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Friday, September 10, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Friday, September 10, 1999

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

Prayers.

SENATORS' STATEMENTS

SIXTIETH ANNIVERSARY OF CANADA'S ENTRY INTO WORLD WAR II

Hon. Norman K. Atkins: Honourable senators, I should like to take this opportunity to draw the attention of the Senate to the sixtieth anniversary of Canada's entry into the Second World War on September 10, 1939. While we were 10 days late with a formal declaration of war, the war having started with the invasion of Poland on September 1, 1939, we had already started our preparation to halt Nazi aggression and to join our Commonwealth allies in the pursuit of victory.

Canada's military was small at the outset of war. The Royal Canadian Navy possessed some River Class destroyers and had less than 2,000 sailors. The Royal Canadian Airforce had a force of 270 mostly obsolete combat aircraft and only approximately 3,000 men and women. The Canadian Army permanent force had 4,200 men backed up by 51,000 militia. That was not much of a force for victory in 1939. We were not a big country in those days population-wise. We were, however, a determined people, and Canadians from all walks of life came forward to save humanity from tyranny.

It was to be a war of great sacrifice. The defeats at Dunkirk, Dieppe and Hong Kong filled all Canadians with a resolve to win, and win we did, along with our allies.

Victory, in the end, was our only choice, our only option. Canadian soldiers liberated Holland. The RCN, along with the Merchant Navy, helped defend the lifeline of Great Britain in the Battle of the Atlantic. The RCAF fought back with strategic raids that wore down the German army and helped to win victories. We also helped to vanquish the military of Japan in the Pacific and in Asia so that all people could live in freedom.

In the end, Canada had the world's third largest navy, its fourth largest air force, and a field army that could send a chill down the strongest spine. When it was announced that the Canadians were coming with fixed bayonets, the enemy moved in other directions with alacrity and dispatch. It set the basis, as Vimy and the Canadian Corps did in 1917, or as we did during the invasion of Normandy in June 1944, for the country we so dearly love today, a country built upon the sacrifices of its sons and daughters.

To those who paid the ultimate price for victory, to those who served bravely, and to their families, we give our undying gratitude.

[*Translation*]

THE CANADIAN FRANCOPHONIE GAMES

Hon. Fernand Robichaud: Honourable senators, the Canadian Francophonie Games were held at Memramcook from August 19 to 22. This event was organized by the Fédération de la jeunesse canadienne-française as part of the Année de la francophonie canadienne.

These games brought together close to one thousand young francophones and francophiles between the ages of 15 and 18 from all provinces and territories to celebrate their belonging to the French-Canadian and Acadian culture, while at the same time engaging in friendly competition.

The games were multi-facetted, with components relating to sport, art, education and interchanges between delegations. This was a highly successful undertaking, which provided young participants with an opportunity to exchange views and to come to know the other regions of Canada. Its main purpose was to forge new friendships, and friendships of course know no provincial or territorial boundaries.

The Department of Canadian Heritage made a major contribution to the games. I wish to draw particular attention to the unceasing efforts of the organizers and the many volunteers who made this great event possible. In taking the various delegations into their community, once again the people of Memramcook Valley showed their willingness to welcome guests into their community, and we salute them for that. The Fédération de la jeunesse canadienne-française showed just how well it serves Canadian youth in every part of the country. This event also showed just how vibrant our Canadian young people are, and how prepared they are to meet the challenges faced by the Canadian Francophonie.

[*English*]

NIGERIA

CHANGES UNDER NEW GOVERNMENT

Hon. Donald H. Oliver: Honourable senators, Nigeria is open for business again. This West African country, with more than 120 million people, has been able to throw off the undemocratic yoke of the military government and, with its vast petroleum riches, is anxious to do business again with the Western World, particularly Canada.

The new President of Nigeria, Mr. Obasanjo, has already announced priorities, notably those to combat corruption, which should lead to the political, social and economic betterment for all of Nigeria.

In the first six weeks after taking control, the president acted quickly and decisively to bring about democratic objectives. This all came about after the death last June of Nigerian military dictator General Abacha, and there followed a transitional process to civilian rule. On May 29, 1999, Nigeria completed that transition with a handover ceremony and inauguration of the new president.

During his first six weeks of power, President Obasanjo took decisive action directed at his objective of bringing honesty and transparency to Nigeria's government, and drawing a clear line between civilian government and military government. More than 100 senior Armed Forces officers have been retired. The notoriously corrupt Customs Service has had 99 of its senior officers retired.

I had the honour to travel to Nigeria a month ago with a group of Canadian businessmen to look at business opportunities in that country. Honourable senators, they are vast. When I was there, I observed that in the lobbies of the major hotels were CEOs from major multinational corporations, consultants, lawyers, engineers and others. Many of those with whom I spoke told me that they had a strong feeling that free enterprise and democratic principles were back once again in Nigeria, and that business people from the Western World were anxious to return to Nigeria in order to participate in the needed infrastructure refurbishing.

My group had the opportunity to meet with the Minister of Transportation to talk about a number of transportation issues, and we met with the influential economic advisor to the president and other senior leaders. The Minister of Transportation impressed me with her vision for reinvigorating the transportation system in order to move both people and goods more efficiently. She is aware of the Canadian expertise that exists, together with the software, hardware and engineering that Nigeria needs to come of age. We ought to do all that we can to support her and encourage her in her efforts to restore Nigeria as a leading democratic economic power.

What struck me, honourable senators, is that all of those whom I encountered with political and economic influence in Nigeria openly welcomed joint ventures, and the investment and expertise that Canadians can bring to help redevelop this great country.

In many senses, Africa is the forgotten continent for Canada, particularly English-speaking West Africa. I ask honourable senators when they last heard of a Canadian government leading a major trade mission to Africa. The Prime Minister leaves this weekend with a delegation of more than 300 eminent business leaders and politicians, including our own Senator Dan Hays, and they will visit Japan and New Zealand. But what about Africa? One can just imagine the tremendous catalyst that a Team Canadian visit to Nigeria would be in spurring on and stimulating economic activities in that country.

Honourable senators, I will write to the Prime Minister, and I strongly encourage other honourable senators to do the same, asking him to do something in this regard for the forgotten continent. We should encourage our business leaders to make a Team Canada visit to the English-speaking countries of West Africa early in the new millennium.

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Sharon Carstairs (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 Monday next, September 13, 1999, at four o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

JUSTICE

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1), (2) and 57(2) of the *Rules of the Senate*, I give notice that on Tuesday next, I will call the attention of the Senate:

> (a) to the September 29, 1995 Letter of Request for Assistance to Switzerland written by Kimberly Prost of the Department of Justice, a copy of which I tabled in the Senate on December 17, 1996, which stated in part:
>
> > "The above three cases demonstrate an ongoing scheme by Mr. MULRONEY, Mr. MOORES, and Mr. SCHREIBER to defraud the Canadian Government of millions of dollars of public funds from the time Mr. Mulroney took office in September, 1984 until he resigned in June, 1993.";
>
> and which requested access to Mr. Mulroney's alleged Swiss bank accounts;

(b) to the publishing in the media of the terrible and preposterous allegations about Brian Mulroney, Prime Minister of Canada 1984-93, and to the ensuing libel lawsuit by him, occasioned by these allegations, against the then Attorney General of Canada, Allan Rock, and Kimberley Prost, and the Royal Canadian Mounted Police;

(c) to the settlement of this lawsuit and to the terms of its Settlement Agreement of January 5, 1997, particularly its terms 3, 4, 5 and 9 that:

3. "Some of the language contained in the Request for Assistance indicates, wrongly, that the RCMP had reached conclusions that Mr. Mulroney had engaged in criminal activity.

4. Based on the evidence received to date, the RCMP acknowledges that any conclusions of wrongdoing by the former Prime Minister were — and are — unjustified.

5. The Government of Canada and the RCMP regret any damage suffered by Mr. Mulroney and his family and fully apologize to them.

9. The parties accept that the RCMP, on its own, initiated the Airbus investigation; that the Minister of Justice was not involved in the decision to initiate the investigation; and that before November 4, 1995, the Minister of Justice was not aware of the Request for Assistance and the RCMP investigation.";

(d) to the abiding and continuing public embarrassment and humiliation to Mr. Mulroney and his family which cause and compel him to continuously seek legal assistance and representation to clear his name and protect his reputation despite the Attorney General's and the RCMP's clear declaration of no wrongdoing on Mr. Mulroney's part;

(e) to the July 5, 1999 letter in this vein from Mr. Mulroney's counsel Gerald Tremblay to the Swiss authorities which stated in part:

> "Our client wished to know how the Swiss authorities involved are participating in what appears from our client's perspective to be a political attack rather than bona fide legal cooperation.";

(f) to the August 23, 1999 letter in response to Gerald Tremblay from Andreas Huber-Schlatter, the Secretary General Federal Department of Justice of Switzerland, again clearing Mr. Mulroney and declaring the non-existence of these alleged Swiss bank accounts, stating in part:

> "Furthermore, please note that *none* of the bank records so far produced or yet to be produced involve accounts of Mr. Mulroney's. ...your client is not affected...";

and

(g) to the need for the Senate of Canada to bring these complex and disturbing matters into its cognizance and to examine them in a public parliamentary forum, the only forum sufficient to distinguish wrong-doing from malicious conjecture, to distinguish the law from politics, and to examine all the roles in the matter of the seemingly unrelenting, personal persecution of Mr. Mulroney, and to the need to give those unjustly damaged by this matter an opportunity to be heard publicly, including Mr. Mulroney and Mr. Allan Rock, and in the public interest to finally settle these matters.

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

PRESENTATION OF PETITIONS

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to present three series of petitions with respect to Bill C-78 from residents of Saskatchewan.

QUESTION PERIOD

TRANSPORT

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA— TABLING OF ORDER IN COUNCIL TO ALLOW DISCUSSIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate.

As the minister knows, the opposition in the Senate will be holding its national parliamentary caucus from Tuesday to Thursday of next week. The preparations for this national caucus have been in progress for a year now. It is a major policy gathering for the opposition side.

• (0920)

I therefore ask the minister, since statutory law requires the Minister of Transport to table that order in this house within seven sitting days, which technically would be Wednesday next: Would he undertake to have it tabled on Monday?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I will have consultations with the Minister of Transport. I endeavoured to do so yesterday, but I was unable to make direct contact with him. I shall do so and I shall make every effort to accommodate the chamber.

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA—
EFFECT ON RULE REGARDING TEN PER CENT PUBLIC OWNERSHIP

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, could the minister advise the Senate what the government's position is regarding the breach of the 10 per cent rule, a rule which, as the minister knows, was part of the 1988 legislation that led to the privatization of Air Canada? That 10 per cent rule was a matter of national public policy, and the proposal that has been described as coming from Onex would breach that 10–per-cent rule. I wonder if the minister could explain what the government's policy is now with reference to that statutory provision that requires non-concentration of ownership beyond 10 per cent.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, as I indicated earlier, the government has created a special and time-limited process to allow private-sector parties to develop proposals to restructure and strengthen the industry. The process will preserve the ability of the industry to serve the travelling public in the long term. The industry has been in difficulty for some time.

As I have already indicated, the government does not have to, nor does it intend to, comment on the specifics of any private-sector proposal until there is an agreement between all the parties involved. When an agreement is presented to the government, the Minister of Transport will provide whatever appropriate recommendations he deems are feasible to the Governor in Council, who will issue the formal decision of the acceptability or non-acceptability of the conditional agreement and the nature of the imposed conditions with respect to the specific 10 per cent policy.

The government will also consider, in the light of any proposals or agreements which may come forward, what future action may be required. This may include the possibility of introducing legislation to facilitate the implementation of an acceptable proposal and any necessary changes to the policy and regulatory framework which governs airlines.

Senator Kinsella: Honourable senators, in 1988, when the legislation dealing in part with the privatization of Air Canada was proposed, there was a long, thorough, extended debate in Parliament. Much of the debate surrounded the policy framework within which that privatization would unfold.

As I understand it, the main concerns around the 10–per-cent rule were two. First, the policy that is in place today arose from Canada's desire to prevent the consolidation of economic power in the airline industry in too few hands. The second concern was Canada's desire to maintain domestic control over cultural industries, sensitive industries, and certain other elements of Canada's strategic economy, such as the national airline.

I ask the minister whether, in his view, the policy principles, particularly if they are to be changed, ought not to be thoroughly developed and set in place before some committee or other group examines a deal that could be quite contrary to the established principles which are enshrined in law?

Senator Graham: Honourable senators, I am sure all such aspects of any proposal would be examined very thoroughly by the responsible groups at the highest levels of government. I understand that today, in Montreal, Minister Collenette may further elucidate the proposals that are now in the public domain, and that he will be available to the media at that time. Perhaps we will learn more from Mr. Collenette at that time.

Senator Kinsella: Honourable senators, it is that phrase "responsible groups" that concerns me. I am trying to understand the context in which Parliament will be the responsible group that will provide detailed assessment and detailed input into what appears to be a new direction and a complete change in policy by this government.

Senator Graham: Honourable senators, there was a suggestion here in this chamber yesterday that the Standing Senate Committee on Transport and Communications take this matter under advisement and initiate a study. I also suggested that an inquiry could be raised by any senator. If a change in legislation were required to facilitate the reorganization of the industry, then, of course, that would have to come before both Houses of Parliament.

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA—
TABLING OF ORDER IN COUNCIL TO ALLOW DISCUSSIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, that is precisely why, for four days, we have been attempting to have tabled in this house the order issued under section 47 of the Canada Transport Act. The act also requires that it be sent off to the appropriate parliamentary committee, which I assume would be the Transport and Communications Committee. Some of us are baffled as to why this order has not been tabled here in the Senate. What is being hidden?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the act provides that the government has seven sitting days in which to table the document. The seventh day would be Wednesday next. I shall attempt to table the document as soon as possible. Senator Kinsella first raised the question yesterday. I indicated to him privately, before today's session began, that I had the matter under very serious consideration. I indicated that I was attempting to reach the minister, and that I hoped to be able to accommodate him and other honourable senators.

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA—
POSSIBLE INFLUENCE RESULTING FROM
OWNERSHIP BY FOREIGN COMPANY

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, there is some feeling, quite widespread, that if the proposal is to be realized, American Airlines, being the major creditor and major shareholder, would have considerable influence on the management, operations and activities of the surviving airline, particularly as American Airlines, as we know, already has significant influence over Canadian Airlines.

Is the government willing to accept a proposal which would, in effect, have the one surviving national airline's operations directed by the major shareholder which would be a foreign airline?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I think the government would entertain any and all proposals on the table and, in its wisdom, will make a decision at the appropriate time.

As to the comment with respect to American Airlines and Air Canada, it is rather interesting that the president of American Airlines is a Canadian and the president of Air Canada is an American.

Senator Lynch-Staunton: Yes, and all the senior management of Canadian Airlines have gone back to Fort Worth, Texas. That is even more significant.

Am I to understand the minister as saying we have no policy at the moment, that we will be reacting to a proposal rather than establishing guidelines for those who are making the proposal so that everyone knows what the rules are?

Is the government open to the possibility that the one surviving national airline, which is supposed to carry the Canadian flag, will be directed, in effect, by its major creditor and major shareholder, which is an American airline?

• (0930)

Senator Graham: Honourable senators, as I indicated earlier, neither airline is doing very well. There is difficulty in the airline industry. Those of us who travel frequently see the ridiculous situation whereby both major carriers are flying from one city to the same destinations at almost precisely the same time. That may be good for competition but it cannot support the survival of two airlines. The government recognizes that something must be done, but the decisions must first be made in the open market-place.

