Insurance changes should stem from a comprehensive redesign of our safety net through a joint effort of the federal and provincial governments. There are far too many commonalities of programs and required support systems running through all of those social programs that need coordination. When it is done piecemeal, the whole impetus is lost.

Perhaps I should give the last word on this issue to New Brunswick's Catholic bishops. In their letter to the caucus of the honourable members opposite — and while you were attending that caucus you would probably remember that this letter was presented to you — the New Brunswick Catholic bishops wrote:

> Governments must not put at risk the social security system which has served the population well these past decades. On the contrary, it should give evidence of renewed thinking and creativeness in making the programs even more effective.

• (1030)

Honourable senators, my intervention will be short. However, I must claim to be one of those senators who is surprised by the comments made by some of my colleagues because I remember the hysterical interventions of many opposite when another bill to modestly change the unemployment insurance system was introduced in this chamber. I remember the vigour of the chairman of our special committee in opposing the legislation. I just wish some of the honourable senators opposite would demonstrate some of that vigour now in the protection of those in Atlantic Canada and in my province who will be adversely affected by the passage of this bill.

The Hon. the Speaker: Honourable senators, if no other senators wish to speak, I shall put the question on the motion.

It was moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Forest, that this bill be read a second time. 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 Speaker: Honourable senators, when shall this bill be read the third time?

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

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

SECOND READING—MOTION IN AMENDMENT—VOTE DEFERRED

Leave having been given to proceed to Item No. 5:

On the Order:

> Resuming the debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Davey, for the second reading of Bill C-28, respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport.
>
> And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Robertson, that Bill C-28 be not now read a second time, but that it be referred back to the House of Commons for proper consideration.

Hon. Richard J. Doyle: Honourable senators, in the last two years there have been times when the Standing Senate Committee on Legal and Constitutional Affairs has seemed locked into a mighty effort to produce acceptable legislation that might fit into the framework of this government's Bill C-22. Proposed amendments have been argued as constitutional experts have testified. The special committee spent months examining accusations of outrageous abuse of privileges in public office.

One day at a time, one page at a time, the record has been examined. Finally, with all of the charges answered and found wanting, and reasonable revisions proposed, the government has returned the bill to us unchanged but for its name. We now call it "Bill C-28." As such, it has gained early fame because the government has decided to invoke closure in order to refer it to the Standing Senate Committee on Legal and Constitutional Affairs. Why? The reason is so that the government can change it into something else, something of its own choosing.

If honourable senators doubt that purpose, or wonder who is choosing, let me remind them of what Senator Kirby told us when he introduced Bill C-28 last week. At page 358 of the *Debates of the Senate* for May 15 honourable senators will find these words:

> ...we will introduce those amendments...

On page 357, the Honourable Senator Kirby refers to the amendments as:

> ...the amendments that Liberal senators are prepared to move...

Senator Kirby adds that these —

> ...are government amendments that have the support of government.

Honourable senators, there would have been no argument with such a procedure if the amendments had come as a result of re-examination of the bill by a Commons committee. We would not impede the referral to committee in this place if the new amendments were a part of Bill C-28, and it was truly a new bill and not camouflage for the devious techniques we have come to expect from the ministries responsible for the Pearson affair. They have never given up on their intent to spread the word that the Pearson debacle is the fruit of Tories trying to take care of their friends.

One thing should be kept in clear focus: Neither the members of the Standing Senate Committee on Legal and Constitutional Affairs nor the opposition in the Senate have at any time or in any place made representations of any kind on behalf of the interests of any of their friends, their cronies, their casual acquaintances or, in fact, anyone involved in the Pearson contracts.

The committee and the party have sought, through several routes, a single thing, a guarantee that those who have grievances to plead will be allowed to exercise the rights guaranteed to all Canadians to go before the courts, to be heard and to have their claims judged impartially. Such a guarantee, honourable senators, must preclude the government of the day from establishing a set

of rules and a table of rates to limit or direct decisions which the judiciary deems to be appropriate.

To insist otherwise, as Bill C-22 did, and as Bill C-28 continues to do, would be the ultimate contempt of court. To tell the court and the country which services and what losses are deserving of compensation and which are not is a deed that would poison the stream of justice before it begins to flow. To persist, while related matters are properly before the courts, proclaims "might is right, and justice there is none."

Senator Kirby, obviously unimpressed by anything said in all the months Bill C-22 was debated here and in the committee, rose on May 15 and said:

> The government preference is clearly that this bill pass in its original form, as it was passed by the elected representatives in the other place, not just once, but three times.

What Senator Kirby does admit is the "constitutional concern" of senators opposite and, in his vague, equivocal, fuzzy way, offers amorphous amendments that will, he says, "resolve every single constitutional concern." In fact, he says the government is prepared to go "to great lengths to meet absolutely, completely, and thoroughly" those concerns. However, when Senator Kinsella asked Senator Kirby where he may find, or when he might hear, the amendments, Senator Kirby backed away. "All in good time," he said. When the bill gets to committee, the amendments will be introduced "right away." The committee that he accuses of stalling Bill C-22 is now his refuge, as Bill C-28 moves to this next state of contortion.

• (1040)

Is it, as Senator Kinsella suggests and fears, a mockery of our system? That is to say, a mockery in which we are now asked to approve, in principle, changes never foreseen by any committee in the other place, never published, never sorted through and pronounced upon by those countless citizens that the ministries insist are on their side, and never revealed in this chamber. Senator Lynch-Staunton, questioning Senator Kirby on that first day of this debate, concluded with these words:

> Do not ever accuse us again of being concerned with the claims of the consortium. We are concerned with the right to make those claims.

That, honourable senators, is the only matter we have before us. That is the message that should be sent back to the other place and, again, to quote our leader in the opposition "sent back for proper consideration."

Hon. Finlay MacDonald: Honourable senators, Senator Doyle has primed the pump to perfection. He has given me a lead of which it will be difficult to take full advantage in 10 minutes, but I will do my best.

As reported at page 349 of *Hansard*, Senator Kirby said on May 15, in the same speech from which Senator Doyle was quoting:

> Consequently, I am pleased to announce today that, when this bill goes to committee, the government members of the committee will, once again, be prepared to move a series of amendments that will demonstrate this government's willingness to seriously address the criticisms levelled against Bill C-22. We are willing to move these amendments, if they are necessary to address concerns of senators opposite. I believe....
>
> When he spoke against Bill C-22, Senator Lynch-Staunton was very clear that he and his colleagues were not trying to oppose the government's policy decision to cancel the Pearson Airport agreements, even though he repeatedly stated, justifiably, that he and his colleagues would prefer a different policy decision. Senator Lynch-Staunton repeatedly made it clear that his sole concern was to ensure that the bill was constitutional.

Senator Lynch-Staunton then interrupts and says "The rule of law." Senator Kirby continues:

> I am pleased to tell Senator Lynch-Staunton and all other members of this chamber that every one of the constitutional criticisms levelled against Bill C-22 will be addressed and satisfied by the amendments that the Liberal members of the committee are prepared to move in committee.
>
> I do not plan to debate again whether or not Senator Lynch-Staunton's strong words were justified, although I cannot resist pointing out that a number of highly respected legal scholars were very clear in testifying before the committee that they were not. However, that is not at issue anymore.

Senator Kirby then states:

> First, clauses 3, 4, and 5 of the bill, which....

This is done in the spirit of trying to stay within 10 minutes. Senator Kirby then says:

> I am pleased to point out that these amendments would also completely answer the objection presented by Senator Lynch-Staunton last week in this chamber. His major argument against Bill C-28, when he introduced his original point of order two weeks ago, was that clause 3 declared the Pearson agreements never to have come into existence.

Senator Kirby has an amendment which clarifies that point. He then says:

> Finally, honourable senators, regarding clauses 9 and 10 of Bill C-28, the old Bill C-22, which bar all compensation and give the minister sole discretion to make such payments as he considers appropriate, excluding payments for lost profits and lobbying fees, the Liberal members of the committee will be prepared to move an amendment which will effectively remove these clauses. This will resolve the third and last of Senator Lynch-Staunton's original objections.

The amazing point is that when Senator Kirby started on page 349, before the reference to the amendments I have just made, he began by saying:

> However, we all know what happened during the length of time this bill was before the Legal and Constitutional Affairs committee. First, the Conservative majority on the committee, and then the Conservative majority in this chamber, passed amendments that would have gutted the bill.

To what amendments is Senator Kirby referring? Yesterday, Senator Stewart, trying to assist us on a point of order, said:

> Honourable senators, Senator Lynch-Staunton argues that he has difficulty with this second reading motion because there is a possibility, indeed the probability, I would say, of amendments at the committee stage.
>
> As he said, this house is being asked to adopt the principle of the bill. As he knows, no amendment can be moved in committee that is not consistent with the principle of a bill. The prospect that he holds out before us — that if the principle of the bill is approved here today, eventually there will be an entirely different bill — is impossible. The committee will not be eligible to adopt amendments that are not consistent with the principle of the bill.

Having just heard from Senator Kirby that he is assuaging all our concerns and presumably making the bill perfectly constitutional, if that is not altering the bill — and, Senator Kirby had said earlier that our amendments would have gutted the bill — then what, in the name of God, will his amendments do?

• (1050)

Hon. David Tkachuk: Honourable senators, when John A. Macdonald said that the Senate was used by him to send legislation to so that it could "brew a while," I interpret that to mean "to see how well it ages." Bill C-28 has not aged well. It has been brewing here for two years, in one form or another. When this whole process began, it caused much debate amongst our own caucus as to how we should approach what we considered an odious piece of legislation.

After all, in 1993, our party had just been decimated in an election, and the public was willing to believe the worst of us. We had become a cottage industry for the media, with shows to do and documentaries to write. Columnists were writing books, such as *On the Take* by Stevie Cameron, with the Pearson airport agreements being a major part of her thesis of alleged chicanery. Paul Palango, in *Above the Law*, inferred other matters were questionable. However, he and others had a self-interest in seeing the actions of the Tory government discredited. After all, there were reputations to ruin and books to sell.

The original bill was, to us, a symbol of our need to prove the critics wrong. It was an unconstitutional bill. However, we felt that the accusers, those representing the senators across the aisle, should have to go to court and testify under oath to prove their claims of political manipulation and patronage, acts that implied a criminal conspiracy. Those claims are easy to make in the heat of a political battle and in a campaign, but different standards are applied in front of a judge, standards that would force even the former Minister of Transport, Doug Young, to sound like a civilized human being rather than the crude and vile man he exposes to us and to the public at large.

The bill at first seemed a little odd, for, after all, if the Liberal accusations during the campaign of 1993 and later in the Nixon report were correct, then by going to court and proving that the contract was done unfairly, that somehow it was done unjustly, that there was an unfair process, that laws were broken, and that standards and ethics were not followed, there would be no contract. But no, the government introduced a bill expressing and exercising the right, as it is their right, to cancel the contract, but complicated this with a denial of due process and unconstitutionality, the very things we are here to protect.

There is an age-old concept in common law called "similar fact evidence." If a particular party is in the habit of behaving in a certain way, demonstrating a pattern of behaviour or course of conduct, evidence of that behaviour can be used to provide evidence to seek a conviction. For example, if an assault were committed by someone, but the victim denied that it happened, and then, suddenly, six people came forward and alleged a similar assault under similar circumstances, then the prosecutor could present that evidence to prove that the first alleged assault actually happened.

While this bill "brewed" in this chamber, it provided to us the first evidence of a pattern of behaviour and a course of conduct that, at first blush, we did not recognize. We thought it unusual, but, as it turns out, it was a symbol of the way this government would govern the country, for then came the Electoral Boundaries Act which was another attempt by this government to use unconstitutional means to achieve what they could not do by following the law and a course of proper conduct. It was a blatant attempt to protect the constituencies of first-time Liberal members of Parliament from the province of Ontario, a blatant attempt to establish that proper representation did not have to be exercised in the province of British Columbia because the government had members of Parliament to protect. It was a blatant attempt to manipulate the electoral boundaries of this country.

That was followed by the introduction of Bill C-68, the gun registration bill, where the powers of Parliament were used to extinguish a promised constitutional process with the aboriginal people pertaining to their right to hunt and their right to bear arms. The government drafted a bill which drew no distinction between criminals and law-abiding citizens. At issue was again due process, and at issue again were the powers of the state.

Bill C-22, now Bill C-28, was becoming a symbol of behaviour, but there was more to come. Paul Martin, with $1 billion hanging out of his pocket, made a deal to expand the GST rather than, as was promised by his Prime Minister, scrap it.

Then he went on television and apologized for all of them, an apology that the Prime Minister himself did not make. He went on explain that "scrap the deal" meant really "harmonizing the deal." Along with this pattern of behaviour, we find something a little more odious and a little more devious, and that is: If you tell a story many times, perhaps people will believe it to be the truth.

There is an abuse of power in all of these cases, a pattern of behaviour that has led the government to have an assistant deputy minister visit a judge to urge him to move a case along more quickly for the reason of avoiding embarrassment. Imagine an assistant deputy minister having a little chat about a trial that the federal government is pursuing. Meanwhile, in that same department, another bureaucrat with, I believe, the full consent, approval, and knowledge of the Minister of Justice, the Solicitor General and perhaps even those in the Prime Minister's office, was couriering a letter to the Swiss government saying that a former Prime Minister was a common criminal and sending as evidence a videotape from a television show produced by a state-run Crown corporation and network.

During the election, the Liberal government stated that they would renegotiate the Free Trade Agreement when, in actuality, they immediately went about not only embracing it but expanding it. This was not an idle promise, for, after all, their former leader John Turner said their fight against free trade was the fight of his life. They had years to examine it. They chose to exploit it for political gain, a duplicity that was marvellous to behold for most of us, for we knew that they knew that they never meant to renegotiate it.

Bill C-28 is no longer just about itself; it is about power and its abuse, and the way the Liberal government attempts to govern this country. Amendments will be produced by the government which we will be expected to move, but we have not seen them. We have two parallel bills, the one we see, and the one we do not. Even if we do not like the one we see, they assure us we will be impressed with the one we cannot see, and all of this under the shadow of closure.

During the Pearson airport inquiry, we had former advisors to the Prime Minister, Nixon, Crosbie and Goudge — it sounds like a rock group, actually — testifying about the exorbitant returns that the developer would receive, while at the same time, in the Departments of Transport and Justice, officials and their consultants were preparing documents showing how little the developers would receive. After all, they will have to justify their actions in front of a judge, while the advisors to the Prime Minister will only have to testify under oath in front of a group of senators.

• (1100)

The government continued its behaviour on a motion before the courts to have certain reports delivered to the Senate, those being the reports that I referred to on the financial analysis of the transport deal. The government's chief general counsel from the Department of Justice, Ivan Whitehall, argued that it was completely inappropriate for senators to have the reports because of the long-standing tradition that Parliament will not interfere in matters before the courts. The audacity of this statement is further evidence of the government's behaviour and must have shocked Her Honour, who was hearing the case under the shadow of Bill C-28.

I would ask you to remember 1994, when Doug Young, the Minister of Transport at the time, argued that the Tories were wrong to be developing the airport and that a deal could be made with the Toronto Airport Authority in six months. He argued that there was lots of capacity at Pearson — the same argument that was made by senators opposite in the Pearson inquiry. They argued that there was no need and no rush to revitalize and develop Pearson airport.

In 1995, honourable senators, 22.5 million passengers made their way through Pearson. That wiped out the effects of the slow-down caused by the recession and the Gulf War; it was 1.5 million more people than there were during the peak of 1989-90, when 21 million passengers made their way through Pearson.

What is predicted for 1996? At its current rate, there is an increase in passenger traffic over 1995 of 13.78 per cent. To put that in context, that is the kind of increase you would expect in countries not used to airports, such as Thailand or Malaysia. If the number of passengers increases at the present pace, it will hit 26 million, which is what transport officials testified at our inquiry was the maximum limit. Honourable senators, we are at full capacity at Pearson airport.

The Conservative government argued that the window of opportunity to develop Pearson efficiently was when there were lower passenger volumes. During the inquiry, every expert told us that we should do it before we reached maximum capacity, because it is awfully hard on runways, passageways, terminals and the travelling public to fix things up when we are at our maximum capacity. It is more difficult to do it efficiently, more difficult to do it safely. There is no question that it would have been much less expensive at that time.

