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OFFICIAL REPORT
(HANSARD)

Tuesday, December 9, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, December 9, 1997

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I call for Senators' Statements, I should like to introduce the two pages who are with us this week through the exchange program with the House of Commons.

They are Anne McCulluch of Calgary, Alberta, who is pursuing studies in journalism at Carleton University.

[*Translation*]

Kirk Nangreaves of Saint-Hubert, Quebec, is studying at the University of Ottawa Arts Faculty.

[*English*]

He is majoring in psychology.

On behalf of all senators and the Senate, I bid you welcome.

SENATORS' STATEMENTS

THE SENATE

RESPONSE TO NEWSPAPER ARTICLE ON SENATOR'S RESIDENCY QUALIFICATIONS

Hon. Colin Kenny: Honourable senators, I rise today on behalf of a colleague who cannot be present, Senator Paul Lucier. Senator Lucier has sent me a fax which he has asked me to communicate to the chamber. For your benefit, he wants me to reply to the comments made about him in the media recently.

He writes:

> I would like to make some points with respect to this matter:
>
> 1. *The Citizen* said: "Paul Lucier said the Senate's legal staff approved his change in residency five years ago when he moved to Vancouver."

Senator Lucier says:

> This is not true. I never spoke with legal staff five years ago about this. I never had any problem about residency.
>
> 2. *The Citizen* said: "He said Senate staff told him he could keep his seat as long as he continues to own property in the Yukon."

Senator Lucier replies:

> Again, I never spoke to the staff and was therefore never told any such comment. Just not true.
>
> 3. On my attendance, 21 % (19 out of 87 sittings), and on the statement: "He says —

Senator Lucier has underlined the word "says."

> — he has bone cancer and must live in the British Columbia city for treatments".

Senator Lucier replies:

> I wonder if Jack Aubry is questioning the fact that I have cancer. I would gladly give him permission to question my doctor as to whether I have had cancer for 10 years.
>
> 4. I would like to have these points clarified but not in the media. I would like this mentioned in caucus today and in the Chamber if you chose to do so.
>
> 5. I truly appreciate all the support I have received from my colleagues regarding this subject. Thanks to all of you.

HISTORY OF THE VOTE IN CANADA

BOOK LAUNCHED BY GOVERNOR GENERAL

Hon. Mabel M. DeWare: Honourable senators, yesterday, the Right Honourable Romeo LeBlanc, Governor General of Canada, launched an important new book, *A History of the Vote in Canada*, which recounts how the right to vote has evolved over the past 250 years. The book starts at the time of the first elected legislatures in what is now Canada and ends with the most recent federal election. It traces changes in voting eligibility, electioneering and voting practices, as well as voter turnout since Confederation. Extension of the vote to those who were excluded legally from the franchise, such as women, aboriginal people, religious and racial minorities, is examined in the social context of the period.

Even though most Canadian adults were eligible to vote by 1920, there is a final chapter that looks at ways to make voting accessible to everyone, including people in all geographic locations and people with physical disabilities.

A History of the Vote in Canada is meant to be an educational resource and a reminder to Canadians of the significance of the right to vote. This is in keeping with Elections Canada's 1993 mandate to educate voters about the democratic right to vote.

While this book will appeal to historians, political scientists, university and high school teachers and students, it is hoped that it will also reach those who may have difficulty exercising their right to vote.

As parliamentarians, honourable senators, it is our role to help promote this book and educate our fellow citizens on their rights as voters.

ROUTINE PROCEEDINGS

SAGUENAY-ST. LAWRENCE MARINE PARK BILL

REPORT OF COMMITTEE

Hon. Ron Ghitter, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Tuesday, December 9, 1997

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

SECOND REPORT

Your Committee, which was referred the Bill C-7, An Act to establish the Saguenay-St. Lawrence Marine Park and to make a consequential amendment to another Act, has, in obedience to the Order of Reference of Tuesday, December 2, 1997, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

RONALD D. GHITTER
Chair

• (1410)

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

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

INCOME TAX CONVENTIONS IMPLEMENTATION ACT, 1997

REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, December 9, 1997

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SIXTH REPORT

Your Committee, to which was referred the Bill C-10, Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984, has examined the said Bill in obedience to its Order of Reference dated December 8, 1997, and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

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

PRESENT STATE AND FUTURE OF AGRICULTURE

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

Hon. Leonard J. Gustafson: Honourable senators, I have the honour to table the second report of the Standing Senate Committee on Agriculture and Forestry, which requests that the committee be empowered to incur special expenses pursuant to the *Procedural Guidelines for the Financial Operation of Senate Committees*.