A proposal has been made by Onex in this particular instance. If the offer does not succeed, at least it will serve the purpose of fleshing out the current problems that are in the industry at the present time. One hopes that in the future it will bring some kind of rationalization and a solution for the travelling public in Canada.

Senator Lynch-Staunton: Honourable senators, I sympathize with the minister's travel difficulties. My question has nothing to do with that. My question is whether the government is willing to accept one national airline whose major shareholder and creditor is an American airline, which could easily treat it as a partly-owned subsidiary. In effect, when it comes time to allocate hangar space or landing rights or whatever, the influence of that major shareholder could penalize the Canadian carrier to the advantage of the American carrier's other operations.

Whatever the end result of the merger, should not the government's fundamental requirement be that the resulting entity be Canadian-owned and Canadian-operated in Canada's interests?

Senator Graham: Honourable senators, if I go any further in this debate, I will be accused of taking sides.

Senator Stratton: Take Canada's side.

Senator Graham: That is precisely it. We should all take Canada's side in the end. It is still too early for decisions, since there are many details that we do not know. We should allow the debate and the representations to evolve because not all the necessary information is available to the public yet. Market players have their own strategies and sometimes they keep their cards rather close to their vest. When the time comes, the government will deal with the matter in a very responsible manner, as the government always does.

ONEX PROPOSAL TO PURCHASE AIR CANADA AND CANADIAN AIRLINES—POSSIBLE DEBT LOAD ON AIR CANADA

Hon. Terry Stratton: Honourable senators, the Leader of the Government in the Senate said that there are problems in the airline industry. At one time, the precursor to Canadian Airlines, Pacific Western, was financially healthy. It was a regional airline. They purchased Canadian Pacific and stayed healthy. When they took on Wardair, the problems started because they took on too much debt. As a result, that airline has had problems ever since.

We now have a proposal to merge the two airlines. Canadian Airlines is heavily debt-laden. Air Canada is operating in a profit position, albeit a slim one. It is a relatively healthy business in an industry which is very tough. In my small measure of experience in the industry, it is highly competitive. To load Canadian Airline's burden of debt onto Air Canada is a questionable business venture.

Why take a relatively healthy airline, in an industry where few are healthy, and impose on it a debt load that will put it in jeopardy? Would the minister care to comment?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, we are dealing here with private industry. It was the decision of the government several years ago to privatize Air Canada. Many people at the time said this would not be in the best interests of Canadians. Only history will tell who was right.

I understand that the new company is to be known as Air Canada. Onex's offer to purchase Air Canada's shares is subject to acceptance by at least 66.6 per cent of the voting and non-voting shares of Air Canada. If that approval were obtained, the ownership would be held in Canada by Onex or by American Airlines which is owned by AMR, and by other individual shareholders. From reading some of the material which has been made available to the press, I understand that Onex, a Canadian company, would hold 31 per cent of the equity in the new airline.

Senator Lynch-Staunton: With American borrowed money.

Senator Graham: AMR would own 14.9 per cent and public shareholders will own 54 per cent.

I also understand that the new airline would retain the name of "Air Canada" and its head office would be in Montreal with major activity centres across the country.

Senator Stratton: You have just made the west feel wonderful.

If you really want to do something for the benefit of Canadians, look to the Minister of Finance who, in his wisdom, said no to a private industry that wanted to do some merging — namely the banking industry. The appearance is that there is a forced play to make a deal to merge these two companies. Air Canada wants to let the market play. Why not do that? If Canadian Airlines survives, it survives; if it does not, then it does not. For goodness sake, why would you load down Air Canada with a debt under which it cannot survive?

Senator Graham: Honourable senators, we cannot have it both ways. Senator Stratton is speaking on the one hand as a Canadian and on the other hand as a westerner. When I mentioned that the proposed airline would still carry the banner of "Air Canada" and that the headquarters would be in Montreal, he said rather cynically and sarcastically that that would really make westerners feel wonderful. I am sure he did not mean that as it will likely read in Hansard because Canadian Airlines has been a western-based company. At the same time, the perception across the country is that Canadian Airlines will not be able to survive under the present circumstances.

This is the market system at work and Onex has made a bid. It is not for me to debate the bid. We can debate how the government should intervene at the appropriate time. Indeed, if legislation is required, both Houses of Parliament will have an opportunity to review or reject the proposals in due course.

• (0940)

Senator Stratton: Honourable senators, on the one hand, the leader speaks of not meddling. On the other hand, it was quite all right for the Minister of Finance to meddle with the bank mergers. I think he is speaking on both sides, too. In 1956, Air Canada's headquarters were in Winnipeg. The Liberals appointed a president for Air Canada from Montreal. What happened to the headquarters of Air Canada? It went to Montreal.

ONEX PROPOSAL TO PURCHASE AIR CANADA AND CANADIAN AIRLINES—DISCUSSIONS BETWEEN PRESIDENT AND GOVERNMENT

Hon. Terry Stratton: Honourable senators, can the Leader of the Government tell me whether Mr. Schwartz of Onex has met with the government?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know. I certainly have not met with Mr. Schwartz.

I would make just a few comments, honourable senators. Rumours are rampant that another offer will be made which could change the mix entirely. I think it is worthy of note, if my memory is serving me correctly, that Premier Ralph Klein of Alberta has welcomed the Onex proposal.

ONEX PROPOSAL TO PURCHASE AIR CANADA AND CANADIAN AIRLINES— EFFECT ON RULE REGARDING TEN PER CENT PUBLIC OWNERSHIP

Hon. David Tkachuk: Honourable senators, as a supplementary question, did either Mr. Schwartz from Onex Corporation or his representatives know previous to the offer they made for Canadian Airlines and Air Canada that the 10 per cent rule would be changed or that other changes would be made by the federal government to facilitate a deal of this kind? Did those meetings take place, and were those assurances made by the government prior to issuing the Order in Council which is to be laid before Parliament?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators**,** I, of course, was not privy to any discussions which might have or might not have taken place. However, I have indicated on several occasions, including today, that if a proposal contemplating a change in legislation with respect to the 10 per cent rule or any other statutory requirement were to come forward, the government would examine it very carefully. If necessary, the government will introduce legislation, and provide any changes that might be appropriate.

ONEX PROPOSAL TO PURCHASE AIR CANADA AND CANADIAN AIRLINES—LOCATION OF NEW HEADQUARTERS

Hon. David Tkachuk: Part of the consideration of privatization was that the headquarters for Air Canada would remain in Montreal. Of course, we know of the close ties between Mr. Schwartz and the Liberal government and of him being a fund-raiser for the Liberal government and the Liberal Party. Will the provisions that the headquarters must remain in Montreal stay, or will Mr. Schwartz have the ability to move the headquarters wherever he wants after the fact? Were those provisions made in meetings involving either Mr. Shwartz or his representatives and the Minister of Transport?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know, and I do not think we should get into a geographic debate. I would love to have the headquarters of any merged airline, whether it was Canadian or Air Canada, located in Sydney, Nova Scotia, where we could really use the jobs.

Senator Lynch-Staunton will probably suggest that we pave over the tar ponds, but I do not think that would work either.

The honourable senator made reference to Mr. Schwartz being associated with the Liberal Party. I have never thought it a sin or crime to be associated with any political party. It does not matter whether these people have been supporting the Liberal Party, the Conservative Party or the New Democratic Party.

Senator Fairbairn: They hired Bill Fox.

Senator Graham: They hired Bill Fox, and what a wonderful acquisition he is and would be to any enterprise.

Given the democratic process, I do not think it should be a sin or a crime for anyone to support the political party of their choice.

Senator Tkachuk: I agree with the minister, but it seems Liberals are the funniest people in the world.

Senator Graham: We do retain our sense of humour.

Senator Tkachuk: When Mr. Matthews was the president of the Conservative Party, that was reason enough to cancel the Pearson airport deal. However, because this man is a fund-raiser for the Liberal Party, there seems to be no problem here. I am sure the leader remembers the big problem the government had cancelling the airport agreement, because Mr. Matthews had close ties, as Mr. Nixon said, to the Conservative Party? However, when I ask the question, there are different standards.

I will ask that question again. Were assurances made to Onex Corporation and Mr. Schwartz, directly to him or his representatives, that the 10 per cent rule would be lifted and that Montreal would no longer need to be the headquarters of the new airline in Canada, as is part of the regulations presently? Were those assurances given before he made the offer to Canadian Airlines and Air Canada?

Senator Graham: Honourable senators, I do not know of any assurances that were given to anyone. It is the market-place at work.

With respect, I have just indicated that my understanding is that the headquarters of any proposed new merger would be in Montreal. The new merged airline under this proposal, as I understand it, would be called Air Canada, and the headquarters would be in Montreal.

Senator Tkachuk: Honourable senators, presently they are compelled to have the headquarters in Montreal. I am asking whether that restriction has been lifted and assurances have been given to Mr. Schwartz and Onex Corporation. It can stay in Montreal, of course, if he says it will, but that does not mean that they are compelled to stay in Montreal, as is the case presently.

Senator Graham: I am not aware of that, but I am sure that the information will evolve as it should.

[*Translation*]

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA— POSSIBILITY OF PARLIAMENTARY HEARINGS— GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, as senators from Quebec, we have some very major concerns. The risk is serious enough that someone should take the initiative of examining this issue in the Standing Committee on Transport and Communications.

The current Minister of Transport, David Collenette, closed the Collège militaire royal de St-Jean when he was Minister of National Defence. In my view, this was a big mistake. History will bear this out and you will see changes. I knew they would have to do something to match the closing of the Royal Roads Military College in Victoria. Other bases could have been closed in Quebec in order to maintain Canadian unity.

In the case of the Collège militaire royal de St-Jean, the minister used these same arguments. This is the same minister who is telling us everything is fine, that this is free enterprise in action.

The Atlantic senators should get together with the senators from Quebec and ask for more information before a final decision is taken. I would ask the Leader of the Government to see if it would not be a good idea to examine the implications of these decisions for Canada quickly.

This is an urgent matter. We will be adjourning in a few days.

• . (0950)

Apparently, we will not be coming back for a while and experience has shown us that this is precisely when some fast moves are pulled.

I ask the Leader of the Government, senators from Quebec and those from the Atlantic region in particular — I do not wish to thwart western interests — if they will be vigilant. We are entitled to be vigilant.

[*English*]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I agree with everything Senator Prud'homme has said. I am quite sensitive to cut-backs. I come from a region of the country that, with only 3 per cent of the population, absorbed 16 per cent of the early budget cuts. We are fighting back, by diversifying our economy and by looking at other opportunities. While unemployment rates are still unacceptably high in my part of the world, we are improving the situation. It is a tough fight.

I am very sensitive to the representations made by all senators from all regions of our country. This is a major proposal. It affects the lives of all Canadians. When a suggestion is made that this issue be examined by the Standing Senate Committee on Transport and Communications or by way of special inquiry, I will wholeheartedly endorse and support such an initiative.

Senator Prud'homme: I have a supplementary.

[*Translation*]

The Hon. the Speaker: I am sorry, Senator Prud'homme, but question period is over. Many supplementary questions have already been put, and there is a senator who wishes to ask a question on another issue.

[*English*]

HUMAN RESOURCES DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION—IMPASSE IN NEGOTIATIONS WITH QUEBEC AND NEWFOUNDLAND—REQUEST FOR UPDATE

Hon. Jean-Claude Rivest: Honourable senators, perhaps the minister could give to the chamber the information related to the Millennium Scholarship Foundation. As you know, Newfoundland and Quebec do not have an agreement with the federal government, and the students are waiting. What is happening?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I thank the honourable senator for raising this question again. Senator Cochrane raised a similar question about the scholarships earlier this week. I do not believe my honourable friend was present in the chamber at the time. At that time, I indicated that agreements had been signed with eight of the ten provinces and one of the territories. The only two provinces that had not signed were Newfoundland and Quebec. I understand that there are still two outstanding issues with respect to the Province of Quebec, but it is hoped that those issues will be dealt with and a solution will be found in the very near future.

[*Later*]

[*Translation*]

DISTINGUISHED VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to introduce to you some distinguished visitors in the gallery. We are welcoming a delegation of the Canada-France Inter-Parliamentary Association. It is headed by François Loncle, head of the French delegation, and by Yvon Charbonneau, member of Parliament. On behalf of all senators, I welcome them to the Senate of Canada.

[*English*]

ORDERS OF THE DAY

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Sibbeston, for the third reading of Bill C-78, to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act.

Hon. Anne C. Cools: Honourable senators, on June 16 last, I had spoken to Bill C-78. I had questioned the deliberately ambiguous drafting of this bill's clause 75, particularly its words "in a relationship of a conjugal nature." Clause 75, section 25(4), reads:

> For the purposes of this Part, when a person establishes that he or she was cohabiting in a relationship of a conjugal nature with the contributor for at least one year immediately before the death of the contributor, the person is considered to be the survivor of the contributor.

I appealed to the principle that bills must be clear because Parliament should not countenance bills that are disingenuous or deceptive.

On June 17, in a vote for which I was absent, the Senate recommitted the bill to the Senate committee. I had hoped that this re-study would have caused the committee to correct the defects that I had raised. Unfortunately, the committee has not corrected them. Consequently, I cannot alter my position about clause 75 and about the impropriety of benefits grounded in sex rather than in formal social commitment. Clause 75 does a disservice to marriage, and to the social and legal purpose of marriage as the only social institution that society has developed for the care, nurture and sustenance of children. It is also hurtful to homosexual persons because it fails to legislate adequately and sufficiently in respect of beneficiaries and benefits in fiscal matters for homosexual persons.

Honourable senators, I shall cite some of the judgements which form the background of this bill's clause 75. I shall show that this clause is unworthy and, further, that it will erode marriage and subject the legality of marriage to constitutional challenge. I shall cite the Supreme Court of Canada's 1999 judgement in *M. v. H.*, the constitutional challenge regarding the Ontario Family Law Act, section 29, that provision which enables claims of spousal support for common-law spouses. This provision was originally motivated by the existence of children in common-law unions. Its legislative intention had been to encourage couples to marry, and to promote marriage.

In *M. v. H.*, Mr. Justice Frank Iacobucci wrote for the majority, and Mr. Justice Charles Gonthier dissented. The issue was the deliberate opening of the door to a raft of relationship claims, including polygamous claims. In dissent, Mr. Justice Gonthier said, at paragraph 155:

> Plainly, this appeal raises elemental social and legal issues. Indeed, it is no exaggeration to observe that it represents something of a watershed. ...However, I am unable to agree with my colleagues' disposition of this appeal or their underlying reasons for so doing. I believe that the stance adopted by the majority today will have far-reaching effects beyond the present appeal. The majority contends, at para. 135, that it need not consider whether a constitutionally mandated expansion of the definition of "spouse" would open the door to a raft of other claims, because such a concern is "entirely speculative." I cannot agree. The majority's decision makes further claims not only foreseeable, but very likely.

Justice Gonthier's dissenting opinion is very important. I commend it. I laud him. He condemned Justice Iacobucci's paragraph 135, where Iacobucci said:

> Thus, arguments based on the possible extension of the definition of "spouse" beyond the circumstances of this case are entirely speculative and cannot justify the violation of the constitutional rights of same-sex couples in the case at bar.

What Justice Iacobucci and the majority said they "need not consider" and dismissed as "entirely speculative," Justice Gonthier faced directly and declared that the majority's decision would make "further claims not only foreseeable, but very likely." I contend that Bill C-78's clause 75 will be the engine to drive those claims.