It is now 1996, honourable senators, and I and my colleagues wonder why there is no deal with the Toronto Airport Authority. Fellow senators, there is no deal because there is a deal — but it has not yet been announced. When they announce the deal, the documents become public. And remember what we were promised — they would make a better deal because the Tories made an exorbitant deal. They suggested that the Tories were fixing up their friends with patronage plums. Well, honourable senators, it will be interesting to see what the final deal is. The reason they have not signed and concluded the deal is that it would be devastating to the litigation that is taking place in the courts in Toronto.

Another issue that I find troubling is that the Bronfman name never crosses the lips of Liberal senators opposite. It is always that Tory, Don Matthews. It is never Agra Industries or the other half dozen companies that participated in Paxport. Don Matthews is "that Tory" and the object of their hate and venom. They have engaged in unrepentant attacks to destroy one man and one man only — not the partners of Paxport, not the Paxport corporation and the T1-T2 partners, but only Don Matthews. The focus was always on him.

The Hon. the Speaker: Honourable Senator Tkachuk, I regret to interrupt you, but I must remind you that under rule 40(2)(*c*), you are only allowed 10 minutes of speaking time. Your 10 minutes have expired.

Senator Tkachuk: I am sorry, I thought I had 15.

The Hon. the Speaker: Is leave granted to allow the Honourable Senator Tkachuk to continue?

Hon. Senators: Agreed.

Senator Tkachuk: Honourable senators, immediately after the deal was cancelled by the Liberal government, Charles Bronfman and Jean Chrétien were playing golf in Florida in December of 1993. Mr. Bronfman must have a tremendous sense of humour. What were they talking about on that golf course in Florida? After all, there was no doubt that they were about to become litigants.

Another issue arose recently. In 1991-92, an anonymous application was filed with Revenue Canada querying a possible ruling regarding the transfer of assets of a family trust, and the particular tax implications. This happened in 1991-92 during the Tory administration. Perhaps some members of the media should do a little homework on this, because this was an anonymous application requested by Revenue Canada for a ruling on moving the disposition of particular assets from Canada to another country, and this is the way it works: Let us say you bought a stock 10 years ago for a dollar; five years later it is trading at around $1,000. That is a capital gain of $999. If you wanted to transfer the money out of the country, the country would expect you to pay capital gains before making the transfer.

That is what this question was about. It was a rather complicated application to Revenue Canada, because it concerned not only the disposition of capital gains or the movement of capital gains, but also a family trust and assets.

With respect to the ruling in 1991-92, Revenue Canada would have ruled on a hypothetical case with qualification. They would not and did not send a letter on a hypothetical case without qualification. There is no question that the letter had qualifications, because they were dealing with a hypothetical case.

Senator Taylor: How do you tie that to Bill C-28?

Senator Tkachuk: I am tying it to Bill C-28, senator.

In 1994, Charles Bronfman began transferring $2 billion worth of assets out of Canada without tax consequences. This application would have been filed with Revenue Canada in the first four months of 1995. Surely that would have piqued the interest of Revenue Canada — some $700 million in potential tax revenue, worth much more than the airport deal based on an effective tax rate of 37.5 per cent. Revenue Canada had no obligation to follow the ruling of 1991-92, and Charles Bronfman must have been very confident to remove all his assets — $2 billion worth — out of Canada at one time. Yes, it would be interesting to know what took place on that golf course in Florida in December of 1993.

Honourable senators, Bill C-28 is more than an attempt by unconstitutional means to dodge the bullet of truth. It is a symbol of the behaviour of this government — the abuse of power. This bill is a reminder to our party of the duplicity of the present government and the abrogation of its duty to protect due process. It is a symbol of how they do business, how they govern and how they conduct themselves.

In human terms, which we often forget, in a courtroom in Toronto are 60 boxes of documents and pieces of paper filed as evidence. However, within those boxes are the hopes and dreams of business people, architects, draughtsmen, engineers, airport consultants, accountants, financial experts, retailers, clerks, airport personnel, marketers, and thousands of shareholders in the public companies involved in Paxport. A mass of brain power and creativity are in those boxes, hopes of people who thought that, after thousands of hours of work and $30 million in expenditures, they would be involved in something exciting: being part of Pearson International, being part of an export consortium selling Canadian expertise abroad.

• (1110)

All of this is reduced to 60 boxes of paper and judges and lawyers and a government bent on a destructive agenda, one that will cause travel discomfort at Pearson International and reduce safety, all of this to fulfil a false promise to add to the billions in cancellations in helicopters and the GST.

Bill C-28 is not fit to be passed in this Parliament. It is not worthy of this place, and if it passes, it will hang like a noose around the neck of the Liberal government.

Hon. Consiglio Di Nino: Honourable senators, I am pleased to join in this debate, particularly because I find Bill C-28 as offensive as I did Bill C-22. I suspect that when history looks back upon this, it will not be a very bright day for the government in power. It will be seen for what it is: a purely political move which has added to the cynicism that the public has regarding those of us who spend our lives in politics.

Honourable senators, on February 2, 1996, our colleague Senator Bryden read in this chamber a letter he had written to the editor of *The Globe and Mail*, but which has never been published. He lamented this fact and blamed the newspaper for exercising what he thought was a partisan approach to the news. Upon reflection, it would appear that *The Globe and Mail* was merely attempting to avoid for the senator the embarrassment that was sure to follow the publication of his misguided letter.

Let me provide a few examples by quoting from Senator Bryden's letter. Error number 1 is as follows:

> ...the Pearson contracts gave the developers $200-$250 million more in profits than prevailing rates of return required... It was enormously generous to the developers.

By way of correction, I would point out that studies prepared by the Government of Canada now show that, under the rate of return stipulated in the Pearson agreements, the consortium could have lost between $170 million and $190 million.

Honourable senators, the government itself admits these agreements were far from the sweetheart deal portrayed so colourfully by our dear colleague Senator Bryden.

Senator Bryden's letter contains the following statement, which is error number 2:

> ... the developers would have earned millions of dollars in non-arm's length side agreements. These included construction contracts, management contracts ... and consulting contracts.

I would make this correction: In a Toronto courtroom the government has learned that there were two non-arms-length contracts: one with Allders to operate duty free shops at the airport, and the other with Bracknell, for construction services.

Senator Bryden fails to mention that both these contracts were known by the government officials prior to conclusion of the agreements and, more importantly, were required under the terms of the Pearson agreement to be at fair market value. The special Senate inquiry heard this during testimony, but I believe Senator Bryden was away at the time helping, and rightly so, his friend Frank McKenna hold on to his job.

His letter then contains a third error as follows:

> One of these contracts, signed during the election campaign, was a no-cut promise to pay $3.5 million to a company headed by Don Matthews...

I would point out, honourable senators, that it was stated under oath before the Senate inquiry and in a Toronto courtroom that there was never a signed contract with a company headed by Don Matthews.

Then I would point out error number 4:

> Excessive profits, sweetheart deals, busy lobbyists, political pressure — this was how Canada's largest and most profitable airport ended up in the hands of a private group of developers...

Honourable senators, 25 senior civil servants and two former cabinet ministers stated unequivocally under oath that the process was sound, the deal was a good one for the taxpayer, and that they felt absolutely no adverse political pressure.

As for "busy lobbyists," I am unclear if Senator Bryden is concerned that there were, indeed, consultants involved in the deal and therefore it warranted cancellation, or simply that they should have been lazy and/or bored.

Senator Bryden also states quite pointedly that:

> Prime Minister Mulroney was very heavily involved in this file.

I should add for the benefit of the honourable senator that the former Prime Minister was likewise involved with the NAFTA file, the Gulf War, the FTA, the breakdown of apartheid in South Africa, and yes, national unity. Still, I can understand the senator's concern that the former Prime Minister was kept up to date on this vital national issue — a $750 million redevelopment project respecting Canada's busiest and most economically important airport.

I can understand his dismay in this regard given the conduct of his own leader, the present Prime Minister, who, for example, on the eve of the Quebec referendum, left Sheila Copps — what a joke — in charge while he was down in New York City having his picture taken with, among other individuals, several of the world's finest dictators. No fear of being "heavily involved" here. The Chrétien hands-off approach; that is what we have.

Yes, we all know too well of the hands-off approach Prime Minister Chrétien likes to practise. Why, when he was just a lowly consultant with Lang Michener, we are told that during a meeting with a Mr. Jack Matthews, a principal of the project, not once did Mr. Chrétien discuss the unbelievably important and far-reaching matter of the redevelopment of Canada's busiest airport. Now, that is hands off.

The Prime Minister invoked his increasingly famous "hear no evil, see no evil" style again when golfing in Florida with Mr. Charles Bronfman, a 65 per cent Pearson stakeholder, three days after the cancellation of the Pearson agreement — three days, honourable senators — and still Mr. Chrétien insists he knows nothing.

I am guessing that he learned the hands-off approach during the time he spent at Gordon Capital where he became a millionaire in two years — doing what, we have not been told. However, I am sure Senator Bryden, being a simple country lawyer, would not be interested in all this.

One should not forget that there is a hands-on side to the present Prime Minister. We all witnessed that last winter when he assaulted a Canadian citizen expressing his views on unemployment. I guess this particular citizen was dismayed with the Prime Minister's hands-off approach to job creation. Complain about hands off; and you get hands on — but that is a digression and I apologize.

• (1120)

Senator Bryden's letter, as I have explained, was somewhat in error. However, he may not be solely to blame. For the past two years, the government has made a determined effort to hide the truth respecting the Pearson agreements. It is only now, through perseverance, patience and some good fortune, that bits and pieces of the truth are surfacing.

Hiding the facts, the truth as it were, is not a new phenomenon for this regime. It was not long ago when one of our Senate researchers made a couple of harmless inquiries respecting the amount taxpayers had forked over and shelled out to keep Mr. Chrétien's Chevy on the road. With his hands-off approach, some of us wondered if perhaps cruise control had been installed. Did our researcher receive answers to his queries? Not quite. What Roger Boisvenue did receive were several phone calls from the RCMP and a police cruiser offering him and his family 24-hour surveillance outside of their home.

Approximately six months later, there are still no answers, but the RCMP have left. We are, however, considering renewing our inquiries, particularly in light of the fact that Mr. Chrétien is, apparently, on his third car — and that is not counting the two he left on the tarmac in Egypt.

Lastly, Senator Bryden takes great pain to express his displeasure that these agreements, after three years of discussion and negotiation, were finalized as the general election was unfolding. This alone, in his view, was reason enough to warrant the cancellation. With that in mind, I wonder if any of the honourable senators opposite have contacted Premiers Callbeck and McKenna respecting the pending cancellation of the fixed link project.

The good senator from Port Elgin surely knows all about the fixed link, such as the day it was signed and the financial benefits this project has brought to his region's inhabitants. Is his silence simply an oversight? One would assume that when Premier Callbeck was a backbencher with the Liberal opposition, she must have felt quite uneasy about all the rhetoric flying around concerning the validity of promises and undertakings of previous governments. As an aside, I am sure she was quite concerned about the GST processing centre in Summerside — or, then again, maybe she was not.

Coming back to the fixed link and the lack of attention it has received, one would have to suppose that it fell into a different category for the Liberals. Perhaps that category was clearly enunciated by Prime Minister Chrétien while leading the "Team Canada" trade delegation in India. For those who missed it, it goes like this:

> Governments make it a tradition to respect the words of previous governments.

That little off-the-cuff remark was in response to a question on whether the Prime Minister was concerned that the pending election of a new administration in India would threaten any of the multitude of contracts for which he was in the midst of taking credit.

Although I have been there three or four times, I do not consider myself an expert on India. However, I gather that what has since transpired is a significant change in the political landscape, namely, the defeat of the dominant political party — some would say the governing party — since the country's independence. I wonder what the Prime Minister would have to say should the new government of India abrogate contracts, annul agreements, declare legal and binding undertakings not to have come into force, or legislate out of existence the result of arduous negotiations? Maybe he would say, "Well, you know, there are lots of people in India and Canada is just a small country. Well, I cannot even tell the premier of Saskatchewan what to do, so how will I be able to tell the Prime Minister of India what to do?"

On the other hand, maybe there is another explanation for the decision to cancel the Pearson agreements. Perhaps the Liberals were simple dupes — that is, victims of the adversarial parliamentary system — just like they were in the GST, or free trade, or the deficit, or the reform of unemployment insurance. They had to oppose the Pearson project. That is the way our system works, so they think. In opposition, you oppose. Do not explain. You shoot from the lip.

Shoot they did, honourable senators, but they were victims of opposition, and Canadians are paying for it now.

To conclude, perhaps *The Globe and Mail* not publishing Senator Bryden's letter was, in hindsight, a fortunate thing. However, given what, I hope, has been a helpful intervention, perhaps he will try again.

Finally, as a member of the Diefenbaker society, I should like to quote the right honourable gentleman, who once said:

> The Liberals are the flying saucers of politics. No one can make head nor tail of them and they are never seen twice in the same place.

Hon. Gérald-A. Beaudoin: Honourable senators, at the first session of the present legislature, Bill C-22 was referred to the Standing Senate Committee on Legal and Constitutional Affairs. Experts in the field of constitutional law were invited to come before that committee to express their views on the constitutionality of that bill. All of them, except one, came to the conclusion that Bill C-22 was violating the rule of law and, therefore, was *ultra vires* and unconstitutional. Our experts all agreed that the rule of law, which is mentioned in the preamble of our Canadian Charter of Rights and Freedoms of 1982, was not complied with. One expert spoke with a little more subtlety, but also agreed that the rule of law is part of our system. Access to the courts is part of the basic principle of the rule of law. It is considered by all jurists in this country as a pillar in our parliamentary democracy.

Bill C-28 is of the same nature as Bill C-22. Last year, Bill C-22 was considered by experts to be unconstitutional. Well, Bill C-28 this year is as unconstitutional as Bill C-22 was last year.

There is an easy way for the government to get rid of all of these difficulties: It is to come back with suitable and substantial amendments. They are not difficult to draft. As a matter of fact, last year some were proposed. Clearly, we must restore access to the courts of justice. It is not good enough to say that amendments may be proposed in the Legal and Constitutional Affairs Committee hearings. Of course the opposition may do it, but those amendments may be defeated, too. Only this government, with a majority in the House and the Senate, may remedy the situation in that sense.

[*Translation*]

I will say in conclusion that, traditionally, Parliament has had to be very cautious when a matter is before the courts. I think that Speakers' rulings are very clear on this point. To some extent, the problem is already before Ontario courts.

Canada's legal system is strong and independent. The best solution in the present matter would appear to be for Parliament to not intervene in this matter or, if it really wants to, its legislation must provide for free access to the courts.

I have but one concern: We must apply legal principles to the letter. It is possible to terminate a contract, I am not denying it, but we must then assume the consequences and, as necessary, the costs.

In a democracy, many things can be done, of course, but underlying everything is the principle of the rule of law.

• (1130)

[*English*]

The authors of our Charter of Rights and Freedoms were right when they enshrined in our Constitution the principle of the rule of law.

Hon. Marjory LeBreton: Honourable senators, I have, as you can understand, many thoughts on the whole issue of the Pearson airport and the many months, in fact years, that we have discussed this issue. It was a long, drawn-out process over a period of four years, ending with the announcement in late August, 1993.

Just for the record, let us put this in proper perspective. On August 18, 1989, the government of the day announced a Southern Ontario Airports Strategy, including runways and restoration work for Terminals 1 and 2. On October 17, 1990, the government announced that it would be seeking private-sector participation in Terminals 1 and 2. On March 11, 1992, 17 months later, the government released a formal RFP inviting the private sector to finance the upgrading of Terminals 1 and 2. On July 17, 1992, the deadline for responses to the RFP was met, and that was an extended deadline.

In the summer of 1992, an evaluation team was put in place to evaluate the bids. On December 7, 1992, there was an announcement based on the evaluation committee report that Paxport had submitted the best overall proposal and that, subject to certain conditions, negotiations would proceed. On February 1, 1993, Paxport and ATDC — the Air Terminal Development Corporation — merged, and over the next many months the negotiations went on and on.

On August 27, 1993, there was Treasury Board approval, and on August 30, 1993, the announcement was made.

