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Monday, September 13, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

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THE SENATE

Monday, September 13, 1999

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

CANADIAN HERITAGE

STATUS OF PLANS FOR PROPOSED NEW WAR MUSEUM

Hon. Lowell Murray: Honourable senators, plans for a new Canadian War Museum are said to be on hold. A report in last Friday's *Globe and Mail* states that funding for the proposed new museum is low on the government's list of spending priorities because the project has attracted little interest either from the public or from members of Parliament.

An advisory committee is apparently trying to raise private donations for the project. However, potential donors are said to be reluctant to contribute until they know the extent of the government's commitment. On that question, a spokesperson for Heritage Minister Sheila Copps is quoted as saying that no final decision has been made.

This raises a more fundamental question. Why on earth is the Government of Canada passing the hat to finance a new War Museum? This is a pretty cheap way to treat an institution created to honour and preserve a tragic and glorious part of our heritage. The government has taken full responsibility for the capital and operating costs of less important and more expensive museums. I think that most Canadians would be embarrassed by such a grudging and miserly attitude to the War Museum.

Dr. Jack Granatstein, Director of the War Museum, stated:

> We are convinced the country needs a new War Museum. We are convinced that the war art and the artifacts, which are priceless, need better storage and display facilities. We are convinced the veterans want this. They are dying at a huge rate, 100 a day, so it is very difficult to make a case for delay.

As for the alleged lack of interest on the part of parliamentarians, the Senate has been seized of this issue in the recent past and I have no doubt we would do so again. My seat-mate, Senator Balfour, is chairman of the Subcommittee on Veterans Affairs. He is presently convalescing after serious surgery in Regina, but he would not want us to await his return to take this up again, if it becomes necessary to do so. We might even recall former chairmen and members of the committee, Senators Marshall, Phillips, Bonnell, and Johnstone, as a volunteer SWAT team to help us at televised public hearings. That prospect should concentrate the mind of some past and future witnesses.

Senate hearings should not be necessary. Veterans Affairs Minister George Baker and Heritage Minister Sheila Copps, two ministers whose perspective should be broader than that of the bean-counters, should intervene. It is up to them to see that the government takes its full responsibility and that this project is put back on track without delay.

[*Translation*]

LE GRAND TRAIN DE LA FRANCOPHONIE

Hon. Lucie Pépin: Honourable senators, this past August 28, I met the Grand train de la Francophonie at Montreal. On the 29, 1999, I rode that train from Montreal to Quebec City, and then took part in the welcoming ceremony for its arrival in Quebec City.

What a wonderful experience it was to see the young passengers from all over who were travelling across our country in an atmosphere of discovery and fun. What did these young people from Saskatchewan, from Mali, Alberta and Port-au-Prince discover during that journey? That they had far more in common than they thought.

They discovered that Canada is a country of unbelievable beauty and dynamism, with a very rich francophone heritage. Together they celebrated our language, their aspirations and the dreams they shared.

The purpose of this innovative project, a joint undertaking by the Club Richelieu International, VIA Rail and the CBC, was to bring together young francophones from all over the world on board a train travelling across Canada, making stops in all of its major cities. The train's journey began in Vancouver and ended at Moncton on the eve of the Francophonie Summit.

The objective of the trip was to foster solidarity and pride in our young francophone Canadians and their counterparts from other countries, as well as to celebrate the Canadian Francophonie and to share our treasures and our accomplishments with the rest of the world.

Judging by what I saw — the laughter, the sense of adventure, the quality of discussions between these young people — the Grand train de la Francophonie was a great success. I am sure that memories of this trip will remain forever with the young Canadians who took part. They will now be even prouder and more knowledgeable about our country and the vigour of our francophone community.

I congratulate the organizers and sponsors of this project, and trust that there will be many more such opportunities to promote the transmission of such a positive message to our young people.

[*English*]

• (1610)

THE SENATE

RESPONSE TO REQUEST FOR FLAG PINS

Hon. Thelma J. Chalifoux: Honourable senators, in June of this year, there was a letter to the editor of *The Edmonton Journal* from a gentleman from Wandering River, a small community in Northern Alberta. He was not only defending this honourable institution, but also defending the dedicated people who have been appointed to this illustrious house of sober second thought. He wrote that we, as senators, listen to ordinary Canadians.

When I was in Halifax this past August, I met with the unsung heroes who work and volunteer for the Missions to Seamen. These are the people who meet the sailors who touch our shores from all parts of the world. They provide so many basic services for the crews. It is a friendly face in a new world that greets these people when they reach our shores. This is an organization that promotes the friendliness and the generosity of Canadians.

At this meeting, I was asked to provide some small Canadian flags and flag pins that could be given to crews when they come into port. When I arrived back in Ottawa, I sent a request to all of your offices. The response has been overwhelming. Honourable senators have been so generous that now a small bit of Canadiana will go with all sailors who touch the Halifax shores.

Some of these flags will also be going to Kosovo with some troops from the Edmonton Garrison for the children in that part of our world. All honourable senators deserve a huge vote of thanks for bringing our country's flag to the rest of the world. The gentleman from Wandering River was correct when he said that we, the senators, listen to ordinary Canadians.

UNITED NATIONS

TWENTY-FIRST SPECIAL SESSION OF GENERAL ASSEMBLY ON POPULATION AND DEVELOPMENT

Hon. Lois M. Wilson: Honourable senators, I wish to bring to the attention of the Senate the deliberations of the Twenty-first Special Session of the UN General Assembly on Population and Development, which was the five-year review of the 1994 Cairo Conference on that subject. I was head of the delegation which met in New York from June 30 to July 2, and included officials from the Department of Foreign Affairs, the Department of International Trade, CIDA, the Department of Citizenship and Immigration, and the Department of Health. It also included three delegates from civil society. The purpose of the session was to assess the progress and constraints faced in implementing the Cairo Program of Action.

Three issues that dominated the discussions were the training of personnel to afford safe abortions for women, the availability of reproductive health services for women, and the provision of public sex education for young people. By these measures, it is hoped to promote responsible sexual behaviour and protect adolescents from unwanted pregnancy, unsafe abortion, and sexually transmitted diseases. Most countries represented at that meeting wanted to facilitate the implementation of the Cairo decisions on these matters, and that point of view prevailed despite a strong conservative lobby that resisted them.

The Cairo Program for Action builds on two earlier United Nations conferences: the 1992 Earth Summit in Rio, which acknowledged that the earth cannot support a continually growing population, and that economic development must be environmentally sustainable; and the 1993 Vienna Human Rights Conference that agreed that women's rights are human rights, and emphasized the indivisibility of all human rights.

Much progress was made at the New York meeting, but my embarrassment was that Canada had no announcement to make of a long-term strategy for population, sustainable development and reproductive health care that addresses all these issues as an integrated whole, as promised by Minister Sergio Marchi in Cairo in 1994. This happened despite the strong recommendation of the Canadian Association of Parliamentarians for Population and Development that the appropriate development agency formulate a strategy in time for this New York meeting. The need for an integrated strategy had wide support from citizens in the recent cross-Canada consultations. Surely, Canadians want the same rights of choice extended to others in countries where we work in partnership. We look for an integrated strategy in this area very soon.

[*Translation*]

BLOC QUÉBÉCOIS DEFINITION OF QUEBECERS

Hon. Jean-Robert Gauthier: Honourable senators, the Bloc Québécois federal council met in Trois-Rivières on the weekend for the purpose of defining, among other things, what a Quebecer is.

For me, a Quebecer is someone who lives in Quebec. For them, it is something else. The September 11 *La Presse* ran an article with the following headline:

> Bloc Québécois Buries French Canadian Nation

Honestly! The BQ identity defining document said the following:

> There is no longer a French Canadian nation in Quebec.

What a ridiculous statement! To my knowledge, Quebec is still part of Canada. To my knowledge, there are two official languages, English and French, in Canada. To my knowledge, the majority of Canadians living in Quebec are French-speaking and proud of it, just as there are English-speaking Canadians in Quebec and in Canada who feel the same about the language they speak.

The French Canadian nation is far from dead. On the contrary, it is very much alive and its vitality continues to grow, whatever members of the Bloc Québécois might think.

Since the Bloc Québécois wants no more to do with French Canadians, perhaps they could give us their definition of English Canada and tell us what to make of the one million francophones living outside Quebec.

Mr. Bouchard, their leader and founding father, should be ashamed of his followers and the way they are pulling the plug on communities which are not of the same pure stock as they are.

[*English*]

ROUTINE PROCEEDINGS

SUPREME COURT OF CANADA

ANNOUNCEMENT BY CHIEF JUSTICE OF INTENDED RESIGNATION—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 two days hence, I will call the attention of the Senate:

(a) to the August 21, 1999 public announcement by Chief Justice Antonio Lamer of his intended resignation from the Supreme Court of Canada for January 7, 2000, prior to the formal, official notification to the Governor General or the Prime Minister;

(b) to the very public occasion for this intended resignation announcement being the annual meeting in Edmonton of the Canadian Bar Association, and to the very public, highly orchestrated media staging of this announcement;

(c) to the peculiar and unusual manner and style of this resignation, and to the proper form and manner of resignation of persons of high judicial office;

(d) to the public debate, controversies, and expressions of opinion actuated by this public announcement of intended resignation, and to the media reports of same;

(e) to the relationship between politics and propaganda, and to the definition of propaganda in Fowler's English Usage as a:

"...systematic propagation of selected information to give prominence to the views of a particular group...";

(f) to the proper relationship of judges to politics and to the political art of propaganda;

(g) to the political concept of judicial independence in Canada, and to the rules that judges restrain from seeking political or public support for beliefs, thoughts or deeds, and restrain from participation in public controversies, because of their positions of high judicial office; and

(h) to the pressing public and social concern about these matters, and the judicial and political condition in Canada today.

QUESTION PERIOD

TRANSPORT

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

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as is well known, the Progressive Conservative national caucus will be holding its policy gathering as of tomorrow in Calgary and, for the last few days, we have been asking when the minister would be tabling the order as required under the Canada Transportation Act, the section 47 order remitted by the government relating to competition.

Does the minister have an update on that matter for us?

Hon. B. Alasdair Graham (Leader of the Government): Yes, honourable senators, I will be tabling the document not later than tomorrow.

Senator Kinsella: Honourable senators, we appreciate that we will get it tomorrow and I thank the minister for that.

• (1620)

TRANSPORT AND COMMUNICATIONS

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA—TABLING OF ORDER IN COUNCIL TO ALLOW DISCUSSIONS—POSSIBLE REFERRAL TO STANDING COMMITTEE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Chair of the Standing Senate Committee on Transport and Communications. Section 47 of the Canada Transportation Act provides that, when the minister tables this order, it is then referred to the appropriate committee of each house. I should like to ascertain whether it is the honourable senator's view that the Standing Senate Committee on Transport and Communications would be the appropriate committee. If so, tomorrow we could endorse a motion, I hope unanimously, to have the matter referred to her committee.

Hon. Marie-P. Poulin: Honourable senators, I thank the honourable senator for his question. As soon as the matter is referred to the committee, I will confer with the steering committee.

Senator Kinsella: I thank the honourable senator for that answer.

NATIONAL DEFENCE

POLICY ON ARRANGING FLIGHTS FOR CIVILIANS ON CF-18 AIRCRAFT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government on a different topic but in the same general area, namely the discussions going on around the merger of Air Canada and Canadian Airlines. There have been reports circulating that certain Canadians have access to flights in CF-18 fighter planes. I know my colleague Senator Atkins would love to take such a flight. Could the minister share with us what the policy of the government is on arranging such flights for Canadians in CF-18s?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would be very happy to try to arrange a flight for Senator Atkins in a CF-18, if he has the courage to go up.

Senator Lynch-Staunton: Would you bring him back?

Senator Graham: I would personally do my best to bring him back, particularly if there was to be a vote in the Senate.

The Canadian Forces conduct familiarization flights for civilians in very high performance aircraft when they can be accommodated in a way that will not interfere with operational and training missions. Such flights are offered primarily to the media and to aviation photographers, but may also be authorized for business leaders or for politicians, if it is in the best interests of the Canadian Forces to do so.

Perhaps Senator Murray could help me on this, but I understand the policy until the summer of 1998 was that normally the commanders of subordinate headquarters approved such requests, and this probably would have been the case when Mr. Schwartz took his flight.

I see Senator Robertson smiling. She must have been up on a flight herself.

Senator Robertson: No way!

Senator Graham: I was in attendance with my grandchildren Saturday afternoon at the Shearwater Air Base. I did notice that the new Cormorant helicopter, which is the replacement of the Labrador, was sitting on the tarmac, and I saw some children and others boarding the aircraft — I believe these were specially chosen children who have had medical problems.

Senator Lynch-Staunton: Cormorant was paying for them.

Senator Graham: I know that several members of Parliament had been taken on a test flight on the weekend. Indeed, I had been invited, but I was unable to take advantage of the flight on this very excellent aircraft.

I noticed as well that there was a long line-up of interested onlookers to view other Canadian military hardware. They were giving demonstrations with the Coyote, which, according to the military people who were present, is as sophisticated as any similar land vehicle in the world. I heard someone in this chamber say they were like Dinky Toys, and I asked the military personnel responsible for giving the demonstration whether this could be classed as a Dinky Toy. He laughed and said this is as sophisticated as it gets anywhere in the world. They were also taking people for demonstration rides on the Bison land vehicles. I thought it was a great exercise in public relations, familiarizing Canadian taxpayers with how their tax dollars are spent. Most particularly, it was effective with the young people, who were absolutely fascinated because of the excellence of the demonstration that was put on.

Senator Kinsella: Honourable senators, in the case at hand, could the minister identify any public policy objective being served when a friend of the then minister of Defence gets one of these rides — a civilian who does not seem to have any qualification other than being a friend of the minister?

Senator Graham: I do not know that that would be accurate. I presume the honourable senator is referring to Mr. Schwartz, who landed safely. As to citizens like Mr. Schwartz or very successful businessmen, philanthropists, or whatever, in this country, I suppose we could ask the Department of National Defence to go through its records to determine what Conservative members of Parliament, Conservative cabinet ministers, former Conservative cabinet ministers, or Conservative senators took advantage of such rides. Indeed, we could inquire as to other Canadians, who might be called ordinary Canadians like myself, who were given the opportunity of seeing the Canadian Armed Forces military and their equipment at their best.

CANADIAN HERITAGE

STATUS OF PLANS FOR PROPOSED NEW WAR MUSEUM

Hon. Lowell Murray: Honourable senators, I was considering a supplementary question about whether the minister can let us know what else may be on the wish list of Mr. Gerry Schwartz, but I will let that pass for the moment.

I should like to ask a couple of questions about the Canadian War Museum. It has been 10 months since the government announced that it would be acquiring land for a new war museum. Does the Leader of the Government know — and if he does not know will he undertake to find out — what the status of this matter is at this time? Have requests for proposals gone out? Exactly what is the government's plan as of today?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the government is committed to making the Rockcliffe site land, as I believe it is referred to, available to the museum. I understand that the museum and the Friends of the Canadian War Museum have been quite successful to date in fund-raising efforts for the project. Other options are being examined to supplement those fund-raising efforts, such as the reallocation of money from the Canadian Museum of Civilization Corporation for the construction of the new facility. I thank Honourable Senator Murray for bringing this matter to our attention and I shall bring his concerns to my colleagues and urge them to move as quickly as possible on this very important endeavour for Canadians.

PROPOSED NEW WAR MUSEUM—DEPENDENCY ON PRIVATE SECTOR FUNDING—GOVERNMENT CONTRIBUTION

Hon. Lowell Murray: Honourable senators, while I thank the honourable minister for that, I should like to ask him, while he is at it, to undertake the following on our behalf.

First, will he bring in an explanation of why government participation in this project is dependent on private financing? Is this a settled policy? Second, will he indicate, if it is to be a settled policy, exactly what commitment the Government of Canada is prepared to make, in dollars and cents or in percentage terms, for the capital and operating costs of this proposed new museum?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I understand the estimated cost of the new facility is the order of $84.25 million.

• (1630)

The private sector has indicated a willingness to participate in fund-raising efforts, I understand, in the amount of $15 million. The reallocation of monies from the Canadian Museum of Civilization fund is in the order of $7 million. The value of the land transferred by the Department of National Defence and the National Capital Commission is in the order of $4 million. That would bring down the incremental resource requirements for the project to $58.25 million, in exact figures as I understand it.

As far as the government is concerned, it is full steam ahead.

REVENUE CANADA

MANITOBA—SEIZURE OF ASSETS OF INDIVIDUAL FOR NON-PAYMENT OF TAXES

Hon. David Tkachuk: Honourable senators, my question for the Leader of the Government in the Senate regards the recently reported Revenue Canada raid seizing the assets of an individual in Winnipeg for non-payment of taxes.

This particular action shows what happens when too much power is given to government institutions. It does not seem unreasonable for the government to use various avenues to collect money owing after failing to get money in the regular way, by perhaps asking for it and writing letters and using the judicial process. I know that it can be quite difficult to garner the funds that Revenue Canada believes they are owed through the judicial process.