Honourable senators, the term "conjugal" is a matrimonial term and cannot be legally stretched to apply to erotic or sexual relationships between homosexual persons. The word "conjugal" is simply not that elastic legally, socially or biologically. The Shorter Oxford English Dictionary defines "conjugal" as:

> Of or pertaining to marriage or to husband and wife in their relation to each other, matrimonial.

That same dictionary then defines the word "conjugate," then "conjugation." It defines the word "conjugation" in grammar, botany, mathematics, physics, chemistry and in biology. As we all know, "conjugation," in slang, is mating, as in the mating season.

About conjugation in biology, the Shorter Oxford informs that conjugation is the union or fusion of two cells for reproduction. In biology, conjugation means genetic recombination, a recombination of genetic material. Conjugation is a mixing of genetic material. Such genetic mixing invariably produces offspring in the human species, called issue. This human offspring is similar to both parents in respect of being of the same species, but though of the same species, on an individual basis, it is a unique organism, a unique person.

Honourable senators, the prerequisite condition absolutely necessary to genetic recombination in humans is the existence of two mating types. I repeat, there must be two mating types of the same species, but two different mating types — that is, different from each other in mating capacity and function in reproduction.

• (1000)

The two mating types are, first, a genetic donor, typically described as male, man, and a genetic recipient, typically described as female, woman. This is the process of genetic recombination. It is a recombination of genetic materials from both a man and a woman.

Honourable senators, it follows, then, that conjugation, genetic recombination, simply cannot occur in a situation where two mating organisms are of the same mating type, a condition simply described as homosexuality, hence the Greek prefix, *homo* and the word "sexual": homosexual. Homosexual sexual activities cannot be conjugal in the business of mating. The two homosexuals, as the prefix *homo* dictates, belong to the same mating type. Consequently, homosexual, erotic, carnal relationships cannot be conjugal or conjugal in nature, despite clause 75's attempts to so pretend.

It is troubling that the government has chosen to subject homosexual persons and all Canadians to this sort of legalistic, mechanistic and guileful manipulation of words. The government's legislation should be clear and give homosexual persons the sufficient and proper legislation in respect of benefits, beneficiaries and financial obligations. Legislating in this way demeans homosexual persons. I borrow that from the Supreme Court of Canada judgment. I say that legislating in this way demeans homosexual persons because it says that we will not legislate properly in their regard.

Honourable senators know so well that I do not respect the manipulation of words and legal terms simply to get the strategic result that the particular strategically positioned manipulator desires. Such manipulation, when by public lawyers, government and judges is governance beyond the law. Such manipulation is not only beyond the law, but is also repugnant to the rule of law because it subverts the very principle of legality itself upon which our law and our Constitution are founded. It is subversive and, I would say, corrupting of constitutionalism itself.

This sort of policy-making, law-making by stealth, in concert with politically activist judges and activist courts is unworthy and injudicious. The political use of judicial intervention or judicial process is not consonant with our Constitution. It also provokes misunderstanding and mistrust, and nurtures cynicism about political process, about Parliament, and even about homosexual persons.

Honourable senators, the minister has told us that this clause is necessary because the courts have so ruled in the *M. v. H.* judgment. The fact is that the Supreme Court did not grapple with the issue of conjugality and marriage and skirted the issue, as I cited earlier, leaving it to the next court challenge which undoubtedly this clause 75 will compel and drive. Justice Gonthier did predict a raft of claims. These claims will be seeking a declaration to void the current legal definition of marriage as between a man and a woman as discriminatory and demeaning to the dignity of homosexual persons and various other claimants.

Honourable senators, I shall quote *M. v. H.,* Ontario Court (General Division) as per Ontario Reports. Remember, honourable senators, that the issue was the Family Law Act, section 29. In a 1996 ruling on a motion, Justice Gloria Epstein addressed the legislature's activities on the Family Law Act. She stated, at page 611:

> In those relationships marked by prolonged cohabitation, the legislature has chosen to draw the line at relationships between "a man and a woman." Is this a good marker? In my opinion, the marker chosen by the legislature in this case is a poor one.

Madam Justice Epstein added that, since the Ontario legislature had not or would not move forward, she, a judge, in the name of judicial independence, must. She said at page 617:

> However, no valid reason has been advanced as to why the spousal support section of the F.L.A. should not be extended to include same-sex partners. This is particularly so when it is clear that the Ontario legislature cannot (or will not) move forward with such an initiative. As a demonstration of the inability of the parties to look to their elected representatives to remedy legislation which violates a constitutionally guaranteed right, one need look no further than the position of the Attorney General in this very case. In the first instance, the Attorney General intervened and filed a lengthy, detailed brief in full support of the plaintiff's case. The government then changed as a result of the election in 1995. Shortly thereafter, the new Attorney General filed another brief in full support of the defendant, H. It is simply not realistic to regard the current state of Ontario law pertaining to spousal support as merely part of a process of legislative reform.

Honourable senators, that is a political statement. She turns judicial independence on its head and upholds it as a mechanism to supersede elected legislatures, saying at page 617:

> It is difficult for the legislature to change the law in a particularly unpopular way, even if to do so would enhance a constitutionally protected right. It is for precisely this reason that an independent judiciary must take appropriate action.

However, having taken the politically correct action, she then poses the dilemma later raised by Supreme Court Justice Gonthier and dismissed by Justice Iacobucci and the majority. She said at page 619:

> This decision may alter the assumptions upon which many relationships have been built. It creates confusion between s. 29 of the F.L.A. and other sections of the Act dealing with rights of spouses. It may open up the opportunity for different types of unions, even some perhaps involving more than two members, to come before the court. However, my task is to make a decision on the facts of this case according to the law. Concern over what may come next, whether by legislative action or any other route, should not affect the basic determination of whether this s. 15 violation is saved by s. 1.

This is political, not legal, reasoning. The assumptions, structure, composition, and membership of a marriage are political decisions, not judicial ones, and decisions best made by parliaments and legislatures.

Honourable senators, these profoundly political statements abound. In another judgment in 1998, *Rosenberg v. Canada (Attorney General),* on homosexual unions and RSP benefits, in the Ontario Court of Appeal, Madam Justice Rosalie Abella declared at paragraph 40:

> While elected governments may wait for changing attitudes in order to preserve public confidence and credibility, both public confidence and institutional credibility argue in favour of courts being free to make independent judgments notwithstanding those same attitudes.

Justice Abella relied on the high public respect for the courts' credibility to take the freedom and power to make law — in short, reliance on opportunity and personal belief rather than on law. The problem, however, is that now such judicial actions have eroded that confidence and currently the public is greatly dissatisfied with the courts' activism.

Honourable senators, I note that the committee studying this bill has sought no evidence, empirical data or research studies of homosexual persons' will to have such financial obligations imposed on them, and neither has the government nor the Department of Justice. Obviously in *M. v. H.,* homosexual female H. did not wish such obligations and argued thus. She did not wish to be treated as a spouse under the Family Law Act.

• (1010)

Studied empirical research on this point is scarce. My research revealed one study.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): I apologize for interrupting the Honourable Senator Cools, but I must inform her that the time normally allowed for participation in the debate has expired.

Is it agreed that Senator Cools shall continue?

Hon. Senators: Agreed.

Senator Cools: This one study was mentioned in a speech at a July 1999 conference in England at the University of London's King's College School of Law. The conference was called the *Conference on Legal Recognition of Same-Sex Partnerships*. I note that Canada's Supreme Court Justice Claire L'Heureux-Dubé was a panelist at that meeting.

In his speech, Australian Justice Michael Kirby, well known for listing his same-sex partner in the Australian *Who's Who*, stated, at page 13:

> As a background to what now follows, it is appropriate to say that such studies as have been conducted in Australia to sample the opinion of same-sex partners seem to indicate that the majority surveyed (80%) do not consider that marriage or marriage equivalence is desirable in their cases. However, they want the discrimination removed and the provision of legal protections against discrimination.

Further, the newspaper *XTRA,* published by Pink Triangle Press, and which purports to be the voice of homosexuals in Canada, tells us that there is no consensus among homosexual persons on the question of assumption of marital and marriage-like financial responsibility in homosexual unions. No studies or scientific measures of homosexual persons' wishes, measure of agreement among homosexual persons regarding the imposition of marital financial obligations have been considered by this Senate.

Honourable senators, in closing, I would like to state that, if Parliament and parliamentary review are to mean anything, it must be because some parliamentarians must stubbornly practise it and must consistently insist on it. Bill C-78's clause 75 is flawed because it is stealthy; it is disingenuous. Honourable senators, sex, sexual activity, sex-like activities and all carnal actions are not a ground on which to found legal entitlements and obligations. Entitlements and obligations flow from social commitment, mutually accepted and given formally, not from carnal actions. Entitlements accrue from personal, social and formal commitments to relationships, not from sexual activity. Entitlements and rights accrue to human beings, not to sex. Human rights accrue to homosexual persons not because of sexuality but because of humanity. Human rights accrue to homosexual persons because they are human beings, not because they are homosexual. No rights accrue to homosexuality, to sexuality or to carnal activity of any kind.

Rights and obligations are not determined carnally. They are determined in mutual-commitment responsibility and time-based formalism. As senators, we owe a duty to all Canadians to ensure that they are not subjected to the legal insufficiency and manipulation that Bill C-78's clause 75 is proposing. We owe a duty to future generations to uphold and defend marriage as the legal, social and moral institution that it is, committed to the procreation, love and nurture of children. We owe this to future generations and to all our progeny.

Hon. David Tkachuk: Honourable senators, I have a question for the Honourable Senator Cools. I also had some problems with the particular definition used by the government in this bill because I thought it would lead to the courts making these decisions rather than Parliament. The government is contemplating a bill which will attack this issue in a full debate covering all federal statutes.

I think Senator Cools is right: There will be one big pension mess when this bill is passed. I know Senator Cools has done a significant amount of research on this question.

When I asked questions in committee about the definition of "conjugal," the witnesses said that sexual relationship was the key element that would cause the pension to accrue to a dependent. We have a lot of common law regarding marriage and how pensions are to be distributed but, on the question of homosexual relations, we have little common law.

I am working on an estate for a dearly departed friend. In dealing with her pension, I required a copy of the decree absolute that ended her marriage to her husband. She never remarried but, of course, the children will benefit from her pension entitlement since she was a federal government employee.

Has Senator Cools researched what happens to the pensions of persons involved in a homosexual relationship where there is no recognition of marriage? Suppose two men are living together and one dies and leaves a pension benefit to the surviving partner. What would happen if the survivor challenged the estate because he had a conjugal relationship with the deceased? Can that person claim an entitlement to a portion of the pension of the deceased? Has Senator Cools done any research on what would happen in that instance?

I foresee that, as soon as this law is passed, such challenges will arise in large numbers.

Senator Cools: I thank Senator Tkachuk for his question. As I said in my remarks, this bill is an invitation to claims. That was the opinion of Mr. Justice Gonthier in his dissenting opinion in *M. v. H.*

I also mentioned my concern about the strategic use of legal forums and legal personalities and legal interventions to achieve a desired result. That is why I cited the particular quotation from Madam Justice Gloria Epstein. As you can see in the case of *M. v. H.,* the Attorney General of Ontario was on both sides of the issue. At the outset, the arguments put forward by the Attorney General were in support of the plaintiff's position but, towards the end of the case, the arguments were on the side of the defendant.

These are profound questions. My dilemma is that, other than this one clause, I find no fault with the bill. I restricted my comments to this particular, narrow issue.

I often inquired about the meaning of "conjugal relationship." I was told it means a sexual relationship, but not all sexual relationships are conjugal relationships. In law and in marriage, it is the commitment, the mutual undertaking of responsibilities, which invokes the social obligations of the law to support that marriage.

I agree that it is a mess and it will continue to be a mess. That is your language, not mine. The entire issue is very complicated. Divorce is an issue which I have more fully studied. There are instances where people got married and then divorced, and there were questions about the custody of children; because during the marital breakdown one or both individuals had become homosexuals. It is enormously, extremely complex, and we have not done enough work on the subject-matter.

• (1020)

I am hopeful that the remarks included in the committee's report on Bill C-78 will bring some proper research and study by the Senate, by the Parliament of Canada, and by the Department of Justice to shed light in a very studied and practised way on what is really involved. We are talking here about foundational notions of society. What is a man? What is a woman? What is a marriage, and what is not? I am hopeful and optimistic that, as a result of these remarks in the report, we will move forward in a much more studied way.

The issue has been advancing by stealth. I cannot go into it here because we do not have the time. However, if you were to track each and every one of those cases and look at the positions that the Attorneys General adopted, what they yielded on, what they conceded, what they decided to appeal and not to appeal, we would see that there is a very firm and unrelenting path leading to the declaration that a marriage between a man and a woman is illegal. That is my fear.

Unfortunately, many of us get ensnared in the fear of being accused of homophobia, or some other bit of negativity. My concern, and I have said it again and again, is that the question of benefits and beneficiaries for homosexual persons should be dealt with adequately in a way that all human beings and all people of Canada can support.

Hon. James F. Kelleher: Honourable senators, that speech will be a tough act to follow. I must confess to you that my speech will not be as sexy as Senator Cools' speech.

Honourable senators, with Bill C-78, the government has taken an altogether different approach to its pension plans than the approach it has taken for other employers under federal jurisdiction. It seems that there is one law for the government and another law for everyone else.

Allow me to use a household name as an example: Eaton's. Yes, Eaton's falls under provincial laws as far as pensions are concerned, but the basic rules set out for employers in the federal domain are about the same as those set out in the laws of Ontario for companies like Eaton's, which is probably now down for the final count.

Eaton's has been on and off the ropes for the past decade. Two years, ago, however, it wanted to get at the surplus in its employees' pension plan, something that you, too, might try if you had creditors nipping at your heels. The plan had some $652 million in assets but only $386 million in projected benefit obligations. The plan documents were silent on who owned the surplus, so Eaton's had to come to an agreement with its employees on surplus sharing. It could not simply dip into the account. The end result was that $230 million was taken out of the fund, with Eaton's taking about $108 million of that as employees agreed to share part of the surplus to help keep the company afloat.

The blessings of the Pension Commission of Ontario were also needed, as plans must have enough of a cushion to remain solvent over the long run. The federal government, of course, is not subject to any kind of regulatory test.

Honourable senators, in the 1970s, at the very time the government says there was a huge deficit in its plans, many private sector employers also found that their plans were in a deficit position as a result of double-digit inflation and the 1974 oil shock. The plan sponsors had to make up the deficit. Many of those same plans now have a surplus; yet, because of the way in which the plan documents are worded, employers cannot get at that money unless the plan members agree.

The government ignored the law that it passed for the private sector when it introduced this bill. It said, "We do not care."

Honourable senators, why should government employees be treated any differently from private sector employees? Is it fair to give rights to private sector employees and then not give the same rights to public sector employees?

Honourable senators, less than two years ago, we passed Bill S-3 which essentially said that if the plan documents are silent on who owns the surplus, which is the case here, both the Superintendent of Financial Institutions and the employees must agree to any employer proposal for the withdrawal of funds. Since the employees are not likely to agree to any proposal unless there is something in it for them, that effectively means that the surplus must be shared with plan members. It does not matter what risks have been assumed. It does not matter whether or not the employer has been called upon to make up for a deficit in the past. It does not matter whether the employer pays for 60 per cent of the plan or whether it pays for 100 per cent of the plan, which, by the way, is the norm in about half of the private sector plans. It does not matter whether the company is on the verge of bankruptcy or whether it is rolling in money. The bottom line is that, under the federal Pension Benefits Standards Act and under the laws of the provinces, unless there is something in the plan documents to the contrary, the employer cannot simply walk in and strip the plan of its surplus.