We are not talking about a transaction signed in the middle of the night or negotiated at the last moment. How is it, then, that in Canada such a travesty can take place? How can the rights of others be so cavalierly treated? Did no one worry about the impact on our international reputation?

I must tell you that I was more than amused to pick up *The Ottawa Sun* on Sunday, January 14 of this year, 1996, to read the following:

> It's a truism that politicians always tell little fibs when travelling abroad.
>
> It happened with Jean Chretien on his Asia trip to Bombay when he was quizzed by local scribes.
>
> India's PM had just called an election and an Indian reporter wanted to know if any Canadian trade deals could be jeopardized if the government lost.
>
> Without showing the slightest embarrassment, Chrétien offered this whopper: "It will have no effect. Of course governments make a tradition to respect the words of previous governments."
>
> That howler might not go over too well with the developers of Pearson Airport or the makers of the EH-101 helicopter.

This was not a well-thought-out policy. There was no serious background work done on this issue. There was no mention of Pearson and the Pearson airport in the now infamous Red Book, now better known as the little white book. No, the Prime Minister, using a tactic employed by Preston Manning, caught the wave, so to speak, around October 6 or 7, 1993, and, in the midst of the 1993 election campaign, unabashedly sank up to his armpits in rhetoric, misinformation, and outright falsehoods, flailing around in a reckless and irresponsible way.

Once elected, he faced the dilemma of extracting himself from his campaign excesses. He turned to his good friend and supporter, dare I say crony, Robert Nixon. I really do believe that Mr. Chrétien and Mr. Nixon were looking for a way out of this, because testimony before our committee indicates that the principals of the Pearson Development Corporation were stunned by the news that the government was going to cancel. No wonder.

I quote from a *Globe and Mail* article of October 29, 1993:

> Mr. Chrétien announced yesterday that he has appointed Robert Nixon, a former Ontario treasurer, to review "all factors" relating to the privatization of Toronto's international airport. He said Mr. Nixon will report his findings within 30 days.
>
> In an interview later, Mr. Nixon said that there could be a "meeting of the minds" between the new Liberal government and the business consortium that will control the airport.
>
> "It might possibly be that the thing could be rearranged without going to Draconian lengths to change it," Mr. Nixon said.
>
> Asked about the possibility of cancelling the privatization, Mr. Nixon made it clear that he would prefer to avoid scrapping the deal. "It's difficult to go down those lines because it leads you into scenarios that are tougher than surely would be contemplated. People don't like to interfere with contracts. And I don't think they should, unless there is a substantial reason to do so."
>
> Mr. Chrétien has the "moral power" to persuade the privatization consortium to amend the deal to provide more safeguards and benefits for the public, Mr. Nixon said.

> "We've got a person with an extremely powerful, fresh mandate," he said. "He might very well say, 'I'd like this to be done differently.' It seems to me that a business consortium would be somewhat unwise not to give some consideration to the views of the head of the government. The government has quite a number of powers at its disposal."

Boy, was he right in his prediction.

> During the election campaign, Mr. Chrétien called the privatization agreement a "bad deal" and said his "instinctive approach" was to oppose it. He also threatened to pass legislation to kill the deal. But yesterday Mr. Nixon showed little interest in such action.
>
> "Rather than having to undertake some tough legislative moves, which would be unpalatable perhaps, I would think that some sort of meeting of the minds could occur," he said.

Again, that was quoted out of *The Globe and Mail*, written by Geoffrey York on October 29, 1993.

However, it was John Nunziata who sniffed this out and made a preemptive strike by going public with veiled threats if the Pearson deal was not cancelled.

> This will be a true test of Mr. Chretien's commitment to integrity in government, and I have considerable confidence in him that he will kill the deal because of the issue of integrity.

That was John Nunziata, in the *The Globe and Mail* of November 27, 1993.

> I'm convinced the deal is dead. I'm convinced that [Chretien] will listen to the Toronto caucus, which is dead set against the deal.

John Nunziata, *The Toronto Star*, November 29, 1993.

> There are some very powerful interests in our party who are trying push this thing through.

John Nunziata, *The Ottawa Sun*, November 29, 1993.

These comments of Mr. Nunziata's obviously caused some concern and problems for Mr. Chrétien, Mr. Nixon, and the PMO. This is confirmed by a comment reported in *The Globe and Mail* on November 30, 1993.

> John Nunziata is a motor mouth, jumping the gun.

The source: the Prime Minister's office.

I could deliver several 10- or 15-minute speeches on the hypocrisy of it all, and the hypocrisy of this government and Mr. Chrétien. I could point out that, in the past decade, all the major public policy issues — Canada-U.S. free trade, NAFTA, tax reform, GST, constitutional change, Meech Lake, and distinct society, to name but a few, all policies of the former PC government of Brian Mulroney — all vehemently and viciously opposed and attacked by Jean Chrétien and the Liberals while in opposition, are now all adopted by the Liberals as their own. They have indeed swallowed themselves whole.

It is too bad the Pearson Airport Agreements were cancelled so quickly. It is too bad John Nunziata's threats resulted in this irresponsible action. Given a couple of months, Pearson too would have been embraced, and we would be now well on our way to a modern, vibrant facility in Toronto instead of the present stagnation. Perhaps we would even have helicopters.

But, oh, of course, the issue here, you see, was honesty and integrity. The Chevrolet Prime Minister — now, you will note, the Buick Roadmaster Prime Minister — had a façade that had to be protected.

• (1140)

The record is clear as to exactly what Prime Minister Chrétien's personal role was in the Pearson airport plan. We already know what happened during the 1993 election and the subsequent cancellation in December of 1993. We all know of the Draconian legislation, to use Mr. Nixon's words. We were the brunt of thug-like attacks from Minister Young. However, we need not despair. There are very few Canadians whom Doug Young has not insulted.

We on this side knew what we were up against: the considerable propaganda machine of Mr. Chrétien and the Liberal Party. We knew we would be accused of dastardly acts and intentions, but we were also confident of something that the Liberals did not take into account: They thought we would cower under the onslaught of their bullying tactics — to quote Doug Young, "It ain't gonna be patty-cake" — that we would back off, that we were politically dispirited. We were politically dispirited, but this did not prevent us from acting in a responsible manner in protecting the rights of Canadians.

They also thought there would be outrage in the land against us. You will recall the Prime Minister saying that we would boil in our own juices. How wrong they were! They never thought their own Prime Minister's role in all of this would be revealed and questioned. As I, personally, have said many times in relation to this whole Pearson issue, I do not fear the truth; I fear distortions of the truth.

On this side, we withstood all the insults and falsehoods because we believed, as I believe, that at the end of the day, truth is the best defence, and that no government should be allowed to trample on the rights of its citizens.

The issue at the time, according to John Nunziata, was honesty and integrity. He surely discovered the truth, did he not, albeit a little late?

What was Mr. Chrétien's role in all of this? It is well established on the public record, under oath, that the Prime Minister's role in the Pearson airport plan was quite different than that which the public was led to believe. I have a detailed chronology of Mr. Chrétien's role which I will put on the record later in this debate. Suffice it to say that there is evidence, under oath, and borne out by facts, and that the Prime Minister owes it to this Parliament and to Canada to explain his true role.

Hon. Duncan J. Jessiman: Honourable senators, I rise to speak on Bill C-28, which Senator Kirby has said is identical to its predecessor, Bill C-22, which died on the Order Paper as a result of the prorogation of Parliament on February 2, 1996.

At page 349 of the *Debates of the Senate* of May 15, 1996 Senator Kirby said that Bill C-22, without any amendment, was legal, constitutional and perfectly within the authority of Parliament. It therefore follows, although Senator Kirby did not expressly say so, that it is the government's view that Bill C-28, since it is identical as presently drafted, is also legal, constitutional and perfectly within the authority of Parliament.

At page 356 Senator Kirby said:

> ...the government would clearly prefer to have Bill C-28 passed in its current form. Point 1, full stop. That is the government's clear preference.

Then, referring to some proposed amendments to Bill C-28, the wording of which he has refused to disclose to members of the opposition, he stated:

> That, honourable senators, is what the amendments that I have indicated could be moved in committee would do, and they will be moved if honourable senators opposite insist that it be so.
>
> I have not said that we will introduce amendments. I said, categorically, that we would introduce them, if you insisted on them.

At this stage of our proceedings it is, therefore, incumbent upon us as senators in opposition to consider Bill C-28 as it is presently worded, namely word for word, the same as the previous Bill C-22.

What was the government's justification for the passage of Bill C-22 in the House of Commons? We must know this, because the same justification must be found for the passage of Bill C-28.

I shall not reiterate all of the matters outlined by the various senators on this side of the house who have spoken before me on this matter. I did not hear all of their speeches, but I am certain that I would agree with most, if not all, of what they said. I shall, however, set out a number of pertinent statements made by the government in attempting to justify the passage of Bill C-22, and comment on each of them.

They are, first, that the contracts respecting the Pearson airport terminal were inadequate; second, that lobbying was excessive, and went far beyond the acceptable concept of consulting; third, that a convention existed which prevented Prime Minister Kim Campbell from authorizing the transaction closed on October 7, 1993 — 18 days prior to the federal election; and fourth, the supremacy of Parliament.

I shall deal with each of the four points in order, after which I shall take issue with certain comments made by Senator Kirby in the debates, and also with his statement that, without any amendment, Bill C-28 is legal, constitutional and perfectly within the authority of Parliament.

The government says that the contracts respecting the Pearson airport terminal were "inadequate." That was the word that the infamous Robert Nixon used when he gave his political advice respecting these contracts on or about November 29, 1993. In his letter to the Prime Minister of the same date, he referred to the document consisting of 14 pages plus 4 pages of schedules as a "review." He was challenged on the meaning of the word "review." He now knows that review means a critical evaluation, that "critical" involves judgment, and that a "critic" is one who expresses reasoned opinion. Mr. Nixon agreed that what he was giving was not a review but political advice to his good friend the Prime Minister.

Yet, when the government was sued in respect of the breach of these same contracts many months after the documents were signed, not a whimper was heard in respect of the inadequacy of such contracts. As a matter of fact, counsel acting for the government said otherwise.

The following is an excerpt from the transcript of the examination for discovery of a senior officer of the government, Mr. Barbeau, in the lawsuit respecting the breach of these airport contracts. There was an exchange between counsel, and then counsel for Paxport, Mr. Slaght, asked:

> ...these contracts were not inadequate contracts from the point of view of the Crown and its interest?

Crown counsel, Mr. Sgayias, then said:

> I'm wondering about relevance here. The Crown is raising no defence as to the adequacy of the contracts or offering any basis, contractual or otherwise, for repudiating the contracts.

Is it not strange that a few months earlier this government, based primarily on the adequacy of these contracts, cancelled this multimillion-dollar transaction. Yet, when it was being sued for damages for breach of what the Minister of Justice said was a valid and binding contract, the government chose not to question the adequacy of these contracts?

It is my view that the government did not question the adequacy of these contracts because it knew then, as it certainly knows now, that these contracts were not only adequate, but that this deal was an excellent deal for the Canadian government, the citizens of Toronto, and the people of Canada in general.

• (1150)

Second, his lobbying was excessive and went far beyond the acceptable concept of consulting. Again, I am using the exact words used by Mr. Nixon.

The evidence was clear that a number of lobbyists were engaged in this transaction, but the work was done in a professional manner and was not in any way excessive for a transaction of this magnitude. The evidence was that many more lobbyists were involved in the contract respecting Terminal 3 at Pearson, and that contract was much smaller in scope. The statement made by Mr. Nixon and others to the effect that lobbying went "far beyond the acceptable concept of consulting" is just not true. Senators opposite who heard the evidence know that to be a fact.

Third, a convention existed that prevented the Prime Minister, Kim Campbell, from authorizing the transaction to be closed on October 7, 1993 — 18 days prior to the federal election.

Quite simply, no convention existed then or exists now. Whether there should or should not be such a convention is not what is to be considered. Neither are we to consider whether or not there was one then but there is not one now. Similarly, whether there should be such a convention is not something we had to consider.

With the exception of one academic — and he was engaged by the government to give his opinion — the other academics were of the opinion that no such convention existed. On May 15, 1995, in the Standing Senate Committee on Legal and Constitutional Affairs, I had the opportunity to ask the Minister of Justice several questions. The transcript of that section of the committee hearing is as follows:

> **Senator Jessiman:** It has been argued by Liberal senators that the execution of the contract on October 7, 1993 was invalid because of certain mores, customs or traditions. Do you agree with that, or do you think it was a valid execution of a contract?
>
> **Mr. Rock:** I think it was the valid execution of a contract.
>
> **Senator Jessiman:** The government did admit in court, did it not, that it committed a breach of that particular valid contract?
>
> **Mr. Rock:** Yes, and the court so found.
>
> **Senator Jessiman:** Yes. The court not only found that, but counsel on your behalf agreed with it. The court did not have to find anything.
>
> **Mr. Rock:** Yes.

At the time I asked the question, I thought the contract was executed on October 7, 1993. We found out that there were several contracts — actually a multitude of documents. If my memory is correct, approximately 110 had to be drawn and executed, and 90 per cent of them had been executed before October 7, 1993.

It is also important to note that on August 30, 1993 — several days before the election was even called — none of the politicians made any decision whatsoever respecting the wording contained in those 110 documents. The deal had been made in July, and it was agreed that all politicians had to do after that date was two things: First, have it approved by Treasury Board, which was done in late August before the calling of the election, and, second, sign whatever documents were necessary to be signed on or about October 7, 1993.

It was agreed in July by the lawyers that October 7, 1993 would be the closing date. What Prime Minister Campbell authorized on October 6, 1993, was, primarily, the release of the main agreements, which had already been executed a few days earlier by both sides, and to have a senior bureaucrat execute a few other less important documents.

As I said earlier, all the academics, with the exception of the one paid by this government to give them an opinion, agreed that it was a valid and binding contract and that no convention existed.

I will now read into the record the name of the professors from whom we heard. There was Professor Wayne Mackay from Dalhousie; Professor Douglas Schmeiser from the University of Saskatchewan; Professor Dale Gibson from the University of Alberta; Professor Patrick Monahan from Osgoode Hall; Professor W.H. McConnell from the University of Saskatchewan; and Professor Ken Norman from the College of Law, University of Saskatchewan. The committee also heard from a number of people from the Canadian bar, namely, Mr. Gerald Shapur, Mr. Martin Mason, and Ms Joan Bercovitch. All of them agreed that there was no such convention.

The next point I want to discuss is the supremacy of Parliament. Members opposite claim that Parliament is supreme. Honourable senators, Parliament is supreme, but, when the Bill of Rights was passed and, following that, the Charter of Rights, it was not quite as supreme as it was prior to that. I would refer to two sections from the Bill of Rights.

The Hon. the Speaker: I hesitate to interrupt Senator Jessiman, but his time is up. Would the honourable senator seek leave to continue?

Senator Jessiman: I will be another 10 minutes.

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

Hon. Senators: Agreed.

Senator Jessiman: Thank you, honourable senators.

Section 1 of the Canadian Bill of Rights states:

> It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,
>
> (*a*) the right of the individual to life, liberty, security of the person and enjoyment of property...

I do point out that it does mention "individual," so that if any of the parties that were involved were individuals, they would have the protection of that section.

In section 2(*e*), it does not say "individual." I will read the preamble, plus paragraph (*e*), which states:

> 2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, —

And the government chose not to take it outside of the Bill of Rights. They could have but did not. The section goes on to state:

> — be so construed and applied as not to abrogate, abridge or infringe, or to authorize the abrogation, abridgment or

> infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to...
>
> (*e*) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations.

I point out that the section does not mention "individual"; it specifies a "person." A person has been defined as a corporation. That particular section in the Canadian Bill of Rights has been held to apply to corporations.

We now come to the Charter. Section 1 of the Canadian Charter of Rights and Freedoms states:

> The *Canadian Charter of Rights and Freedoms* 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.

• (1200)

There was a lot of discussion when the Charter was promulgated and around the time it was passed as to whether property rights should be included in the Charter. It was decided that they would not be included.

As a matter of fact, in the other place right now a bill is being introduced by the Reform Party for that particular purpose. When the idea was first introduced, some of the provinces did not want property rights protected, not the federal government. The view of the federal government at that time was that property rights should be protected.