However, I and, I think, many Canadians were particularly shocked that Revenue Canada would seize a 12-year-old boy's bike, his medal of bravery — a humanity medal which he had earned — with plans to auction them off along with other toys that they had taken. Revenue Canada did make an about-face and return the medal, but it seems they did so only after they found out they could not get much money for it.

I know that the government finds that its multi-billion dollar surplus is inadequate and so therefore is penalizing the Canadian people with high income taxes.

Honourable senators, I am trying to be at least half as long as Senator Graham was in answer to the previous question. The government is also taking the surplus of the Unemployment Insurance fund and taking pension funds, as evidenced by Bill C-78. However, I think taking a child's toys and bike is a little unreasonable.

Will the Leader of the Government undertake to ensure that Julius Rosenberg gets his bicycle and other toys back?

Hon. B. Alasdair Graham (Leader of the Government): Yes, honourable senators, I would put my best efforts forward. As a Canadian, as I watched that story being told on television, quite frankly, I was embarrassed. Insofar as it is possible on the part of the Leader of the Government in the Senate to do so, I apologize.

I understand that most of the other effects, such as the teddy bears, have been returned, but I shall make the appropriate inquiry and make my best efforts to ensure that all those things have been returned to this young boy.

NATIONAL DEFENCE

CONFLICT IN EAST TIMOR—DUTIES OF PEACEKEEPING FORCE—CONSIDERATIONS IN PREPARATION FOR MISSION

Hon. A. Raynell Andreychuk: Honourable senators, it was announced by the Prime Minister that we will be sending peacekeepers to East Timor. Could we be advised what the peacekeepers will undertake and whether their readiness is immediate?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, they would undertake to do what regular peacekeepers do: maintain and keep the peace.

With respect to their readiness, we have been assured by officials of the Department of National Defence and, indeed, by the Minister of National Defence that we do have the troops available and that we can call upon them, whether they be in Canada or other theatres at the present time. We can deploy upwards of 600 troops as Canada's contribution to the terrible uprisings in East Timor.

I understand as well that there may be a complicating factor with respect to time because of inoculations. These considerations would come under the general heading of medical requirements. Canadian Forces troops will be required to have the appropriate medical vaccinations, some of which might need to be administered, I am told, up to 30 days prior to possible exposure. Specifically, our troops would need to be inoculated against Japanese encephalitis, which requires, I understand, 28 to 30 days lead time.

Senator Andreychuk: Honourable senators, am I to read into the leader's reply that neither the United Nations nor Canada had anticipated sending peacekeeping troops until the APEC meeting?

Senator Graham: If the honourable senator is referring to whether or not they should have anticipated and inoculated, I suppose, in fairness, she should come a little closer to the conclusion that, indeed, peacekeeping troops will be sent before you subject the troops to an inoculation.

As I indicated last week, Canada played a very key role, on the margins of APEC, in initiating discussions among foreign ministers of some 20 countries to bring this action about. Minister Axworthy had written early in the game to the Foreign Minister of Indonesia urging Indonesia to allow peacekeeping forces to be present in that country and in East Timor specifically.

The special delegation of the United Nations, including the President, the Foreign Minister, and the Chief of the Armed Forces Staff of Indonesia, which went to East Timor, is due back in New York at the United Nations this afternoon, as is the foreign minister of Indonesia. I understand that a meeting of the Security Council, in which Canada will play a leading role, is scheduled for later today, if it is not already underway.

Senator Andreychuk: Honourable senators, on a further supplementary question, the minister indicated that if we inoculate our peacekeepers before we send them to East Timor, there will be a 30-day delay. However, if we are sending peacekeepers to maintain the peace and there is a 30-day delay, how can we expect in any way save East Timorese lives?

I come back to my first question. Was Canada part of any discussions prior to the APEC meeting in New Zealand that would have anticipated violence in East Timor?

My point is again, and I will make it over and over, that we are getting involved in United Nations ventures and in NATO ventures like Kosovo without understanding the full consequences of what we are doing. We are justifying our actions by saying we are saving lives, but we are not saving the lives.

Senator Graham: Honourable senators, we talk about anticipatory democracy, and this is anticipatory peacekeeping. It is all well and good to suggest what could have been done, but at same time, as I said earlier, I do not know that we would subject our troops to inoculations which they might not need until we are a ways down the road to taking such action.

There is no question that Canada played a leading role in bringing about the present action. The present action not only involved the foreign ministers and Prime Ministers and the President who attended the APEC meetings in New Zealand, but also the UN Security Council. As well, within our Armed Forces, the Chief of Defence Staff and his officials had to examine whether or not we had the necessary troops, and they have now answered in a very positive way that we indeed have the troops available.

• (1640)

There was another very fundamental question, namely, whether or not President Habibie and the Government of Indonesia would allow peacekeeping forces into Indonesia or into East Timor. I do not believe Canada recognizes the jurisdiction of Indonesia over East Timor. However, that is another question for another day.

At the same time, any peacekeeping forces entering Indonesia or East Timor without the invitation and the concurrence of the Government of Indonesia would be tantamount to an invasion.

Senator Andreychuk: Honourable senators, am I to take from this that we understand which peacekeeping role we would play? The minister has indicated that we have canvassed the military to determine if we have sufficient peacekeepers. Do we know the role of the Canadian peacekeepers who will go there? Is it the policy of the Canadian government that when the United Nations triggers a peacekeeping venture we will provide 600 troops irrespective of the mandate they may have to fulfil? Are we ready to play that role?

Senator Graham: Honourable senators, our troops have been as well trained, if not the best trained, for peacekeeping roles as any other force in the world, as our record would show. We are very proud of it.

Whether our troops would be specifically for transportation, logistical or police purposes or, perhaps, a combination of all three and many more, or for assisting in the provision of much needed humanitarian aid, is something that is being determined by officials at the present time.

Senator Andreychuk: Honourable senators, is the minister prepared to provide us with the definition of "peacekeeping" in the case of East Timor? I ask that question because I am not clear on the meaning of the word "peacekeeping." It has taken on many shades and variations, from roles akin to peacebuilding and peacemaking, to out-and-out action and war, as perhaps Kosovo could be fairly characterized.

Senator Graham: Honourable senators, the answer to such a question could cover a lot of ground. I personally watched our peacekeepers in Namibia. I watched them on the Angolan borders when I was there election observing. I have seen them in Nicaragua and other countries. They undertook a variety of chores and played a variety of roles in assisting in keeping the peace in those areas.

There are not only members of the Canadian Forces but members of the Royal Canadian Mounted Police. At the present time in East Timor, there is a member of the RCMP and a member of the Toronto police force, I believe, who are trying to provide some assistance, training and stability for that particular area.

Hon. Pierre Claude Nolin: Honourable senators, I wish to be clear on the answers given to my colleague. To which article of the UN Charter is the minister referring, Article 6 or Article 7? His answer seemed to refer to Article 6.

Senator Graham: Honourable senators, I will find that out.

Senator Nolin: They are totally different.

Senator Graham: Yes, I understand. I do not know if that has yet been determined, Senator Nolin. However, I shall attempt to find out at the earliest possible time. If I do not find out today, I will try to have an answer for the honourable senator tomorrow.

[*Translation*]

QUESTION ON THE ORDER PAPER

REQUEST FOR ANSWER

Hon. Gerald J. Comeau: Honourable senators, on May 6, I asked a question about fisheries, and I wonder whether I will receive an answer before Parliament is prorogued?

[*English*]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I shall attempt to urge the transmission of that answer as soon as possible.

ORDERS OF THE DAY

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1999

THIRD READING—VOTE DEFERRED ON MOTION IN AMENDMENT—POINT OF ORDER

On the Order:

> On the motion of the Honourable Senator Taylor, seconded by the Honourable Senator Finnerty, for 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; and
>
> On the motion in amendment of 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.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have a point of order which I would have raised on Friday, when it should have been raised, but I was not able to be here for the last hour of the proceedings. Therefore, I only spotted the discrepancy while reading Hansard this morning. I refer to the vote which has been deferred until 5:30 p.m. today, which I feel is not in order for the following reasons: First, the motion that was made to hoist the bill for 11 days is a non-debatable motion, and should have been voted on immediately. Second, debate was allowed on the motion by Senator Hays and others, which is also irregular and out of order.

Thus, I bring this matter to the attention of the chamber and to His Honour in particular. To my mind, the Senate engaged in an activity which is not permitted by the rules, namely, it deferred a vote on a non-debatable, dilatory motion which should have been voted on immediately, or as soon as the rules permit after the motion was made and seconded.

As a matter of fact, the day before, Senator Stratton, I believe it was, made a similar motion for a six-month hoist on Bill C-78. We proceeded properly by having the vote, after the bells were rung for half a hour, or whatever it was. At any rate, the vote was taken as soon as it would have been taken, whereas on the following day, I maintain that the house was completely out of order in deferring the vote until today, and further, allowing debate on it.

The Hon. the Speaker: I thank the Honourable Senator Lynch-Staunton for raising the matter. I will look into it immediately.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it may be of some help to the Chair if I refer His Honour to page 173 of *Beauchesne's Parliamentary Rules & Forms*, 6th Edition. I refer to the rubric "Types of Motions" where His Honour will find a definition of dilatory motions.

Our rule 23(4) states:

> The provisions of section (3) above shall not apply to dilatory or procedural motions, which can be moved without notice and must be decided without debate.

On page 173 of the 6th edition of Beauchesne, dilatory motions are defined. A hoist motion is included within the category of dilatory motions.

Hon. Anne C. Cools: Honourable senators, I am trying to follow what is being asked for here. Do I understand that Senator Lynch-Staunton is asking for a ruling from His Honour?

Senator Lynch-Staunton: Honourable senators, I am just pointing out that the house acted in a very irregular fashion on Friday. I felt that the least that could be done was to bring it to the attention of the house.

Whether we should proceed with the vote is something else. I raise the matter because too often we have been too relaxed with the application of the rules here, which inevitably leads us into being too generous with our interpretation. In this case, that has led us into making what I think is a gross breach of the rules.

The Hon. the Speaker: If no other honourable senator wishes to speak to the point of order, I will take it under advisement and report as quickly as I can.

• (1650)

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. Ione Christensen: Honourable senators, I see two simple and fundamental issues here: One is a legal issue; the other is a perceived moral issue.

It would be morally repugnant to me, as it would, I am sure, to any member of this chamber, if a government were to steal the hard-earned money of its employees. From the arguments presented by the honourable senators across the way, they would have the media, the public, and this chamber believe that that is indeed the case.

I have difficulty seeing the logic of that argument. If there is a deficit and the government is responsible for 100 per cent, not just 40 per cent, how can it conversely be argued that, when there is a surplus, the government should only be entitled to 40 per cent or none at all?

It would appear that based on past actions, there is a strong legal argument — and I do not pretend to be a legally trained person — that the government has a legal responsibility to any deficit and, conversely, logic would dictate, a legal responsibility for the surplus.

Canadians would have serious cause for concern if their government were to divest itself from the responsible management of $30 billion, from whatever fund, over which it had a legal obligation. Ask any farmer in Manitoba, Saskatchewan, Alberta, or other parts of this great nation. Ask the fishermen on the East and West Coasts. Their retirement benefits are non-existent. Generations of invested time and money in the land and the sea are disappearing.

The issue here is how this fund will be used. Senator Lawson suggested that the fund be used to assist RCMP widows who fell under the pension where members elected to contribute or not. My father, G.I. Cameron, who was a proud member of that force, fell into that category and his pension died with him. The surplus could indeed be directed to such a worthy need. However, there is a danger in adding to benefit packages. There is no problem when there is a surplus, but how do you continue to service such additional increased benefits in a deficit situation?

Senator Lawson's comments were certainly right on. Those RCMP wives did indeed fill in for their husbands when they were on patrol. As a child, I lived for 15 years in an isolated post. My father was the only officer. He was on duty 24 hours a day. In those 15 years, I never saw him out of uniform. My mother was the policewoman when he was on patrol, and it was rumoured that the policewoman was much tougher than the policeman.

The pertinent issue in this bill is how these funds will be used. That is for negotiation. Such answers are yet to be determined. I would prefer that we had this information before approving the bill, that assent be withheld until that could be determined, but the bill and much needed reform would be lost.

Ownership of the surplus will be determined in the courts. This legislation should be in place so that further revisions can be made to better the needs of those affected.

The public service have earned and received one of the best benefit packages in Canada. This bill does not take away, reduce, or affect the pension entitlements of any person under these plans. These benefits are protected through existing legislation and many clauses in this bill would enhance those entitlements.

Honourable senators, I would prefer to have far more background on the matter than I have. However, with my limited research and in discussion with other members of this chamber who have done research, I am willing to accept their considered opinions on the merits of this bill, albeit not a perfect bill, but a position from which to build.

Initially, I was concerned with the impact of this bill on proposed changes to employer contributions as they apply to the Yukon. While I understand that there are proposed changes to regulations that would place a greater burden on all three territories, those regulations are not part of this bill, nor does this bill affect them. That is a different fight and one that I shall pursue.

A dead bill goes nowhere. Money and years are wasted starting over, if a new start is made at all. However, active bills grow with cooperative negotiation and all can benefit.

I support the bill knowing that our work has only just begun and that we must now follow up the progress to ensure fair application.

Hon. David Tkachuk: Honourable senators, I congratulate Senator Christensen on her maiden speech.

Hon. Senators: Hear, hear!

Senator Tkachuk: Senator Christensen said that there was concern due to the extra cost of bringing new people into the pension plan. I should like to know her thoughts concerning the fact that the RCMP widows will not be part of the plan but that a conjugal benefits clause will extend benefits to a variety of new people who were not a part of the original plan. Would she comment on whether she supports that part of the plan that will extend benefits within the pension plan as it presently stands?

Senator Christensen: Honourable senators, I should be pleased to respond.

I must tell you that my father retired from the RCMP in 1949. I was in grade seven or eight at the time. Therefore, my knowledge of the plan as it stood at that time — and it certainly has changed since — is a little vague.

I do know that the members at the time were allowed to elect whether they wished to contribute. If they elected to contribute, then the widows were able to benefit. If they did not elect, then they knew, as did the family, that the widows would not receive the benefit.

Regarding the other question, I am sorry, but in last five days I have not been able to make myself totally familiar with the ramifications of the bill. At a later date, I shall be able to answer the honourable senator's question in a more responsible way.

Hon. Pierre Claude Nolin: In her maiden speech, Senator Christensen made reference to arguments presented by other senators in this chamber. In so doing, she referred to my speech of Friday morning. It was my intent to give a new life to this debate; that is why I referred to two decisions from the Province of Quebec.

I wish to remind the honourable senator, before asking for her thoughts on those decisions, that those decisions related to the pension funds of two private corporations. In one decision, the Appeal Court of Quebec decided that, even if the fund was only funded by the employer, there was a contractual relationship between the employees and the employer that the fund and the fund surplus were for the employees, period. Does the honourable senator have any thoughts on that?

Senator Christensen: Honourable senators, with my limited knowledge of the ramifications of this particular fund, I know that when a persons terminate prior to six years of employment under the superannuation fund, they receive back only their own contribution.

I assumed that if the combined employer-employee contribution was part of the total employee benefit, the employer's contribution would be refunded to them at that time as well, and that is not the case. That is where I have some difficulty.

• (1700)

Senator Nolin: The judges said in the appeal court —

Senator Taylor: Maiden speeches are not questioned.

Senator Nolin: We are dealing with important matters here, and my colleague has decided to speak on this issue. It is important that we have a thorough exchange on what has been said.

Senator Taylor: We did not question your maiden speech.

Senator Nolin: The judges said that, in deciding what to do with a pension fund, we must first look at the regulations and the rules of the specific fund. If there are no rules, the employer and the employee should conduct discussions aimed at arriving at a settlement. In the present case, there was no discussion, which is why the thoughts of my honourable friend are very important to me.

On motion of Senator Andreychuk, debate adjourned.

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Taylor, seconded by the Honourable Senator Finnerty, for 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.

And

On the motion in amendment of 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.

Hon. Thelma J. Chalifoux: Honourable senators, I rise today to clarify some of the comments that Senator Ghitter made in reference to the aboriginal senators who participated in the review of Bill C-32. I have never been one to participate in personality politics; therefore, I wish the record to show that the statements made by my honourable colleague on the other side are not well founded at all.

In my years as a Métis activist and elder, I, along with my council, were charged with reviewing all resolutions and by-laws of our Alberta Métis Nation and with developing a government structure for our nation as a whole. We were also charged with dispute resolution as it related to our traditional justice system. I hope that I bring some of these teachings to our committee system.

Honourable senators, I am my own person. I try to be as fair and non-judgmental as I can when I listen to all sides of the argument. Yes, I am concerned with parts of this bill, but I see many improvements over the previous bill, as Senator Hays related to this house in the last sitting.