The basic principle behind the surplus-sharing rule that applies to the private sector is that, in the absence of anything in the plan documents to the contrary, the employer's contributions are part of the overall compensation package. I understand that the unions have evidence that the federal government has also, on occasion in the past, said that its plan is part of the overall compensation package, and that they plan to use this as part of their court challenge of this bill.

It is unfortunate that it has come down to this — bad legislation rammed through Parliament to be followed by litigation. Add to this potential litigation over the definition of "conjugal" and you can see that the courts will spend a lot of time dealing with the ramifications of this bill. Far be it for me to malign the legal profession. I know Senator Kirby will be happy to hear that. However, this bill is a job creation program for lawyers for years to come.

Even if the plan documents do give the employer the right to a surplus, nothing can be taken out without the blessing of the Superintendent of Financial Institutions, as the plan must remain solvent over time.

Honourable senators, anywhere outside of the federal government, pensions are clearly a trust arrangement. Funds are set aside that the employer cannot touch. The employer cannot use them to finance company operations, as the federal government has done over the years. The employer cannot unilaterally cut benefits to existing pensioners, as the government has done in the past, with the "six and five" program, and as government officials during the hearing said they could very well do again in the future. Here, again, honourable senators, we have a double standard.

The public service plans do not fall under the restrictions set out in the Income Tax Act with respect to the maximum benefits that can be accrued each year on a tax-exempt basis. The unions have said they would be quite willing to be brought under the Pension Benefits Standards Act, which sets out plan minimums, and the Income Tax Act, which sets out the maximum benefits that can be accrued without triggering employee benefit taxes.

• (1030)

This government's plans are a matter of benevolence, not a matter of trust. This is a 19th century attitude that is alive and kicking within the Government of Canada in the dying days of the 20th century. The government takes this attitude for those who work for it directly, yet there is a different set of rules for those who work indirectly for the government, through Crown corporations.

CMHC, which offers a virtually identical plan, is dividing $44 million from its pension surplus among 4,500 current and former employees, an average of about $10,000 per employee. The big difference is that the CMHC plan follows the Pension Benefits Standards Act. Its surplus results from market investments that have exceeded actuarial requirement. It is a pity that, until now, the public service plan has not been invested in the markets. If we had done so, there would be either a lot more than an extra $30 billion in the pot, or premiums would be a lot lower.

The government bases its claim to the public service surplus on the premise that it has assumed plan risks and has made up past deficits. Yet as a plan following the Pension Benefits Standards Act, CMHC is responsible for plan deficits and has had to meet such deficits in the past. Honourable senators must wonder why surplus sharing is the right thing for a government Crown corporation but an inappropriate course of action for the government itself.

CMHC is acting in accordance with the Pension Benefits Standards Act. The President of the Treasury Board does not think that the Pension Benefits Standards Act should apply to the public service plans. One also must wonder about what will happen in the government's other Crown corporations. Are they also in surplus? Will they also be paying out the surplus? Will the employees benefit from a premium holiday? In other words, is CMHC just the tip of the iceberg?

Honourable senators, I again stress that the federal government is treating its employees in a different manner than it requires other employers to treat their employees. This, honourable senators, is not fair.

MOTION IN AMENDMENT

Hon. James F. Kelleher: Honourable senators, this bill is far from perfect. We have heard this again and again, both in committee and in this place. I have an amendment here which is only a small step towards improving this bill. I move:

> That Bill C-78 be not now read a third time but that it be amended —

Hon. Michael A. Meighen: I second that motion.

Senator Kelleher: Thank you, Senator Meighen.

Honourable senators, all of these proposed amendments relate to the mentions of "surplus" in this proposed act. I will repeat my motion. I move, seconded by Senator Meighen:

> That Bill C-78 be not now read a third time but that it be amended:
>
> *(a)* on page 74, by deleting clause 94;
>
> (b) on page 75, by deleting lines 1 to 48;
>
> (c) on page 76, by deleting lines 1 to 14;
>
> (d) on page 127, by deleting clause 150;
>
> (e) on page 128, by deleting lines 30 to 48;
>
> (f) on page 129, by deleting lines 1 to 47;
>
> (g) on pages 177 and 178, by deleting clause 197;
>
> (h) on page 179, by deleting lines 1 to 48;
>
> *(i)* on page 180, by deleting lines 1 to 19;
>
> *(j)* by renumbering all clauses, sub-clauses and cross-references accordingly.

[*Translation*]

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Hon. Pierre Claude Nolin: Honourable senators, on June 15, 1999, the Senate Standing Committee on Banking, Trade and Commerce tabled its twenty-seventh report on Bill C-78, to establish the Public Sector Pension Investment Board.

Even though it did not propose any amendments, the committee expressed some concerns in its report, particularly as regards the appropriation — and I used a very polite term, one which, at least, is not unparliamentary — of pension plan surpluses, which total over $30 billion. As you undoubtedly read in the report, several members of the committee continue to believe that the employer, namely the federal government, should not have unilateral access to the current pension plan surpluses, without such use being negotiated between the parties involved.

Until yesterday, both sides of this house believed that the pension plan surplus rightly belonged to the government under the provisions of Bill C-78. However, in a speech delivered on Wednesday, Senator Kirby expressed a reservation about this belief. He stated, and I quote:

> The reality is that this bill does not directly create any legal entitlement to the surplus.

Later on, in answer to a question from Senator Lynch-Staunton, he repeated this position, reaffirming that, and I quote:

> ...the bill does not create an entitlement. The government believes it is entitled to the surplus. The bill deals with the question of the allocation of the surplus or, if you want, the use of the existing surplus, and puts forward two different proposals, one of which is a slow, "phase out over time" proposal.

More specifically, he said in his speech that it would be up to the courts to rule on what would ultimately become of this surplus. This is interesting, because it gives me an opportunity to remind you of two landmark decisions on the use of and entitlement to surpluses in private pension funds. The Quebec courts that handed down these two decisions did not choose their words with an eye to parliamentary usage. They talked about robbery and the Quebec Court of Appeal ruled in favour of the employees. Is the government forgetting about these rulings from ten or fifteen years ago because it is in its interest to do so?

One of the decisions involved former employees of Simonds in Granby and of Singer in Saint-Jean-sur-Richelieu. When these two factories were closed in the 1980s, 103 Simonds employees and 600 Singer employees were delighted to discover that their respective pension funds contained surpluses. At the time, there was a surplus of $5.6 million in the Simonds fund, and $4.5 million in the Singer fund. But they discovered two less delightful things that threatened their dreams of a wonderful retirement.

• (1040)

First of all, in the late 1970s — and this is important because there is a parallel between what we are seeing at the present time and what happened in Quebec in the case of these two companies — the two companies unilaterally changed the rules of their employees' pension plan in order to get their hands on the surpluses in the pension funds, should the plants close.

However, management of both companies was required to notify the respective employees of these changes, as the regulations of the two plans indicated. This they did not do, knowing full well that disclosure would stir up disagreement.

When the two companies closed their Granby and Saint-Jean-sur-Richelieu plants in the mid-80s, they took off for the United States with the surplus, to the great amazement of their employees, who could do nothing about it. We still have a legal system that is independent of Parliament, and the courts were able to settle this. Thank heavens!

That was not the end of the injustices, however. The two unions discovered that both companies had taken contribution holidays from paying into the employees' pension plans from 1980 on, given the presence of a surplus, which was reported at the time. The companies were therefore financing their contributions to their workers' pension fund from the surplus, and indirectly pocketing the profits.

In the meantime, the employees, who were left in the dark as far as the presence of this surplus was concerned, continued to be the sole contributors to their pension fund. Only later, in 1988, did the ex-employees entered into class actions against their respective companies. In 1991, Quebec's Superior Court supported the Simonds employees' attempt to recover the surplus in their pension fund, and in 1993 did the same for the Singer employees, on the same grounds.

Unfortunately, but predictably, the two companies were unwilling to pay their former employees what was owing to them, and launched an appeal before the Quebec Court of Appeal. In February 1995, that court ruled in favour of the former employees. Once again, the employer filed an appeal before the Supreme Court of Canada, but authorization to appeal was denied in June 1995.

Simonds, which became Eljer Manufacturing Inc. in the United States, had to pay back to its former employees a sum of $10 million, with interest, after having unfairly taken that money from the pension plans, in 1986. As for Singer, it was ordered to pay back the principal and interest, that is a total of $15 million, for surpluses illegally appropriated and for not making contributions between 1980 and 1986.

After seven years of endless and bitter legal battles, the impoverished former employees of the two companies could finally get what was rightfully theirs.

Honourable senators, as we can see, these two businesses sacrificed their employees' right to retirement by illegally appropriating the pension plan surpluses of their respective employees, while also taking a holiday on premiums. Moreover, by challenging the rulings of Quebec's Superior Court and Court of Appeal, both of which condemned their fraudulent actions, they showed to the public how little they cared about their employees' retirement.

As for the federal government, it is clearly more concerned about the money in the federal public servants' pension plan than about the health of contributors, even though the context is different in the two cases to which I just referred. However, this is nothing new. We witnessed the high-handed manner in which the federal government made off with the employment insurance fund surpluses, even though the act prohibited such action.

Honourable senators, in these situations the government always seeks to protect workers. In the case of the two businesses to which I referred, governments across the country reacted to these decisions, including the federal, Quebec and Ontario governments. They all set rules to prevent such shameless fraud. Now, it is the federal government that is the employer and the situation is a little different. So, in these situations, the government always seeks to protect workers or, I might say, voters. This is why a number of amendments have been made to federal and provincial acts governing the use of private pension plans. The purpose of these amendments was to make sure that other employees would not experience the uncomfortable situation of the former workers of Simonds and Singer.

Under the Pension Benefits Standards Act, 1985, which was passed in order to avoid the problems I mentioned earlier, and under provincial legislation, an employer may no longer decide, when the whim strikes it, to take over the surplus accumulating in a pension fund. It may only do so if the component documents so entitle it after it has first consulted plan beneficiaries, i.e. employees, and signed an agreement with them.

More recently, in 1998, in order to give more teeth to this provision, the Senate passed Bill S-3, which required that employees and the superintendent of financial institutions be consulted before the employer could remove any money from a pension plan. This legislation was also a get-tough move. Is the government once again showing us how good it is at ignoring its own legislation?

According to our information and to what Senator Kirby said, it is obvious that the government is going against its own principles. The Treasury Board is subject to the same laws that apply to the private sector. Furthermore, it is not specifically mentioned in the documents describing the operation of the federal government employees' pension fund that any surplus automatically reverts to the federal government.

Before concluding my remarks and supporting the amendments now before you, I would like to cite two important passages from the Quebec Superior Court decision on the application by former Simonds employees.

In his 1991 ruling, Judge Fréchette viewed the pension fund as a social safety measure for the protection of workers' retirement. In the case of a plan the costs of which were shared between the employer and its employees, the judge wrote, and I quote:

> ...that it is a legal document in the nature of a contract within the meaning of the Civil Code.

I hear my colleagues from outside Quebec saying that the Civil Code does not apply to the federal government. I would say to you that the federal government has contracts. If you look closely at your treatises on financial administration, you will see that the federal government can enter into contracts.

Do not forget that the Supreme Court — and this was confirmed by the Supreme Court — never agreed to hear the Simonds appeal. The Supreme Court therefore agrees with the Appeal Court ruling.

Hon. Pierre De Bané: No.

Senator Nolin: Yes, it is in agreement. The legislation is going to be passed, but public servants will have to wait patiently, as this thing is going to take another 15 years.

Senator De Bané: Honourable senators, to respond to what Senator Nolin has said, I would indicate that Supreme Court denial of permission to appeal does not mean agreement with the decision.

Senator Nolin: I do not need the honourable senator to tell me that.

The Hon. the Speaker: Honourable senators, I am sorry, but that is not a point of order. You will be able to make this point after Senator Nolin's speech.

• (1050)

Senator Nolin: When the judge addressed the matter of the characteristics of a plan such as this, he envisaged the re-establishment of a contractual relationship such as is created by the formation of a pension plan. There is no indication that the formation of such a contractual relationship cannot exist between the federal government and its employees. He stated as follows:

> Moreover, even within a unilateral plan made up solely of employer contributions, it must also be concluded that a contract does exist, since the two parties concerned by such a plan may, on the one hand, claim certain rights, while on the other hand they are bound by certain obligations.

In light of these new facts, the federal government is likely to have trouble justifying its unilateral decision to take over the surplus in the federal government employees' pension fund, although the government can do as it pleases, according to Senator Kirby and the Treasury Board representatives, without any need to consult the key parties concerned. He totally denies the contractual relationship that exists between the two parties. The courts do not appear to agree with this simplistic view.

Honourable senators, given that context, could the next speaker from the government — I hope it will be Senator De Bané — tell us if there is some unity within cabinet regarding the answers to the three following questions: First, why is the government, which strives to protect retirees and workers from the private sector, suddenly changing its policy when it comes to the public funds that it is administering without complying with its own legislation? Second, should the government not recognize that the two decisions mentioned above should apply to Bill C-78, even though the context and the jurisdiction are not the same? Third, does the government not have any hesitation about infringing on its employees' right to retirement? We are anxiously awaiting the answers to these questions.

Senator De Bané: Honourable senators, the Deputy Leader of the Opposition and my colleague Senator Nolin are asking me to comment on their remarks. All I wanted to say to Senator Nolin is that he made a gross mistake when he said that when leave to appeal is denied by the Supreme Court, it means the Supreme Court supports the decision handed down by a provincial Court of Appeal. Unfortunately, this is not how things work. The Supreme Court may refuse to hear a case for a number of reasons. The number of hearings is limited to 125 per year. It is unfortunate that the Supreme Court does not explain why leave to appeal is denied. This is something I heard a number of times from the justices of the Supreme Court themselves. The court deeply regrets the fact that people conclude that, because the Supreme Court denies leave to appeal, it means that it supports the decision handed down. This is the only comment I wanted to make about the most interesting remarks made by the honourable senator.

[*English*]

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment of Senator Kelleher?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators.

The whips have agreed on a half-hour bell. The vote will take place at 25 minutes after eleven o'clock.

• (1125)

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Meighen
Bolduc	Murray
Buchanan	Nolin
Cochrane	Oliver
DeWare	Pitfield
Di Nino	Prud'homme
Doody	Rivest
Ghitter	Robertson
Kelleher	Rossiter
Keon	Simard
Kinsella	Stratton
Lawson	Tkachuk—28

NAYS

THE HONOURABLE SENATORS

Adams	Kirby
Bryden	Kroft
Callbeck	Lewis
Carstairs	Losier-Cool
Chalifoux	Maheu
Christensen	Mahovlich
Cook	Mercier
Cools	Milne
Corbin	Pearson
De Bané	Pépin
Fairbairn	Perry
Ferretti Barth	Poulin
Finnerty	Poy
Fitzpatrick	Robichaud
Fraser	(*Saint-Louis-de-Kent*)
Furey	Rompkey
Gauthier	Ruck
Gill	Sibbeston
Graham	Stewart
Hays	Taylor
Joyal	Watt—42
Kenny	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

On motion of Senator Christensen, debate adjourned.

• (1130)

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—VOTE DEFERRED

Hon. Nicholas W. Taylor moved the third reading of Bill C-32, respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development.

He said: Honourable senators, the report that you have before you is one of the few in which the majority report is only about one-third the size of the minority report. Much of the minority report is focused not on the bill but on the perceived mistreatment by the committee of certain committee members who did not appear to have enough time to process the bill in the way in which they wanted to process it.