It is strange that a government — and it was a Liberal government at that time — would think that that should be the case. This Liberal government is now trying, I hope unsuccessfully, to take away the rights of the parties to this particular contract, which the Minister of Justice has said is valid and enforceable, and pay them absolutely zero under this legislation as it is presently drafted. That is what the government is prepared to pay them — that is, unless the plaintiffs agree with the minister himself, who is not only the prosecutor but also the judge and the jury. They get nothing unless they agree.

That will not stand up in court. You do not have to be a lawyer to know that. It is unfair. I suggest that anyone who suggests that this bill would stand up in court does not know very much about the law or fairness.

Senator Kinsella: Nor do they have any respect for it.

Senator Jessiman: I should like to say a few words about what Senator Kirby has said. If you read part of what he says, you say "My, God. He has agreed to everything they want. Why do they not pass it?" At page 353 of the *Debates of the Senate* he is reported as saying:

> Honourable senators, we are prepared to move amendments —

You will notice that he says "we." He continues:

> — that will satisfactorily resolve every single one of the constitutional concerns raised by the witnesses and by honourable senators opposite.

Reading that, honourable senators, one might ask, "Why would they not agree to it?"

If you go back to page 352, you will see that he is not talking about this bill but about a proposed amendment to a proposed amendment. When the bill came back the second time unamended, we on this side of the house proposed some amendments. They were not "amendments" but "proposed amendments." The government side brought back some other proposed amendments. The government's proposed amendments — that is, what they wanted to put in and still do — relieve the government of any responsibility whatsoever in respect to awards for aggravated, punitive or exemplary damages. They said, "We do not want to be responsible for that."

Senator Kirby then goes on to say what they will do. He says that the investors will be able to apply for damages; but not under those three categories. Why is the government afraid to award damages under those three categories? I know why. If the government goes to court on this particular transaction — and since it is not excluded, the court cannot grant it — and if the investors are deprived of future profits, as they are in this bill, then they are not allowed to be compensated for the funds that they have expended and are to expend for lobbyists. My guess and opinion is that the court will grant those kinds of damages.

Why are those damages granted? The purpose of punitive or exemplary damages is to serve as a deterrence and punishment as opposed to compensation. The court will not award such damages to the plaintiffs simply because the judge may think the plaintiffs are entitled to some money; the judge will grant them if, in his or her opinion, he or she wants to deter governments like this one from ever doing again what they have done here. That is why they award those damages. If the government does not think it has done anything wrong, then it should let it be and not make that exception.

What about aggravated damages? They are compensatory but are directed to tangible injuries such as distress, humiliation caused by a defendant, such as insulting behaviour. If the government has ever been more insulting in any transaction than in this one, I am not aware of it.

I have only two other points to make, honourable senators.

For Bill C-28 to end up back in this chamber, something must have happened between prorogation and now. If this bill ever does get to committee — and I hope it does not — I want to see the terms of those agreements. I am told now that there has to be an agreement between this government and the Kim Campbell government in the event that a bill resurfaces here after prorogation. That is to say, if there is an agreement on both sides, I do not know whether they have to agree on the specific bill. There is some agreement about that, but I have not seen it yet. However, if there is no previous agreement, then this bill is not before us properly.

Second — and I cannot say "I did not have time" because I have known about it for weeks but I did not get around to asking — this bill must be stamped saying that it complies with the Canadian Bill of Rights. It must indicate that it is in compliance with the Charter. It is true that Bill C-22 had such a stamp, but this bill is different. I do not know if this one has such a stamp.

Surely, after all the testimony from all the representatives of the law, including representatives from the Canadian Bar Association who appeared before us at least twice, who said this legislation was unconstitutional, how in the world can any Minister of Justice have the gall to put a stamp on that document?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I will be brief because the views that we have on this bill have not only been expressed during this debate but also repeatedly during the last two years or so. However, I want to deplore the fact that the government refuses to make public the amendments that it agrees to present at another stage. I deplore it because this bill is made up of 12 clauses. The first one is the standard short title; the second one is the interpretation clause; clauses 3 to 10, inclusive, are the heart of the bill; and clauses 11 and 12 are important but not related to the heart of the bill.

Senator Kirby has told us that the government intends to propose amendments which would alter considerably the heart of the bill — namely, clauses 3, 4, 5, 7, 8, 9, and 10 — to introduce amendments which for the most part will contradict what is in the bill before us today.

I will only touch upon the main elements.

• (1210)

Access to the courts, which was denied, will now be allowed; the contracts, which were to be declared null and void, will now be recognized; and damages, which were not to be claimed, can be claimed. This is a conundrum. This is a most unusual situation — how to explain the presentation of a bill for approval in principle when it has already been announced that the principle will be violated should this bill ever get to committee.

As I said before, and as others have repeatedly stated, it is unheard of to proceed this way. It is even more unheard of for a bill to come before this chamber after having been approved three times by the House of Commons in this form. Despite that, we are then told that this chamber will be asked to alter the bill completely and send it back in a form and content completely opposite to what the House of Commons approved three times. That is the purpose of the amendment — to send the bill back to the House for proper consideration.

I want honourable senators to bear with me while I share some reflections on the purpose behind the amendment. I will not elaborate on the reasons already given during second reading debate.

Honourable senators, over the years, the House of Commons has become less relevant to the legislative and executive process in this country. This is not meant to be disrespectful, but it is a statement of fact which is not said with anything but regret, especially after yesterday's impressive events honouring former parliamentarians. As the Speaker of the House asked members of each Parliament since World War II to rise and be recognized, I am sure that I was not the only one to be reminded of significant events and leading figures in many of them. It was a privilege for all of us to realize in whose footsteps we are following as parliamentarians and to be reminded of the responsibilities this entails. Unfortunately, the ability to carry out those responsibilities is becoming more difficult in the House of Commons.

First, we have a growing concentration of power in the Prime Minister's office and in the cabinet as legislation by Order in Council is becoming the rule rather than the exception. The basis of our parliamentary form of government is to have the executive as an integral part of the legislature, and on paper it still is; but, in fact, the executive power is shifting away from the House to be lodged in the cabinet room and in the Prime Minister's Office, because more and more legislation is passed in deliberately general terms, leaving its execution to regulations prepared by the executive and subject usually to only cursory examination.

Second, since 1982, the judiciary has been interpreting legislation in response to its understanding of the Charter, and not always the legislator intended.

In short, honourable senators, Parliament is no longer supreme as the term has historically been understood. Unwittingly or not, it has abdicated much of its authority to the executive through the latter's growing use of Orders in Council and to the courts through their interpretations of the Charter, which do not always coincide with those of the legislator.

The intent of the legislator used to be a key criterion in understanding and interpreting the purpose of legislation. If I raise all of this, it is because if anyone should be conscious and respectful of the intent of the legislator, it is certainly the Senate of Canada.

Three times the legislator has approved what is before us. Senator Kirby's intentions will crudely ignore what the House has expressed three times, without any warning or any indication to that House. This is simply offensive behaviour toward the House of Commons, as it makes the government a party to its reduced relevancy.

It is only proper that all important public legislation be introduced in the House of Commons. For reasons known only to it, this government wants to make an exception to this unwritten rule by initiating in this place legislation which the government has accepted will end up in a form and content diametrically opposed to Bill C-28 and in direct contradiction to a will expressed three times by the House of Commons.

We have in this chamber very distinguished former members of the House of Commons. I would think they would be troubled by seeing their former colleagues, and the House which they served so well, being treated in such a cavalier way. I would think that reason alone would make them reflect before automatically rejecting this motion in amendment, because it goes far beyond the bill. It goes far beyond any attempt to delay the bill. It goes to the heart of how this Parliament should function.

The purpose of the House of Commons is to advise the Senate of its wishes, and the purpose of the Senate is to respond to those wishes and give counsel and advice, suggest corrections, and warn of constitutional pitfalls as the case may be.

Honourable senators, by returning Bill C-28 to the House of Commons, we will allow the government to argue its amendments where they should have been argued in the first place and where they should be argued initially, thereby demonstrating respect for the role of the elected house and not demeaning it, should it be allowed to proceed as Senator Kirby has urged.

The Hon. the Speaker: Are honourable senators ready for the question?

It was moved by the Honourable Senator Davey, seconded by the Honourable Senator Forest, that this bill be read the second time.

It was further moved in amendment by the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Robertson, that Bill C-28 be not now read the second time but that it be referred back to the House of Commons for proper consideration.

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

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say yea?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion in amendment please say nay?

Some Hon. Senators: Nay.

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

Under a previous agreement, the vote will be held at 5:30 p.m. this afternoon.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, perhaps I could say a word on this matter.

There has been discussion and it was agreed earlier that, according to the rules, the vote is to take place at 5:30 p.m. However, by mutual agreement, we have agreed that the vote could take place at 4:45 this afternoon.

On that particular point, we propose that we adjourn now and reconvene at 2:00 p.m.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Perhaps we could reconvene at 2:15 p.m.

Senator Graham: That would be acceptable to this side. We would reconvene at 2:15. However, at that point in time, we would be back to the Order Paper, and we would follow it as it is.

Senator Berntson: Honourable senators, it is always our desire to accommodate our colleagues. The nature of the accommodation today was so that some of our colleagues who had other important matters on their agendas would not have to be here tomorrow. To the extent that we can accommodate them in leaving tonight, the earlier accommodation would not be of much value without allowing them to get out. I would be the last person in the world to suggest that our schedule should be dictated by the airline schedules, but it is a reality. We have agreed at this level, therefore, that a vote at 4:45 this afternoon on all questions relative to this bill would be appropriate.

The Hon. the Speaker: It is agreed, honourable senators, that the vote take place at 4:45 this afternoon and that the bells ring at 4:30 p.m. I also understand it is agreed that the Senate will adjourn during pleasure to return at 2:15 p.m.

• (1220)

Senator Berntson: Honourable senators, I have a point on which I would like some clarification. I do not know that we agreed on the length of the bell. My suggestion would be that we get through the Order Paper. Perhaps the whips can get together later in the day, and as we progress through the business of the Order Paper, we can determine what length of bell is required so that all honourable senators can get here by 4:45 p.m. I have two concerns: First, I would want the bell to ring, but, second, I would not want the ringing of the bell to unduly affect the whittling down of the Order Paper.

The Hon. the Speaker: Under the rules, the bell must ring for 15 minutes unless there is another decision by the Senate. Therefore, unless another proposition is made and there is agreement, I have no choice in this matter.

Senator Berntson: Honourable senators, I have no trouble with the rule that stipulates that the bell must ring for 15 minutes. I am just suggesting that perhaps we may be able to give our colleagues 30 minutes if the work unfolds more rapidly than we have anticipated.

Senator Graham: If honourable senators wish, we could have a one-hour bell. If we finish the Order Paper at 3:45, the bell could then ring for an hour. What we would be doing when we finish the Order Paper is adjourning to the call of the Chair, but knowing that the bells would ring until 4:30 p.m. at the latest, as required by the rules, and that we would have the vote at 4:45 p.m.

Senator Berntson: Honourable senators, would my colleague agree to a bell of no less than half an hour? We have colleagues in the Victoria Building, and scattered around elsewhere.

Senator Graham: That is certainly agreeable. We want to accommodate all honourable senators so that they can be assured of an opportunity to vote.

The Hon. the Speaker: It is agreed, then, that the bells will ring at 4:15 p.m.

Hon. M. Lorne Bonnell: Honourable senators, I do not want to disagree with the unanimous decision of this house, because so many times great decisions are made. However, I live way off on the East Coast, and I know that all of the airline flights to my region have left this province for the day by 5:00 p.m. Rather than ringing the bells for an hour, it might be better if the vote could be held an hour earlier, so that those of us who live far away, whether to the west or to the east, could get home to our wives and families. It might be more appropriate for everyone to have the vote one hour earlier. Both the Leader of the Government and the Leader of the Opposition should take into consideration their colleagues who live farther away than Ottawa, Montreal and Toronto.

The Hon. the Speaker: Honourable senators, the Senate will adjourn during pleasure, to return at 2:15 p.m., and I now leave the Chair.

The Senate adjourned during pleasure.

• (1420)

The sitting of the Senate was resumed.

SCRUTINY OF REGULATIONS

SECOND REPORT OF STANDING JOINT COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. P. Derek Lewis, Joint Chairman of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations, presented the following report:

Thursday, May 30, 1996

Pursuant to its statutory order of reference, section 19 of the *Statutory Instruments Act*, R.S.C.1985, c.S-22, the Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

SECOND REPORT

(Report No. 58)

1. On October 3, 1991, the Governor in Council amended the *Canada Business Corporation Regulations* (SOR/91-567) pursuant to section 261 of the *Canada Business Corporations Act*. This amendment introduced fees payable for the correction of certificates issued under the Act.

2. The amendment in question was registered and came into force on October 3, 1991. In the course of correspondence between the responsible department (then the Department of Consumer and Corporate Affairs) and counsel to the Joint Committee, the fact that the fees imposed on October 3, 1991 were not collected until June 8, 1992 came to light. In a letter dated March 8, 1993, the Director of the Corporations Directorate of the Department of Consumer and Corporate Affairs confirmed

> that the Corporations Directorate did not charge fees for corrections before June 8, 1992 because its clients had not been advised of the change. The Directorate was not informed that fees for corrections were coming into effect before early 1992. It was impossible for us to immediately notify our clients about the change. We thought it preferable to advise our clients about the change, before rejecting their applications for correction because the prescribed fees were not included, as they have been dealing with us for 17 years and assumed that no fees were required for a correction.

Your Committee finds it difficult to understand how a Directorate forming part of the Department sponsoring a regulatory change could remain ignorant of that change for months after it has become law. Of greater concern to your Committee, however, is that public officials would have believed that these facts could justify their failure to apply the law.

3. In deciding not to collect the fees prescribed by the Regulations for a period of some eight months, the responsible public servants were not only in breach of their duty to faithfully apply the law, but purported to have an authority superior to that of the Governor in Council. The enactment of the amendment registered as SOR/91-567 by the Governor in Council reflected a decision that the imposition of fees for the issue of corrected certificates as of October 3, 1991 was in the public interest. It is nothing short of astounding that public servants could ever think it within their right to vary the decision of the Governor in Council, a decision which had legal force and effect, and decide that the fees should only be imposed as of a later date.

4. Lest it be thought that the explanations given by the Director of the Corporations Directorate are not entirely without merit, it must be mentioned that appropriate measures had in fact been taken to inform those affected by the amendment of the intent to impose fees for the issue of corrected certificates. Both the 1989 and 1990 Federal Regulatory Plans contained a clear description of the amendment. A draft of the amendment was subsequently published in Part I of the *Canada Gazette* of December 1, 1990 inviting interested parties to make representations. In light of these facts, it is not possible to accept the suggestion that the failure to apply the law may be excused by a need to inform interested parties about the new fees.

5. The legal consequence of the situation described in the preceding paragraphs is that persons who obtained a corrected certificate between the date of coming into force of the amendment and June 8, 1992, the date as of which departmental officials applied the law, owe a debt to the Crown. Another possible legal consequence for those who failed to collect the fees payable by those persons is set out

in section 78 of the *Financial Administration Act*, which provides that

> Where, by reason of any malfeasance or negligence by any person employed in collecting or receiving any public money, any sum of money is lost to Her Majesty, that person is accountable for the sum as if that person had collected and received it and it may be recovered from that person as if that person had collected and received it.

6. The remission by the Governor in Council of the fees that were payable but not paid prior to June 8, 1992 offers a simple means of correcting this situation and of relieving all interested parties of any legal liability. Such a remission order would relieve those who obtained a corrected certificate in that period of their liability to the Crown and would also indirectly relieve public officers of any potential liability under the *Financial Administration Act*. The power of remission conferred by section 23 of the *Financial Administration Act* has been used to this effect in other similar instances, and this suggestion was therefore put to the responsible department.

7. In a letter dated January 25, 1994, the Acting Senior General Counsel for the Department of Industry informed the Committee that

> The Chief of the Corporate Examination Section felt that the government should first and foremost inform its clients more adequately of the new practice. [...] In these times of empowerment when managers are encouraged to take appropriate measures in the taxpayers' best interests, the person concerned made a decision (wrongly, we all agree) that was unsound from a strictly legal point of view but was probably justifiable from an administrative point of view. Moreover, given the modest sums involved, I do not think a remission order would be necessary in this case.