In 11 years of review, there was no participation with all aboriginal leaders of this country. This is borne out in the wording of many parts of this bill. One amendment to this bill will not rectify the inclusion and consultation process with aboriginal nations.

This bill is one of the most complex and challenging pieces of legislation that I have participated in since my appointment to this most prestigious house of sober second thought. There are many improvements in the new bill, but we still have a long way to go to meet the many challenges that must be addressed in protecting Canada's environment.

One of the improvements is in Part 10, clauses 216 to 312, whereby the enforcement officers now will have the authority to issue environmental protection compliance orders to stop illegal activity or to require action to correct a violation, and these orders are valid up to 180 days.

Honourable senators, personally, I view this bill as a living document. The review process must begin soon after the passage of this legislation, especially in the areas of participation and consultation with the aboriginal nations of Canada.

The Constitution Act, 1982 recognized that there are three separate, distinct nations of aboriginal peoples in Canada. They are the Inuit, the Métis, and the First Nations. This is not spelled out in this legislation.

The definition of "aboriginal land" must be reviewed. In the present definition, very little consultation will be able to take place with aboriginal nations, as it limits the process to only lands that are subject to the Indian Act.

Aboriginal peoples have occupied most of the northern parts of our country for thousands of years. Most of these lands are not under the Indian Act, but the aboriginal peoples are still the caretakers of this part of our world. As they do not identify the three aboriginal nations, the vagueness of the definition of aboriginal lands and governments affects other parts of this bill. This is why a review of the clauses of this bill as they relate to the aboriginal peoples of Canada is so important.

The Inuit nations of the Arctic are in a similar situation regarding the issue of consultation and committee structure. Many different regions of the Arctic are not able to be heard through one representative. A structure must be developed that includes all Arctic regions because, in my opinion, it is the northern part of our country that will determine the future well-being of all Canadians. Therefore, this part of the bill must be thoroughly reviewed over the next few years with a view to clearly spelling out a consultation process regarding the department's obligation to consider and to act on the recommendations of the committee.

Honourable senators, this legislation highlights the inadequacy of the existing situation of the Métis Nation and all aboriginal peoples of Canada who are not part of the treaty process to participate and negotiate in all issues of importance to all Canadians.

I support the passage of this bill so that we can move forward into the next century with total inclusion and participation for the benefit of all Canadians.

Hon. Pierre Claude Nolin: Honourable senators, I am sure Senator Chalifoux heard the speech of Senator Hays the other day. He proposed that the Métis could be elected as representatives on the National Advisory Council under this legislation.

Does the honourable senator support what Senator Hays said?

Senator Chalifoux: No, I am afraid I cannot support it. When one looks at the legislation and the way it is written, the qualifications to sit on that committee absolutely negate the inclusion of the Métis, as well as the Inuit who are not part of Nunavut.

Senator Nolin: Correct me if I am wrong, but I believe we are reading the bill the same way because only aboriginal government representatives can be elected. The Métis of Canada cannot be elected as representatives to sit on the National Advisory Council.

Senator Chalifoux: That is correct, but in order for this bill and for the environment act to go forward, we must begin now.

I met with Gerald Morin this morning concerning this bill. I explained everything to him, and he was of the same opinion.

In 11 years, the Métis were not consulted once on this bill. The Métis National Council would like the opportunity to sit down with the committee and review the bill. Mr. Morin agrees with me that if, we are to do that, we must pass this bill now and begin the review process immediately so that in five years everything is set and we can become involved.

Senator Nolin: Is the Honourable Senator Chalifoux familiar with the decision of the Supreme Court in *Sparrow*? Has she read it?

Senator Chalifoux: No.

Senator Nolin: I will make a speech tomorrow and refer to that decision at length. There is an obligation on the part of the federal government to consult under section 35 of the Constitution, not only with the First Nations and the Inuit, but also the Métis.

• (1710)

Senator Chalifoux: The Inuit and the First Nations are recognized under section 35 of the Indian Act by the Department of Indian Affairs. The Métis are not. Even though they are included, they are not recognized, and that is why I stated in my last section that that must be clarified so that we can move forward as a nation.

The Hon. the Speaker: Honourable senators, I regret that I must interrupt the debate. As you know, there is an order of the Senate that at 5:15 the bells must ring for the vote at 5:30 p.m., and I wish to report on the point raised by the Honourable Senator Lynch-Staunton.

THIRD READING—VOTE DEFERRED ON MOTION IN AMENDMENT—POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, in his comments, Honourable Senator Lynch-Staunton indicates that he believes the motion that was passed is a hoist. I have looked into the authorities and I find that, indeed, a hoist motion, if it is a hoist motion, is a debatable motion in any case. However, if you look at the motion that was made on Friday, it is after debate, in amendment. The Honourable Senator Ghitter moved, seconded by 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.

Therefore, that motion was moved as an amendment to what was then a debatable motion, and following the practices that we have would be a debatable amendment and, therefore, one that can also be deferred insofar as a vote is concerned.

I rule that the motion in amendment is in order.

Hon. John Lynch-Staunton (Leader of the Opposition): May we ask questions on this ruling? I am very confused. The bells must ring; let them ring.

The Hon. the Speaker: We have three minutes. We are fairly flexible in our rules, and I have no objections, if honourable senators agree, to having a question.

Senator Lynch-Staunton: Just to be clear, because this is not a written ruling, did His Honour say that the motion that we are voting on is debatable even though it is a hoist motion? Did I understand him correctly — and that, therefore, it can be deferred?

The Hon. the Speaker: I refer the honourable senator to Beauchesne. There he will see that there are three types of amendments that may be proposed at the second reading stage. These are the hoist, the reasoned amendment and the referral of the subject-matter. The hoist is an amendment and, therefore, is debatable. That has been our practice here, I understand, both on second reading and on third reading.

Senator Lynch-Staunton: Since His Honour is allowing this conversation, what is the difference between that motion and Senator Stratton's motion for a six-month hoist, which we were told by one Table Officer was non-debatable and non-deferrable?

The Hon. the Speaker: I do not know where that information came from. However, honourable senators, it does point up one of the problems that we have in this chamber. No objection was raised on Friday, when the motion was made, and therefore the assumption is that the chamber had agreed to proceed in that way.

This is a constant difficulty, both for myself and for the Table Officers. There are many cases where I know that the Senate is operating against its own rules. However, it is not for me to interfere. If the rules are broken, it is really up to honourable senators to raise the matter.

This is something that possibly we should consider as a Senate. Do honourable senators expect the Table and myself to correct when matters come up? I can tell honourable senators that there are a number of motions made here at times that are completely out of order. Now, is it for us to interfere? That is the point that the Senate must resolve for itself.

In this case, no one objected on Friday, therefore one can only assume that the matter is acceptable to the Senate.

Senator Lynch-Staunton: Let us speak beyond 15 minutes, while we are at it. Ignore the rules completely. Unbelievable.

The Hon. the Speaker: In any case, it now being 5:15, I will ask for the bells to be rung for the vote to be held at 5:30 p.m.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Taylor, seconded by the Honourable Senator Finnerty, that Bill C-32 be now read the third time.

• (1730)

It was then moved in amendment by the Honourable Senator Ghitter, seconded by the Honourable Senator Cochrane, that Bill C-32 be not now read a third time but that it be read a third time on Tuesday, September 21, 1999.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Lynch-Staunton
Atkins	Meighen
Beaudoin	Murray
Buchanan	Nolin
Cochrane	Prud'homme
Comeau	Rivest
Doody	Roberge
Forrestall	Robertson
Grimard	Rossiter
Kelly	Simard
Keon	Spivak
Kinsella	Tkachuk—25
LeBreton	

NAYS

THE HONOURABLE SENATORS

Adams	Kirby
Austin	Lewis
Bryden	Losier-Cool
Callbeck	Maheu
Carstairs	Mahovlich
Chalifoux	Mercier
Christensen	Milne
Cook	Moore
Cools	Pépin
Corbin	Perrault
De Bané	Perry Poirier
Fairbairn	Poulin
Ferretti Barth	Poy
Finestone	Robichaud
Finnerty	(*L'Acadie-Acadia*)
Fitzpatrick	Robichaud
Fraser	(*Saint-Louis-de-Kent)*
Furey	Rompkey
Gauthier	Ruck
Gill	Sparrow
Grafstein	Stewart
Graham	Taylor
Hervieux-Payette	Watt
Joyal	Wilson—47
Kenny	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: The question now before the Senate is the motion for third reading.

Therefore, it is moved by Honourable Senator Taylor, seconded by the Honourable Senator Finnerty, that Bill C-32 be read the third time now.

[*Translation*]

Hon. Mira Spivak: Honourable senators, Bill C-32, a bill that is supposed to protect both the environment and the health of Canadians, will protect neither.

I am not the only one to hold this view. It is shared by most witnesses who have appeared before the Standing Senate Committee on Energy, the Environment and Natural Resources, by numerous editorial writers and columnists, and by thousands of Canadians who have signed a petition to the Senate. It is also shared by the three most well-informed Liberal members, two of them former ministers of the Environment and the other a Parliamentary Secretary to the Minister of the Environment.

[*English*]

It means the same thing, unlike the bill, where "cost-effective" and "effective" do not mean the same thing. I wish to make that point.

The legislative process in the House of Commons on this bill was at various times either a farce or a tragedy. It was a drama with heroes and anti-heroes, with Paddy Torsney as the unlikely "Enforcer." In this house, it was tragi-comic with our very own Enforcer, Senator Taylor; he was more believable. A representative of the mining industry before our committee dubbed the process "dysfunctional" and others concurred.

We on this side intend to propose a series of amendments, as we promised those who appeared before us in committee. We are doing this, not because we believe that they will be supported by the majority but because we think it is important to place on the public record a response to the new evidence presented to the Senate committee. We also think that it is important to demonstrate how this bill could be improved if some aspects were returned to the House of Commons committee version and other matters corrected. That is our only option. However, there is every indication that the bill will not be allowed to die a merciful death, nor will it be amended.

Time and will permitting, this bill could be transformed by the Senate into a dynamic vehicle for the protection of the health of Canadians. We could do better than what was possible in the House of Commons, where those who subscribe to protecting the health of Canadians and the environment were forced to make compromises as a result of industry pressure, government opposition and the presence of the Reform Party.

The Senate might have performed an outstanding service to the country. The opportunity was lost to expediency.

We could, for example, have listened to Dr. Graham Chance and Dr. Eva Rosinger of the Canadian Institute of Child Health. In their excellent brief they stated:

> If amended, Bill C-32 would be the first official Act to acknowledge the special susceptibility of children to environmental contaminants.

• (1740)

An editorial of September 14 in Montreal's *The Gazette* observed:

> There is no better occasion for senators to take an active role than the consideration of legislation of this type. When dealing with The Divorce Act, they acted to protect children....The Senate should speak again for those with no one to represent them — children and future generations.

Before I explain why I am making these amendments, I have a few general observations. The playwright Eugene Ionesco is considered a master of the theatre of the absurd, but I should like to compliment the author of the majority report on Bill C-32 as a practitioner of the same school. The majority report recommends that a review of Bill C-32 begin immediately after it is passed. In other words, we should pass a bad bill and, once it is the law of the land, we should begin to talk about amending it sometime in the distant future.

It is like the Star Wars movies — sequel last, episode 4 first — or like Lewis Carroll's *Alice's Adventures in Wonderland* — sentence first, verdict afterwards.

I also wish to respond to Senator Taylor's characterization of the motives of "environmental witnesses" before the committee. In suggesting that they oppose the bill so that funds could be attracted to their organizations, I would caution Senator Taylor that he runs the risk of being regarded as a poster boy for the Flat Earth Society.

Could witness Sam Bock, who coaches this country's top athletes, have had this ulterior motive? Was it behind the presentation of the Canadian Institute of Child Health, which, for 20 years, has been representing children's health, especially their environmental protection? What about the Inuit Tapirisat of Canada? Was Senator Taylor thinking of the skilled lawyer representing the Canadian Institute for Environmental Law and Policy, who acts on behalf of the poor at legal-aid rates, or the research director of MKO, representing 26 northern First Nations of Manitoba? If his accusations were credible, would industry have lobbied with such intensity to change this bill? Is this just an exaggeration?

As the Prime Minister's Office learned this summer from its polling data, the environment is one of four hot buttons for Canadians, one of only four issues about which Canadians are both most concerned and most pessimistic because of government inaction. It is right up there with homelessness, taxes, and the deficit. Far from exaggerating the problems with this bill, I say that the so-called environmental witnesses have been exceedingly responsible, almost to the point of restraint.

While Bill C-32 does contain some good new measures — and we have heard about them from various senators opposite — it also creates new barriers that prevent the ministers of environment and health from actually doing anything once a substance is determined to be CEPA-toxic. The harmonization provisions, elimination of any fast-track for regulation, the residual nature of this bill, the obligations to consult now having been codified — it is now statutory — and the powers that are taken out of the hands of these ministers and given to cabinet all lead to two possibilities: delay and inaction.

As our committee was told by the research director of the Canadian Institute for Environmental Law and Policy:

> ...as the bill evolved...it changed from being an environmental protection bill to a bill whose purpose, frankly, was to constrain the abilities of the Minister of Health and the Minister of the Environment to take action to protect human health and the environment.

The Mining Association of Canada presented us with what it called a "simplified flowchart of Part 5," showing how the new regulatory regime might work. There are 33 boxes on it.

The main reason we should amend this bill, however, is to protect the health of our children, our grandchildren, and their grandchildren. The Canadian Institute of Child Health set it out clearly:

> There are many factors that determine whether a child is born healthy and stays healthy into adulthood. Among them, influences from the environment rate highly....Exposures (to toxic substances) at critical periods of development, from conception to adolescence, can result in irreversible damage to growing nervous systems and affect emerging behaviour patterns, cause immune dysfunction and have serious reproductive effects.

The lack of definitive data, in particular data on the effects of any given toxic substances on children, makes it all the more imperative that the precautionary principle be applied. We should not wait for full scientific certainty when delay can mean irreversible damage to growing children; neither should we require that the action be cost-effective, whatever that might mean.

The Canadian Institute of Child Health proposed specific amendments to Bill C-32, and I am sure my colleague Senator Cochrane will address them.

With respect to my specific amendments, I wish to speak first to the matter of virtual elimination. Before I do that, though, I feel I must comment on the address that Senator Hays gave here on Friday. I am sorry that he is not here because Senator Hays gave his usual, thoughtful, intelligent address. With due respect, however, on the issue of virtual elimination, he was just wrong. He said that it is just a question of emphasis between the Commons committee version and this bill, as it now stands, that the difference between eliminating the use and the generation of substances and virtually eliminating them is a question of emphasis. However, it is not a question of emphasis, honourable senators. There is a profound difference between eliminating the use and generation of substances and the quantity of these substances that industry can release.

Remember, honourable senators, that we are speaking here of only the most dangerous substances, perhaps a dirty dozen or two, for which most observers say there is no safe level of release.

Honourable senators, I have a few quick points to refute the contention of Senator Hays that it is no big deal but just a matter of emphasis.

First, industry representatives put forward one of the most intensive lobbies to weaken virtual elimination. It was a key issue for them. They got their request because essentially the same proposals on virtual elimination put forth by industry were accepted by the government and incorporated into the bill at report stage. Industry told us that they wanted only control of releases in that clause, not elimination. They told us that. They were quite above board.

Second, although the goal of virtual elimination is contained in proposed section 65.1 — and I apologize for being technical for those who have not had the pleasure of going through the 356 clauses of the bill — all of the implementing provisions were changed to refer back to subclause 65(3), which deals with releases only — that is, interim goals. Therefore, clause 65.1 is effectively irrelevant. This is why the Department of the Environment internal memo, leaked to our committee, says that replacing "virtual elimination" with the words "implementation of subsection 65(3)" would make virtual elimination impossible.

In order for the minister to use subclause 93(1)(*l*), which is another of the tools to ban substances, a substance would first have to be determined to be toxic to be placed on the priority substances list. This presents problems because the concept of inherent toxicity or hazard assessment in subclause 77(3) was also changed as a result of industry pressure. Extensive amounts of data are required to conduct a full risk assessment, and this is not possible for some of the very dangerous substances, such as endocrine disrupters. For 13 substances on the first priority substances list, the assessment could not be completed for this reason.

In summary, for the benefit of Senator Hays, the changes made to this bill with regard to virtual elimination negate a key goal of CEPA, which is pollution prevention, because the focus is on controlling the amount of pollution rather than preventing or avoiding the use and generation of these substances in the first place.

Senator Ghitter has already read into the record the words of the Red Book that contradict what is before us in this bill. They talk about managing and controlling pollution and they talk about timetables. I will not repeat them. They express very well what those of us on this side would like to see happen to Bill C-32.

We also agree with the 1993 Red Book where it states that:

> Manufacturing innovations are needed to avoid the use or creation of pollutants in the first place; for example, through raw material substitution or closed-loop processes that recycle chemicals within the plant.