It is well for honourable senators to remember that we received the bill in this chamber on June 9. We tried to have committee meetings in June and, when that failed, we tried for July. We were finally able to have some meetings at the end of August. Even then, when it was moved in committee that all votes be taken at a certain time in order to report the bill to the Senate on September 7 when the house was to meet, we had heard all of the witnesses that were slated to be heard. There certainly has been plenty of time to discuss the issue.

On the other hand, senators opposite do have a point. Since this is an environmental bill, it has to be gone over every four years. It was first passed in 1988. Unfortunately, it took six years to get it to the point where we have it today. By its very nature, an environmental bill is always a moving target for a couple of reasons. The first is that the nature of science is that better methods of manufacturing or controlling toxic substances are always being developed. At the same time, new substances or new types of manufacturing and use take place almost daily. As a result, the new items coming on to the market are sometimes advantageous and sometimes not. In many cases, what starts out to look like a wonder drug or a wonder chemical turns out to be a nightmare as time goes on. Thus, it is always a moving target.

Different environmental groups found that the bill did not go far enough. How much of that was due to substantive findings or research, and how much was done to raise the profile of the different organizations is hard to determine. After all, these are organizations which depend upon charitable donations to fund themselves. Much of the opposition was based on rhetoric and what had been done in the past. For instance, we were told about uranium pollution in the 1930s. We were told about the tar ponds that besiege Cape Breton. Even the honourable senator opposite who used to be the premier of that province would now and again pull out his violin and go on about the tar ponds. However, that did not have much to do with today's environment regulations. Therefore, a great deal of the opposition was concentrated on bringing forward what went wrong in the past. As someone once said, if you ignore the past, you will have an awful future. Nevertheless, it did not have that much to do with the actual faults and shortcomings of the bill.

This is a difficult and multi-faceted bill. It has 356 clauses and four annexes. It was 11 years in the making. It does not take much for a critic to find some faults with it. The point is that going after the environment is like going after a moving target.

Those who are Tennyson fans and have read his poem entitled *Ulysses* will remember what he wrote about Ulysses upon his return home. He was a little fed up with having nothing to do. Someone asked him why, to which he replied:

> Yet all experience is an arch wherethro'
> Gleams that untravell'd world whose margin fades
> For ever and for ever when I move.

Nothing could be more apt when talking about the environment. Its margin fades forever and for ever as you move.

We are in great danger, and we have been in the past, of paralysis by analysis, which is another saying, which is exactly what has happened with past bills. In our analysis of this bill we have seen that there is no way of coming up with a perfect answer. It is very easy to become in danger of being paralyzed into inaction because you have one more perfect amendment that you must make.

This bill contains a number of improvements over the old bill. Clauses on equivalency have been tightened up. In that vein, we must bear in mind that this is a confederation, and the federal government does not have absolute authority to enter into many areas. The equivalency clause works this way: If a local or provincial government already has a law, a restriction or a prohibition that is as good or tougher than the federal environment legislation suggests, then there is no need to go further.

Another part of the legislation which has been tightened up has to do with the minister's investigation time. One of the faults in the existing legislation is that the minister has no time limits placed upon him or her. This bill places a definite limit on how much time the minister can take to investigate.

The precautionary principle was also tightened up. Under the provisions of this bill, the precautionary principle would allow the minister to move in upon receipt of scientific evidence that a manufacturing enterprise could create some toxic chemicals.

Measures for consulting with provincial and territorial governments have been tightened up. As I mentioned before, because of the complex nature of Confederation, the federal government does not have absolute authority in the environmental field.

The bill also tightens up environmental emergency plans. As we have found through the years, some of these provisions were a little slow in getting under way.

In the bill there is a notion of risk assessment and risk management tied in with cost effectiveness. The old risk management and risk assessment regimes did not use cost effectiveness as much as it should have been used. Consequently, cost effectiveness measures have been introduced in this bill.

There are some additions to this bill which are fairly important and which would have been lost had this bill been allowed to die on the Order Paper. First, provisions to consult with aboriginal governments are not contained in the existing legislation. Because of the close tie which aboriginal peoples have with nature, and the fact that a great deal of our land still lies outside of urban areas, it was felt that aboriginal governments should have a strong input in this field. They now have that by virtue of this bill.

• (1140)

Also, aboriginal governments will be allowed to bring in oral information, much as is the case with respect to treaties in British Columbia, after the courts said that oral information passed down from generation to generation could be used.

I have mentioned cost effectiveness. Many of the critics jumped on the cost effectiveness clause and said that it would allow companies to say, "We cannot shut this plant down because it would not be economical to do so." That was not the aim of cost effectiveness in this bill. Rather, it had to do with which place was the best place to do the removal of a contaminant. I will take a simple example like sulphur. It is a lot easier to remove that from gasoline at the refinery than in the automobile. Where in the chain you take a toxic out, or reduce it to a level where it is non-poisonous, is more what cost effectiveness refers to.

The new bill also introduces the concept of virtual elimination. Even after all these months of studying the bill, I am not positive about the precise meaning of that, but I understand it to mean basically eliminating a toxic substance down to the level where it cannot be measured. However, that in itself is a moving target because, as science gets better and better at measuring, the level to which you can reduce will be be better, or higher, or more developed than it has been in the past. Some of our

manufacturers — fertilizer manufacturers, vehicle manufacturers and a few others — were very concerned that this could impose costs on them in the future that they cannot anticipate today. On the other side, we had environmentalists asking: What is wrong with eliminating these substances entirely? That gets to be like the argument of how many angels can dance on the head of a pin. When you have it reduced to the point where you can no longer measure it, how do you reduce it even further? How do you know you can reduce it to zero? However, that is a side argument.

Another right that the government has introduced in this bill, and which we liked, is the right to sue. It is the first time we have come close to class action suits on the environment. Senator Hays will be speaking later, and we all know his reputation for going into things very thoroughly. He will develop that concept much more, but the right to sue is something that is new in this bill, and I think it is fairly important if we are to keep the government and other organizations on their toes in looking after the environment. The concept is focused not so much on being able to sue the organization that is polluting as it is in being able to sue the government after the government has been given notice that the pollution is taking place, and has done nothing about it. Then a citizen will have the right to sue.

The bill provides whistle-blower protection, which goes hand in hand with the right to sue. How will you find out what is being disturbed in your environment unless someone, usually in the corporation or in the manufacturing enterprise, has the freedom to blow the whistle?

Lastly, the government has introduced a section on something that was hardly talked about in 1988: biotechnology, which generally refers to genetic modification, endocrine disrupters, hormone replacement, and additives. These are all things that have become important today, particularly with respect to food production, because they are able to reduce the cost of producing our food and, at the same time, extend the areas geographically in which we can grow certain types of foods where we could not do so before. However, we have found a number of problems in biotechnology.

The committee heard the problem with the development of a canola that is resistant to Roundup spray, which kills all other broad-leaf plants. If the canola can resist Roundup, then the Roundup kills all the other plants around it. Thus the canola gets more energy, sustenance and water, and grows bigger, and you get a better yield. However, in Europe, they have those small fields, and if you use that resistant canola, all your neighbours end up with a beautiful, yellow, blossoming weed that they cannot kill with Roundup. That was a result we had not perceived.

There was another problem that we heard about. After 10 years of marketing hybrid corn in the United States, it was found that the monarch butterflies, which had been disappearing in large numbers over the last few years, were susceptible to the pollen from this type of corn. It was killing the butterflies. The Europeans, quite correctly, felt that if it will kill butterflies, it can hardly be good for us, and no one would buy that type of genetically modified corn any more, even if it yielded something like 50 per cent more than other types.

That does not mean that all types of genetic modification are wrong. In Canada, our Department of Agriculture is actually pushing to get beef into the European market that has been raised with hormone implants, while the Europeans are arguing that they do not want anything to do with a hormone implant.

This is one of the more intriguing parts of this environmental bill. The proposed act is supposed to be an envelope or shawl over all the other departments, which in turn will make their own rules with respect to food and drugs, agriculture, and so on. As you can see, we have some issues looming on the horizon. The Department of Agriculture is quite interested in genetic modification and increased production, the Department of Health is worried about some of the fallout from it, and the Department of the Environment will probably end up as a referee.

Honourable senators, that is a very brief, thumbnail sketch of a bill with 356 clauses. I do not pretend to be an expert on it.

Hon. David Tkachuk: Would the honourable senator entertain questions?

Senator Taylor: Certainly.

Senator Tkachuk: At the beginning of his speech, Senator Taylor questioned the motivation of those who oppose the bill. I thought I heard him say that some environmental groups opposed the bill because they needed that as an excuse for fund-raising. Is that what he said?

Senator Taylor: I think the honourable senator abbreviated my comments a bit. I said that the environmental groups get a very high profile for any of their interventions. It must be remembered, of course, that environmental groups, as a general rule, depend on donations, and therefore they present some rather doomsday scenarios. In fact, many of the environmental groups talked about what went wrong in the past rather than about the present bill.

Senator Tkachuk: I believe what Senator Taylor is saying is that they are exaggerating their negative opinions of aspects of the bill so that they could raise money. Could he just correct that?

Senator Taylor: They are exaggerating the evils of it because it would help their organization raise money, but, in addition, they are hired to do this.

Senator Tkachuk: Perhaps Senator Taylor could tell us what groups he thinks were doing this? Was it the Sierra Club, or other groups? If he cannot be specific, that means he is saying they are all doing it.

Senator Taylor: Yes, I would think that most of the people who opposed the bill on the grounds that it did not go far enough exaggerated the effects that would result if the bill were put in place.

• (1150)

I felt that those who opposed the bill on the grounds that it did not go far enough were exaggerating the doomsday scenarios for the future. In my personal opinion, they were exaggerating.

Senator Tkachuk: Is that the view of the government?

Senator Taylor: I do not know the view of the government. The government position is that they listen to all groups, environmental and industrial groups. That is what we did. I am merely remarking on the evidence which was heard. In my opinion, we heard exaggerated views of the evils that would take place in the future.

Senator Tkachuk: Does Senator Taylor think that Alcan exaggerated its claims for the same reason, that is, to make money?

Senator Taylor: Yes. If the honourable senator does not think that, perhaps he still believes in Santa Claus and the tooth fairy. I would think that aluminum company was very worried about the profits it would make.

Senator Tkachuk: Did Alcan perhaps donate a few bucks to the Liberal Party of Canada?

Senator Murray: No, but they will.

Senator Taylor: They used to donate more to the Tories than to the Liberals. I do not know if it helps or not. In my days of collecting money, most of the major manufacturers in this country donated to both political parties.

Senator Tkachuk: This is a kind of win-win situation: You draft a bill; lots of corporations become upset; they write letters; and they give money to the Liberal Party. This is a fund-raiser.

You also say that the environmentalists exaggerated their claims in order to raise money. This is a heck of a way to run a government.

Senator Taylor: It seems Senator Tkachuk has answered his own question. Both sides exaggerated their claims in order to maximize their position in society. Whether you are a manufacturer or an environmental lobbyist, you will push your claim to its outer limits to get what you want.

The Hon. the Speaker: Honourable senators, the time period for this speech has expired.

Hon. Ron Ghitter: Honourable senators, I rise to speak on Bill C-32. I do so on the basis that the bill represents a very serious position for the Senate of Canada. I do so from the point of view of what this means to all of us as members of the Senate of Canada.

I would suggest that, if ever one were to search for an example of the lack of relevancy in 1999 of the Senate of Canada, the past two weeks of hearings in the Standing Senate Committee on Energy, Environment and Natural Resources stands as stark evidence in support of such a proposition. If ever one needed ammunition for the argument which I have often raised that partisanship will be the ultimate ruination of the Senate of Canada, one need only read the transcripts of the deliberations of the committee on Bill C-32.

If ever one needed an example of the contempt that today's government holds for the Senate, the arrogance of the Chrétien government and its failure to serve the public interest when lobbied by the might of corporate Canada, Bill C-32 is a sad but profound chronicle of such an argument.

If ever there were a time for this chamber to rise as one and affirm that the health of Canadians is worth more than a superficial, unworkable, convoluted piece of work that masquerades as environmental protection, it is now. Bill C-32 offers that challenge and that hope.

No one could have sat through the nine lengthy days of testimony, as I did with my colleagues on the committee, and not come to the responsible and rational conclusion that the bill is flawed and cries out for amendments. All senators take great pride in the depth of analysis and study that we provide in our committees. How often have I heard the argument — and it is true — that our committees' work is our raison d'être, our pride and the source of our greatest achievements above everything else that we do in this chamber?

On Tuesday, I listened to the glowing remarks of Senators Graham and Lynch-Staunton as they welcomed our new senators. They emphasized the importance of our work in this chamber. All the while the spectre of Bill C-32 was waiting in the wings and I thought to myself: Oh, if it could only be; if we were permitted to do our work, how important the Senate of Canada could become.

I suggest to our new and talented senators that what you heard on Tuesday was the rhetoric of what could be — not what is. For, as in the case of Bill C-32, if the work of our committees becomes suffocated by artificial deadlines, by no-amendment decrees, by closure and partisan thoughtlessness, the very reason for our existence in our present form is in question. The process by which we considered Bill C-32 is an affront to this institution and the important work which we could, if permitted, do for the benefit of Canadians.

The Anderson bill is a gutless, worthless piece of legislation that sadly has the potential of doing more harm than good.

These are difficult observations for me to make in this chamber. I very much believe in the importance of the Senate. I respect the tremendous talent and wisdom that are so evident here. It is not easy to stand before you and provide such critical comments and, by so doing, I mean no disrespect toward the Liberal members who sat on the committee examining Bill C-32. They are honourable, dedicated senators, but they are under immense subtle and overt pressure to accept the party line and be loyal party members.

I know, for example, that Senator Adams is very concerned about the contamination of the food supply in the North. As one Inuit witness testified before the committee, his people are like the canary that is carried into the mine to test the safety of the environment, in this case, for the rest of Canada. They cannot eat their country food, the caribou, the fish, because they are contaminated. Southern Canada could be next.

Senator Adams sent me a letter on August 13, 1999. Many of you may have received the same letter. In it he states:

> I have many concerns about the impact this bill will have on Canadians, particularly in my own region of the North. All Northerners are familiar with the threats posed to themselves and their environment as a result of decades of trans-boundary pollution.In fact most people rely on wildlife and marine mammals as their main source of food and they face the reality of pollution every day on their dinner plates.
>
> Over the past decade, Health Canada has issued advisories, cautioning people to either reduce or restrict their consumption of parts of some wildlife. Studies carried out under the Arctic Environmental Strategy have indicated Inuit women carry levels of PCBs in their breast milk ten times higher than their counterparts in southern Canada.

He continues later:

> It is my view that the environmental and health matters in the North may be the most serious in the country. I think it is therefore important that our Committee, and Northerners themselves, hear from the Minister of Health specifically how, through Bill C-32, the concerns facing Northerners and Canadians will be addressed.
>
> In conclusion, I would like you to know I intend to participate fully in our upcoming hearings. I will be offering a number of amendments myself and I look forward to working closely with you and other colleagues to take whatever steps are necessary to ensure this legislation lives up to its full intent in terms of protecting human health and the environment.

• (1200)

No amendments were forthcoming. I know, for example, that Senator Chalifoux wanted Métis representation on the advisory committee created in the bill. In committee, an important amendment was put forward that would allow her people to have the representation because they face the problems in the environment daily. We debated Senator Nolin's amendment which would have allowed for such involvement. All the Liberals voted against the amendment. In committee, Senator Nolin proposed an amendment to allow for such involvement. Every Liberal voted against the amendment.