Your Committee is struck by the fact that a legal adviser would seriously put forward the notion that an illegal practice may nevertheless be justified as good public administration. As far as members of the Joint Committee are concerned, a course of action that is not founded in law is never justifiable from an administrative point of view. As for the argument that the sums involved are modest, your Committee simply does not accept its relevance. Public officials were charged with a duty to collect certain fees and failed in that duty with the result that certain taxpayers have unwittingly and unfairly been placed in the position of owing a debt to the federal Crown. It is this situation that a remission order would correct, and the amount involved changes nothing with respect to this description of the situation. More practically, the Committee notes that remission orders involving small amounts are routinely adopted where necessary.

8. Your Committee recommends that the Government reconsider the need and desirability of adopting an order pursuant to section 23 of the *Financial Administration Act* remitting to any person who obtained a corrected certificate prior to June 8, 1992 the amount of the fee that was payable pursuant to the *Canada Business Corporations Regulations*.

A copy of the relevant Minutes of Proceedings and Evidence (*Issue No. 5*, Second Session, Thirty-fifth Parliament) is tabled in the House of Commons.

Respectfully submitted,

P. Derek Lewis Ghislain Lebel

Joint Chairmen

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

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

[*Translation*]

TRANSPORT AND COMMUNICATIONS

FOURTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Lise Bacon: Honourable senators, I have the honour to present the fourth report of the Standing Senate Committee on Transport and Communications, which concerns the request for budget authorization for the special study on communications in Canada.

I ask that the report be printed as an appendix to today's *Journals of the Senate.*

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

Hon. Senators: Agreed.

(For text of report, see today's Journals of the Senate.)

The Hon. the Speaker: When shall this report be taken into consideration?

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

[*English*]

• (1430)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

SECOND REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Ron Ghitter: Honourable senators, I have the honour to present the second report of the Standing Senate Committee on Energy, the Environment and Natural Resources. The report deals with our budget application for the fiscal year 1996-97, relating to the examination of such issues as may arise from time to time relating to energy, the environment and natural resources.

I ask that the report be printed as an appendix to the *Journals of the Senate* 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 today's* Journals of the Senate.)

The Hon. the Speaker: When shall this report be taken into consideration?

On motion of Senator Ghitter, and notwithstanding rule 58(1)(*g*), report placed on the Orders of the Day for consideration later this day.

DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator De Bané, P.C. seconded by the Honourable Senator Poulin, for the third reading of Bill C-7, to establish the Department of Public Works and Government Services and to amend and repeal certain acts.

Hon. Ethel Cochrane: Honourable senators, I should like to offer a few remarks on Bill C-7.

I support the government's action to amalgamate the Department of Public Works and Government Services, and the savings in personnel and administrative costs which will accompany this union. I am very much in favour of a more rational and efficient delivery of services.

In company with many others, however, I am troubled by the provisions of this bill which would open the door to increased competition for contract work between the new department and the private sector. Clauses 10(2)(*c*) and 16(*b*) of Bill C-7 will create the opportunity for the government to unduly expand its role in the economy, at a time when that same government is preaching the need for private sector job creation and a smaller, more limited public sector.

You have already heard my colleague Senator Stratton speak of the need to build trust between government and business, and the ways in which this legislation violates that trust. That issue of trust is underscored by the remarks that have been made by the Minister of Public Works and Government Services. She said to the Standing Senate Committee on National Finance on May 1, 1996:

> It certainly is not our intention to compete with the private sector.

Her predecessor made the same comment, in public and in writing, many times. Yet the minister and her government refuse to consider any amendments to these two clauses of the bill in order to deter competition with the private sector. The minister left it to her deputy minister to justify these two clauses.

On May 8, the deputy minister gave this response to our the Standing Senate Committee on National Finance:

> Why do we think it is necessary? First, our view is that it is not new. Second, the figures show that we will not grow. Third, we are in the position of doing the review on what should be contracted out.

These are, to say the least, rather skimpy arguments for refusing to amend two clauses that violate the stated intentions and repeated assurances of the minister.

Honourable senators, our Standing Senate Committee on National Finance heard from several witnesses, including the Ontario Association of Architects, the Canadian Environmental Industry Association, the Canadian Council of Technicians and Technologists, the Association of Consulting Engineers of Canada, and the Geomatics Industry Association of Canada. These witnesses unanimously opposed the present wording of these two clauses in the bill. Some would welcome assistance from Public Works and Government Services in acquiring service contracts in other provinces, but would not welcome further competition from the department for either domestic or international contracts.

These witnesses voiced many specific objections to these provisions of Bill C-7. I could cite several, but will quote only two of the concerns expressed by the Ontario Association of Architects:

> First, the government has clearly articulated a policy of streamlining and downsizing. The expansion of government's role into direct competition with the private sector is directly contrary to that policy.
>
> Second, the less-than-precise allocation of real costs, both direct and indirect, could allow Public Works and Government Services Canada an unfair advantage. The costs, including overheads which we face in the private sector, are truly the cost of doing business and cannot be ignored, discounted or absorbed elsewhere.

In short, there is serious concern that Bill C-7 opens the door even wider to competition between the department and the private sector, and it does so on an unlevel playing field.

Business and industrial groups in my province of Newfoundland and Labrador have communicated their concerns to me regarding Bill C-7. They share the misgivings that witnesses expressed to the Standing Senate Committee on National Finance. The flavour of their views is accurately reflected in a letter to the chairman of that committee sent on April 30, 1996 by the St. John's Board of Trade. They stated:

> It must be made abundantly clear in this legislation that the Government of Canada is not to compete with the private sector. To allow the public sector to compete in the private sector is counter-productive to expanding the economy, creating jobs, improving government efficiency and strengthening Canadian business to compete.... If there is sufficient slack within federal government departments giving capacity to work on private contracts, then there exists sufficient capacity to right-size government.

On that note, honourable senators, I urge the government to reconsider these two clauses of Bill C-7. Let us join forces in amending the bill to reflect what the minister and her predecessor had advocated.

On motion of Senator Tkachuk, debate adjourned.

[*Translation*]

BUDGET IMPLEMENTATION BILL, 1996

SECOND READING

Hon. Pierre De Bané moved second reading of Bill C-31, to implement certain provisions of the budget tabled in Parliament on March 6, 1996.

He said: Honourable senators, I am pleased to speak in favour of this important legislation Bill C-31, the Budget Implementation Bill, which we are examining today.

The 1996 budget has intensified and extended the measures taken as part of the comprehensive strategy set out in the 1994 and 1995 budgets. Together, these budgets help Canadians to provide for their future in a number of key areas.

First, providing for our financial future: The government's financial objectives will be met or exceeded in the future, thanks to sustained reductions in federal expenditures and programs, and the 1996 budget reaffirms the government's commitment to a balanced budget.

Second, re-examining the role of the state: Other measures have been taken in order to define a more appropriate role for the federal government, given the globalization of the world economy.

Third, providing for the future of social programs for the next century: The measures adopted by the government are aimed at restoring confidence in the old age security scheme and in guaranteeing a safe, stable and growing system of federal support for health care, post-secondary education and welfare.

[*English*]

These objectives are not rhetoric; they are firm commitments backed up by concrete action, including the legislation before us.

Much of Bill C-31 deals with measures that address the two objectives of "getting government right" and "preserving Canada's social programs." Let me address these and highlight some of the key proposals.

First, what do we mean by "getting government righ?" I think the answer is clear and compelling — to shape a focused, more affordable government that effectively advances the key priorities of a productive job-creating economy in a modern Canadian federation.

Honourable senators, Canadians have sent us a clear message — government has the responsibility in its own operations to meet the challenges of globalization, financial pressures, new information technologies and demographic shifts. Canadians seek affordable services and programs delivered in the most effective and efficient manner possible.

To support these objectives, the government implemented its program review, a fundamental examination of all programs and services. I might add that not since the Second World War has a government engaged in such a far-reaching review.

During the program review, the government examined all major federal programs and activities to reassess what we do, how we do it, and how we can do it better. Its aim was to deliver services that are relevant, responsive, accessible and affordable. It is now putting into place the results of this review.

However, as we evolve government, we must pay equal attention to the people in the federal government. The simple fact is that changes are also required to transform the public service into a modern and dynamic institution.

That brings me to the bill before us for consideration, Bill C-31. The initiatives in this bill will put in place some of the "building blocks" to help the public service of the government introduce and expand new organizational structures and approaches.

These measures, honourable senators, reflect three key themes. They are: alternative service delivery; compensation and collective bargaining; and pension reform.

Let me focus on the issue of alternative delivery of services and programs. By this I mean creating service entities, special operating agencies and other organizational mechanisms to deliver services. One example is NavCan, which delivers the air traffic control system NavCan.

[*Translation*]

In his budget, the Minister of Finance, Mr. Martin, announced his intention to take a similar approach by creating a single food inspection body, a parks agency and a national revenue commission. We will take other similar steps, on a case-by-case basis, in our ongoing examination of the best way to deliver services to Canadians.

The creation of such agencies affects the officials working in these sectors. We must ensure they are treated fairly and equitably.

This is why the government met with the public service unions earlier this year. I am pleased to inform you that we have reached agreements with most of them on the interim provisions pertaining to employees joining the other service delivery structures.

The amendments we are tabling today will enable us to put terms and conditions into effect that will be fair to all the employees affected by these transfers. We shall also be able to provide better terms for the members of these unions that have signed the agreements I mentioned.

[*English*]

For example, Bill C-31 proposes changes to both the Canada Labour Code and the Public Service Staff Relations Act to introduce "successor rights." These rights continue to cover union representation in the collective agreement until the term of

the agreement expires when employees move from public service employment to other federal employers. Also, this legislation introduces changes that will ease the transition to and operation of alternative delivery organizations. We want to ensure that these organizations have the tools they need to operate effectively from the outset.

For instance, there is a proposal here to amend the Financial Administration Act to allow the government to use multi-year appropriations. If approved, it could use this authority with the three new agencies where flexibility for multi-year planning is warranted and appropriate. However, we should also recognize that this is an enabling clause only. Parliament will retain the right to determine when and if multi-year appropriations are suitable to these or any other future organizations.

Honourable senators, I now wish to turn to compensation and collective bargaining in the public service and later to the employees of the House of Commons and the Senate of Canada.

As we all remember, the Public Sector Compensation Act introduced in 1991 restrained collective bargaining. Public service wages have been frozen for five of the six years that this legislation has been in effect. This act will now expire in February 1997, and the government can return to collective bargaining for public service employees.

• (1450)

Bill C-31 proposes to suspend the binding arbitration process normally used to resolve collective bargaining disputes for three years. This addresses the fact that meeting the government's fiscal targets continues to demand disciplined action. The government cannot run the risk of allowing independent arbitrators who are not accountable to Parliament to award compensation increases that the fiscal framework could not accommodate.

[*Translation*]

Binding arbitration will continue to apply in the case of employees of the House of Commons, the Senate, the Library of Parliament and the Canadian Security Intelligence Service. This is because the legislation governing them prohibits strikes but provides for binding arbitration instead. However, arbitrators will have to take into account wage settlements awarded to comparable occupational groups in the public service for which Treasury Board is the employer.

We are also seeking authority to amend the Public Sector Compensation Act in order to reinstitute statutory increments and merit pay for employees who were eligible before these were suspended for the duration of the government's wage freeze.

The bill would also grant authority to increase by 2.2 per cent the pay of non-commissioned members of the Canadian Forces. This measure would correct the disparity that existed between members of the Canadian Forces and public servants before the freeze took effect.

[*English*]

There is also the issue of pension reforms. These are intended to provide individuals and groups of employees with greater pension portability to meet the standards of the Pension Benefits Standards Act. Specifically, we propose to revise the Public Service Superannuation Act to protect employee pension accruals and make them portable, should employees move to newly established or privatized organizations. This portability will be enhanced by two-year vesting and lock-in provisions.

I will turn now to the Canada Health and Social Transfer. This is a priority shared by the vast majority of Canadians, namely, the preservation of this country's network of social programs. To help achieve that end, the bill before us amends the Federal-Provincial Fiscal Arrangements Act. This amendment will provide secure, stable funding for the CHST, the Canada Health and Social Transfer, for an additional five years.

Let me remind this chamber of the background of this transfer program. In the 1995 budget, the government replaced the Canada Assistance Plan, CAP, and the Established Programs Financing, EPF, with a new transfer, the CHST. This single, consolidated block transfer represents a new, more flexible and mature approach to federal-provincial fiscal relations. It gives the provinces extra flexibility as they design and administer their own programs while safeguarding the social programs Canadians rely on and support.

This year, the budget calls for an extension of the CHST funding framework through the 2002-2003 fiscal year, and puts in place a formula for at least increasing this transfer in the outer years. Under the bill before us, total entitlements will be pegged at $25.1 billion annually for 1998-99 and 1999-2000 equal to the level already in place for next year.

There should be no mistake about our commitment to assisting provinces in vital national activities such as health care, education and social assistance for those in real need. The simple fact is that, even as we continue to cut back federal program spending, total CHST transfers to the provinces will not fall in that period.

In fact, in the three fiscal years beginning in April 2000, CHST levels are projected to rise by fiscal 2002-2003. Total CHST entitlements are expected to be $2.3 billion higher than the levels set for the next fiscal year, 1997-98.

To provide additional assurance to Canadians, however, this legislation sets a floor — that is, an ironclad guarantee — that cash transfers will be maintained above the $11 billion level. This legislation also provides a new formula for allocating the CHST among provinces. The current system of transfers has evolved in a way that has created growing disparities in per capita entitlements. These disparities were created, for the most part, by the cap on the Canada Assistance Plan's funding to certain provinces that was imposed by the previous government.

I feel that Canadians recognize that affluent provinces do not need the same assistance as the less affluent. At the same time, however, Canadians are also firm believers in the importance of action that is balanced and fair. This legislation puts those values to work. Under the new allocation formula, which will be phased in over five years, disparities in per capita funding will have been cut in half. To the reasonable person, that great legal test enshrined by centuries of law, surely this is an honourable compromise.

It reflects the fact that the government was unable to obtain a consensus on the allocation issue in our consultations with the provinces. However, all governments did agree on the need for a decision. No one wanted more delay and more uncertainty. That is why we went ahead with this approach. We believe it represents a realistic, responsible solution.

Let me point out to honourable senators that the gradual phase-in, combined with the five-year duration of the CHST funding arrangement, not only gives provinces time to adjust but also gives them maximum certainty in their planning.

I should like now to turn to changes in Bill C-31, the Unemployment Insurance Act — changes that will bring insurance coverage more in line with the average industrial wage for 1996. Under this proposal, the maximum insurable earnings are reduced to $750 per week, in comparison with the $845 level that would have resulted under current legislation. Similarly, the maximum weekly benefit drops from $465 per week to $413 per week. These measures will save $200 million in the second half of this year and reduce the UI payroll and tax burden on working Canadians.

I do not agree with suggestions that this measure is regressive. My honourable colleagues should remember that the UI program, when considered in its entirety, is strongly progressive. Lower income contributors tend to draw much more in benefits than they pay in premiums, while higher income earners tend to pay much more in premiums than they draw in benefits.

• (1500)

As well, let me point out that claimants who qualify for the 60 per cent dependency rate prior to the coming into force of the new Employment Insurance Act will not see a loss of that rate for their claims. To qualify for this rate, claimants must have dependents and show average earnings of $422.50 per week or less.

I should add that this bill also amends the Old Age Security Act to lengthen the period of time before newcomers to Canada become entitled to the full Guaranteed Income Supplement or Spouse's Allowance. This is simply common sense. Under the current system, some immigrants obtain full benefits with as little as one year's residence in Canada. Restricting this easy access will improve the fairness of the system and lessen the burden on Canadian taxpayers.

However, we will not penalize those who have already joined our country. Individuals now receiving benefits, or who have landed in Canada before budget day and become eligible for benefits before January 1, 2001, will not be affected.

[*Translation*]

Honourable senators, finally, there is one measure in Bill C-31 that is not directly related to the budget, but rather to an announcement made last month by the Minister of Finance.