• (1750)

We saw firsthand the pulp and paper industry's response to regulation of effluent during our Agriculture Committee's study of the boreal forest, and it was encouraging. We saw a mill in Saskatchewan that had no effluent at all. It attracted customers from Europe because it was a closed-loop process. We heard from industry officials everywhere about the progress that had been made since those regulations were put in place and industry was given time to adapt.

We believe that this country should be moving in the direction of phasing out the most harmful substances — those that are persistent, bioaccumulative, and still in use today — and the bill's preamble should reflect that idea by reverting to the wording that was drafted by the House of Commons committee.

At that point, it was clear that phase-out was the goal for those man-made substances that present the worst problems. We need to stop using them and producing them as by-products. There are not many of them. Just a dozen have been identified. Industry stopped using most of them years ago. No government had to ban them or phase them out. Industry developed replacement chemicals that are not as harmful. We should send a message to industry that the rest of them should be phased out, too, and they ought to work on finding replacements.

At report stage, this concept was removed, and the operational sections of the bill were altered. They were altered, as the leaked memo told us, to make virtual elimination unworkable and because of industry pressure. Already we have seen the impact of that change. Canada sent a delegation to last week's United Nations meeting in Geneva aiming for a global treaty on

persistent organic pollutants. The Canadian delegation was among the very few that advocated risk management — that is, just controlling them. They did so knowing that only a phase-out or a ban can protect northern Canadians, as we were told by the Inuit Tapirisat.

The Inuit Tapirisat of Canada told our committee that up to 65 per cent of women in the North tested for PCBs in the blood had levels five times greater than Health Canada's level of concern. These and other hormone-mimicking chemicals are in their blood and in body fat because the food they eat is contaminated by pollution. It is as simple as that.

I also wish to raise —

The Hon. the Speaker: Honourable Senator Spivak, I regret to interrupt you, but your 15-minute speaking period has expired. Are you requesting leave?

Senator Spivak: Yes.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Spivak: I also want to raise, with amendment, another important matter that until recently has been a sleeper in the public debate. I refer to those sections of the bill that refer to the regulation of products of biotechnology and their potential impact on health and the environment. In addition to Part 6 of the bill, references can be found in the preamble, in the administrative duties section of the bill, and in a seemingly innocuous section buried deep in the back of the bill, namely, clause 347. Many of these sections were changed at report stage in the other place. I wish to set out what is at stake.

Unlike the countries of Europe, Canada has made an enormous commitment to commercialized biotechnology — this very new business of taking genes from one plant or animal and randomly inserting them, along with viruses, antibiotic-resistant genes and bacteria, into another plant or animal to produce a new product that consumers are expected to purchase. This is a new kind of biotechnology. This is not the traditional breeding that we have had for years. It breaches the walls of species.

Governments have been making a large investment in biotechnology. Since 1994, Agriculture and Agri-Food Canada and its Canadian Food Inspection Agency alone have contributed tens of millions of dollars to joint research in biotechnology.

As we heard last year, Health Canada is expecting a 200 to 500 per cent increase in the number of products that companies will ask it to assess for human safety. Among other things, biotechnology firms are developing the capacity to produce foods that carry vaccine, and it is not clear whether this is an unmitigated good or whether there will be unintended consequences.

Corporations also hold patents on technology that stops plants from reproducing. The terminator gene, as it is commonly known, would prevent farmers from saving their seed from one crop year to the next. There is not much disagreement that it is a bad thing for everyone except the corporation that controls the technology. Of course, it would be a very bad thing for Third World countries.

Debate in Europe over biotechnology has been intense. Consumers, major food retailers, and importers are now saying they do not want biotechnology altering their food, and they do not want to buy the genetically engineered crops grown in our country or in the United States. We will most certainly have a debate in this country on this very topic.

I will not attempt to address all the health and environmental concerns raised by biotechnology. To give you a few, we do know that genetically engineered products can be toxic. In fact, one of the first of them, L-tryptophan, a common dietary supplement, killed 37 people in the United States in 1989 and left more than 5,000 others with a painful blood disorder before it was pulled from the market. We know that there is uncertainty and controversy over whether some foods now on the market pose a health hazard. In Britain, a highly reputable British scientist went public with his findings.

We know that transferring genes between species can be a particular problem for people who suffer allergies. We know that pollen from genetically engineered crops can travel for miles and pollute the fields of organic farmers. It is happening everywhere from Texas to Saskatchewan. Organic farmers are concerned that their produce cannot be certified.

We know that pollen from genetically engineered Bt corn harms Monarch butterflies. That study came out of Cornell University.

We know that weeds can cross pollinate with some of the genetically engineered crops. We may be inadvertently developing super-weeds that will be difficult to control because they carry a resistance to herbicides that corporations engineered into crops.

The existing Canadian Environmental Protection Act was the first and only time Parliament had spoken directly to the question of how products of biotechnology are to be regulated in Canada. The statutes that we have now require that producers of all biotechnology products notify the government and subject the products to an assessment for toxicity before putting them on the market. This existing law allows other legislation to regulate biotechnology products too, but only if the process is as stringent as the CEPA process.

Regulations under the Seeds Act, Fertilizers Act and Feeds Act came into force in April 1997, although public interest groups commented that they were not as stringent as regulations proposed under CEPA, in particular in evaluating potential impacts on human health.

The House of Commons environment committee has set out its position on biotechnology three times in recent years. It recommended strengthening the act by requiring minimum notification standards for all products, including those regulated under other acts. The government response a few months later proposed to eliminate the requirement that all products be assessed or that other acts needed to be as stringent as the CEPA.

If we pass Bill C-32 unamended, we will be drastically reducing what little authority Environment Canada or Health Canada now has to even assess whether the products of biotechnology could harm the environment or human health. Parliament will not now be requiring stringent assessments and will be shutting the door on any review or legal challenge of cabinet's determination. If cabinet rules that other regulations are equivalent, that will be conclusive proof.

At report stage, any suggestion that there may be any adverse effects to products of biotechnology was removed and in its place the government created the administrative duty to ensure the safe and effective use of biotechnology. That is a different thing, because biotechnology may affect bio-diversity. The notion of efficacy — that a product will do what its manufacturer says it will do — seems strangely out of place in an environmental protection bill. Does that mean that the government will share liability when those who use biotechnology products discover that manufacturers have exaggerated the benefits? I hope not, although farmers in the U.S. are seeking legal remedies after seeing lower yields in their crops than corporate ads told them they would get.

A report stage amendment also took out of the hands of the Ministers of Health and Environment the decision on whether other regulations flowing from the act are sufficient. Cabinet now has that authority. As the Auditor General pointed out, there is a great deal of controversy between different departments as to what is toxic. There is a great deal of infighting going on.

• (1800)

Among the several groups that strenuously urged us to revert to the House of Commons committee version of the bill was the Canadian Health Coalition, a non-profit organization. They reminded us of what Justice Krever had to say in his report on the inquiry into tainted blood. He said:

> The relationship between a regulator and the regulated —

The Hon. the Speaker: Honourable senators, it is six o'clock.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, it is my understanding that there is unanimous agreement that we will not see the clock.

The Hon. the Speaker: Is it agreed, honourable senators, that I not see the clock?

Hon. Senators: Agreed.

Senator Spivak: Justice Krever stated:

> The relationship between a regulator and the regulated...must never become one in which the regulator loses sight of the principle that it regulates only in the public interest and not in the interest of the regulated.

This group and others began to pay more attention to Bill C-32 after regulations appeared in *The Canada Gazette* on July 3, proposing the rules for environmental assessments of all foods, drugs, cosmetics and medical devices produced by biotechnology. Health Canada proposed those regulations, citing the authority of a new provision of the Food and Drugs Act that has not yet been approved by Parliament. It has not yet been approved by Parliament because it is found in clause 347 of this bill. The government acted prematurely. Health Canada closed the comment period on these regulations last month, well before the bill was out of committee. This is a most unusual procedure.

Health Canada's proposed regulations suggest a process less stringent than CEPA's requirements. Worse still, under the guise of a single-window approach, the department admits it will be handing over to the Canadian Food Inspection Agency the task of assessing all genetically engineered plants and animals for their environmental impact. Health Canada will assess the health aspects.

The Canadian Food Inspection Agency is under the auspices of the Department of Agriculture. We now have two departments doing what one department, the Department of the Environment, should do.

Bill C-32 is an extraordinary bill. Not only will it impact all living Canadians and those not yet born, in whatever region they inhabit — the Prairies, the Atlantic region, or the North — but it will also have global implications. This legislation affects many treaties. Some of those treaties are legally binding on Canada, and this legislation will not fulfil our obligations.

This bill is dangerous by design, as some have said. It dismantles the regulatory framework of the existing act, nowhere as starkly as in the regulation of new and largely untested foods.

In addition to returning Bill C-32 to the House of Commons committee version on biotechnology sections, I would like to see clause 347 deleted or delayed until Canadians have had the full-blown debate on biotechnology that has taken place in other countries.

MOTIONS IN AMENDMENT

Hon. Mira Spivak: Honourable senators, I have three pages of amendments which deal with the preamble, clauses 2, 65, 77, 79, 91, 106, 115, 347; and pages 1, 2, 4, 39, 49, 51, 52, 64, 79, 87 and 220. I will have these amendments, in both French and English, distributed in order that senators may read them.

Honourable senators, is it necessary that I read each amendment into the record?

The Hon. the Speaker: Honourable senators, is it agreed that the amendments need not be read?

Hon. Sharon Carstairs (Deputy Leader of the Government): That is agreeable, provided the amendments are distributed to all senators, and that we have time to study them before we vote on them, which I understand we will have.

The Hon. the Speaker: It is moved by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane:

> That Bill C-32 be not now read a third time but that it be amended —

Some Hon. Senators: Dispense.

The Hon. the Speaker: Shall I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as Senator Spivak has indicated in her excellent presentation, we are dealing with a very complex piece of legislation. The amendments that the Honourable Senator Spivak has just presented will require a fair amount of time to analyze. We will do our best but, in light of that, I move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

MOTION FOR ALLOTMENT OF TIME FOR DEBATE ADOPTED ON DIVISION

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, there have been discussions with the opposition about allocating a specified number of hours for debate on third reading of Bill C-32. Unfortunately, we have not been able to reach a mutually satisfactory agreement and, consequently, honourable senators, I give notice that tomorrow, September 14, 1999, or with leave now, I will move:

> That, pursuant to rule 39, not more than a further six hours of debate be allocated to dispose of third reading of Bill C-32, an act respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development;
>
> That when debate comes to an end, or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading of said bill;
>
> That any recorded vote or votes on the said question be taken in accordance with the provisions of rule 39(4).

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

Some Hon. Senators: Agreed.

Senator Carstairs: Honourable senators, I believe that there is agreement on both sides of the chamber that we now return to debate on Bill C-32 under the time allocated by my motion.

The Hon. the Speaker: Is there agreement, honourable senators?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Just a minute.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as indicated by the result of the vote that we had a few moments ago, we on this side find it regrettable that the government side will use its power to invoke closure on a very complex piece of legislation. However, they have indicated that they are prepared to do so. As a number of senators on this side wish to speak to Bill C-32, I suggest that we hear from those senators before concluding this matter. I believe that Senators Cochrane and Buchanan, in particular, would like to speak.

The Hon. the Speaker: Honourable senators, I saw Senator Prud'homme rise.

[*Translation*]

Senator Prud'homme: Honourable senators, we have just agreed to three hours of debate.

[*English*]

However, prior to that we had agreed that the amendments of Senator Spivak would be distributed. We cannot conclude the debate without seeing the amendments on which we are to vote. I hope that we will do a better job than they did in the House of Commons, where the door was slammed on the amendments.

I do not oppose the agreement which has been reached. Senator Carstairs informed me of it. However, I hope to see the amendments before we conclude the debate on Bill C-32.

The Hon. the Speaker: Honourable senators, the printed copies of the amendments that I received from Senator Spivak were immediately sent out for photocopying. They should be back soon. We need to make enough copies for all honourable senators.

Senator Carstairs: Honourable senators, it may facilitate the process if, instead of voting on Senator Spivak's amendments and then waiting to hear from Senators Cochrane and Buchanan, we allow those senators to proceed with their remarks. As each one speaks, if they have further amendments, those amendments will be distributed. Once every senator has completed his or her remarks, and once every senator has a copy of the amendments, we will then have all the votes on all the amendments at the same time. I say that, honourable senators, with the proviso that it is agreed to by both sides.

• (1810)

Hon. Lowell Murray: Honourable senators, I do not want to come between any agreement that has been made between the leaders of the government and the opposition. However, I should like to re-cap the situation in which we find ourselves because I think we have missed a step, have we not?

I heard the Deputy Leader of the Government give notice of a motion for time allocation. In the course of giving that notice, she allowed as how, with leave, we could proceed with the motion now rather than 24 hours hence. If leave were granted, as I assume it was, I did not hear the motion put. I would like at least to have the opportunity of saying in a loud, clear voice, "Nay." That is all I ask, when the motion is put, as it should be.

The Hon. the Speaker: Honourable senators, I must confess that the procedure is somewhat different from that which we usually work with in this place.

Is it my understanding that, when Senator Carstairs asked for leave, she would then put the motion? If that is the case, then I would be prepared to hear Senator Carstairs actually put the motion. We would then be back with what the Honourable Senator Kinsella said, that is, that he wished to adjourn the debate, but with the motion being put we could then go back to debate on the main motion.

Senator Carstairs: Honourable senators, I move the motion standing in my name.

The Hon. the Speaker: With leave of the Senate, it has been moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Perrault:

> That pursuant to rule 39 not more than a further six hours of debate —

Senator Carstairs: Dispense.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will all those honourable senators opposed to the motion please say "nay."

Some Hon. Senators: Nay.

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

Senator Murray: On division.

Motion agreed to, on division.

THIRD READING—MOTIONS IN AMENDMENT

Resuming debate on the motion of the Honourable Senator Taylor, seconded by the Honourable Senator Finnerty, for 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.

And on the motion in amendment by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane:

That Bill C-32 be not now read a third time but that it be amended

(*a*) in the Preamble,

(i) on page 1, by replacing line 19 with the following:

"knowledges the need to phase out the generation and use of the";

(ii) on page 2, by replacing lines 44 to 47 with the following:

"versity through pollution prevention and the control and management of any adverse effects of the use and release of toxic substances, products of biotechnology, pollutants and other wastes, and the virtual", and

(iii) on page 3, by deleting lines 1 to 5;

(*b*) in clause 2, on page 4,

(i) by replacing lines 17 to 19 with the following:

"from any adverse effects of the use and release of toxic substances, products of biotechnology, pollutants and other wastes;", and

(ii) by deleting lines 20 to 23;

(*c*) in clause 65, on page 39, by replacing lines 31 to 33 with the following:

"(3) When taking steps to achieve the virtual elimination of a substance, the Ministers";

(*d*) in clause 77, on page 49,

i) by replacing lines 7 and 8 with the following:

"subsection (4), virtual elimination.", and

ii) by replacing lines 38 to 40 with the following:

"the Ministers shall propose virtual elimination of the substance under this Act.";

(*e*) in clause 79,

(i) on page 51, by replacing lines 40 to 42 with the following:

"sure, as confirmed or amended, is virtual elimination in respect of a substance, the", and

(ii) on page 52, by replacing lines 4 to 6 with the following:

"proposed actions in respect of virtual elimination of the substance in relation";

(*f*) in clause 91, on page 64,

(i) by replacing lines 8 and 9 with the following:

"Ministers is virtual elimination shall spec-", and

(ii) by replacing lines 27 and 28 with the following:

"with respect to virtual elimination and sum-";

(*g*) in clause 106, on page 79,

(i) by replacing lines 16 and 17 with the following:

"this section, the Minister and, where appropriate, the Minister of Health is responsible for determining",

(ii) by replacing lines 22 to 34 with the following:

"(*a*) if the Minister and, where appropriate, the Minister of Health, determine that the requirements referred to in paragraph (6)(*a*) are met by or under an Act of Parliament referred to in that paragraph, or regulations made under that Act, the Minister and, where appropriate, the Minister of Health may by order add to Schedule 4 the name of that Act or those regulations, as the case may be; and,

(*b*) if the Minister and, where appropriate, the Minister of Health, determine", and

(iii) by replacing line 38 with the following:

"in Schedule 4, the Minister and, where appropriate, the Minister of Health may";

(*h*) in clause 115, on page 87, by replacing lines 24 to 27 with the following:

"Parliament that in the opinion of the Minister or, where appropriate, the Minister of Health provides for

(*a*) notice to be given before the manufacture, import or sale of the living organism;

(*b*) an assessment of whether the living organism is toxic or capable of becoming toxic; and

(*c*) the regulation or control of any potential risks to the environment, or its biological diversity, and human health, identified by that assessment."; and

(*i*) in clause 347,

(i) on page 220, by deleting the heading preceding line 5 and lines 5 to 13, and

(ii) by renumbering clauses 348 to 355.1 as clauses 347 to 355 and any cross-references thereto accordingly.