I affix no blame or criticism to my friends Senator Adams or Senator Chalifoux. They are committed, wonderful, dedicated, honourable senators. It is the system that is wrong. It is the partisanship that is our failing. It is the control of this place by the Prime Minister's Office that strangles us. It turns intelligent, wise, and committed public servants into mere followers, intimidated into accepting the party line. How unfortunate and tragic for the people of Canada. Political scientists and Senate abolitionists should study the history of Bill C-32 if they wish to advance the arguments about the irrelevance of the Senate.

Let me provide you with the facts that support the very candid observations that I have just made. To do so, a little background history must be described, and I do so on two fronts. The first front is the disregard of the government for the Senate and our committee system as seen in the unrealistic and unfair position the committee faced in dealing with Bill C-32. The second front, unfortunately, was the failure of the committee to truly and fairly examine Bill C-32 and to provide considered thought and attention to repair a very faulty and unworkable piece of legislation.

Bill C-32 is a five-year review of the existing CEPA legislation which has been in force since June of 1988. A prior attempt at modernizing the legislation, Bill C-74, was tabled in Parliament in December of 1996 but died on the Order Paper when the last federal election was called. Bill C-32 was tabled in the House of Commons in March of 1998. The bill was referred to the House committee in April of 1998, where it was given a detailed and lengthy examination. As a matter of fact, it was examined for eight months. Clause-by-clause examination alone in the House committee took 93 hours. Eventually, some 150 amendments were passed, with the majority of the Liberal caucus voting in favour, and I note that three well-known environmental experts in the Liberal caucus voted in favour of those amendments. Approximately 90 of the amendments were moved by Liberal members.

At report stage, the government reversed over half of the committee's recommendations, basically all of the substantive ones, and produced the bill that is before us today, a watered-down version that many describe as worse than the 1988 bill it replaces. The people who say that are not just environmentalists; they are people in the business community and in the corporate community.

What happened, one might ask, between the time of the committee's recommendations and the final version of the bill that caused such a reversal by the government? The answer, of course, would be conjecture. However, it seems clear that an intense industry lobby went directly to the Prime Minister's Office and succeeded in gutting the bill. As evidence, the letter from the President of Alcan is instructive in outlining the scare tactics employed by industry. The letter which I have before me is dated April 9, 1999, which is an interesting date because it is after the committee made their recommendation. The letter says:

> As the government announced its intention in the *Canada Gazette* of 17 March 1999, to list PAHs as CEPA toxic, PAHs could be subject to virtual elimination. If the definition of virtual elimination was not clarified and the precautionary principal was not modified by well-accepted risk based decision making, the act could force the closure of all aluminum smelters in Canada.

One of those smelters happens to be in the Prime Minister's own riding.

We heard from others in industry that, yes, they had made their position clearly known to the Government of Canada. That is okay; and so they should. Nevertheless, what industry sought, industry got from the Prime Minister. What was it that industry sought and got?

First, they got the removal of any reference to the need to phase out the generation and use of the most persistent and bioaccumulative toxic substances and, instead, we have the words "virtually eliminate." No longer is the intent of the legislation to phase out the generation and use of these PCBs, dioxins, furans, and the like, but now it is more a case of setting targets to perhaps reduce them.

Second, they got the definition of "precautionary principle," which required, in English, that any measures taken to prevent environmental degradation must be cost effective. The words "cost" and "cost effective" are undefined in the legislation, rendering the precautionary principle ineffective and unenforceable. The lawyers will have a field day in determining what is meant by "cost effective." More important is the fact that we heard that the French interpretation is different from the English interpretation. We brought a linguist to our committee who told us that the French meaning of "cost effective" and the English meaning are not only different, but are contradictory. Therefore, in the most significant clause in the whole legislation, the clause that tells the citizens and government how to respond in considering what is pollution and what is not, "cost effective" means something different in English than it means in French and, not only are they different, but they contradict each other. Tell me how a minister or bureaucrat can respond and deal with that type of legislation. The lawyers will have a field day. The ambiguity is obvious, and that is what some want.

The third thing industry got was an amendment to the clauses referring to "virtual elimination." The effect of that amendment is that we are no longer dealing with virtual elimination of toxic chemicals but, rather, a determination of the acceptable levels of emission of a toxic element into the environment. Rather than taking steps to remove the 12 listed and presently recognized totally detrimental chemicals to the health and well-being of Canadians, it is now a matter of targeting what is an acceptable level to feed into our environment. The leaked report that came to our committee from the Department of Environment themselves suggested that the new wording renders the virtual elimination section in the legislation useless. That comes from the department themselves in the form of a letter that we received and read into the record.

Fourth, they got the transference of the key, decision-making powers from the Minister of Health or the Minister of Environment into cabinet at large. Industry wanted that because when you move it away from those ministries and move it into cabinet, all the lobbyists can come in, and the Minister of Industry and Trade and the Finance Minister can become involved and, all of a sudden, the environment again takes the back seat.

These seemingly innocent amendments, these changes that were made at report stage, these amendments to the report of the Commons committee, are immense, and they change the whole tenor and thrust of the bill.

By the time the bill came to our committee, it was clear that the imposed government timetable would prevail and that our hearings were a mere charade. In an unprecedented act, a motion without prior notice to the committee and before hearing from anyone other than the departmental officials, was foisted upon the committee, essentially invoking closure and severely limiting the analysis of the committee, the clause-by-clause examination, and the witnesses that could attend.

Minister Anderson, in an interview he gave the day after he was appointed minister, confirmed before the committee, in fact made it abundantly clear, that amendments would not be tolerated. Comments made from Liberal senators confirmed that position. As a result, when Minister Anderson came to our committee and gave us those responses, my colleagues and I, in a symbolic gesture, walked out because of our frustration about what was being done to the committee system, and I thank my colleagues for doing that.

Over and above that, I had talked to representatives of two important organizations and was expecting them to come to the committee. They were invited to appear, and were planning to do so. However, they informed me that they could no longer attend because they had had communication with the minister's office to the effect it would be a waste of time since no amendment would be approved in any event.

What a mockery of our committee system. What an insult to the Senate. If this is the attitude of the government towards the Senate on a bill as vital and as significant as Bill C-32, we might better spend our time elsewhere and save the taxpayers' money.

• (1210)

At our public hearings, which lasted only five days, the frustration of the presenters on all sides was evident. It was legislation by exhaustion. The theme of the presenters who gave the industry perspective consistently seemed to be: "We are tired. We are not happy with the bill. It has many flaws, but let's get on with it. It has taken too much of our time already. If necessary, we can live with the 1988 bill."

Minister Anderson said the same thing — he could live with the 1988 bill. What does that tell us?

The environmentalists who testified believe the bill to be a step backwards. We were told that we are better off with the existing bill. In the view of the Canadian Health Coalition, and I quote:

> Bill C-32 feeds into a legislative and regulatory agenda that totally abdicates the duty to prevent, protect and anticipate health hazards. If you pass C-32 in its current form, the effect will be to expose your grandchildren to an uncontrolled experiment over a lifetime with biotechnology products that have no therapeutic value and whose safety is unknown. Surely this is not the kind of legacy you want to leave the children of Canada.

Mr. Muldoor of the Canadian Environmental Law Association, a respected think-tank relating to the environment, told us that they had prepared a 220-page submission for the House of Commons committee. He went on to say:

> When the bill left committee, we realized that it had many problems, but we believed that the bill moved the yardstick forward in dealing with some very important issues. However, when some of the key amendments made by the committee were undone at report stage, we had profound problems supporting the bill. At this time, our association and many of the groups within our caucus do not support the bill emanating from those changes.

Then he said the following, which I found quite amazing:

> One of the hardest things I can do in my career is to come here before you, a committee, as an environmentalist and public interest lawyer and not support an environmental bill.

That was a first from that man's point of view.

He carries on and explains that over 200,000 tonnes of pollutants are being released or transferred into the environment in Canada every year. He says, in conclusion:

> The importance of this issue today is not related to some abstract law and dealing with some very specific clauses in a bill; the importance of this issue is related to Canada's reputation, about industry performance, and about the health of Canadians.

My colleagues on this side of the chamber tabled our minority observations dealing with our concerns about the many failings in the bill, but the most damning statement of all with respect to the bill came in the observations of the majority report that was filed yesterday.

The majority report filed by the majority of the members of the committee said the following:

> While the Committee majority is pleased with the provision that continues to call for a review every five years, it recommends the government begin the next review immediately after the passage of Bill C-32.

What a statement to make, honourable senators. It suggests that, as soon as we pass the bill, we should enter into an immediate review of it because of all of the bill's failings. I might add that Bill C-78 has failings as well. The message from the majority is that we should pass the bill and start the review immediately upon its passage. They tell us that we should not hold the bill over.

I suggest, honourable senators, that we should let the Senate properly do its work and bring forward balanced and considered amendments. In my view, the statement made by the majority in the committee was more a statement of conscience, almost a confession and a confirmation of how bad the bill really is. They want us to immediately step forward tomorrow after we pass Bill C-32 and start a review of it. It took 11 years to review the 1988 bill. This side is honestly suggesting that we should do it here. What are we about? Why not let the Senate of Canada do its work? The government is completely failing Canadians.

Let me read from the infamous 1993 Red Book that Mr. Chrétien presented to Canadians prior to the 1993 election. Under the heading "Balanced Policies for Jobs and Growth: The Greening of Industry," the Liberal Party of Canada in 1993 said the following:

> In the past, environmental policy has focused on managing and controlling the release of pollutants entering the environment. This approach has had only limited success. Canada needs a new approach that focuses on preventing pollution at source.

Get this sentence.

> Timetables must be set for phasing out all use of the most persistent toxic substances.

Oh, if it were only so. Oh, if it were in this legislation. It was in the amended bill, and the government removed it. The very thing they told Canadians that they wanted, they removed from the bill. That is consistent; that is leadership; that is telling Canadians where they stand!

Honourable senators, in my view, Bill C-32 is beyond repair but, as senators, I believe we owe it to Canada to come together to see if we can bridge the gap. That is where we act the best; that is when the Senate is at its best.

We were denied that opportunity in committee. We were denied the opportunity to bring amendments to the bill and to deal with it in an appropriate way, so I think we need one more chance.

MOTION IN AMENDMENT

Hon. Ron Ghitter: Honourable senators, I move, seconded by the Honourable Senator Cochrane:

> That the bill not now be read the third time but that it be read the third time on Tuesday, September 21, 1999.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Senator Taylor, do you wish to speak to the motion?

Hon. Nicholas W. Taylor: No, I simply wish to ask a question.

Is Senator Ghitter aware that the bill, as it stands before us unamended, was voted in favour of by every Conservative in the other place?

Senator Kinsella: What is the point?

Senator Ghitter: I am well aware of that fact, and I have spoken to my colleagues about that. At that time, there was a different understanding as to what was happening. Not only did they not know of the Alcan letter, they did not know of the leaked memo we had. They did not know that the Senate would be emasculated as it has been.

I have spoken to my colleagues, and they indicate that they fully support my position and the position of my Senate colleagues with respect to this bill.

Senator Taylor: Is the honourable senator aware that, when Conservatives in the other place unanimously supported this bill, they had heard from every witness who also appeared before us, and who had given them the same information? In other words, they had the same information to work with as did we, and they supported the bill 100 per cent.

Senator Buchanan: No, they did not.

Senator Ghitter: Again, that is not the case. After those amendments were moved, the public hearings were over. Hearings were held, the report was drafted, but the government then introduced all of the new amendments, which were never discussed before the public. No witnesses were able to speak to those amendments.

Hon. Consiglio Di Nino: Honourable senators, Senator Ghitter spoke of a majority report which "urged" that immediately after passage we should begin review of this legislation again. Were the members who wrote the majority report all members of the Liberal Party, or were there members from all sides?

• (1220)

Senator Ghitter: No, they were members of the Liberal Party, Senator Di Nino.

Hon. Dan Hays: Honourable senators, I should like to speak to Senator Ghitter's motion. I had planned to speak on the bill, and I will draw on the notes that I had prepared to speak on the bill in order to respond to Senator Ghitter's motion.

I listened carefully to Senator Ghitter. The only comment I wish to make is that, as I heard it, he had nothing positive to say about the bill whatsoever. There was not a single ray of light emanating from this legislation or the role of the Senate in dealing with it. I leave it to you, honourable senators, to envisage something that is that bad. Senator Ghitter, to some degree, has gone over the top on this subject, and that speaks for itself.

I do agree that there are some problems with the bill, and that is reflected in the report of the committee that work should commence as soon as possible on a review of the legislation.

However, when Senator Ghitter speaks of the work of the committee and what was published in a previous report of this same committee in 1992, dealing with Bill C-13, which was the Canadian Environmental Assessment Act, that was a different time. As I recall, there was a Liberal majority in opposition. I chaired the same committee that Senator Ghitter chairs now. We encountered exactly the same problem with witnesses: that is, we were unable to satisfy the government, the House of Commons or the Senate. We heard from the extreme reaches of position from industry and environmental groups.

In the end, the committee recommended passage of Bill C-13, in 1992, with a lengthy comment of some 21 pages that outlined the concerns that the committee had. I will refer to that in the body of my comments.

In many cases, the witnesses were listened to, and in many ways the Canadian Environmental Assessment Act is today a better piece of legislation. However, I doubt very much that, even had we held hearings from 1992 until this day, we would have bridged that gap between the environmental groups and industry in terms of what it is that they both wanted to see encompassed in this one bill.

To some degree, we have seen the same phenomenon in the hearings before the House of Commons and the Senate. In any event, I do not intend to engage Senator Ghitter at this time.

The history of the bill has been referred to. It is long and complex. It is a piece of legislation that is intended to protect the Canadian environment and the health of Canadians. Senator Ghitter said that there were 150 amendments; I think there were about 250 amendments made to the 356 clauses in the other place, many of which are still in the legislation. By all accounts, Bill C-32 will continue to be a controversial piece of legislation. Those of us who sat on the committee, as the comments of previous speakers will attest, would agree with that.

In the course of our hearings, we heard about 30 individuals representing a cross-section of people, including aboriginal peoples. We received written briefs from many people. We had a number of concerns relating to the bill. I share some of the concerns that were raised, but do not agree that they are so weighty as to delay the passage of this legislation for possibly an indeterminate time.

I should like to address some of the major concerns that were raised. One such concern is the requirement of the Minister of the Environment and the Minister of Health, before taking specified action under the bill, to offer to consult with provincial and territorial governments as well as the aboriginal representatives on the National Advisory Committee. This obligation, it is said, might unduly tie the minister's hands and constitute a barrier to action.

While I am sympathetic to this concern, it is important to point out that the CEPA ministers have, in the past, as a matter of practice, consulted with other governments in Canada before taking action under the CEPA. The bill thus codifies what the ministers have been doing for years.

[*Translation*]

It is also important to realize that, in Canada, jurisdiction over environmental protection is shared. This constitutional principle was reaffirmed recently by the Supreme Court of Canada in the 1997 Hydro-Quebec case.

In it the Court decided by a majority decision to confirm the legislative framework of the CEPA as it now stands, as far as toxic substances are concerned, stating that this was a valid exercise of federal government jurisdiction over a criminal matter.

The decision was a tight one, however: five judges to four. Although the federal government won out in the end, this case therefore still reminds us that, when it comes to environmental protection, the Constitution assigns a role to both levels of government.

Bill C-32 confirms that principle. It implies that the federal government ought to propose consultations with the other governments in Canada before acting. It is, in my opinion, important to support this approach, since it favours harmonization of the rules for environmental protection and solidifies the Canadian Federation, while not preventing the departments with responsibility for application of the legislation from imposing the necessary measures.