It calls for the payment of approximately $960 million to Nova Scotia, New Brunswick, and Newfoundland-Labrador to help them adjust to the new value-added tax system they have agreed to bring in, in conjunction with the government, and to offset their initial revenue losses.

Payment of that amount will be spread over four years and is in line with the long-established practice of providing assistance when federal initiatives bring about major structural changes for the provinces.

Based on the assistance formula set out in the bill, we will be splitting the cost of harmonization with any province whose revenues drop by more than 5 per cent of its current retail sales tax revenues.

In addition to the three provinces mentioned, it would apply to Prince Edward Island, Manitoba and Saskatchewan, should they decide to harmonize. It would not, however, apply to British Columbia, Alberta or Ontario for the very good reason that their revenues would not drop sufficiently to cause the assistance formula to kick in.

Quebec, of course, is already essentially harmonized. I should point out, however, — especially in view of the comments made by the provincial government — that Quebec would not be entitled to adjustment assistance today any more than it was in 1990 when it signed the memorandum of understanding with Ottawa. The reason for this is the best reason in the world: Quebec made money with harmonization.

We have the figures to prove it. Between fiscal 1990-91 and 1995-96 Quebec's annual sales tax revenues were, on average, 12 per cent higher than they were prior to harmonization in 1989-90. These figures are taken from Quebec's budgetary documents.

To get back to Bill C-31, we are absolutely convinced that, given the benefits of harmonization, the total cost assumed by the federal government represents a reasonable and responsible investment.

Under the formula, the federal and provincial governments will share the adjustment costs more or less equally over four years. This is surely a fair approach. Assistance will stop at the end of the fourth year, after the provinces have had ample time to adjust.

As the Minister of Finance said, our government has always respected the principle whereby people and governments must be able to plan and adjust to structural change and, when necessary, we were prepared to assist those facing initial adjustment costs. For example, assistance was provided to provinces for losses in revenue at the time of the major tax reform of 1972.

I would add that each of our government's budgets provided for one form or another of adjustment assistance. Last year, for example, we set aside resources to facilitate the adjustment made necessary by the elimination of subsidies to the western provinces under the Western Grain Transportation Act, as we did for Quebec and the Atlantic provinces in the case of subsidies for the transportation of goods in the Atlantic region.

Today, we are following a policy consistent with these precedents.

I would like to emphasize that this adjustment assistance will not jeopardize our deficit targets. They are secure.

[*English*]

Honourable senators, given the wide scope of this legislation, there are elements I have not been able to address, even though I have already taken up considerable time. However, I have touched on what I feel are the truly significant components of Bill C-31.

Let me just conclude by returning to the issue of "getting government right." As we approach a new century and a new millennium, governments face a critical challenge. We can evolve and change to become more effective, more responsible, more responsive, and more careful with our taxpayers' money, or we can try to hold to a failing status quo and continue to lose credibility, clout and relevance.

Legislation such as Bill C-31 shows that this government is continuing to take the concrete steps needed to evolve and to improve its ability to serve Canadians.

I have no hesitation in urging honourable senators to support this bill with vigour and confidence.

Hon. David Tkachuk: Honourable senators, the Budget Implementation Act that is before us, Bill C-31, implements several expenditure-management measures in the 1996 budget of Paul Martin, except for the special addition of the scrapped GST — which is not really scrapped, just replaced, depending on whether you listen to the Prime Minister, the Minister of Finance, Sheila Copps or Mr. Nunziata.

Senator De Bané mentioned that this whole process was an attempt by the government of Canada to "get government right," and in this stark piece of legislation they give effect to some of the means by which they intend to "get government right." Their program review is not really a program review but simply a cut in programs across the board, with no reprioritizing of any of the programs that existed before this government came to power. They have achieved their most significant cuts in the deficit by simply transferring the problems in health, social services and education to the provinces.

We will feel the effect between now and 1999 as the provinces try to grapple with funding university education, health care benefits and the social welfare systems. We already hear many of them complaining to us and to the Government of Canada that they will have difficulty meeting their commitments.

Although we applaud the principle of reducing the deficit and bringing it under control, we do not applaud the government's methodology.

• (1510)

As usual with a Liberal government, there is much trickery involved. While they may say that there may not be a certain tax measure here or a certain tax measure there, we do know that they can take in over $500 million more in UI revenue than they spend. At the same time, they want to cut back UI benefits to people who need them the most.

There are a number of issues. One is the collective bargaining and compensation packages with the public service where early retirement incentives and severance pay have cost taxpayers some $2 billion. At the same time, the Liberal government has ignored the promises it made to public servants before the election. Again, because they were not able to keep to their promises, they paid off the affected public servants. The only people who were hurt by this change in plan were the taxpayers of the country.

After saying they were committed to collective bargaining, the Liberals suspended it for two years. They promised a whistle-blowing law to protect those who expose wrongdoing but have not acted. This is not "getting government right."

Under unemployment insurance, maximum insurable earnings have been reduced from $815 per week to $750 per week, but the maximum weekly benefit has also dropped from $438 to $413 for benefit periods that began in 1996.

The Liberals have made changes to the UI which go far beyond what they opposed before the election. At the same time, they are collecting $5 billion more than they need to run the program.

In my opinion, the Canada Health and Social Transfer parts of this bill give the most effect to the Draconian cuts which have been made in the policies which the Liberals claim to hold so dear, namely, health care and education. Transfers are several billion dollars less than what would have been paid under the formulas in place when the Liberals were elected. Much of the federal deficit has, again, been offloaded to the provinces where tax increases will have to be made. Their only other option is to reprioritize in order to meet their commitments, just as the federal government should have done.

While they are "getting government right," their program has ensured that much of the government is falling apart before them. The Department of National Defence is in chaos. The Canada Parks system has no policy. The Department of Transport is funding itself with user fees. The Department of Indian Affairs has no direction whatsoever. The justice system is under attack from coast to coast to coast.

The worst part of this bill are the provisions that give life to the GST harmonization. On April 23, 1996, Newfoundland, Nova Scotia and New Brunswick said they would merge their sales taxes with the GST at a combined rate of 15 per cent. As this would reduce provincial revenue, Ottawa agreed to provide compensation of $961 million over a period of four years. It seems to me that if this legislation is giving effect to their new and replaced GST, other provinces would be scrambling to get on board. However, we know from experience and from comments made by other finance ministers that the other provinces will only come on board if they too receive a tonne of money from the Minister of Finance to compensate them for the money they will lose or, perhaps, for the votes they will lose if they incorporate the harmonized GST.

The bill before us gives effect to the broken promises of the Liberal government both in the Canada Health and Social Transfer and the GST. I do not know what else to say about this bill. It is a pretty dull piece of legislation. However, there are some major issues which we will have much fun discussing not only here in the Senate at third reading but also in committee.

The Hon. the Speaker: If no other senators wish to speak on this bill, I will put the motion.

It was moved by the Honourable Senator De Bané, seconded by the Honourable Senator Hervieux-Payette, that this bill be read the second time.

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

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 De Bané, bill referred to the Standing Senate Committee on National Finance.

THE SPECIAL SENATE COMMITTEE ON THE CAPE BRETON DEVELOPMENT CORPORATION

FIRST REPORT OF COMMITTEE PRESENTED AND PRINTED

Leave having been given to revert to Reports of Committees:

Hon. Bill Rompkey: Honourable senators, I have the honour to present the first report of the Special Senate Committee on the Cape Breton Development Corporation respecting its budget.

I ask that the report be printed as an appendix to the *Journals of the Senate* of this day.

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

Hon. Senators: Agreed.

(*For text of report, see today's* Journals of the Senate.)

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE TABLED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, tabled the sixth report of the Standing Committee on Internal Economy, Budgets and Administration respecting budgets for the Senate committees for 1996-97.

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

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

AGREEMENT ON INTERNAL TRADE IMPLEMENTATION BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Gigantès, seconded by the Honourable Senator Grafstein, for the second reading of Bill C-19, to implement the Agreement on Internal Trade.

Hon. Gerry St. Germain: Honourable senators, as a new member of the Standing Senate Committee on Banking, Trade and Commerce for this side of the house, I have been asked to say a few words today on Bill C-19. I would be remiss if I did not start by castigating the government over the legislative timetable or, perhaps, the lack thereof.

• (1520)

My understanding is that this bill implements the agreements on internal trade made between the federal government, the provinces and the territories. The only problem is that this agreement came into effect in June 1994 — yes, that is 1994, honourable senators. Are we to conclude that the Minister of Industry is so disdainful of the Senate and its powers that it does not matter to him when his legislation arrives here? Or perhaps the fact is that the minister does not set the removal of Canada's internal trade barriers as a priority for himself or his department.

I am certainly looking forward to discussing the matter of the timing of the presentation of this legislation when it goes to the Standing Senate Committee on Banking, Trade and Commerce. I am sure Senator Stewart will be an active participant in these discussions as well.

The trade barriers that have been erected among Canada's provinces, and between provinces and the federal government, could result in considerable cost to business, labour and the consumers in Canada.

I believe it was the Canadian Manufacturers Association which estimated that the cost to Canadians is in the order of $7 billion annually. It was because of this cost to the Canadian economy that the previous Progressive Conservative Government worked diligently to arrive at an agreement among all parties to eliminate these barriers.

It is unbelievable to me, at this time in our history, when Canada as a trading nation has become involved in the FTA, the North American Free Trade Agreement and the World Trade Organization — all of which, thank goodness, have now been heartily endorsed by my Liberal friends opposite — that we still have internal barriers in this country.

Normally, then, one would applaud this initiative before us today as a great accomplishment. However, close scrutiny of the bill and the underlying Agreement on Internal Trade which it implements reveals that little progress has been made in actually removing these retrogressive barriers.

First, the agreement is directed primarily at preventing the introduction of new barriers to trade. The fundamental principle which defines the agreement is not the elimination of existing barriers to trade but, rather, there is merely a commitment in Article 101 that the provinces will not establish new barriers to internal trade.

I believe that the agreement is fundamentally flawed in its failure to impose or recognize any obligation to eliminate existing barriers to trade.

Having made at least the commitment not to erect new barriers, even this limited principle is eroded through exceptions found in Article 101(4) of the agreement. The principle not to erect new barriers is subject to:

> (a) the need for full disclosure of information, legislation, regulations, policies, and practices that have the potential to impede an open, efficient and stable domestic market;
>
> (b) the need for exceptions and transition periods;
>
> (c) the need for exceptions required to meet regional development objectives in Canada;
>
> (d) the need for supporting administrative, dispute settlement and compliance mechanisms that are accessible, timely, credible and effective; and
>
> (e) the need to take into account the importance of environmental objectives, consumer protection and labour standards.

My goodness, honourable senators, even a non-lawyer such as myself could drive a Mack truck through this agreement.

Even the procurement rules found in Part 4 of the Agreement on Internal Trade are subject to exception if they are imposed for regional and economic development purposes.

Let us look at article 404 of the trade agreement. It permits provincial governments to depart from equal treatment obligations when they are pursuing "legitimate provincial objectives." I do not know for whom that was designed. Some province must have demanded this. In other words, provincial trade barriers may still be erected where it can be demonstrated that:

> (a) the purpose of the measure is to achieve a legitimate objective;
>
> (b) the measure does not operate to impair unduly the access of persons, goods, services or investments of a Party that meet the legitimate objective;
>
> (c) the measure is not more trade restrictive than necessary to achieve that legitimate objective; and
>
> (d) the measure does not create a disguised restriction on trade.

As a result, the provinces can erect barriers if they are pursuing legitimate objectives. The definitive section of the agreement, article 200, lists seven legitimate objectives.

This basically gives free rein to the provinces to deal with trade barriers as they see fit. Also, the agreement contains an array of exceptions which will result in continuing trade distortions. This is clearly not an agreement which will have a great impact on internal trade barriers.

This leads me to turn to the legislation before us and ask some fundamental questions about it. What does this agreement and its implementing legislation accomplish, given the exceptions and loopholes? Why does the government not go back to the drawing board and improve on those arrangements? Why does Bill C-19 not require an annual report on progress under the Agreement on Internal Trade to be tabled in Parliament? Why does clause 5 of Bill C-19 prevent court challenges of retaliatory action by the federal government?

Clause 6 states:

> 6. For greater certainty, nothing in this Act, by specific mention or omission, limits in any manner the right of Parliament to enact legislation to implement any provision of the Agreement or fulfil any of the obligations of the Government of Canada under the Agreement.

Does this mean that the federal government can, by virtue of this agreement, legislate in areas of provincial jurisdiction? Clause 9 of the bill gives the federal government broad retaliatory powers against the provinces. Why is it possible to exercise these powers without either the notification or the approval of Parliament?

Honourable senators, these are just some of the questions that come quickly to mind. I am looking forward to the discussion of this bill and the internal trade agreement in committee. I hope that many of you will participate in the hearings and the discussions on this legislation, because I believe that it hinders opportunity and job creation to the greatest extent in our nation. We will only arrive at being a great trading nation if we remove our internal trade barriers.

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

Hon. Senators: Agreed.

Senator Murray: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

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

WITNESS PROTECTION PROGRAM BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-13, to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions, with an amendment), presented in the Senate on May 28, 1996.

Hon. Sharon Carstairs moved the adoption of the report.

She said: Honourable senators, before I ask you to move to the third reading stage of the bill with which this report deals, I should like to make a few comments about the amendment that was made to the bill in the Standing Senate Committee on Legal and Constitutional Affairs.

• (1530)

The amendment is found in clause 9(1) of the bill and allows the commissioner of the RCMP to terminate the protection of a witness who was in the witness protection program — and I will quote from the original bill — "if, in the opinion of the Commissioner" the witness fails to meet his or her obligations under the protection agreement. The words "in the opinion of" are deleted by this amendment and are replaced with the words "if the commissioner has evidence that...".

Senators in the committee on both sides were very concerned that the original wording would make the review of any such decision difficult because all the act required was that the commissioner give an informed opinion that the witness or the protectee had contravened his or her obligations. Although, presumably, the commissioner would base such a decision upon evidence, there was no requirement that it be based on evidence. The committee felt strongly that, by amending the bill to explicitly include the need for the commissioner to have evidence that the witness had misrepresented himself or had contravened his obligations, it would provide a greater level of protection from termination for protectees and make the legislation therefore much clearer.

Hon. Lorna Milne: Honourable senators, I should like to add a few words to those of Senator Carstairs about the work done by the Standing Senate Committee on Legal and Constitutional Affairs.

Since I arrived in this place just eight months ago, I have been impressed by the quality of debate and discussion I have observed in that committee. I am the sponsor of Bill C-13, and I must say that the discussion leading to the committee's adoption of this report and amendment was interesting and knowledgeable.

In the very best tradition of the Senate, our committee has drawn the attention of the government to a concern in a particular bill. This has been done in a truly non-partisan manner, and stems purely from the desire of the committee for laws that are consistently and clearly drafted and which achieve their stated objectives.

Honourable senators, concerns were raised about the drafting used in a particular clause dealing with the powers of the RCMP commissioner to remove a protectee from the witness protection program. The committee asked officials to explain the drafting procedure, but was not satisfied by the explanation given that the wording chosen was necessarily desirable.

Obviously, it is the government's intention that the commissioner should act fairly in administering the program. The question then becomes how to properly grant the commissioner this power, the power to remove persons from the program if they are not keeping their part of the bargain, while maintaining his accountability for the fair administration of the program.

I am no lawyer and certainly no drafting expert, honourable senators, but I was satisfied in committee that this clause does need to be reviewed to determine whether its drafting will meet the government's objective.

Honourable senators, I wish to thank Senator Gigantès in particular for his initiative, and to applaud the whole committee for its commitment to excellence in the performance of its mandate.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Milne, that this report be now adopted.

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

Motion agreed to and report adopted.

THIRD READING

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

Hon. Lorna Milne: With leave of the Senate and notwithstanding rule 58(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.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Energy, the Environment and Natural Resources (budget-study on energy, environment and natural resources) presented earlier this day.

Hon. Ron Ghitter moved the adoption of the report.

Motion agreed to and report adopted.