The Hon. the Speaker: Honourable senators, we are now back to debate on Bill C-32.

Are there other senators who wish to speak?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, His Honour is quite right, we are certainly rewriting the rule book now. I thought that now that we have leave we are into the debate on the notice of motion.

Senator Murray: It was passed.

Senator Lynch-Staunton: The notice of motion has been passed. I think Senator Murray is quite right. What did we pass?

The Hon. the Speaker: The time allocation motion has now passed. That is on what I called for the "yeas" and "nays." It has now passed. I understand that, by agreement, it is the wish of the Senate to return to the debate on Bill C-32, on which there are a number of speakers ready with further amendments. That is my understanding of the status of things.

Senator Lynch-Staunton: How much time do we have to debate?

The Hon. the Speaker: Six hours.

Senator Lynch-Staunton: After six hours of debates, will all the questions be put?

The Hon. the Speaker: Yes. After six hours of debate, by the decision of the Senate, I am forced to stop the debate and put each question before us. There could be a number of amendments, I understand. Each of them would have to be dealt with at that time.

Is that as clear as it can be, honourable senators?

Hon. Marcel Prud'homme: Honourable senators, there are many new senators, as well as some older ones who are in the same position as the new senators, who would like to know exactly what is going on.

Will all six hours of debate be taking place tonight?

Hon. Sharon Carstairs (Deputy Leader of the Government): Yes.

Senator Prud'homme: That means that we will not adjourn until we have disposed, one way or another, of all the amendments, and that thereafter there will be a series of votes. Is that what we should all understand?

It would be preferable if these agreements were better explained. I will speak now as if I were a new senator: Everyone wants to understand what is going on. Now that there is a motion before us, it must be understood for how long it will be before us. We know that it is for at least six hours and no more, but it could be shorter.

The question I must ask is this: Does the debate have to finish tonight?

The Hon. the Speaker: Yes, this debate will finish tonight.

Senator Prud'homme: When will the vote take place?

The Hon. the Speaker: If there is a shortage of speakers and we go for only two hours, then I will call for the vote. However, it cannot go beyond six hours.

At the end of six hours, if there are still senators who wish to speak, I have no choice but to put all the questions that are before the Senate at that time.

Senator Prud'homme: Honourable senators, after the six hours has elapsed or after all senators who wish to speak on the motion have spoken, His Honour must call for the vote. Is it possible to know now if it is the intention of the whip on either side to postpone the vote, as the rules allow, until tomorrow at a certain hour?

Senator Carstairs: We cannot.

Senator Prud'homme: Or does Your Honour intend to call the vote after the six hours of debate? Honourable senators will have to know that the proceedings could continue until at least 12:15; or, by agreement, the votes could go postponed until a certain time tomorrow. I am in His Honour's hands, Your Honour. I am trying to be accommodating and understanding.

The Hon. the Speaker: Honourable senators, I have no idea how many speakers there are to speak to the motion. The Honourable Senator Kinsella gave two names and indicated that there would be further amendments. I have no idea what other speakers there might be. That is all I can tell the honourable senator. The debate cannot go more than six hours in any case.

Senator Prud'homme: If there are only two speeches remaining, and if they are within the six-hour time frame, and there are amendments, we will not see the amendments. The amendments will only be put to the Senate. I like to proceed in an orderly fashion, which is why we are in the Senate. Haste never produces good legislation. That is something we must avoid.

In order to avoid that, we would like to see the amendments before this series of votes will take place. That is all I am asking. I think it is much more reasonable than what took place in the House of Commons where everything was rushed in committee. We in the Senate are here not to take too much time but to know, in an orderly fashion, exactly what is taking place.

Senator Carstairs: Honourable senators, perhaps we can clarify this. I agree that it is very muddy.

Perhaps we could have the agreement of the chamber that no vote will be taken sooner than one-half hour following distribution of any amendments. Senator Spivak's amendments are now being distributed. My understanding is that other senators might have amendments. Following distribution of those amendments, if we then had half an hour, which would be the normal time for the ringing of the bells, would that satisfy Senator Prud'homme that we have proceeded in a way that has allowed every senator access to the amendments?

Senator Prud'homme: Honourable senators, may I say that Senator Prud'homme does not have to be satisfied. It is the Senate that should be satisfied.

• (1820)

The Hon. the Speaker: Honourable senators, as soon as I receive the amendments, the staff will take care of having them photocopied immediately. However, I cannot do that until I receive the amendments.

If there are honourable senators here who have amendments, and if they are prepared to have them photocopied, we can do that and have them distributed. That is up to each senator who has amendments to propose. I cannot do that. That might be a solution that those senators who wish to make amendments might entertain.

Senator Lynch-Staunton: I am starting to sympathize with His Honour's ruling on amendments, because we are just rewriting the rule book as we go along.

Let us be clear: The majority of the Senate has agreed that there be no more than six hours of debate on this bill. Whether or not the amendments are in front of everyone, the house order is clear: No more than six hours.

We hope that the amendments will be on the table, but the government decreed no more than six hours, whether or not the amendments are available. The majority in this chamber supported that position. That is where we stand now. I do not think that anything we can do, say or request should alter that. That is my position. The reason I was somewhat confused is that Senator Carstairs read the following:

> Honourable senators, I give notice that tomorrow, September 14, 1999, but with leave now, I will move —

I think I know what she meant, but if she had simply said: With leave, I move that such and such, it would have been clearer. The date, September 14, should not have been there.

That is to help the Chair, which I like to do more often than most people realize.

The Hon. the Speaker: Honourable senators, I never had any doubt that that was always Senator Lynch-Staunton's intention.

Before Honourable Senator Cochrane proceeds, the Clerk has just pointed out a rule which we must consider. I refer to rule 39(7), which states:

> When an Order of the Day has been called, to which a specified period of time has been allocated for its consideration, the same shall not be adjourned and no amendments thereto...

Therefore, I would need to have leave of the Senate to proceed with any amendments. I caution you now.

Senator Carstairs: His Honour is quite correct. Under the rules of the chamber, there cannot be any amendments. However, in the spirit of cooperation which seems to have been generated, this side certainly would give leave for Senator Cochrane to introduce any amendments, or any other senator to introduce any amendments, and that they could be voted on at the end of our completed debate on Bill C-32.

The Hon. the Speaker: Is it agreed, honourable senators, that rule 39(7) will be suspended as far as amendments are concerned?

Hon. Senators: Agreed.

Hon. Ethel Cochrane: Honourable senators, I should like to make a few remarks about this bill. I know that you have already heard from some of my colleagues on this side of the chamber about the shortcomings of this proposed legislation, and I share those reservations.

The committee hearings on this bill were cut short. We were allowed to hear only a limited number of witnesses, and then closure was imposed on the committee. The few witnesses whom we were allowed to hear delivered a clear message: No one is satisfied with Bill C-32.

Representatives of environmental organizations have told us that this bill falls well short of the stated goal of protecting the environment and human health. My colleagues have given you the details of those shortcomings. Representatives of some of the industries that will be affected by this legislation have explained to us that Bill C-32 will impose requirements on them that are neither realistic nor achievable.

Many spokesmen on both sides of this issue have told us that they prefer to live with the existing legislation. The Minister of the Environment also told our committee that he could live with the existing legislation.

In the face of this considerable opposition by both environmental and industry associates, and an attitude of indifference on the part of the minister, I find it difficult to understand this unseemly haste to pass Bill C-32. However, if the government is determined that this proposed legislation must be dealt with before we prorogue, then the least we can do is to make an effort to improve this legislation. I implore honourable senators to improve it.

During the limited and abbreviated hearings that our committee was allowed to hold, I was particularly impressed with two groups of witnesses who addressed the issue of the impact of the environment on the health of children. Legislation to protect the environment and human health must be directed at the health concerns of all Canadians. However, we must also recognize that children are especially vulnerable to health hazards. The representatives of the Canadian Institute of Child Health told our committee:

> ...especially young children, are a unique segment of our population who have a heightened vulnerability...
>
> Children's ability to metabolize, detoxify and excrete many toxicants is different from that of adults. Exposures at critical periods of development, from conception to adolescence, can result in irreversible damage to growing nervous systems and affect emerging behaviour patterns, cause immune dysfunction, and have serious reproductive effects....
>
> In addition to developmental and physiological differences, children's behaviours often place them at higher risks than adults to certain environmental hazards.

We also heard from Dr. Michele Brill-Edwards, from the Canadian Association of Physicians for the Environment. Dr. Brill-Edwards worked as a drug regulator for 15 years at Health Canada, and for four years she was the senior physician responsible for approval of prescription drugs in Canada.

Her association is very concerned about potential environmental effects on children's health and, in particular, about leaving regulation of food products in the hands of the Department of Health. In her testimony to our committee, she said:

> ...this bill transfers the duty to conduct the assessment of environmental harm to another act, that is, the Food and Drugs Act. At least it anticipates the transfer of those duties... This means that the duty to assess environmental harm from biotechnology products, specifically foods, drugs, cosmetics and devices, will transfer to a department that is already under a huge black cloud...
>
> I have the ominous feeling that we are repeating here, on environmental issues, the same mistakes that we should have learned were at the root of the blood scandal...

Honourable senators, I am concerned about the effects on our health of toxic waste and systematic pollution of the environment. I am especially concerned about the effects on the health of Canada's children.

As a parent, as a grandparent and a former teacher, I have spent a considerable part of my life supervising young children. I know from experience how difficult it can be to keep children away from playing in potentially dangerous areas. We are dealing here with dangers that cannot often be seen or identified.

The Canadian Institute of Child Health told our committee that there is a growing body of scientific evidence demonstrating that a wide array of child health problems can be brought on or exacerbated by environmental exposures. They talked about the growing incidence of asthma and deaths due to asthma among children, and about the extra school days that are missed due to exposure to second hand smoke.

They also talked about children who are affected by water pollution when they drink from or swim in contaminated lakes and rivers. I ask honourable senators: How do you prevent a child from going for a swim on a hot summer day? Inevitably, they will swallow some of that water. How do you know for sure that a lake beside a cottage is not contaminated?

The institute also reminded us that many children live within a few kilometres of — and some even on — former toxic waste dumps. We heard horror stories about it. We heard from the Dene band that lives on the shores of Great Bear Lake surrounded by contaminated tailings from a uranium mine. Their life expectancy and that of their children is lower than in the Dark Ages. Their children are ill and they have been sentenced to an early death.

• (1830)

We have all heard, honourable senators, about the Sydney tar ponds, perhaps the worst toxic dump in Canada; yet, hundreds of families live nearby, and inevitably their children go out to play. They spend their week-days in schools days adjacent to all of this contamination.

Families everywhere do what they can to protect their children from harm. They take precautions and they warn them of the dangers, but there are limits to what parents and grandparents can do. There are unknown dangers with unknown effects that cannot be seen. As a society, we bear a great responsibility to do as much as we can to protect them against those dangers.

I agree with the Canadian Institute of Child Health that we definitely need more research into the effects of environmental hazards on the health of children, that we need to monitor and eliminate those hazards and the health interests of children, and that it would be desirable to establish an Office of Children's Environmental Health Protection. We can begin this process by improving the information-gathering provisions in Bill C-32 to reflect specific concerns about children's environmental health.

To return, in particular, to the issue of children's health, the Canadian Institute of Child Health warned us in their brief that there is a growing body of scientific evidence that demonstrates the wide array of child health problems that can be brought on or exacerbated by environmental exposures. The institute offered a number of examples, including the increasing incidence of asthma, as I said before.

Honourable senators, as I agree with the Canadian Institute of Child Health and what they have suggested and the amendments they have put forth, I should like to add and include the amendments they have suggested.

MOTIONS IN AMENDMENT

Hon. Ethel Cochrane: Therefore, honourable senators, I move:

> That Bill C-32 be not now read a third time but that it be amended
>
> (*a*) in the preamble, on page 2, by adding after line 34 the following:
>
> "Whereas the Government of Canada recognizes the special susceptibility of children and the need to protect them by implying a margin of safety in the environment and health legislation;";
>
> (*b*) by adding, on page 16, the following after line 8:
>
> "Children's Environmental Health Protection Commission
>
> **10.1** (1) There is hereby established a commission to be known as the Children's Environmental Health Protection Commission consisting of a Commissioner, a Deputy Commissioner and such other members as are from time to time appointed by the Governor in Council.

(2) The Governor in Council shall appoint as members of the Commission persons who have knowledge and experience in children's environmental health protection issues.

(3) The Commissioner and the Deputy Commissioner are each full-time members of the Commission and the other members may be appointed as full-time or part-time members.

(4) A member of the Commission shall be appointed to hold office during good behaviour for a term not exceeding 5 years and may be removed for cause by the Governor in Council.

(5) A member of the Commission is eligible to be re-appointed on the expiration of the first or subsequent term of office.

(6) The objects of the Commission include

(*a*) to determine the existing body of knowledge and identify key environment gaps in children's environmental health issues;

(*b*) to ensure that current scientific information is peer-reviewed and widely disseminated;

(*c*) to identify opportunities for coordination with branches of Government, including the Department of Justice andAgriculture Canada;

(*d*) to ensure that all current and future health and environment standards protect children, with an adequate margin of safety;

(*e*) to develop and use separate assessments of risk to children and adults;

(*f*) to identify environmental pollutants commonly used or found in areas that are accessible to children; and

(*g*) to establish guidelines to help reduce and eliminate exposure of children to environmental pollutants in areas accessible to children.

As well, honourable senators, I move:

That Bill C-32 be not now read a third time but that it be amended

(*a*) in clause 44, on page 28, by adding the following after line 24:

"(5) The Ministers shall conduct research or studies relating to a safer environment for children, including information regarding the following:

(*a*) identify environmental contaminants commonly used or found in areas that are accessible to children;

(*b*) create a scientifically peer-reviewed list of substances (environmental contaminants) identified under (*a*) with known, probable, or suspected health risks to children;

(*c*) create a scientifically peer-reviewed list of safer-for-children substances and products recommended by the Ministers, or the Governor in Council, for use in areas that are accessible to children to minimize potential risks to children from exposure to environmental contaminants;

(*d*) establish guidelines to help reduce and eliminate exposure of children to environmental contaminants in areas accessible to children, including advice on how to extablish an integrated environmental contaminant reduction program;

(*e*) create a right-to-know information kit that includes a summary of helpful guidance to families, such as the information created under (*c*), the guidelines established under (d), information on the potential health effects of environmental contaminants, practical suggestions on how parents may reduce their children's exposure to environmental contaminants, and other relevant information as determined by the Ministers, or the Governor in Council;

(*f*) make all information created pursuant to this subsection available to federal, provincial, territorial and aboriginal governments and the public; and

(*g*) review and update the list created under (*b*) and (*c*) at least every five years.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, it was moved by the Honourable Senator Taylor, seconded by the Honourable Senator Finnerty, that the bill be read a third time now, and it was moved by Senator Cochrane, seconded by Senator Roberston, that Bill C-32 be amended —

Senator Carstairs: Dispense!

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, I am pleased to speak today during the debate on third reading of Bill C-32, the purpose of which is to amend the Canadian Environmental Protection Act in order to give priority to pollution prevention.

My speech will touch on the thorny issue of respect and recognition of the rights of aboriginal peoples in the provisions of this bill. I shall also be introducing an amendment aimed at having Bill C-32 respect the ancestral rights of the Métis people, and another which attempts to clarify the French and English versions of one of the whereas sections of the preamble which addresses the precautionary principle.

As honourable senators are aware, the aboriginal peoples constitute an important part of our population, our history and our cultural tradition. According to the last major Statistics Canada census, in 1996, there were more than 799,000 aboriginal people in Canada. Of that number, more than 554,000 were identified as North American Indian, more than 210,000 as Métis, and more than 42,000 as Inuit.

In the past few decades, the ancestral rights of this population have been recognized in a number of statutes. The most important was the adoption of subsection 35(1) of the Constitution Act, 1982, which recognized and confirmed the existing rights of aboriginal peoples, whether ancestral or treaty-related. It is important to specify that this recognition included existing rights or treaty rights. It is important to specify that this recognition included rights that existed by way of land claims agreements or might be so acquired. Subsection 35(2) defined aboriginal peoples as the Indian, Inuit, and Métis peoples of Canada.

Honourable senators, Bill C-32 contains numerous provisions which, according to the federal government, are designed to recognize and ensure respect for the ancestral rights guaranteed aboriginal peoples with respect to treaties concluded between the federal government and certain aboriginal communities, such as the right to manage lands, the right to self-determination, and so on, and with respect to the provisions of section 35 of the Constitution Act, 1982 and the provisions of the Indian Act. The following are the main provisions in this bill that concern aboriginal peoples.

First of all, the preamble to the bill stipulates that the federal government recognizes the importance of endeavouring, in cooperation with provinces, territories and aboriginal peoples, to achieve the highest level of environmental quality for all Canadians and ultimately contribute to sustainable development. In addition, the preamble recognizes the integral role of science, as well as the role of traditional aboriginal knowledge, in the process of making decisions relating to the protection of the environment and human health. It also recognizes that environmental or health risks and social, economic and technical matters are to be considered in that process.