[*English*]

A second area of considerable concern has to do with the residual character that the new CEPA would have in relation to specified matters. In other words, the new CEPA would not apply where other federal legislation met the prescribed criteria. There is common ground here with the issues that we had with Bill C-13 in 1992. The bill is thought by some particularly strong environmentalists to be inadequate because it does not encompass all of their concerns about human health and the environment. For example, CEPA could not regulate nutrients; that is, substances that harm the aquatic environment by promoting the growth of aquatic vegetation. If such regulations had been made under another federal statute, such as the Fisheries Act, CEPA in such case would defer to the other act.

Many Canadians regard CEPA as Canada's flagship in environmental legislation and believe that anything to do with the environment should come within its ambit. I have trouble with this broad proposition. CEPA is but one of the tools that the federal government has at its disposal to combat environmental degradation.

Other legislation and other departments must also be allowed to play a role in their areas of specialization, be it in relation to pesticides, products of biotechnology or other substances of concern. Such an approach, it should be noted, is consistent with the federal government's general policy of integrating sustainable development into the decision-making process, which it spelled out in its 1995 publication: "A Guide to Green Government." It is an approach that is followed by the Canadian Environmental Assessment Act whereby federal departments are required to carry out environmental assessments on projects that might impact on their areas of responsibility. It is also the approach taken in the existing CEPA.

Indeed, section 23 of the existing act precludes the assessment under CEPA of all new substances that are to be manufactured or imported for a use that is regulated under another federal statute if the latter contains provisions regarding notice of assessment and toxicity.

Similarly, section 34(3) of the existing act precludes regulations from being made under CEPA if the regulation seeks to regulate an aspect that is regulated under another federal statute. Bill C-32 retains this approach. It would preclude action under CEPA where another statute applied.

However, in contrast to the current CEPA, Bill C-32 specifies that the Governor in Council — and some complain of this — is to make the determination as to whether or not the other federal statute should prevail over CEPA. Moreover, where such a determination was made, the bill would require the Governor in Council to list such statutes in the appropriate schedule at the end of the act.

• (1230)

The current CEPA is totally silent on these matters. By clearly spelling out who is to make the determination, and by requiring that the prevailing statutes be specifically identified, Bill C-32 is a marked improvement over the existing act. The bill provides for a transparency of process that is simply not present in the current CEPA.

Of course, some critics contend that the CEPA ministers, rather than the Governor in Council, should make the requisite determination as to which federal statute should apply. I do not share this concern. The Governor in Council would be responsible for taking much of the action under the new CEPA, including adding substances to the list of toxic substances and making regulations in relation to them.

It bears noting that Bill C-32 as originally tabled would have required the minister responsible for the federal legislation to make the determination as to whether his or her legislation should prevail over CEPA. Had this approach been retained I, too, might have been concerned. However, it was changed in the other place, first in favour of the ministers and then in favour of the Governor in Council. The Governor in Council will thus be responsible for making the determination. It will also be accountable for its actions. This is consistent with the principle of responsible government. It is an approach which I can support.

Given the number of concerns that were expressed in relation to CEPA's "residual status," however, I would urge the Government of Canada to undertake a careful review of the other federal statutes that might prevail over CEPA to ensure that these laws provide the kind of protection to human health, the environment and its biological diversity that Canadians have come to expect, and which they deserve.

Senator Spivak, who is unable to be here, has been an eloquent critic in terms of the new area of life sciences, in particular the issue of genetically modified organisms and the adequacy of our regulatory framework to ensure that the advances made in this area are not ones that will cause harm. Senator Taylor has also alluded to them. It is an important issue. The way to address the issue, however, is to look at the way in which those substances are regulated under other legislation, not to bring them under CEPA.

[*Translation*]

I should also like to speak about the issue of the virtual elimination of toxic substances. This would apply to the most hazardous substances, that is persistent and bioaccumulative toxic substances, most of which are the result of human activity. Subsection 65(1) defines virtual elimination as the ultimate reduction of the substance below the "level of quantification" specified by the ministers. The technical term "level of quantification" describes the lowest concentration of a substance that can be accurately measured using sensitive but routine sampling and analytical methods. In other words, virtual elimination means bringing the amount of the most toxic substances below measurable levels.

The environmental groups in particular criticize this approach, because it concentrates on the reduction of "releases" instead of the reduction, and gradual elimination, of the manufacture and use of the substances in question. Yet the bill's concentration on the release of substances is not surprising in the least, and it is in line with the federal government's 1995 toxic substances management policy.

It is also important to note that, although virtual elimination is limited to reducing the release of hazardous toxic substances below measurable levels, clause 93(l)*(l)* of the bill provides for the authority to gradually eliminate, or completely ban, hazardous substances. Virtual elimination is therefore one solution among many and does not preclude gradual elimination or a ban on certain substances when justified.

[*English*]

The concerns that were raised, however, were not limited to the fact that virtual elimination would target releases only as opposed to use and generation. A related concern had to do with the wording of clause 65(3). This clause provides that once the ministers have set the level of quantification for a substance, they must then prescribe by regulation the amount of the substance that could be released into the environment, taking into account such factors as environmental or health risks and any other relevant social, economic or technical matters.

Many environmental groups have criticized this version of the clause, and have urged that the version adopted by the House Environment Committee be reinstated. This version stated that "when taking steps to achieve the virtual elimination of a substance," the ministers shall prescribe by regulation the amount of the substance that could be released into the environment, taking into account the same factors mentioned above, that is, "environmental or health risks and any other relevant social, economic or technical matters."

Honourable senators, as you can see, the only difference between the two versions concerns the opening words of clause 65(3). The previous version stated "when taking steps to achieve virtual elimination...," whereas the current version states "when the level of quantification for a substance has been specified..." With due respect, I fail to understand why there is so much concern over the amended version. The truly operative words of the clause remain the same, namely, once the substance is on the virtual elimination track, the ministers must prescribe the level of allowable releases for the substance, having regard to the specified factors. The fundamental aspect has not changed. Whether virtual elimination is implemented or achieved, the fact remains that virtual elimination, as clause 65(1) clearly spells out, is the ultimate goal and one that may take some time to implement and achieve, having regard to such factors as "environmental or health risks and any other relevant social, economic or technical matters."

The Hon. the Speaker: Senator Hays, I regret to have to interrupt you but your 15-minute time period has expired.

Senator Hays: May I have leave to continue, honourable senators?

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

Hon. Senators: Agreed.

Senator Hays: The difference in wording between the two versions appears to be more a question of emphasis than of kind, and is not, in my opinion, so serious as to warrant amendments that might, in the end, jeopardize passage of the bill.

A further area of concern relates to the aboriginal peoples. Since the bill does not define "aboriginal peoples," the Métis expressed concern that they have been excluded from the legislation and will be unable, for example, to have representation on the National Advisory Committee that is established under clause 6 of the bill. I am sympathetic to their concern. In my opinion, however, the bill's failure to define "aboriginal peoples" in no way prejudices their status under the legislation. Section 35(2) of the Constitution Act, 1982 defines the aboriginal peoples of Canada as including "the Indian, Inuit and Métis peoples." Thus, the bill's omission in this respect, while unfortunate, in no way derogates from this constitutional imperative.

As to Métis representation on the National Advisory Council, it must be stressed that this body is intended to consist of government representatives only, that is, 10 provincial government representatives, three territorial government representatives, and a total of six representatives from aboriginal governments established under self-government agreements with the federal government. There are to be five representatives from all aboriginal governments established in each of Canada's broad geographic regions. They are the Maritimes, Quebec, Ontario, the Prairies and the North, and B.C./Yukon, except for the Inuit governments, who would select the sixth representative.

In short, the bill does not preclude the Métis from sitting on the National Advisory Committee providing they negotiate self-government agreements with the federal government. They would have the same opportunity as would First Nations governments to represent one of the five geographic regions. The key is the negotiation of self-government agreements. Thus, to ensure that the Métis are not placed at a disadvantage in relation to other aboriginal peoples in Canada, I would urge the federal government to vigorously pursue the negotiation of agreements with the Métis. I am sure that Senator Chalifoux will be expanding on this matter further.

There was also concern that the non-derogation clause, clause 4 of the bill, is worded differently from the non-derogation clauses typically found in federal statutes. It is unclear whether the bill's formulation would make a difference. Section 35(1) of the Constitution Act, 1982 expressly recognizes and affirms existing aboriginal and treaty rights. It would seem unlikely that the bill could derogate from this constitutional imperative. By way of elaboration, this is to ensure that nothing in the legislation derogates from the rights of aboriginal peoples in terms of their negotiation of self-government agreements. I share the concern that the language differs between the Constitution Act, 1982 and this bill.

With regard to the bill's failure to define "aboriginal peoples" it is unfortunate that the bill would introduce an element of uncertainty by using a non-traditional formulation for the non-derogation clause. In my opinion, however, neither shortcoming is sufficient to delay the passage of this legislation. Compared to the existing CEPA, this bill goes much further in recognizing the vital role that our aboriginal peoples and their governments might and should play in protecting human health and the environment.

As mentioned earlier, the bill would give aboriginal governments six seats on the National Advisory Council and would enable them to enter into equivalency agreements under clause 10, which would allow them to replace CEPA regulations with their own where they were equivalent. It would also enable aboriginal peoples, as opposed to their governments, to negotiate administrative agreements under clause 9, which would allow them to enforce CEPA within their own territory.

I do not want to delay the bill to have the non-derogation clause conform because I am fully satisfied that the provisions of the Constitution Act do prevail over this legislation.

Honourable senators, there are definite gains that will enable aboriginal peoples to become meaningful partners in protecting Canada's environment and the health of Canadians. These tangible gains should not be placed at risk by delaying the legislation.

The definition of the precautionary principle is the last area of concern I propose to address. The principle, which appears in the sixth paragraph of the preamble, and in the administrative duties under clause 2(1)(*a*), stipulates:

> ...where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective —

— and I emphasize the word "cost" —

> — measures to prevent environmental degradation...

There has been heated debate on whether the term "cost effective" should be retained or deleted from the precautionary principle. Opinions are diametrically opposed on this issue. It is doubtful that consensus could ever be reached. It is important to point out, however, that the current definition is worded after the Rio Declaration of 1992. It is the definition that the federal government indicated it would adopt in its response to the House of Commons Environment Committee's 1995 report on the CEPA review. It is also a definition that is widely accepted within the international community.

My specific concern, however, has to do with the discrepancy, as referred to in the report, between the French and English text. The English text provides for cost-effective measures to be taken, whereas the French refers to "l'adoption de mesures effectives." I agree with the linguist-jurist who appeared before the committee that the texts do not say the same thing. The French term "effectives" simply does not have the economic thrust found in the English term "cost-effective." It is interesting to note that this same discrepancy in languages is found in the Rio Declaration itself. Of course, several wrongs do not make a right and I, for one, am loath to perpetuate a mistake made elsewhere.

The issue, as I see it, is to decide whether this error is so fundamental that it must be rectified at all costs. I have come to the conclusion that it is not. It is clear from the legislative record that Parliament's intent is to sanction the use of cost-effective measures. Thus, if the two versions were harmonized, the French text would have to be modified and not the English. Senator Nolin may argue the opposite. In any event, I believe that those who take the contrary view are in the minority here.

This being the case, I do not believe the bill's passage should be jeopardized because of the discrepancy. I would remind honourable senators that this is not the first time. In fact, the scenario presented itself six years ago when we considered Bill C-13, the Canadian Environmental Assessment Act. Like the bill before us today, Bill C-13 was an important environmental bill. Like the bill before us today, its passage was also at risk due to an expected prorogation. Unlike the bill before us today, however, the Senate identified 30 discrepancies between the French and English texts in Bill C-13.

The following is a passage of the report tabled by the Standing Senate Committee on Energy, the Environment and Natural Resources which studied the bill in 1993:

> Your Committee believes that, under the circumstances, there are compelling reasons to adopt Bill C-13 without amendments. We recognize that the bill has a number of shortcomings, not least of which are the 30 inconsistencies that were found to exist between the French and English versions of the bill.

I might mention that it was the previous government's responsibility on the environmental watch that had these 30 discrepancies.

The report continues:

> Considering that almost half of these inconsistencies go back to the original bill that was tabled as Bill C-78 in 1990, your Committee is deeply concerned that so many linguistic discrepancies could have slipped through, despite the extensive scrutiny that this bill has received over the years.

I have checked whether governments have remedied those discrepancies. I am told that at least 25 of the 30 have been remedied. Regrettably, the other five have not been, and that might make some interesting work for our committee which dealt with this bill.

Admittedly, this is not a perfect piece of legislation, as legislation rarely is. As honourable senators know, there is always room for improvement. My concern, however, is that in the course of our deliberations, both inside and outside of this building, too little was said and is being said about the strengths of the bill. There are many.

For example, the bill calls for the immediate categorization of the 23,000 substances on the domestic substance list to identify which substances have the characteristics of greatest concern so that they may be given an expedited screening level assessment which, in turn, could lead to their early regulation.

The bill sets firm deadlines for the selection and implementation of appropriate management options for all substances that are on the list of toxic substances.

The bill not only espouses pollution prevention as a national goal and as a priority approach to environmental protection, but also operationalizes this goal by empowering the Minister of the Environment to order the development and implementation of pollution prevention plans for toxic substances as well as phase-out or reduction plans for hazardous substances exported abroad.

This bill would broaden the federal government's existing authority to deal with international pollution problems by enabling it to respond to international water pollution problems arising in Canada, and not just international air pollution problems, as is currently the case.

The bill would strengthen the federal government's ability to regulate fuels, and would give the Minister of the Environment new authority to regulate vehicle emissions.

The bill would provide an exhaustive list of the materials that might be authorized by permit for disposal at sea, as opposed to the current CEPA, which lists only those materials that may not be disposed of at sea.

This bill specifically calls for research and studies to be carried out on hormone disrupting substances, and it provides a sound statutory foundation for the National Pollutant Release Inventory which, although in place since 1993, was created under questionable statutory authority and is currently being challenged in the courts.

The bill would provide specific authority to deal with environmental emergencies.

The bill would call for the establishment of public registries so that Canadians could have ready access to information on matters covered under the new act.

The bill would materially strengthen the current enforcement powers, notably allowing enforcement officers to issue on-the-spot cease and desist orders.

Last, but certainly not least, the bill provides for the use of economic instruments in reducing specific substances which are to be phased out or targeted for reduced release into the environment.

I could go on; however, I will not. As I outlined, the bill contains many provisions that are definite improvements over the current CEPA. It is unfortunate that we have not had an opportunity to get into this too deeply. I appreciate the opportunity to have done so this afternoon.

I am satisfied that the best course of action for this chamber is to pass this legislation, having first acknowledged the problems with it. I reinforce the recommendation in the committee's observations — shared, I think, based on Senator Ghitter's comments, by both the majority and the minority — that we start work as soon as possible on a review of this important piece of legislation once it is passed to ensure that it can be improved at the earliest possible date.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, yesterday we heard a learned presentation by Senator Stewart on the flaws of the cngressional system and the virtues of the parliamentary system. I am glad that Senator Ghitter has put things in another perspective today.

[*English*]

Sometimes in the parliamentary system, the process is not very good, and we have had a few examples in the last few days.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, the question before the Senate is the motion in amendment by the Honourable Senator Ghitter, seconded by the Honourable Senator Cochrane, that the bill be not now read a third time but that it be read a third time on Tuesday, September 21, 1999. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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.

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators.

[*Translation*]

VOTE DEFERRED

Hon. Léonce Mercier: Honourable senators, pursuant to rule 67(2), I move that the vote be deferred until 5:30 p.m. on the next sitting day.

The Hon. the Speaker: The Honourable Senator Mercier, government whip, seconded by the Honourable Senator Pépin, moves that the vote be deferred until 5:30 p.m. on Monday, September 13, 1999.