[*Translation*]

NATIONAL UNITY

MOTION TO CREATE SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion by the Honourable Senator Beaudoin, seconded by the Honourable Lynch-Staunton:

That a special committee of the Senate be appointed to examine and report upon the issue of Canadian unity, specifically recognition of Quebec, the amending formula, and the federal spending power in areas of provincial jurisdiction;

That the committee be composed of twelve senators, three of whom shall constitute a quorum;

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

That the papers and evidence received and taken by the Special Committee of the Senate on Bill C-110, An Act respecting constitutional amendments, during the First Session of the Thirty-fifth Parliament be deemed to have been referred to the committee established pursuant to this motion;

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

That the committee submit its final report no later than December 15, 1996; and

That, notwithstanding usual practices, if the Senate is not sitting when the final report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.—(*The Honourable Senator Gigantès*).

Hon. Jean-Claude Rivest: Honourable senators, I would just like to say a few words on the importance of the motion presented by Senator Beaudoin. It concerns the political and constitutional situation in Canada.

I would just like to remind honourable senators of the situation which prevailed in Quebec at the time of the last referendum. The Prime Minister's initiatives to follow up upon, or take into consideration, the referendum results in Quebec did not have the effect on the Quebec people which the right honourable Prime Minister no doubt hoped they would. I believe that all honourable senators are well aware of the gravity of the situation.

Last weekend, a public opinion poll was published in Quebec indicating that 59 per cent of Quebecers would vote yes to the referendum question as it was worded. That percentage was about 50 per cent last fall.

If we go to the bother of categorizing Quebecers by origin, nearly 69 per cent of francophone Quebecers would say yes. That means the action the government has taken since the referendum in an effort to alleviate pressure or lessen the power of sovereignist forces has failed to achieve the results the Prime Minister no doubt expected. The motion on distinct society or on the veto and all the other efforts by the Government of Canada under plan B — the debates on partition or the government's support of lawyer Bertrand in his case — did not give the expected results.

Right or wrong, however good the intention behind the initiatives of the Prime Minister of Canada, we have to admit that, eight months after the referendum, the threat to Canadian unity is even greater and more present than they were during the referendum campaign.

Given the emotion the outcome of the referendum stirred up across Canada, I think that all senators, and particularly the Senate, should be very aware of its role and of the contribution it can make to this debate.

In light of the extraordinary experience all members of this house have and of the seriousness of the situation, I cannot imagine the Senate not taking the initiative to help ensure Canada's unity. We are all knowledgeable about our regions, about the people who live there and about their leaders.

The motion prepared by Senator Beaudoin and seconded by Senator Lynch-Staunton does not concern the Quebec issue as such.

This is one of the major considerations involved in maintaining Canadian unity. The constitutional and political problem facing Canada is much broader than that. We agree that our federal system, as we have known it for so long, has been of great benefit to Canada and all the regions, including Quebec. It has no doubt contributed to progress in the Canadian and Quebec communities.

The current phenomenon of globalization must be kept in mind. The importance of Canada and the role it must play internationally, the need for a dynamic economy and Canadians' attachment to their social safety net can all be re-evaluated with the aim of improving Canadian federalism.

• (1540)

We could usefully examine the concern, not just of Quebec, but of other regions in Canada, the western provinces, the Maritimes, Ontario and others. Canadians are seeking an assurance, through their provincial governments, that they will be able to define their own blueprint for society within Canada's political structure.

This speaks directly to the nature of the objectives people are entitled to have in the fields of education, health, social services, and assistance and support for artistic and cultural creation. These are concerns that Canadians share.

The question being asked does not just involve Quebec. For example, Senator Beaudoin's motion refers to the federal government's specific spending authority. Is it in the interest of Canada and of all its regions for us to continue to go about meeting our objectives in the field of education in the same way? Should not each of the provincial governments, and especially that of Quebec, be accorded clear and unlimited freedom to make its own choices in these areas? Should not the provincial governments of Canada, which are responsible governments, be willing, in the same manner, to agree, freely and maturely, on Canadian standards that would meet Canadians' expectations, instead of having the federal government or bureaucracy impose their own?

I think that provincial governments in all regions of Canada are now sufficiently mature to do as European governments do in the European Economic Community in all areas — education, culture, manpower, the environment and so on — and set their own standards, which are standards of common sense but are not imposed by any political authority.

These are the paths of change and development in our federal system that would respond, in my view, to the concerns and hopes of Canadians. They would have the great advantage of telling Quebecers that they may have formal recognition not only of who they are but also of their unique contribution to Canada's identity.

Federalists and federalist spokespersons in Quebec could have coherent discussions based on achievements of the past that would open doors to the future. It would show Quebecers clearly that by continuing to share the Canadian experience with their countrymen, they would be guaranteed the freedom to define their own type of society.

In my opinion, this approach would be much more successful than the proposals in plan B. Partition, for instance, arises from arguments that are no doubt real, but are based in fear and simply push the Canadian option back in the hearts and minds of Quebecers.

Senator Beaudoin's proposal invites senators to work for Canadian unity. If there is one place we can discuss the matter calmly and without partisanship, but with a common goal and ideal, it is certainly the Senate. We have a contribution to make. It is with pleasure that I invite the Senate to support the initiative of Senator Beaudoin, which seems to me to be in keeping with the hopes and desires of all Canadians for unity.

Hon. Philippe Deane Gigantès: Honourable senators, I am delighted to see Senator Rivest quoting almost verbatim the throne speech on this subject and also the speech the Right Honourable Jean Chrétien, Prime Minister of Canada, made on May 13 in Montreal. This is exactly the direction the federal government wants to take. It is working with provincial governments to prepare for the meeting in June. The intent of that meeting is to achieve greater decentralization and a reduction in the role of the federal government in various provincial jurisdictions. All this is going on. I move that the debate be adjourned.

The Hon. the Speaker: Honourable senators, I note that since Senator Gigantès has risen, the time he has used will be taken away from the 15 minutes which are normally allocated. It is agreed that the motion remain in the name of Senator Gigantès on the Order.

On motion of Senator Gigantès, debate adjourned.

[*English*]

FISHERIES AND OCEANS

IMPACT OF MIFFLIN SALMON PLAN ON BRITISH COLUMBIA—DEBATE ADJOURNED

Hon. Pat Carney rose pursuant to notice of Tuesday, May 28, 1996:

> That she will call the attention of the Senate to the lack of any impact studies undertaken by the Government of Canada on the effects of the Mifflin Salmon Plan on the Coastal communities of British Columbia, who fear that their existence will be placed in jeopardy if they are stripped of their resident fishing fleets.

She said: Honourable senators, today I should like to give — that is, if I could have the attention of the chamber!

The Hon. the Speaker: Order, please!

Senator Carney: Today, I should like to convey to the chamber the concern of the Coastal Communities Network in British Columbia, which met on the weekend in Campbell River to discuss the Mifflin plan, the salmon fishery plan proposed by the Minister of Fisheries and Oceans. These communities fear that the Mifflin plan will place their existence in jeopardy by stripping them of their resident fishing fleets.

This is a serious issue. If you have an area of 25,000 kilometres with up to half a million people living on it and those communities feel that their economic existence is in jeopardy but they have never been consulted on this plan, you can see how seriously the situation is viewed. In fact, testimony in the other place indicates what people in the communities know that this plan was introduced by the minister arbitrarily on May 24 without any consultation with the communities involved, without any environmental studies, without any employment impact studies, and without any economic or environmental studies of any kind.

This issue will again be addressed in Nanaimo on June 8 of next week by the Pacific Salmon Alliance, which represents all of the various industry and coastal people who are fighting it.

Honourable senators, I want to make one thing clear. Everyone agrees that the fishing effort on the coast must be reduced because conservation and preservation must be the priority. As those on the East Coast know, the best conservers are the fishers because they know that their livelihood stems from it. However, the Mifflin plan, which will concentrate most of the effort in half the fleet, will do nothing for conservation. If you have the same fishing effort concentrated in half the fleet, you will still catch the same amount of fish. That will do nothing for conservation. The problem is that this plan will concentrate the fleet in the large urban areas like Vancouver and in the larger vessels and the wealthier segment of the industry. It will do nothing but hurt the coastal communities such as Sointula, Alert Bay, Port Hardy, Bella Coola.

• (1550)

Just to give you a feel for how much pain this plan could cause, I have been given some figures from Alert Bay, which is a major fishing-fleet base. Greg Wadhams, a First Nations councillor in the area, estimates there are about 60 seine vessels based out of that town. About 70 per cent of them are run by First Nations. Twelve of those vessels have either already been lost or will be lost shortly, and he estimates that up to 80 per cent of the seine fleet will be lost to that small community.

Of course, that huge job loss will directly affect about one-third to half of the families in Alert Bay and will indirectly hurt the small businesses that depend on the income generated from the fishery, since there is very little else to do in Alert Bay. That area of Vancouver Island has a population of approximately 2,500. There is a feeling that many people will be forced into welfare or out of the community. This is the kind of predicament that people up and down the coast will face.

I wrote the minister today to express my grave concern over the impact of the Mifflin plan, pointing out that it is particularly distressing that there have not been any feasibility studies and that, if measures are not speedily taken, the plan will have a devastating impact on parts of the B.C. coast.

One of the experts on this issue, Don Cruikshank, is a processor operating out of Port Hardy. He is not a bureaucrat; he works in the fishing industry. He has advised fisheries ministers from Roméo LeBlanc right down to the present minister. He points out that when the Department of Fisheries and Oceans brought in this plan, it did not think about the coastal communities. DFO says its mandate is fish and fisheries, not people. DFO brought this plan in without even knowing who holds the licences, which are leased out to people. DFO did not know who held the licences and had no idea where the fishermen live. Yet, with only a few weeks' notice, they brought in a plan that will have a horrible impact.

Peter Pearse, who is a consultant to the government and the former Royal Commissioner on fisheries, agrees that the long-term strategy for the coastal communities needs desperate attention and has not been addressed.

I would like to answer a question I am often asked: Why do we care about this issue? Everyone knows the coast is changing. We all worry about where the currents of change will be. There is change on the coast, and as with other areas of Canada, the change is not always positive.

One of my favourite places on the coast is an old native settlement of Mamalilaculla. I do not know if anyone else in this chamber has ever been to the place. It is in the jungle of islands known as the Broughton archipelago. I first went there about six years ago with the curator of the Campbell River Museum, which the Conservative government funded when it was in power. Anyone who is interested, as I am, in human settlements will understand that, at one point, Mamalilaculla was the Kwa'kiutl equivalent of the Garden of Eden. It had everything. It had access to the oolichan runs of Knight Inlet. It had access to the salmon and to the halibut and to the berry-laden bushes in the sun.

However, no one lives there now. It was a native settlement, no whites. One of the reasons it remained native is that the shallow waters which guarded the native canoes were a graveyard for gill-netters. When the technology changed, the fishers and their families left for Port Hardy. Last summer when we sailed by, the only people at Mamalilaculla were a bunch of American kayakers scrambling through the bushes and tripping over the totem poles that are still there.

You can see another example of this kind of change if you sail farther up the coast past Swanson Bay. At the turn of the century, Swanson Bay was a thriving pulp mill town with 1,000 or more people in it. It had everything that you could want in a coastal pulp mill town: the forest, a hydro source, a lake above the town, a deep water port. There is nothing there now but the derelict skeletons of chimney stacks buried in the bush. Cape Scott, at the top of Vancouver Island, is another community that disappeared. In 1913 there were about 200 residents in the town and 1,000 in the immediate area, and now there are mainly campers.

Sometimes the change is negative; sometimes the change is positive. When I first went to Port McNeill, there was nothing but a hotel with a bar, a store and no sidewalks and they were carved into the side of the hill. That was the start of the settlement. Similarly, when I first went to Gold River, when it was being converted from a logging camp to a town, bungalows were situated beside the gravel ditches because there were no recreational opportunities. They built the houses and then they built the town. Now those communities are thriving towns.

Such towns were built as a result of government policy. Whether you liked it or not, the Sloan Commission of B.C. said in 1955 that the forest resources of the area should be used for the social and economic good of the communities in the area. That policy of allocation of the resource was followed, and laundry line by laundry line, float camps were hauled ashore, and the bush logging camps were eventually replaced by single-family homes, shopping malls and schools.

The trouble with the Mifflin plan is that no one can say what impact it will have on those coastal communities. That is what we are asking. There is near consensus that the plan will cripple the communities if they are stripped of their fishing fleet and the effort is consolidated in Vancouver.

That is such an amazing development that one wonders how it could be that the message is not getting through to Ottawa. How can the government develop in Ottawa a plan that could have such a major impact, without doing impact studies? I live in the Gulf Islands, and after thinking about this question and talking to the people in Campbell River, I have come to realize that one of the reasons is that most Canadians, certainly those outside of British Columbia, do not even know we have a coastal community. They see the Lions Gate Bridge and Grouse Mountain, and they have no concept that there are 25,000 kilometres along that coast where there is human settlement.

Saturna Island, the Gulf Island where I live, is 18 minutes by air from the Fraser River, you can see it from half of Vancouver, and I would bet that not one in 100 people in Vancouver has actually got on a ferry to go to the Gulf Islands unless they were sailing through to Victoria. People in the urban centres really only think about the coast if they fish, cruise or camp, and then they consider the coastal communities their playground. They never consider them as working communities.

An example of that attitude is the support demonstrated for staffed lighthouses. I know that many senators think that I cannot get through a speech in the Senate without mentioning staffed lighthouses. They are viewed as some romantic notion of Senator Carney's and of others, akin to the nostalgic reminiscences about railway cabooses. We supporters of staffed lighthouses talk in vain about our friends and family members who have died on the coast, but we get no sympathy in Ottawa. In fact, we have this bizarre situation where last Friday the Premier of B.C., Glen Clark, who was elected this week — wrote the Prime Minister of Canada to repeat his concern about de-staffing. He said:

> The Government of British Columbia has put forward viable alternatives to de-staffing and it is incumbent upon the Federal Government to respond in a positive manner. Therefore, I would ask you to take immediate action and direct the Coast Guard to cease all work relating to de-staffing.

He also proposed they discuss this issue at the first ministers conference.

This is a request from the premier of the third largest province of Canada, and it has been ignored. The Coast Guard, in spite of the letter to the Prime Minister of Canada, has gone ahead with their sledgehammers to de-staff and desecrate lighthouses, including one in West Vancouver which has been declared a national historic site. It has already been declared an historic site and yet they are in there this week tearing it apart and replacing the historic equipment.

• (1600)

One has to ask this question, as British Columbians do: If the Premier of Quebec asked the Prime Minister to cease and desist on something involving a national historic site deemed important for marine safety, would the Coast Guard be in there with their sledgehammers or would there be a response from Ottawa?

Some Hon. Senators: Shame.

Senator Carney: Honourable senators can cluck their tongues all they want, but that is the way British Columbians react, because they do not think that they are ever heard in Ottawa. Their premier does not have his requests accommodated by the Prime Minister's office.

There is an alternative to the fisheries problem. There is agreement among many in the coastal communities about what needs to be done. There are four important issues that can be addressed, and quickly.

First, we have to decide what is the size of the fishing fleet. What is the target fleet? We in B.C. have never decided how big the fleet should be. Second, we have to decide how we will allocate the effort and the catch between the aboriginal fishery and the non-aboriginal fishery. That is an important issue which our Reform colleagues in the other place are insisting upon. Third, we have to decide how to allocate the catch between the commercial and the recreational fishers, something which can be done relatively fast. Finally, we have to decide how the fishing effort is to be distributed among the communities. Where are the licences now and where should they be held?

I am told by Don Cruikshank and other people in the industry that these are matters that can be determined very quickly. There is a consensus with respect to an alternative to the Mifflin plan. It calls for a halt to the concept of area stacking. Area stacking is a means of confining fishers to specific areas of the coast.

Please understand, honourable senators, that you do not know where the fish are on the coast. They do not particularly listen to bureaucrats. The fish go wherever they want to, from Alaska on down the coast. Traditionally, the fishing effort is from Alaska down the coast. Under the Mifflin plan, fishers must choose in advance where they will fish on specific areas of the coast. If they want to fish another area, they have to buy the licence from another boat. That is extremely expensive.