This objective appears again in the administrative duties clause of Bill C-32. This clause mentions that it is important to apply knowledge, including traditional aboriginal knowledge, science and technology, to identify and resolve environmental problems.

With a view to enabling this national action to be carried out and taking cooperative action in matters affecting the environment and for the purpose of avoiding duplication in regulatory activity among governments, Bill C-32 gives the minister the authority to establish a National Advisory Committee to advise the federal and provincial ministers on regulations proposed to be made under the Act, on a cooperative, coordinated intergovernmental approach for the management of toxic substances, and on other environmental matters that are of mutual interest to the Government of Canada and other governments. According to clause 6(2) of Bill C-32, the committee shall consist, among others, of not more than six representatives of aboriginal governments to be selected as follows: one for all aboriginal governments in Newfoundland, Prince Edward Island, Nova Scotia and New Brunswick, one for all aboriginal governments in Quebec, one for all aboriginal governments in Ontario, one for all aboriginal governments in Manitoba, Saskatchewan and Alberta, the Northwest Territories and Nunavut, one for all aboriginal governments in British Columbia and the Yukon Territory, and finally one for all Inuit aboriginal governments.

These representatives will be selected by the aboriginal governments of each region I have listed, or by the Inuit governments.

These new provisions were very well received by the majority of aboriginal rights groups. They considered these changes necessary in order to ensure that their ancestral rights would be respected in future when federal and provincial environmental policies were being drawn up.

Honourable senators, with these provisions, the federal government felt it had acquitted itself well in responding to aboriginal concerns relating to having a say in the process of drafting environmental policy with potential impact on the development of the ecosystems in which they live. As well, it seemed sure they would be in agreement with the new provisions in Bill C-49 and section 35 of the Constitution Act, 1982.

However, during the hearings of the Energy, Environment and Natural Resources Committee, this past August 24 through September 1, several aboriginal rights organizations made it clear to us that this bill would do no more than the old one when it came to protecting the environment in which they live and their traditional way of life. They were also quick to question the constitutionality of the provisions relating to striking a national advisory committee intended, in theory, to foster the respect of their rights and their involvement in the process of preparing new environmental policies in coming years.

Having listened carefully to the testimony of representatives of Manitoba Keewatinowi Okimakanak, a group representing 47,000 members and 27 band councils, of the Métis National Council, representing more than 300 Métis communities in Canada, of the Inuit Circumpolar Conference of Canada, of the group Nunavut Tungavik Incorporation, representing the interests of the Nunavut Inuit, and of the Canadian Environmental Law Association, I believe that these associations had two reasons to reach such a conclusion.

First of all, you are undoubtedly aware of the many pollution problems in Canada's arctic and subarctic regions, where a large number of aboriginal communities are concentrated. As you know, this pollution comes from Russia, the United States and Europe. To a lesser extent, it is the result of the recent extension of industrial activities in Canada's north for the purpose of extracting natural resources, such as minerals and oil.

As all the groups I mentioned earlier have very clearly shown, it is obvious that this pollution has serious repercussions on the food chain in the Far North. It also affects the traditional activities of these communities, as the Inuit Circumpolar Conference of Canada has pointed out, given — and Senator Spivak referred to this earlier — the quantity of traditional foods consumed by the Inuit. In October 1997, a study showed that 59 per cent of Inuit women in Kivalliq in the District of Keewatin, and 65 per cent of Inuit women in Qikiqatani in the District of Baffin, had levels of polychlorinated biphenyls, or PCBs, in their blood that were five times the level considered critical by Health Canada. In addition to having an important impact on the health of aboriginal communities, it also has repercussions that will carry on through several generations. Aboriginal peoples must therefore reduce their consumption of traditional foods such as caribou and fish, which affects their traditional activities and way of life.

With respect to responsibility for pollution and the terrible repercussions on aboriginal peoples in the Far North, it is interesting to note that the Manitoba Keewatinowi Okimakanak, as well as the Inuit Circumpolar Conference of Canada and the Métis National Council, identify the federal government as being responsible for this situation, along with industry and foreign countries.

According to Michael Anderson, a researcher for the Manitoba Keewatinowi Okimakanak, and I quote:

[*English*]

> The MKO First Nations have observed that governments and resource developers view the north as a resource hinterland where standards for environmental protection are applied differently than they would be in the south, and where the rights, interests and lands of First Nations have been swept aside, literally, to facilitate major resource development and extraction. More recently, even in the face of obvious and significant threats to environmental quality and human health in this region, the Government of Canada has often appeared immobilized in the face of provincial and corporate resistance to any federal intervention in environmental matters, particularly with regard to the protection of northern environments and First Nations peoples south of the 60th parallel.

[*Translation*]

According to Michael Anderson and the officials representing the other groups, in that sense, the federal government did not fulfil its constitutional obligations toward aboriginal people, and Mr. Anderson does not think that Bill C-32 will improve the situation in the medium term.

Second, according to the Métis National Council, the bill totally ignores the existence of their aboriginal rights. Yet, these rights are recognized in subsection 35(2) of the Constitution Act, 1982. This is because of the definitions found in the act.

• (1850)

Under Bill C-32, "aboriginal government" means a governing body that is established by or under or operating under an agreement between Her Majesty in right of Canada and aboriginal people and that is empowered to enact laws respecting the protection of the environment. At first, this definition seems to include most band councils that are responsible for administering aboriginal reserves, or aboriginal governments that were established following the signing of the agreement on aboriginal land management and self-determination for certain Amerindian or Inuit communities.

As for "aboriginal land," it is defined as the reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and that are subject to the Indian Act; land, including any water, that is subject to a comprehensive or specific claim agreement, or a self-government agreement, between the Government of Canada and aboriginal people where title remains with Her Majesty in right of Canada; and air and all layers of the atmosphere above and the subsurface below land mentioned above.

Honourable senators, it is important to point out that these two definitions apply to aboriginal governments that will elect their six aboriginal representatives to the national advisory board to be established by the minister. They also apply to determine which community will be eligible to sit on the committee.

Two of the groups, the Métis National Council, and the group Manitoba Keewatinowi Okimakanak, voiced their concerns on the impact these definitions would have on their involvement in the committee member selection process the creation of their own environmental protection program. In large part, their concerns relate to the new provisions in Bill C-49, the First Nations Land Management Act we looked at last spring. As you know, that bill was drafted for 14 First Nations, subsequent to the signature of the Framework Agreement on First Nation Land Management with the federal government. The provisions of that bill were aimed at enhancing First Nation involvement in land management, both in improving the economic development on reserves and in expanding aboriginal self-government initiatives.

To that end, Bill C-49 would allow the 14 First Nations affected by the agreement to establish an environmental assessment and protection system. According to the bill, these will be harmonized with federal and provincial environmental programs.

You will conclude, as I did, that 14 First Nations is not a large number. However, according to Manitoba Keewatinowi Okimakanak, the provisions relating to the operations of the advisory committee are so vague as to suggest that only those 14 First Nations affected by Bill C-49 will be eligible to sit on the Committee and to take part in selecting the six representatives.

As for the Métis National Council, it stated that these two definitions, coupled with the provisions of Bill C-49, mean that the Métis will have no forum with the federal government, as is the case at this time, in order to take part in the various aspects of development of Canadian environmental policy. As I have said, subsection 35(2) of the Constitution Act, 1982 defined aboriginal peoples as the Indians, Inuit and Métis of Canada. However, the Métis are not recognized as an aboriginal people with a defined territory as are most of the Amerindian or Inuit communities of Canada. Under the new legislation, the provisions apply with respect to aboriginal lands. This includes the reserves and their adjacent lands as defined in the Indian Act and lands handed over to aboriginal communities in connection with self-government and land management agreements, as is the case with Bill C-49.

Honourable senators, the result is that, in many areas, the Métis are not recognized as having a role in managing the environment of the land on which they live. This non-recognition is now causing problems in northern Saskatchewan, where there is a large Métis population. These people would like to be consulted in the same way as other aboriginal communities, which are being consulted by the federal government in the plans for storage of radioactive waste in this region.

In addition, the Métis National Council is attempting to establish an environmental network so that Métis can obtain information about pollution problems and the ecosystems on Métis lands. It would also like to train personnel so that they can use the information they have collected in their research and through their traditional knowledge of these areas to ensure the protection of these ecosystems.

But since the Métis are not recognized by the federal government as an aboriginal people with its own land, they will not have the benefit of the federal government's financial and technical support. In fact, according to the Métis National Council and the Manitoba Keewatinowi Okimakanak, it would appear that only the native governments included in Bill C-49 will be able to establish environmental management programs in cooperation with the federal and provincial governments. In general, it is clear that the Métis and their traditional lands were left out of Bill C-32.

Honourable senators, this oversight by the federal government will mean that the Métis will not even be able to take part in the process to select the six aboriginal members of the board, because the Métis National Council is not recognized as an aboriginal government and has no land as defined in the Indian Act. When you consider that there are 210,000 Métis in Canada and that they have unique traditional knowledge about their ecosystems and the pollution problems affecting their community, this is unacceptable.

Parliament cannot overlook them. The federal government must meet its constitutional obligations, which require it to ensure respect for the ancestral rights of Métis, and not just Indians and Inuit, and therefore include them in the environmental policy development process.

This is why, after listening to the testimonies of the Métis National Council, I decided to table a motion to amend subsection 6(2) by adding that a Métis official shall be selected by the the Métis National Council to sit on the national advisory committee. Officials from that association told us that they did not have any problems with the group making that choice, because the executive of that board is democratically elected by the Métis, and it is agreed that it is the only one representing the interests of Canadian Métis.

Honourable senators, I think that amendment will allow the federal government to meet its constitutional obligations toward this people, which was too often ignored when developing policies dealing with aboriginal community development, the environment and economic development.

• (1900)

This amendment will allow the Métis to participate in the harmonization of environmental policies in Canada, under a partnership with the provinces and the federal government.

According to Jody Pierce from the British Columbia Métis council, and I quote:

[*English*]

• (1900)

> It is a fiduciary responsibility of the federal government to ensure that First Nations organizations have adequate resources to participate in these important environmental processes.
>
> As a constitutionally recognized aboriginal people, the Métis must be given equal consideration and involvement in the consultation and development processes, along with First Nations and Inuit.

[*Translation*]

When Senator Chalifoux made her speech, I said that I would talk about the *Sparrow* case in my observations. I am now getting to that brief review.

The view that I just expressed is also shared by the Supreme Court of Canada.

In 1984, Ronald Edward Sparrow, an aboriginal from British Columbia, was charged under the Fisheries Act for fishing with a driftnet longer than that authorized under the Indian food fish licence delivered to the band of which he was a member. Mr. Sparrow admitted the facts relating to the offence, but he argued that there existed an aboriginal right to fish, and that the restriction imposed by the band licence regarding the length of the net was invalid because it was not compatible with subsection 35(1) of the Constitution Act, 1982. On May 31, 1998, the Supreme Court issued a landmark ruling on the compliance with and scope of section 35 of the Constitution Act, 1982.

According to the highest court in the land, section 35(1) does not explicitly authorize the courts to assess the legitimacy of any government legislation that restricts aboriginal rights. The words "recognition and affirmation" in subsection 35(1), however, incorporate the government's responsibility to act in a fiduciary capacity with respect to aboriginal peoples and so import some restraint on the exercise of sovereign power. Federal legislative powers continue, including the right to legislate with respect to Indians pursuant to section 91(24) of the Constitution Act, 1867, but must be read together with section 35(1). Federal power must be reconciled with federal duty and the best way to achieve that reconciliation is to demand the justification of any government regulation that infringes upon or denies aboriginal rights.

The court added, and I quote:

> The test for justification requires that a legislative objective must be attained in such a way as to uphold the honour of the Crown and be in keeping with the unique contemporary relationship, grounded in history and policy, between the Crown and Canada's aboriginal peoples.

The Hon. the Speaker: Honourable senators, I am sorry to interrupt Senator Nolin, but his 15 minutes are up. Is leave granted for him to continue, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Senator De Bané will notice that I am quoting from the Supreme Court decision tonight to make sure he agrees that what I am saying.

> The extent of legislative or regulatory impact on an existing aboriginal right may be scrutinized so as to ensure recognition and affirmation.

"Recognition" and "affirmation" are the two words used in section 35(1) of the Constitution Act, 1982.

> Section 35(1) does not promise immunity from government regulation in contemporary society but it does hold the Crown to a substantive promise. The government is required to bear the burden of justifying any legislation that has some negative effect on any aboriginal right protected under s. 35(1).

As these rather disturbing facts show us, the provisions of Bill C-32 concerning aboriginal people seem in contradiction with section 35 of the Constitution Act, 1982, particularly with regard to Métis participation. The federal government never explained in a satisfactory way how that group could be omitted from Bill C-32.

True, some people said that we should pass this bill first then correct these small imperfections. I do not buy that. These are not small imperfections. The Supreme Court of Canada forced the federal government to respect ancestral rights of Canadian Métis and there is no way we can simply decide to override those rights.

Canadian Métis have rights. The Fathers of Confederation of 1982 recognized their rights and we must respect them. I understand that it would be very easy to say that we will pass the bill and correct the small mistakes in the course of the next five years. I object to that. The Supreme Court reminded the federal government of its rights and obligations. Parliament must respect these rights. That is what it must do.

Consequently, we have a constitutional and moral obligation as parliamentarians to ensure that the ancestral rights of aboriginal peoples and the health of Canadians living in these communities are protected. We must not forget that peoples like the Métis, the Inuit and the Indians were the ones who made it possible for the European explorers, and later the companies and various levels of government, to discover the territory of our country and its specific characteristics. We cannot therefore shunt aside the unique traditional knowledge of the Métis, or any other aboriginal community, in drawing up our environmental policies. The health problems of the First Nations and the pollution they have to deal with must be addressed with the same attention as those affecting the most heavily populated regions of Canada.

Honourable senators, in closing, I must remind you that our political system and our society are built on the legal and political equality of all citizens of Canada. For too long now, aboriginal citizens have been treated as second-class, sometimes even third-class, citizens, as Senator Chalifoux so aptly stated when the Métis National Council appeared before us. Supporting my amendment will enable us to remedy this situation and to demonstrate that the Métis are considered full-fledged citizens of our country and that we have their welfare at heart.

It is quite obvious to me that the bill is flawed. I am going to read the preamble, first the English version and then the French.

Honourable senator, look at the bottom of page 1 and the top of page 2. This is the preamble to the bill, and I quote:

[*English*]

> Whereas the Government of Canada is committed to implementing the precautionary principle that, 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 measures to prevent environmental degradation...

[*Translation*]

And in French, it says:

> qu'il s'engage à adopter le principe de la prudence, si bien qu'en cas de risques de dommages graves ou irréversibles, l'absence de certitudes scientifiques absolues ne doit pas servir de prétexte pour remettre à plus tard l'adoption de mesures effectives visant à prévenir la dégradation de l'environnement.

It would seem obvious to me. The English version is limited to measures with an economic connotation, that are "cost-effective," while the French version is limited not to measures with an economic connotation but to all effective measures to prevent environmental degradation.

So, does this mean that, in English, and I will paraphrase, based in part on the French text and in part on the English, this shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation, as it says in English, or all effective measures?

The committee heard from a linguistic jurist, a rather unusual profession. Such people exist. He told us that, at the very least, there was a big difference and, at the worst, a contradiction, between the two versions. This cannot be tolerated, because it means that we are not doing our job. The English version does not mean the same thing. The French version is much more comprehensive than the English version. In English, the government is limited to considering cost-effective measures while, in French, all measures will be considered.

MOTION IN AMENDMENT

Hon. Pierre Claude Nolin: Honourable senators, for these reasons, having to do with aboriginal peoples, primarily the Métis, I move, seconded by the Honourable Senator Spivak:

> Que le projet de loi C-32 ne soit pas maintenant lu une troisième fois, mais qu'il soit modifié à l'article 6, à la page 12, par l'adjonction à la ligne 31, de ce qui suit:
>
> *d*) un représentant pour les Métis choisi par le ralliement national des Métis.

In the other official language, and I quote:

[*English*]

> That Bill C-32 be not now read the third time but that it be amended
>
> (*a*) —

[*Translation*]

You will note that there is an additional amendment in English. That amendment is self-explanatory.

[*English*]

> (*a*) by replacing line 9 with the following:
>
> "each of the provinces;"; and
>
> (*b*) by replacing line 30 with the following :
>
> "original governments;
>
> (*d*) one representative for all Métis selected by the Métis National Council.".

[*Translation*]

Now for the effective financial measures, my amendment affects only the English version. I am going to read it to you in English.

[*English*]

> That Bill C-32 be amended in the preamble in the English version on page 2 by replacing line 1 with the following:
>
> "postponing effective measures to prevent".

[*Translation*]

The Hon. the Speaker: It was moved by the Honourable Senator Nolin and seconded by the Honourable Senator Spivak:

> That Bill C-32 be not now read a third time —

Hon. senators: Dispense.