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

Some Hon. Senators: Yes.

The Hon. the Speaker: Honourable senators, pursuant to rule 67(2), the vote is deferred until 5:30 p.m. on Monday, September 13, 1999.

[*English*]

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have not had a chance to discuss this matter with Senator Prud'homme, but I have had some discussions with Senator Kinsella, and I believe it is the will of most senators that the Senate adjourn now, leaving all items on the Order Paper at their present number.

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

Hon. Senators: Agreed.

Hon. Colin Kenny: With leave, honourable senators, I should like to raise a short matter of business relating to the house.

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

Hon. Senators: Agreed.

Senator Kenny: Honourable senators, I simply want to note that we sat last night until after nine o'clock, and this morning when we arrived we had on our desks all of the usual material, printed and bound. I think that we owe a vote of thanks to the staff for the work they did in preparing this material overnight.

Hon. Senators: Hear, hear!

The Hon. the Speaker: I thank Senator Kenny for bringing the matter to the attention of the house. I hope that all those who were involved in this magnificent piece of work have heard what he had to say.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, it is with pleasure that I concur in Senator's Carstairs request to adjourn until Monday.

The Senate adjourned until Monday, September 13, 1999, at 4 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)
Friday, September 10, 1999

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications	98/04/02	four	98/05/27	98/06/18	20/98
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	seven	97/11/20	98/06/11	12/98
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/10/22	Transport and Communications	97/12/12	three	97/12/16	98/05/12	06/98
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/10/29	Legal and Constitutional Affairs	97/12/04	one	97/12/11 Senate agreed to Commons amendments 98/05/06	98/05/12	09/98
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce	98/02/24	one	98/03/19	98/06/11	13/98
S-16	An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	98/05/05	98/05/12	Foreign Affairs	98/05/28	none	98/06/02	98/12/03	33/98
S-21	An Act respecting the corruption of foreign public officials and the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and to make related amendments to other Acts	98/12/01	98/12/03	Whole	98/12/03	one at 3rd	98/12/03	98/12/10	34/98
S-22	An Act authorizing the United States to preclear travellers and goods in Canada for entry into the United States for the purposes of customs, immigration, public health, food inspection and plant and animal health	98/12/01	99/02/11	Foreign Affairs	99/03/24	four	99/04/28	99/06/17	20/99

S-23	An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier	98/12/10	99/02/03	Transport and Communications	99/03/11	none	99/03/16	99/06/17	21/99

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts	97/12/04	97/12/16	Committee of the whole 97/12/17	97/12/17	none	97/12/18	97/12/18	40/97
C-3	An Act respecting DNA identification and to make consequential amendments to the Criminal Code and other Acts	98/09/30	98/10/22	Legal and Constitutional Affairs	98/12/08	none	98/12/09	98/12/10	37/98
C-4	An Act to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts	98/02/18	98/02/26	Agriculture and Forestry	98/05/14	five	98/05/14	98/06/11	17/98
C-5	An Act respecting cooperatives	97/12/09	97/12/16	Banking, Trade and Commerce	98/02/24	none	98/02/25	98/03/31	01/98
C-6	An Act to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts	98/03/18	98/03/26	Aboriginal Peoples	98/06/09	none	98/06/18	98/06/18	25/98
C-7	An Act to establish the Saguenay-St.Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/12/02	Energy, Environment and Natural Resources	97/12/09	none	97/12/10	97/12/10	37/97
C-8	An Act respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas	98/03/17	98/03/25	Aboriginal Peoples	98/03/31	none	98/04/01	98/05/12	05/98
C-9	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	97/12/09	98/03/26	Transport and Communications	98/05/13	none	98/05/28	98/06/11	10/98

C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/10	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	36/97
C-12	An Act to amend the Royal Canadian Mounted Police Superannuation Act	98/04/28	98/04/30	Social Affairs, Science & Technology	98/06/04	none	98/06/08	98/06/11	11/98
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Legal and Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	32/97
C-15	An Act to amend the Canada Shipping Act and to make consequential amendments to other Acts	98/05/05	98/06/03	Transport and Communications	98/06/10	none	98/06/11	98/06/11	16/98
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwelings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09	98/02/24	Transport and Communications	98/03/25	none	98/04/29	98/05/12	08/98
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Legal and Constitutional Affairs	98/04/02	none	98/04/28	98/05/12	07/98
C-19	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	98/05/26	98/06/08	Social Affairs, Science & Technology	98/06/18	none	98/06/18	98/06/18	26/98
C-20	An Act to amend the Competition Act and to make consequential and related amendments to other Acts	98/09/24	98/11/17	Banking, Trade and Commerce	98/12/03 99/02/16	none + two at 3rd *concur in Commons amendments*	98/12/10 *Commons amendments referred to Committee 99/02/11*	99/03/11	02/99
C-21	An Act to amend the Small Business Loans Act	98/03/19	98/03/25	Banking, Trade and Commerce	98/03/26	none	98/03/31	98/03/31	04/98

C-22	An Act to Implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31,1998	97/11/26	97/12/04	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-25	An Act to amend the National Defence Act and to make consequential amendments to other Acts	98/06/11	98/06/18	Legal and Constitutional Affairs	98/11/24	one	98/12/01	98/12/10	35/98
C-26	An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act	98/06/08	98/06/16	Agriculture and Forestry	98/06/18	none	98/06/18	98/06/18	22/98
C-27	An Act to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements	99/04/21	99/04/27	Fisheries	99/05/13	none	99/05/13	99/06/17	19/99
C-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce	98/06/04	none	98/06/16	98/06/18	19/98
C-29	An Act to establish the Parks Canada Agency and to amend other Acts as a consequence	98/06/03	98/06/15	Energy, the Environment and Natural Resources	98/10/20	none	98/11/19	98/12/03	31/98
C-30	An Act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education	98/06/11	98/06/16	Aboriginal Peoples	98/06/18	none	98/06/18	98/06/18	24/98
C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources	98/06/09	none	98/06/10	98/06/11	14/98

C-32	An Act respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development	99/06/02	99/06/08	Energy, the Environment and Natural Resources	99/09/09	none			
C-33	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	98/03/18	98/03/25	—	—	—	98/03/26	98/03/31	02/98
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/03/18	98/03/26	—	—	—	98/03/31	98/03/31	03/98
C-35	An Act to amend the Special Import Measures Act and the Canadian International Trade Tribunal Act	98/12/07	99/02/17	Foreign Affairs	99/03/24	none	99/03/25	99/03/25	12/99
C-36	An Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998	98/05/28	98/06/08	National Finance	98/06/15	none	98/06/17	98/06/18	21/98
C-37	An Act to amend the Judges Act and to make consequential amendments to other Acts	98/06/11	98/09/22	Legal and Constitutional Affairs	98/10/22	eight	98/11/04	98/11/18	30/98
C-38	An Act to amend the National Parks Act (creation of Tuktut Nogait National Park)	98/06/15	98/06/17	Energy, the Environment and Natural Resources	98/12/01	none	98/12/10	98/12/10	39/98
C-39	An Act to amend the Nunavut Act and the Constitution Act, 1867	98/06/03	98/06/08	Aboriginal Peoples	98/06/09	none	98/06/10	98/06/11	15/98
C-40	An Act respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence	98/12/02	98/12/10	Legal and Constitutional Affairs	99/03/25	none	99/05/12	99/06/17	18/99
C-41	An Act to amend the Royal Canadian Mint Act and the Currency Act	98/12/02	98/12/09	National Finance	99/02/18	none	99/03/02	99/03/11	04/99
C-42	An Act to amend the Tobacco Act	98/12/02	98/12/08	Legal and Constitutional Affairs	98/12/10	none	98/12/10	98/12/10	38/98
C-43	An Act to establish the Canada Customs and Revenue Agency and to amend and repeal other Acts as a consequence	98/12/08	99/02/10	National Finance	99/03/18	none	99/04/27	99/04/29	17/99
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	28/98
C-46	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	29/98
C-47	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	98/06/11	98/06/16	Banking, Trade and Commerce	98/06/17	none	98/06/18	98/06/18	23/98
C-49	An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management	99/03/09	99/04/13	Aboriginal Peoples	99/05/13	two	99/05/13	99/06/17	24/99

C-51	An Act to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act	98/11/18	98/12/03	Legal and Constitutional Affairs	99/03/04	none	99/03/09	99/03/11	05/99
C-52	An Act to implement the Comprehensive Nuclear Test-Ban Treaty	98/10/20	98/10/28	Foreign Affairs	98/11/18	one	98/11/24	98/12/03	32/98
C-53	An Act to increase the availability of financing for the establishment, expansion, modernization and improvement of small businesses	98/11/25	98/12/02	Banking, Trade and Commerce	98/12/08	none	98/12/09	98/12/10	36/98
C-55	An Act respecting advertising services supplied by foreign periodical publishers	99/03/16	99/03/24	Transport and Communications 99/03/25	99/05/31	three	99/06/08	99/06/17	23/99
C-57	An Act to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence	98/12/07	98/12/10	Legal and Constitutional Affairs	99/02/18	none	99/03/02	99/03/11	03/99
C-58	An Act to amend the Railway Safety Act and to make a consequential amendment to another Act	99/02/02	99/02/11	Transport and Communications	99/03/17	none	99/03/18	99/03/25	09/99
C-59	An Act to amend the Insurance Companies Act	98/12/10	99/02/04	Banking, Trade and Commerce	99/02/16	none	99/02/18	99/03/11	01/99
C-60	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/12/02	98/12/08	—	—	—	98/12/09	98/12/10	40/98
C-61	An Act to amend the War Veterans Allowance Act, the Pension Act, the Merchant Navy Veteran and Civilian War-related Benefits Act, the Department of Veterans Affairs Act, the Veterans Review and Appeal Board Act and the Halifax Relief Commission Pension Continuation Act and to amend certain other Acts in consequence thereof	99/03/16	99/03/18	Social Affairs, Science & Technology	99/03/23	none	99/03/24	99/03/25	10/99
C-64	An Act to establish an indemnification program for travelling exhibitions	99/05/31	99/06/03	Social Affairs, Science & Technology	99/06/10	none	99/06/14	99/06/17	29/99
C-65	An Act to amend the Federal-Provincial Fiscal Arrangements Act	99/03/11	99/03/16	National Finance	99/03/23	none	99/03/24	99/03/25	11/99
C-66	An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act	99/05/11	99/05/11	Social Affairs, Science & Technology	99/06/10	none	99/06/14	99/06/17	27/99
C-67	An Act to amend the Bank Act, the Winding-up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts	99/05/31	99/06/03	Banking, Trade and Commerce	99/06/10	none	99/06/14	99/06/17	28/99
C-69	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/05/31	99/06/08	Legal and Constitutional Affairs					
C-71	An Act to implement certain provisions of the budget tabled in Parliament on February 16, 1999	99/05/11	99/05/12	National Finance	99/06/03	none	99/06/14	99/06/17	26/99

C-72	An Act to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act	99/05/11	99/05/13	Banking, Trade and Commerce	99/03/31	none	99/06/07	99/06/17	22/99
C-73	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	99/03/17	99/03/23	—	—	—	99/03/24	99/03/25	14/99
C-74	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/03/17	99/03/24	—	—	—	99/03/25	99/03/25	15/99
C-76	An Act to provide for the resumption and continuation of government services	99/03/24	99/03/24	Committee of the Whole 99/03/25	99/03/25	none	99/03/25	99/03/25	13/99
C-78	An Act to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act	99/05/31	99/06/03	Banking, Trade and Commerce	99/06/15 99/09/07	none none	referred back to Committee 99/06/17		
C-79	An Act to amend the Criminal Code (victims of crime) and another Act in consequences	99/05/31	99/06/08	Legal and Constitutional Affairs	99/06/10	none	99/06/14	99/06/17	25/99
C-82	An Act to amend the Criminal Code (impaired driving and related matters)	99/06/10	99/06/14	Legal and Constitutional Affairs	99/06/16	none	99/06/17	99/06/17	32/99
C-84	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect	99/06/10	99/06/15	—	—	—	99/06/16	99/06/17	31/99
C-86	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001	99/06/09	99/06/14	—	—	—	99/06/15	99/06/17	30/99

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-208	An Act to amend the Access to Information Act	98/11/17	99/02/11	Social Affairs, Science & Technology	99/03/11	none	99/03/16	99/03/25	16/99
C-220	An Act to amend the Criminal Code and the Copyright Act. (profit from authorship respecting a crime) (Sen. Lewis)	97/10/02	97/10/22	Legal and Constitutional Affairs	98/06/10 adopted	recommend Bill not proceed			
C-251	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/06/08							
C-410	An Act to change the name of certain electoral districts	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	two	98/06/09	98/06/18	27/98
C-411	An Act to amend the Canada Elections Act	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	none	98/06/09	98/06/11	18/98
C-445	An Act to change the name of the electoral district of Stormont–Dundas	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	07/99
C-464	An Act to change the name of the electoral district of Sackville–Eastern Shore	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	08/99
C-465	An Act to change the name of the electoral district of Argenteuil–Papineau	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/09	99/03/11	06/99

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the "Persons Case" (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology	98/04/30	two	Dropped from Order Paper pursuant to Rule 27(3) 98/10/01		
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology	98/06/03 98/12/09 Dropped from Order Paper pursuant to Rule 48(2) 99/09/08	none one	referred back to Committee 98/09/24		
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs	98/06/04	one	98/06/09	*Motion for 2nd reading negatived in the Commons 99/04/13*	
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10	98/05/06	Legal and Constitutional Affairs					
S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation (Sen. Kenny)	98/02/26	98/04/02	Social Affairs, Science & Technology	98/05/14	seven + two at 3rd	98/06/10	*Bill withdrawn pursuant to Commons Speaker's Ruling 98/12/02*	
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples					
S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02	98/06/09	Legal and Constitutional Affairs	98/06/18 Report & Bill withdrawn 98/12/08	four			
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12	98/06/02	Legal and Constitutional Affairs					
S-19	An Act to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment (Sen. Forrestall)	98/06/18	Negatived 99/06/14						

S-24	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Beaudoin)	99/03/03	99/06/08	Legal and Constitutional Affairs				
S-26	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/03/10						
S-27	An Act to amend the Canada Elections Act (hours of polling at by-elections) (Sen. Lynch-Staunton)	99/03/16						
S-28	An Act to amend the Canada Elections Act (hours of polling in Saskatchewan) (Sen. Andreychuk)	99/04/20						
S-29	An Act to amend the Criminal Code (Protection of Patients and Health Care Providers) (Sen. Lavoie-Roux)	99/04/29	99/06/15	Legal and Constitutional Affairs				
S-31	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/09/09						

PRIVATE BILLS

S-18	An Act respecting the Alliance of Manufacturers & Exporters Canada (Sen. Kelleher, P.C.) (*Dropped from Order Paper pursuant to Rule 27(3)98/11/17)* *(Restored to Order paper 99/04/15)*	98/06/17	99/04/20	Banking, Trade and Commerce	99/05/04	none	99/05/05	99/06/17
S-20	An Act to amend the Act of incorporation of the Roman Catholic Episcopal Corporation of Mackenzie (Sen. Taylor)	98/09/23	98/10/29	Social Affairs, Science & Technology	98/12/03	three	98/12/09	99/03/25
S-25	An Act respecting the Certified General Accountants Association of Canada (Sen. Kirby)	99/03/04	99/03/23	Banking, Trade and Commerce	99/04/20	two	99/04/22	99/04/29
S-30	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/05/13	99/06/16	Social Affairs, Science & Technology	99/09/09	none		

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