For example, for the seine fleet, if you want to fish the whole coast, the coast has been divided into two areas requiring two licences. If you are a small-boat fleet, the coast has been divided into three areas. If you want to run a small gillnet troll combination, which is common on the coast, you would need five licences to continue fishing the coast. These additional five licences are estimated to have a market value of been $250,000 and $500,000.

The fishing communities cannot afford that. If you live in Pender Harbour and you run a combination boat, you do not have $500,000 — not by as much as probably $499,000. The fishers cannot do this. To illustrate, only 5 per cent of the fleet has opted for the area stacking concept, mainly because most of them cannot afford it.

The Hon. the Speaker: I am sorry to interrupt the honourable senator, but she has but one minute left.

Senator Carney: Thank you, Your Honour.

I have talked to many people. There is a consensus that we go ahead with the buy-back scheme to take some boats out. However, if the area stacking concept were to be stopped until we can figure out the answers to those questions, including the one about where we want the fishing effort to be concentrated, then we could come up with something with which everyone agrees.

With respect to Admiral Mifflin, who I understand says "aye aye" and "steady as she goes," and whose own press releases announce that he will hold the course on this issue, I have just one piece of advice. It comes from a wonderful story that is going around the coast which we are told has been authenticated by the U.S. Navy. I have in my hand the alleged transcript of a radio conversation between a U.S. Navy ship and a Canadian source off the coast of Newfoundland last fall. It reads like this:

> Ship 1: Please divert your course 15 degrees to the north to avoid a collision.
>
> Ship 2: Recommend you divert YOUR course 15 degrees.
>
> Ship 1: This is the captain of a U.S. Navy ship. I say again divert your course.
>
> Ship 2: No, I say again divert YOUR course.
>
> Ship 1: This is an aircraft carrier of the U.S. Navy. We are a large warship. Divert your course now!
>
> Ship 2: This is a lighthouse. Your call.

I am suggesting that Admiral Mifflin has placed himself in a position where if he does not alter his course on his plan to take into account the impact of the coastal communities and the people who live in them, then he will run himself, his government and this plan onto the rocks.

Hon. John B. Stewart: Honourable senators, I realize that Senator Carney's time has expired. However, I wonder if I could have an opportunity to see if she will deal with a question.

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

Hon. Senators: Agreed.

Senator Stewart: I am trying to discover if Senator Carney has an explanation for why the policy to which she objects has been adopted. I am asking this question because some of the comments that she has made would be heard on the East Coast with, of course, suitable variations because of the difference in the fisheries.

Does the honourable senator think that the policy to which she objects is being adopted because there is, as it were, a kind of bureaucratic presupposition that bigger is better, that the big companies have the money and they can buy up the licences to fish the whole coast, and so you get the concentration? Is that part of the explanation? Or is it, as some of the fishermen on the East Coast would say when they object to what is being done by what they call the Rideau Canal fishermen, meaning, of course, the Department of Fisheries and Oceans, that it is the influence of the very large companies which, without guile, but simply because they are large and can afford to make themselves heard, get heard by the department? Is there some other possible explanation behind what she conceives of as a wrong policy?

Senator Carney: Senator Stewart, if I knew the answer to that question, I would not be here in the Senate. I would be running the fishery out in B.C.

I should like to point out that we do not know why DFO would do this, except for the fact that they say their mandate is fish. Their mandate is not people. They are responsible for fish. It is easier to run a fishery out of Ottawa than it is out of Alert Bay, where they closed the fisheries office even though that is where part of the fleet is located.

It has been pointed out on the coast that you could catch the allocated number of fish on the coast with five large vessels, if you wanted to be efficient. Our answer is that we want to sustain the coastal communities. Therefore, we have to decide how we want to allocate the catch among the communities, the gear and the various sectors of the industry. I am assured that it can be done.

Why the bureaucrats choose to ignore the people factor is something the honourable senator will have to ask the bureaucrats. I am hoping that the Standing Senate Committee on Fisheries can ask the communities who have never been consulted to come to Ottawa to give their views on this issue. DFO should be asked why they could bring in this plan without doing the necessary impact studies. You cannot cut a ski trail in this country without having an environmental impact assessment. Try to put a fence up in Banff without an environmental impact assessment. The DFO brought in this plan without adequate consideration of the people factor. I think the Senate committee should be asking why.

• (1610)

Hon. Gerry St. Germain: Briefly, I would lend my support to Senator Carney on this, because I believe that something should be done. There is a hue and cry from British Columbians about this particular package.

I do not blame the minister as much as I blame DFO. Honourable senators, DFO is in charge of the Atlantic fishery and it was not until there were no fish that they took action there. Had they taken action well before the depletion, a fishery may have been maintained on that coast.

This is not a question of partisanship, because both parties saw what was happening, but the question now is: Do they really know what they are doing?

Again, we have a situation in hand where DFO officials are obviously advising Minister Mifflin. Let us not blame him; he is new to the post. I am sure whatever plans are in place were in place long before he was appointed to that position. I have dealt with DFO in the past as a minister and as a member of the other place. I can assure you that I am well aware of the sometimes aloof position which can be taken in regards to those of us who "really don't know nothing." Yet we are suddenly faced with where the fishery on the East Coast has been depleted with the resulting devastation of the economy and families. Let us not have a repeat performance.

Senator Carney has come before the Senate and put the case on behalf of British Columbians as well as anyone could.

Senator Carney: Better than most.

Senator St. Germain: Hopefully the government will listen. We must consult the communities which are being impacted by this and we must move quickly. I would urge Senator Comeau and the Fisheries Committee to immediately instigate an inquiry.

I do not have much confidence in the statement made by the premier before the election. I would prefer to hear his statement today, the day after the election. I am sure he is as concerned as we are, but there was quite a bit of rhetoric throughout B.C. until election night.

I would urge all senators to lend their support in this endeavour. I make this request not as a Progressive Conservative, but as a British Columbian. Let us not repeat our mistakes of the past by relying solely on DFO. Unfortunately, they have failed in the past. It is time to move on this immediately in order to take the action which is appropriate on behalf of British Columbians and their fishermen and all those great Canadians who have come from all over the world to the most beautiful province in the country.

Senator Carney: Would the Speaker allow me to answer a question? He has asked what position the premier has taken after the election.

I can assure honourable senators, having spoken to the premier on Friday about this issue, that he intends to seek to take over the management of the fishery from the federal government. I have suggested to him that he consider as a model the Conservative government's negotiation of the Atlantic Accord in the matter of the offshore oil and gas resources where the Supreme Court held that offshore matters came under federal jurisdiction. Nova Scotia and Newfoundland had their hands tied. Unlike the land-based resources in Alberta, B.C. and Saskatchewan, this resource was deemed to come under federal jurisdiction.

We negotiated an accord with Newfoundland and Nova Scotia, the gist of which was, "Let us manage this resource as if it was owned by the provinces." No one has ever complained, including Newfoundland and Nova Scotia.

I have discussed this concept with the premier, with his deputy minister, with the union and with others. We will likely hear the premier discuss fisheries management and control at the First Ministers' Conference.

The Hon. the Speaker: I did not wish to interrupt Senator Carney while she was speaking, since I had thought she was asking a question which is allowed.

Senator Carney: I was answering a question.

The Hon. the Speaker: I would remind the honourable senator, however, that she is not allowed to make a second speech on the same item.

Is it agreed, honourable senators, that no precedent will be established and that Senator Carney had leave to respond?

Hon. Senators: Agreed.

Hon. Mira Spivak: Honourable senators, may I ask a question?

The Hon. the Speaker: Honourable senators, I must warn you that there is about one minute left. At 4:15, I must end the discussion.

Senator Spivak: This question is for Senator Carney or Senator St. Germain from someone who comes from a Prairie province. What influence have the gill nets had as compared to seine boats on the issue of conservation? I am interested, as are all Canadians, even from the Prairie provinces, in fish conservation.

Senator Carney: The influence of the gill netters is called "votes." They will vote for the party or the politicians who will conserve the fishery in a way that sustains their resources. The fishermen and fisherwomen are the leading conservationists in this country because they are the ones who catch the fish and whose livelihood depends on it.

If you doubt me, ask the fishermen how they feel about the side catch, the by-catch and how, under the existing regulations, they catch fish which they cannot use and kill them in the process.

The Hon. the Speaker: Honourable Senator Carney, I regret I must interrupt. Under the rules, I have no alternative.

On motion of Senator Berntson, debate adjourned.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, before 4:15 p.m., I would move motion number 31 standing in the name of Senator Ghitter.

The Hon. the Speaker: Honourable senators, I would need unanimous consent for that because, under the rules, I must terminate all discussion at this point. Is there unanimous consent that I would not see the clock now?

Hon. Senators: Agreed.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition), for Senator Ron Ghitter, pursuant to notice of Tuesday, May 28, 1996 moved:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it; and
>
> That the Committee have power to adjourn from place to place within and outside Canada for the purpose of such studies.

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

Motion agreed to.

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

SECOND READING

On the Order:

> On the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Davey, for the second reading of Bill C-28, respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport.
>
> And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Robertson, that Bill C-28 be not now read a second time, but that it be referred back to the House of Commons for proper consideration.

The Hon. the Speaker: Honourable senators, it is now 4:15. The vote will take place at 4:45.

Call in the senators.

• (1640)

The Hon. the Speaker: Honourable senators, the question is on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Robertson:

> That Bill C-28 be not now read a second time, but that it be referred back to the House of Commons for proper consideration.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Atkins	Kinsella
Beaudoin	Lavoie-Roux
Berntson	LeBreton
Buchanan	Lynch-Staunton
Carney	MacDonald (*Halifax*)
Charbonneau	Meighen
Cochrane	Murray
Cogger	Nolin
Cohen	Ottenheimer
Comeau	Phillips
DeWare	Rivest
Di Nino	Roberge
Doody	Robertson
Doyle	Rossiter
Forrestall	Simard
Ghitter	Spivak
Jessiman	St. Germain
Johnson	Stratton
Kelleher	Tkachuk—42

NAYS

THE HONOURABLE SENATORS

Adams	Lewis
Austin	Losier-Cool
Bacon	MacEachen
Bonnell	Marchand
Bosa	Milne
Bryden	Molgat
Carstairs	Pearson
Cools	Perrault
Corbin	Petten
Davey	Pitfield
De Bané	Poulin
Fairbairn	Prud'homme
Forest	Riel
Gigantès	Robichaud
Graham	Rompkey
Haidasz	Roux
Hébert	Stanbury
Hervieux-Payette	Stewart
Kenny	Stollery
Kirby	Taylor
Landry	Watt
Lawson	Wood—44

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, the question now before the Senate is the main motion.

It was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Davey, that this bill be read the second time.

Motion agreed to and bill read second time on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Lewis
Austin	Losier-Cool
Bacon	MacEachen
Bonnell	Marchand
Bosa	Milne
Bryden	Molgat
Carstairs	Pearson
Cools	Perrault
Corbin	Petten
Davey	Pitfield
De Bané	Poulin
Fairbairn	Prud'homme
Forest	Riel
Gigantès	Robichaud
Graham	Rompkey
Haidasz	Roux
Hébert	Stanbury
Hervieux-Payette	Stewart
Kenny	Stollery
Kirby	Taylor
Landry	Watt
Lawson	Wood—44

NAYS

THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Atkins	Kinsella
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Berntson	LeBreton
Buchanan	Lynch-Staunton
Carney	MacDonald (*Halifax*)
Charbonneau	Meighen
Cochrane	Murray
Cogger	Nolin
Cohen	Ottenheimer
Comeau	Phillips
DeWare	Rivest
Di Nino	Roberge
Doody	Robertson
Doyle	Rossiter
Forrestall	Simard
Ghitter	Spivak
Jessiman	St. Germain
Johnson	Stratton
Kelleher	Tkachuk—42

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

On motion of Senator Kirby, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motion:

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(*h*), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, June 4, 1996, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Mira Spivak, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

> That the Standing Senate Committee on Agriculture and Forestry have power to sit at 3:30 p.m. on Tuesday, June 4, 1996, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, June 4, 1996 at 2:00 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 35th Parliament)
Thursday, May 30, 1996

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C–2	An Act to amend the Judges Act	96/03/19	96/03/20	Legal & Constitutional Affairs	96/03/21	none	96/03/26	96/03/28	2/96
C–3	An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act	96/03/27	96/03/28	Social Affairs, Science & Technology	96/05/01 96/05/15	none none	96/05/08 referred back to Committee 96/05/16	96/05/29	12/96
C–7	An Act to establish the Department of Public Works and Government Services and to amend and repeal certain Acts	96/03/27	96/03/28	National Finance	96/05/14	none			
C–8	An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof	96/03/19	96/03/21	Legal & Constitutional Affairs					
C–9	An Act respecting the Law Commission of Canada	96/03/28	96/04/23	Legal & Constitutional Affairs	96/05/09	none	96/05/14	96/05/29	9/96
C–10	An Act to provide borrowing authority for the fiscal year beginning on April 1, 1996	96/03/26	96/03/27	National Finance	96/03/28	none	96/03/28	96/03/28	3/96
C–11	An Act to establish the Department of Human Resources Development and to amend and repeal certain related Acts	96/04/24	96/04/30	Social Affairs, Science & Technology	96/05/15	none	96/05/16	96/05/29	11/96
C–12	An Act respecting employment insurance in Canada	96/05/14	96/05/30	Social Affairs, Science & Technology					
C–13	An Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions	96/04/23	96/04/30	Legal & Constitutional Affairs	96/05/28	one	96/05/30		
C–14	An Act to continue the National Transportation Agency as the Canadian Transportation Agency, to consolidate and revise the National Transportation Act, 1987 and the Railway Act and to amend or repeal other Acts as a consequence	96/03/27	96/03/28	Transport & Communications	96/05/08	none	96/05/16	96/05/29	10/96
C–15	An Act to amend, enact and repeal certain laws relating to financial institutions	96/04/24	96/04/30	Banking, Trade & Commerce	96/05/01	none	96/05/02	96/05/29	6/96

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C–16	An Act to amend the Contraventions Act and to make consequential amendments to other Acts	96/04/23	96/04/25	Legal & Constitutional Affairs	96/05/02	none	96/05/08	96/05/29	7/96
C–18	An Act to establish the Department of Health and to amend and repeal certain Acts	96/04/24	96/04/30	Social Affairs, Science & Technology	96/05/08	none	96/05/09	96/05/29	8/96
C–19	An Act to implement the Agreement on Internal Trade	96/05/14	96/05/30	Banking, Trade & Commerce					
C–21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	96/03/21	96/03/26	––	––	––	96/03/27	96/03/28	4/96
C–22	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1997	96/03/21	96/03/26	––	––	––	96/03/27	96/03/28	5/96
C–28	An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport	96/04/23	96/05/30	Legal & Constitutional Affairs					
C–31	An Act to implement certain provisions of the budget tabled in Parliament on March 6, 1996	96/05/28	96/05/30	National Finance					
C–33	An Act to amend the Canadian Human Rights Act	96/05/14	96/05/16	Legal & Constitutional Affairs	96/05/28	none			

COMMONS' PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C–243	An Act to amend the Canada Elections Act (reimbursement of election expenses)	96/05/16	96/05/28	Legal & Constitutional Affairs					
C–275	An Act to establish the Canadian Association of Former Parliamentarians	96/04/30	96/05/14	Legal & Constitutional Affairs	96/05/16	three	96/05/16	96/05/29	13/96

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S–2	An Act to amend the Canadian Human Rights Act (sexual orientation) (Sen. Kinsella)	96/02/28	96/03/26	Legal & Constitutional Affairs	96/04/23	none	96/04/24		
S–3	An Act to amend the Criminal Code (plea bargaining) (Sen. Cools)	96/02/28	96/05/02	Legal & Constitutional Affairs					
S–4	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	96/02/28							
S–5	An Act to restrict the manufacture, sale, importation and labelling of tobacco products (Sen. Haidasz, P.C.)	96/03/19	96/03/21	Social Affairs, Science & Technology					
S–6	An Act to amend the Criminal Code (period of ineligibility for parole) (Sen. Cools)	96/03/26							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S–7	An Act to dissolve the Nipissing and James Bay Railway Company (Sen. Kelleher, P.C.)	96/05/02	96/05/08	Transport & Communications	96/05/15	none	96/05/16		

CONTENTS

Thursday, May 30, 1996