[*English*]

Hon. Mira Spivak: Honourable senators, I have a question for the Honourable Senator Nolin.

I want to check the difference in meanings that arose in our committee discussions. I understand that this version is contradictory and not simply "different," as you just suggested. Can you confirm that contradiction in the French language? In the French version, the measures would not necessarily be cost-effective. In fact, they could be costing more than other measures and still be "effectives." The meaning in French is that by any effective means they could achieve their goals, but those measures might cost a great deal more.

Senator Nolin: I will repeat what I said in French, and I will try to be clear. Minimally, it is different. If you push the argument, using the perfect example, then it is contradictory. Of course, in a case where cost is not important in evaluating a measure, then you can have a measure which will not be cost-effective but which will reach the principal goal. In English, every measure needs to be cost-effective.

Mr. Perez was the witness representing the Canadian Petroleum Products Institute. We asked him about how he lobbied the government at the report stage. He is a French speaker so we asked if he lobbied in English or in French. He said, no, that he had lobbied only in English.

That response tells us a lot. The industry wanted to include the positive, cost-effective measure. No one has looked at the French version except the Senate. It is our job to correct that.

Senator Spivak: Honourable senators, I have another question for Senator Nolin.

The Library of Parliament researcher suggested that the word "effectives" here is not even a good use of French. We would rather have effective measures, because requiring cost-effectiveness contradicts the precautionary principle. As many of the witnesses told us, the whole point of the precautionary principle is to address uncertain science. Cost-effectiveness may prevent implementation of the precautionary principle.

Cost-effectiveness is not defined anywhere in the bill, probably because it is a contradictory element.

My question is hypothetical. If one wanted to, could one use a French phrase that talked about externalizing the cost, and answering the question of the cost to whom? In a total accounting of the cost, cost-effectiveness would not be defined as industry defines it but would take in all the costs to health and the environment. If that definition were used, then industry would not want the term "cost-effective" used in the bill. That definition could cost a great deal more. If you were to properly take in all the costs, what would the translation be in French?

[*Translation*]

Senator Nolin: The best way to make good laws is to say as little as possible.

[*English*]

The best way in French to make good laws is to say the least. Do not try to say too much. You want measures that are "efficace," not "effectives." "Efficace" is the proper word because "effectives" means that it produces an effect.

[*Translation*]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, is there a connection with the famous Rio Declaration? I wonder if you can provide some explanation on the connection with the Rio Declaration and the position presented by the United States?

Senator Nolin: I can give my right to respond to Senator Spivak, who is better informed than I am on this topic.

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

Hon. senators: Agreed.

[*English*]

• (1920)

Senator Spivak: Honourable senators, I have a question about the position of the United States in this whole business of cost-effective measures. The United States did not want the precautionary principle included in the Rio Declaration. There was a compromise, as Senator Andreychuk would know. They felt the term "cost-effective" satisfied their intention. However, the Scandinavian countries accepted the word "cost-effective" because they felt it would never be cost-effective not to have a precautionary principle whenever the damage could be irreversible. The precautionary principle would be invoked when potential damage was so great or irreversible that scientific certainty would not be required.

This has occurred in two earlier instances. Thirty years ago, cause and effect linked smoking with cancer. The same thing occurred with the lead poisoning issue.

Canada is a signatory to many other conventions besides the Rio Declaration. One is the Convention on Biological Diversity. The term "cost-effective" is nowhere to be found in such conventions because it blatantly opposes the intentions. The cabinet made a contradiction in the Rio Declaration and for very good reason. It is not a good idea for us to carry that contradiction forward into domestic legislation.

Hon. John Buchanan: Honourable senators, if we had a packed gallery, the observers would be asking what we are doing and what we are talking about. It is probably evident to anyone who has been following this whole scenario that our discussions here are futile as far as convincing senators opposite to vote for any amendments or to vote against the bill. They will not vote to change the bill. We know that. So why are we here? I will tell you why we are here.

Honourable senators, this is bad legislation. Bad legislation should be corrected to make it good legislation. Obviously, senators opposite prefer bad legislation to good legislation.

To my honourable former premier, he was not in the committee. I want to tell him that I watched what was going on in that committee. There is no doubt that the marching orders had been given as to what was to happen in that committee.

I broke it down to three situations. First of all, it is bad legislation. I will explain to you in a minute why.

Second, witnesses who came there had been hoodwinked. I will explain that later as well.

Third, the political process was badly flawed from the minute we walked into that committee room.

How is legislation good or bad or in between? It is bad legislation when you find that many, many members of Parliament would have voted against the legislation if they knew then what they now know.

Second, members of Parliament had approved 150 amendments to the bill over a long period of time. Good for them. What happened? The government made what would have been good legislation into bad legislation because the government decided to change 90 of those amendments and put them back where the bill had been before. They ignored the members of Parliament. That creates bad legislation.

Let us look at what happened next. Most of the witnesses who appeared before the House of Commons committee over eight or nine months were ignored by the government. Most of the amendments proposed by the witnesses were approved by the House of Commons committee. How shocked they must have been when they saw the bill at report stage. They must have thought they had been hoodwinked by the government because their submissions and suggestions were, for the most part, ignored by the government in its determination to pass bad legislation. The report of the committee was emasculated by the government.

What happened next? All of the recommendations were ignored and the legislation was passed by the House of Commons. Then it was discovered that representations had been made to the government by a small group of very influential people in this country. They urged the Prime Minister and the government to change the bill as approved by the elected members of Parliament, but the members did not know that until after they voted in the House of Commons.

An Hon. Senator: Shame.

Senator Buchanan: Yes, the honourable senator has used the right word because the work of those members of Parliament was trammelled by the government.

A letter from another large company, Alcan, was made public after the vote. The letter said that if this legislation goes through in the committee stage format, Alcan might just have to close a lot of plants, primarily in Quebec.

Senator Kinsella: Perhaps in Shawinigan?

Senator Buchanan: Yes, I think that may be right.

So what did the government do? They said, "Well, even though our Liberal MPs and the Tories and a few others voted for this version, we say no." The members voted for the bill because they were not aware of the personal representations that had been made to the government. They were not aware of this particular letter from Alcan to the Prime Minister. That is why they did it. They now say that if they had known that, they would not have voted for the bill.

• (1930)

It is important that we remember that, because some of your own members of Parliament were hoodwinked by their own government. In fact, some very prominent Liberal members of Parliament were hoodwinked by their own government.

This is bad legislation put together by a group in the Prime Minister's Office and in the cabinet room, many of whom, I suspect, were opposed to what the Prime Minister and others wanted to do. However, cabinet solidarity being what it is, they will not say much of anything about it. That is fine; I agree with that. I look at the front bench here and I see member former cabinet ministers. I have dealt with many cabinet ministers. You and I know that many of those cabinet ministers were not in agreement with changing what the members of Parliament had agreed to at committee stage. What was the end result? Bad legislation. There is no question about that. You can laugh, but you know it is true. Senator Chalifoux knows it is true, as does Senator Adams and Senator Taylor. Even Senator Kenny knows it is true!

What happened here? The witnesses were ignored. I can hear my friend from Cape Breton, Nova Scotia, Elizabeth May.

Senator Kenny: We know Elizabeth. Is she your friend?

Senator Buchanan: Yes, she is. Her mother is a good friend of mine. I can hear her now saying, "Why did I bother to testify on behalf of the Sierra Club at the House of Commons committee? This matter will be looked at now because I am going to the Senate committee. That is an independent body. It will take a sober, second look at the legislation. I trust them."

Senator Kenny: Did she ever vote for you, Senator Buchanan?

Senator Buchanan: No. You knew the answer to that question.

In a political sense, do you know what is at stake here? The credibility of the Senate. Over 90 per cent of those witnesses, representing a cross-section of Canadian society, came to the Senate, saying, "We will now get justice from the Senate. They will listen to us. They will propose some of our amendments and pass some of them — no one expects all of them to be passed — through the Senate. They will then refer the bill back to the House of Commons so that we will have a bad bill and bad legislation made better."

What happened? Over 90 per cent of the witnesses were opposed to the bill in many ways. Some of them agreed with certain sections; many disagreed with many sections; and many said, "We would prefer to have Bill C-88 than this bill."

We had a good reason to walk out when we did because the outcome was a forgone conclusion. The Honourable David Anderson, in answer to a question from Senator Spivak, said, "I respect your comments that, perhaps, the existing Bill C-88 is better." That is an indication that, perhaps, the minister did not get his marching orders correct from the Prime Minister.

Senator Nolin: He was only on the job for five days!

Senator Buchanan: He is saying, "I think we can live with the 1988 legislation if we must, yes." In other words, he is saying, "I agree that this is bad legislation."

Senator Carstairs: No. Read his letter!

Senator Buchanan: No. This was not in a letter.

Senator Carstairs: He also wrote a letter.

Senator Buchanan: After he realized that he had made a mistake, maybe. But it was too late.

The minister then told Senator Spivak, "I respect your comment that perhaps the existing legislation, Bill C-88, is better." If the minister says that Bill C-88 is better, then why is he passing bad legislation? He knows it is bad.

Senator Taylor: He is respecting Senator Spivak's comments!

Senator Buchanan: He said that "the existing Bill C-88 is better. I think we can live with it." What does that mean, Senator Taylor? He says, "We can live with that. Take this legislation before your committee now and let us make it better even if it takes another six or seven months. We will live with the existing one until you do that." That is sound reasoning on behalf of the minister. The minister also says, "It is always possible to work under the old legislation."

Approximately 90 per cent of the witnesses said, "We would prefer the old legislation while you correct this bill," including the minister, Mr. Anderson. In other words, he is saying: "Let us not pass bad legislation. Let us work with the existing act, correct the problems in Bill C-32, and then pass a new bill, one that is acceptable."

It is difficult to pass legislation that is acceptable to everyone, but there should be a consensus among the majority of the population that they agree with it. "Consensus" is always a good word. I remember when the Supreme Court, in 1981, used that term when they said to Prime Minister Trudeau, "You must have a consensus of the provinces." It is appropriate to use that word here. Make bad legislation better legislation so that a consensus of Canadian society will agree with it.

What is happening here with the political process? Well, the political process has been torpedoed not only by the bill but also by what the committee did with this bill. I have been around a bit in politics. I cannot recall a committee meeting that involved a bill, whether it was provincial or federal legislation, where at the outset the majority of the committee said: "By the way, we like this bill and we will pass it. Furthermore, to prove our point, we will not allow any more witnesses to appear before this committee. We are setting a time allocation now, before you even talk to any of the witnesses, so that no other witnesses will be allowed to appear." I ask: "How can they do this?" They can do it because they have a majority. To make it worse, they said: "By the way, we will pass another bill and put forward another resolution before the committee. Never mind talking to Senator Adams or Senator Chalifoux or some of the others who really were upset with this bill. We have been told that this bill is to be passed by the committee by twelve o'clock noon on September 7, without amendment."

• (1940)

While driving back from Halifax to Ottawa, I was listening to a radio program from Halifax, and I heard one of the government committee members say, "Well, I am not going to support any amendments to this bill." We had barely even started to hear witnesses. I think we had heard from maybe eight witnesses, and yet he had already made up his mind. He was not going to vote for any of our amendments. He had not even heard one of them yet. That is how ridiculous the situation is.

This is bad legislation. The political process has been damaged; it has been torpedoed. We are not destroyed yet, though; I can tell you that. That is why we are here. We know what the government is going to do. We realize what you are going to do. Honourable senators opposite have been told to vote for the bill, to hold their noses and do it. We want to make the point, however, that you have tried to demolish the political process in this place.

As said in the report, we went into that committee meeting with the full understanding, as we have in other committees of this place, that we would have every opportunity to discuss the bill and to hear from witnesses, but the motion you people passed disallowed us from doing that. The motion judged prematurely the work of the committee before it even started, effectively limiting the time that could be spent with witnesses discussing the bill, and preventing a detailed clause-by-clause review in which we could introduce amendments. It demonstrated the unwillingness of the senators representing the government to carefully consider evidence which would be heard by the committee during its hearings and their further unwillingness to consider amendments.

The Hon. the Speaker: Honourable Senator Buchanan, I regret to interrupt you but your time has expired.

Senator Buchanan: I just have another minute, if I might have leave to continue.

Senator Carstairs: A regular minute or a Buchanan minute?

Senator Buchanan: As usual, I am at your disposal.

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

Hon. Senators: Agreed.

Senator De Bané: Please continue.

Senator Buchanan: I thank Honourable Senator De Bané. This gentleman has been, continues to be and always will be a honourable gentleman, in my opinion. When he was a minister in the Trudeau government, he was a friend of Nova Scotia. Many was the time we walked around the Halifax area discussing our problems. I suspect that Senator De Bané, if he could, would vote against this bill.

Honourable senators, I heard someone say, "Well, you had all the witnesses you wanted to hear." That is not true. There were witnesses from Nova Scotia who wanted to come to Ottawa but your closure motion ensured they would not. The Nova Scotia Council on Health sent a written letter asking to be heard, and were told they could not be heard because the government majority said they did not want to hear anyone else.

When you get together in committee, you often say, "Listen, there is a time limit for witnesses." However, there are certain things that come up during committee meetings which cause you to say, "Oh, listen, there is another group in Nova Scotia or Alberta or B.C. that wants to be heard on this but they probably did not know anything about it. Is it all right if we get in touch with them and see if they can come?" Usually the answer is, "Oh, sure, go ahead. Let us not have too many more witnesses but certainly we are not going to close out any legitimate people who want to be heard."

What did we have to do in this case? We had to tell those legitimate people who want to be heard, "Sorry, closure, you cannot be heard," and thus the Nova Scotia Council on Health were not able to come to be heard. What about Don Deleskie from Sydney? He would love to have come up here and be heard, and I know you would all like to hear him. He was not given the chance.

In other words, closure destroyed the political process that we have been trying to build in the Senate.

I would like to remind honourable senators opposite of what this Upper House is supposed to be and what you have started to destroy. In the words of Sir John A. Macdonald:

> There would be no use of an Upper House, if it did not exercise, when it was thought proper, the right of the opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the lower house. It must be an independent House, having free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch.

That was John A. Macdonald, the first prime minister of this country, one of the founders of this country, who decided along with the others the Senate was important as a house of sober, second thought, and one representing the regions and the people of this great country of Canada. That is what he said.

Just remember when you get up to vote in favour of this legislation which is opposed by over 90 per cent of the people of Canada, and opposed by members of Parliament, that the credibility of the Senate is at stake.

I ask you one question. What was the rush? The answer from the minister: "Oh, well, look, I want this over with. I want it done. It has been in the House of Commons now for years." So what? If you are going to end up with a good piece of legislation, so what? Why the rush? Why close out the Senate? Why tell the Senate what to do? Get the bill passed and get it out of that Senate so that bad legislation becomes law? Why? Because they want to prorogue Parliament. What is more important, I ask you, to prorogue Parliament or to pass good legislation? Good legislation is more important. You can get it, we can amend it here, and we can send it back to the House of Commons. Do not let me hear you saying, "Oh, but then it will take years again." It can go back to the House of Commons amended from here, and after prorogation it can be introduced again as a new bill with the amendments. By government order it would pass the House of Commons and be out of there in a matter of months, and we would have good legislation, not bad legislation.

The government, however, has decided.

I said I would only take a minute; I took a little longer than that. I just want to say to you, seriously, please, when these amendments come to a vote, vote for the amendments. Make this a better bill. Have those people who appeared as witnesses before this great Senate of Canada say, "Thank God for the Senate of Canada."

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I refrained from speaking at first, but now having heard what the honourable senators on both sides have had to say, I have a better notion of what is involved.

[*English*]

Those who pretend to be expert in everything realize very rapidly they are expert in nothing. I take my clue. I listen to people I have a great deal of respect for, people who are experts, and I say, "That makes sense." Then I look for an answer back. If there is no answer back, then I am not in doubt.

• (1950)

I have had the privilege and pleasure of working with Charles Caccia. Mr. Caccia has been called every name in the book by people who do not like his character. However, in my view, he is one of the hardest working members of the House of Commons. I want to pay homage to him. He is opinionated and stubborn. For a while, he was the chairman of the International Parliamentary Union. Our Speaker was very involved in the International Parliamentary Union where this discussion took place.

I do not want to make a long and passionate speech. I see that the end is coming, and I regret it. I share the opinion of Senator Buchanan that the Senate could have held this bill much longer. If 92 per cent of the people do not like this bill, that must be a signal to us. Charles Caccia is not only an expert in the Canadian House of Commons, he is well known internationally through the International Parliamentary Union. He is highly respected.

Who does not have a high opinion of the views expressed by Mr. Clifford Lincoln?We remember when he said in Quebec City that rights are rights are rights, and chose to resign. He will fight Onex's proposal to take over Air Canada and those who do not know him will see that he is an excellent fighter. Those who manage the business of the House of Commons are very lucky that that chamber is not sitting at this time. Were it sitting, a very interesting debate would be taking place there.

I did not withhold unanimous consent not to see the clock at six o'clock tonight as I may have done to delay the government. We could have sat here all week, and then it would have been interesting to see what would have happened next Monday, because the House of Commons is still scheduled to resume sitting on Monday, September 20. The Senate chose not to continue the debate.

Some of our new senators probably already find this place to be partisan. However, when a bill is bad, the same people who sometimes think that the Senate should disappear are the first to say that perhaps the Senate will come to their rescue. I hope that some day we will not be afraid to take our responsibility. Parliament is two houses: the House of Commons and the Senate. I want to ensure that the new senators understand that we are members of Parliament. I repeatedly read in parliamentary association reports that there were a certain number of members of Parliament and a certain number of senators in attendance. We must set the record straight.

Senators want to proceed, to my regret. I will vote for the amendments, which I ensured that we would receive in both English and French, and I will vote against the bill, not because I do not want action but because I believe that the bill is not satisfactory.

This was a good opportunity for senators not to vote along party lines. That will not happen this time, so we wait for the next opportunity.

The Hon. the Speaker: As no other honourable senators wishes to speak, I will proceed with the motions before us.

I have three sets of amendments. The latest set was proposed by Senator Nolin, seconded by Senator Spivak. The previous set was proposed by Senator Cochrane, seconded by Senator Robertson. The first set of amendments was proposed by Senator Spivak, seconded by Senator Cochrane.

Does the Senate wish to vote separately on each amendment or to vote on them all together?

Senator Prud'homme: I am sure that His Honour has read all the amendments. Is he satisfied that in the order in which he will call them they will not contradict each other? If he is satisfied with that, we can proceed in that manner.

The Hon. the Speaker: I wish I could answer the Honourable Senator Prud'homme.

Senator Carstairs: I believe it is agreed that we will vote on the group of amendments moved by Senator Nolin, then on those moved by Senator Cochrane, and then on those moved by Senator Spivak, followed by the main motion.

Senator Kinsella: That is agreeable to us. On certain amendments, which we will identify as they arise, we will want to have a standing vote. On others, it will not be necessary to have a standing vote.

Senator Carstairs: As well, there is general agreement that there will be a half-hour bell.

Hon. Lowell Murray: With agreement, there will be a half-hour bell.

• (2000)

The Hon. the Speaker: The procedure in which we are engaged is totally irregular. The rules are clear that there can only be one amendment and one subamendment; however, the Senate agreed to proceed in this way. Thus, this is the way we are doing our business.

I shall proceed to the first question before the Senate. It was moved by the Honourable Senator Nolin, seconded by the Honourable Senator Spivak:

> That Bill C-32 not be read now but be amended in the preamble —

Shall I dispense?

Hon. Senators: Dispense.

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

Hon. Senators: Yea.

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

The Hon. the Speaker: Nay.

The Hon. the Speaker: I declare the "nays" have it. The amendment is defeated.

And two senators having risen.

The Hon. the Speaker: The next amendment —

[*Translation*]

Senator Nolin: Are my two amendments being put to a vote, or just the preamble?

The Hon. the Speaker: If I understood Senator Carstairs correctly, we were taking the amendments moved by each senator en bloc. So I read your amendments and was told to dispense. So I did not read both amendments. It was understood that we were voting on the amendments moved by each senator en bloc.

[*English*]

Senator Kinsella: We have had two honourable senators rise. We are calling for a standing vote. We agree with the Deputy Leader of the Government that a one-half hour bell would be appropriate.

The Hon. the Speaker: Are you asking for a standing vote on the amendments proposed by Senator Nolin, seconded by Senator Spivak?

Hon. Senators: Yes.

The Hon. the Speaker: A standing vote has been requested.

Senator Carstairs: Once all the senators have been called in for this standing vote, we will then proceed with all other standing votes, if such is required by the other side.

Senator Kinsella: Agreed.

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

Hon. Senators: Agreed.

[*Translation*]

Senator Prud'homme: I understand the impatience of honourable senators. I understand perfectly well the wish to move quickly.

[*English*]

However, there is something that I have learned from the English tradition. It is the power of the precedent. In this regard, I speak just for myself. To do otherwise would be arrogant.

I hope that I understand that there is no precedent being built into the system tonight and this afternoon. I do not want to warn honourable senators because that might be too strong a word. I wish to draw to the attention of the leadership that there are so many precedents being set tonight that it could be useful for any senator in the future to say, "How could you have done it that way then and not do it that way now?" I hope that honourable senators will reflect on that because, in the future, I will be the first one to use the precedent, if need be, that we are setting tonight.

The Hon. the Speaker: I can assure the Honourable Senator Prud'homme that there is no precedent being set here. Nor is there any precedent for what I have just allowed honourable senators to do, which is also against the rules. The rule is that there can be no debate once a vote has been called. However, because we are working on a consensual basis, I allowed it.

A standing vote has been requested on the set of amendments proposed by the Honourable Senator Nolin, seconded by the Honourable Senator Spivak. I understand that there is agreement that there will be a one-half hour bell.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: I also understand that any subsequent votes will be taken immediately following the taking of the vote that has just been requested.

Hon. Senators: Agreed.

The Hon. the Speaker: The vote will be held at 8:35.

Call in the senators.

• (2030)

The Hon. the Speaker: Honourable senators, the question before the house is on the two amendments moved by the Honourable Senator Nolin, seconded by the Honourable Senator Spivak.

Shall I dispense with the reading of the amendments?

Hon. Senators: Dispense.

Motions in amendment (Senator Nolin) negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Murray
Atkins	Nolin
Beaudoin	Prud'homme
Buchanan	Rivest
Cochrane	Roberge
Comeau	Robertson
Forrestall	Rossiter
Keon	Simard
Kinsella	Spivak
LeBreton	Tkachuk
Lynch-Staunton	Wilson—22

NAYS

THE HONOURABLE SENATORS

Adams	Kirby
Bryden	Lewis
Callbeck	Losier-Cool
Carstairs	Maheu
Chalifoux	Mahovolich
Christensen	Mercier
Cook	Milne
Cools	Moore
Corbin	Pépin
De Bané	Perrault
Fairbairn	Perry Poirier
Ferretti Barth	Poulin
Finestone	Poy
Finnerty	Robichaud
Fitzpatrick	(*L'Acadie-Acadia*)
Fraser	Robichaud
Furey	(*Saint-Louis-de-Kent*)
Gauthier	Rompkey
Gill	Ruck
Grafstein	Sibbeston
Graham	Sparrow
Hervieux-Payette	Stewart
Joyal	Taylor
Kenny	Watt—46

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: The next amendments before us are those proposed by Honourable Senator Cochrane, seconded by Hnourable Senator Robertson. There are three different amendments here. I have been asked to deal with them separately.

The first is:

> That Bill C-32 be not now read the third time, but that it be amended
>
> (*a*) in the preamble, on page 2 —

Shall I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those honourable senators in favour of the motion in amendment will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion in amendment will please say "nay."

Some Hon. Senators: Nay.

• (2040)

The Hon. the Speaker: In my opinion, the "nays" have it. I declare the motion in amendment lost.

Is the motion in amendment lost on division, or do honourable senators wish a standing vote?

Senator Kinsella: A standing vote.

The Hon. the Speaker: Honourable senators, in fairness, I think we should have at least a five-minute bell in case someone has moved out of the chamber or wishes to move out.

Hon. Shirley Maheu: Honourable senators, I believe we agreed one month ago that there would be no more five-minute bells.

The Hon. the Speaker: With leave, we can do whatever we want. The alternative is to have the vote immediately.

Senator Nolin: We should have it next Wednesday.

Senator Carstairs: I think the agreement was that it would be immediate. Honourable senators knew that when they had the original half-hour bell.

Senator Murray: Honourable senators, I raised a question of privilege on this very matter a while ago, as colleagues are aware. I do not mean to be difficult. I heard the discussion earlier and the suggestion that there should be no time between votes on the various amendments. I would object very strenuously to that. I think the bell must ring for some time and the doors must be opened so that any senator who did not happen to be here for this vote and wants to participate in the next one can enter the chamber. I think the bells should ring for at least a few minutes.

Senator Carstairs: The argument against that is that under time allocation there can be no amendments. Hence, we made an agreement that we would allow four amendments. It is a rare situation, but we agreed that because senators had amendments we would proceed with amendments. Part of that agreement was that the votes would be continuous once the first bell of one-half hour called everyone into the chamber.

Senator Murray: Honourable senators, I appreciate the point the deputy leader has made about the fact that we only have four amendments; but, with respect, it is irrelevant to my point that there must be time for those senators who may not have been here to be called in. I stand corrected if I am wrong, but I do not think there was agreement that we would have no time between the votes on these various amendments. There must be some time to allow senators who were not here for the vote a few minutes ago to be here for the next set of votes.

Senator Kinsella: Honourable senators, I think the advice given by His Honour is appropriate under these circumstances. I would agree with His Honour's suggestion.

Senator Prud'homme: Honourable senators, I think the government will get what it wants tonight. We should not be stubborn for the sake of five, six, or seven minutes. Senator Murray is right in standing up. It is not even nine o'clock. The government will probably have this bill before nine o'clock. If we have a five-minute bell, everyone will be happy and we can proceed.

Senator Carstairs: Honourable senators, if it is the will of the chamber, we will have five-minute bells. However, I was on the record in the past in agreement with Senator Murray that we should never have a vote with less than a 20-minute bell.

The Hon. the Speaker: I gather there is agreement, then, for a five-minute bell. The problem is that a senator or senators can be out of the chamber. In an earlier vote today, an honourable senator was restrained by the pages and not allowed to enter the chamber because the honourable senator was entering after I had said, "The question is." That is the problem.

If honourable senators have agreed to a five-minute bell, we will vote at ten minutes to nine o'clock.

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators.

• (2050)

The Hon. the Speaker: The question before the Senate is the first amendment by Honourable Senator Cochrane, seconded by the Honourable Senator Robertson, that Bill C-32 be not now read the third time, but that it be amended in the preamble —

Shall I dispense with the reading of the amendments?

Hon. Senators: Dispense.

Motion No. 1 in amendment (Senator Cochrane) negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Murray
Atkins	Nolin
Beaudoin	Prud'homme
Buchanan	Rivest
Cochrane	Roberge
Comeau	Robertson
Forrestall	Rossiter
Keon	Simard
Kinsella	Spivak
LeBreton	Tkachuk
Lynch-Staunton	Wilson—22

NAYS

THE HONOURABLE SENATORS

Bryden	Lewis
Callbeck	Losier-Cool
Carstairs	Maheu
Chalifoux	Mahovlich
Christensen	Mercier
Cook	Milne
Cools	Moore
Corbin	Pépin
De Bané	Perrault
Fairbairn	Perry Poirier
Ferretti Barth	Poulin
Finestone	Poy
Finnerty	Robichaud (*L'Acadie-Acadia*)
Fitzpatrick	Robichaud (*Saint-Louis-de-Kent*)
Fraser	Rompkey
Furey	Ruck
Gauthier	Sibbeston
Gill	Sparrow
Grafstein	Stewart
Graham	Taylor
Hervieux-Payette	Watt—45
Joyal	
Kenny	
Kirby	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: The question before the Senate now is the second motion in amendment proposed by Honourable Senator Cochrane, seconded by Honourable Senator Robertson, that Bill C-32 be not now read a third time but that it be amended (*a*), in clause 44 on page 28 by adding the following —

Shall I dispense with the reading of the amendments?

Hon. Senators: Dispense.

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: The vote will take place at nine o'clock. Call in the senators.

• (2100)

The Hon. the Speaker: Honourable senators, the question before the Senate is the second motion in amendment moved by the Honourable Senator Cochrane, seconded by the Honourable Senator Robertson:

That Bill C-32 be not now read the third time but that it be amended.

(*a*) in clause 44 on page 28 —

An Hon. Senator: Dispense!

Motion No. 2 in amendment (Senator Cochrane) negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk
Atkins
Beaudoin
Buchanan
Cochrane
Comeau
Forestall
Keon
Kinsella
LeBreton
Lynch-Staunton
Murray
Nolin
Prud'homme
Rivest
Roberge
Robertson
Rossiter
Simard
Spivak
Tkachuk
Wilson—22

NAYS

THE HONOURABLE SENATORS

Bryden
Callbeck
Carstairs
Chalifoux
Christensen
Cook
Cools
Corbin
De Bané
Fairbairn
Ferretti Barth
Finestone
Finnerty
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Grafstein
Graham
Hervieux-Payette
Joyal
Kenny
Kirby
Lewis
Losier-Cool
Maheu
Mahovlich
Mercier
Milne
Moore
Pépin
Perrault
Perry (Poirier)
Poulin
Poy
Robichaud (*L'Acadie-Acadia*)
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Ruck
Sibbeston
Sparrow
Stewart
Taylor
Watt—45

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, we are now back to the first amendment proposed by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane:

> That Bill C-32 be not now read the third time, that it be amended in the preamble on page one —

An Hon. Senator: Dispense!

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 vote will take place at 9:10 p.m.

• (2110)

The Hon. the Speaker: The question before the Senate is the motion in amendment moved by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane, that Bill C-32 be not now read the third time but that it be amended —

Shall I dispense?

Hon. Senators: Dispense.

Motion in amendment by Senator Spivak negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Murray
Atkins	Nolin
Beaudoin	Prud'homme
Buchanan	Rivest
Cochrane	Roberge
Comeau	Robertson
Forrestall	Rossiter
Keon	Simard
Kinsella	Spivak
LeBreton	Tkachuk
Lynch-Staunton	Wilson—22

NAYS

THE HONOURABLE SENATORS

Bryden	Lewis
Callbeck	Losier-Cool
Carstairs	Maheu
Chalifoux	Mahovlich
Christensen	Mercier
Cook	Milne
Cools	Moore
Corbin	Pépin
De Bané	Perrault
Fairbairn	Perry Poirier
Ferretti Barth	Poulin
Finestone	Poy
Finnerty	Robichaud
Fitzpatrick	(*L'Acadie-Acadia*)
Fraser	Robichaud
Furey	(*Saint-Louis-de-Kent*)
Gauthier	Rompkey
Gill	Ruck
Graham	Sibbeston
Hervieux-Payette	Sparrow
Joyal	Stewart
Kenny	Taylor
Kirby	Watt—44

ABSTENTIONS

THE HONOURABLE SENATORS

Nil.

The Hon. the Speaker: The question now before the Senate is the motion by Honourable Senator Taylor, seconded by Honourable Senator Finnerty, that the bill be read the third time now.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion 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. There will be a recorded vote at 9:20 p.m.

• (2120)

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

YEAS

THE HONOURABLE SENATORS

Bryden
Callbeck
Carstairs
Chalifoux
Christensen
Cook
Cools
Corbin
De Bané
Fairbairn
Ferretti Barth
Finestone
Finnerty
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Graham
Hervieux-Payette
Joyal
Kenny
Kirby
Lewis
Losier-Cool
Maheu
Mahovlich
Mercier
Milne
Moore
Pépin
Perrault
Perry Poirier
Poulin
Poy
Robichaud (*L'Acadie-Acadia*)
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Ruck
Sibbeston
Sparrow
Stewart
Taylor
Watt
Wison-45

NAYS

THE HONOURABLE SENATORS

Andreychuk
Atkins
Beaudoin
Buchanan
Cochrane
Comeau
Forrestall
Keon
Kinsella
LeBreton
Lynch-Staunton
Murray
Nolin
Prud'homme
Rivest
Roberge
Robertson
Rossiter
Simard
Spivak
Tkachuk-21

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

PUBLIC SERVICE PENSION INVESTMENT BOARD BILL

ALLOTMENT OF TIME FOR DEBATE—NOTICE OF MOTION

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, 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.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, there have been discussions with the opposition about allocating a specific number of hours for debate on third reading of Bill C-78. Unfortunately, we have not been able to reach a mutually satisfactory agreement.

Subsequently, I give notice that tomorrow, September 14, 1999, I will move:

That, pursuant to rule 39, not more than a further six hours of debate be allocated to dispose of third reading of Bill 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;

That when the debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading of the said bill; and

That any recorded vote or votes on the said question be taken in accordance with the provisions of rule 39(4).

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I think there is general agreement that all other items on the Order Paper shall remain there in the order in which they appear today.

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

Hon. Senators: Agreed.

[*Translation*]

ADJOURNMENT

Leave having been granted to revert to Notices of Government Motions:

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

That when the Senate adjourns today, it do stand adjourned until Tuesday next, September 14, 1997, at 9:00 a.m.

[*English*]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I realize that this is not a debatable motion. I am asking only a question for clarification.

Is it the understanding of this house that the rules relating to the time of sitting for Fridays will apply tomorrow?

Senator Carstairs: Yes, honourable senators, that is the understanding.

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

Hon. Senators: Agreed.

The Senate adjourned to Tuesday, September 14, 1999, at 9 a.m.

CONTENTS

Monday, September 13, 1999