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

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

Hon. Senators: Agreed.

(*For text of report, see today's* Journals of the Senate, *Appendix,"A", p. 313.)*

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

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

PRESENT STATE AND FUTURE OF FORESTRY

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

Hon. Leonard J. Gustafson: Honourable senators, I have the honour to table the third report of the Standing Senate Committee on Agriculture and Forestry, with a request that the committee be empowered to incur special expenses pursuant to the *Procedural Guidelines for the Financial Operation of Senate Committees*.

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

(*For text of report, see today's* Journals of the Senate, *Appendix "B", p. 321.*)

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, December 9, 1997

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

SEVENTH REPORT

Your Committee notes the attendance record of Senator Thompson and recommends that, effective immediately:

1. Senator Thompson's use of the Senate resources ordinarily made available to him for the carrying out of his parliamentary functions, including funds, goods, services and premises, be suspended;

2. Senator Thompson's allowances for travel and telecommunications expenses be suspended, with the exception of his expenses for travel between his place of residence in Ontario and the Senate in Ottawa; and

3. Senator Thompson may apply in person to have this decision varied to the Standing Committee on Internal Economy, Budgets and Administration, which the Committee has the authority to do.

Your Committee, in conjunction with the Standing Committee on Privileges, Standing Rules and Orders, is continuing to study this issue.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

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

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

[*Translation*]

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, December 10, 1997, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

INTERNATIONAL ASSEMBLY OF FRENCH-SPEAKING PARLIAMENTARIANS

MEETING HELD IN LUXEMBOURG—REPORT OF CANADIAN SECTION TABLED

Hon. Pierre De Bané: Honourable senators, pursuant to rule 23(6) of the Senate, I have the honour to present, in both official languages, the reports of the Canadian section of the International Assembly of French-Speaking Parliamentarians as well as the financial report of the 23rd regular session of the IAFSP and its executive committee, held in Luxembourg from July 7 to July 10, 1997.

[*English*]

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. John B. Stewart: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*a*), I move:

> That the Standing Senate Committee on Foreign Affairs have power to sit at 3:15 p.m. tomorrow, Wednesday, December 10, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

• (1420)

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

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, in the past two years or so, there has been a common understanding in this chamber that Wednesdays would constitute a short day. This is why we have been meeting at 1:30 p.m. The general understanding is that we try to finish our business in the chamber by about 3:30 p.m.

In the past few weeks, we have heard requests like the one raised by the Honourable Senator Stewart. If the request speaks to a Tuesday or a Thursday, when we normally meet at 2 p.m. and sit a little longer, there would be no difficulty, all things being equal, in granting leave. However, I am having some difficulty in granting leave for a day when we are supposed to be having a short day in any event.

I would ask the honourable Chairman of the Foreign Affairs Committee if he would explain his motion in light of the fact that Wednesday is a short day.

Senator Stewart: Honourable senators, there are two points: First, we are hoping tomorrow to have a timely assessment of the achievements of the APEC meetings.

Senator Lynch-Staunton: Watch out for the pepper spray!

Senator Stewart: The second point relates to the request for permission to meet tomorrow at 3:15 p.m. although the Senate may be then sitting. If I felt secure in the prognosis that the Senate would rise at three o'clock — which is the assumption on which we base our start time of 1:30 p.m. — I certainly would not undertake to put forward this motion. However, past experience suggests that, notwithstanding the fact that we do meet on Wednesdays at 1:30 p.m., we often sit well beyond three o'clock. On one occasion we had witnesses waiting for upwards of an hour.

The problem of getting out of here at three o'clock is not one to be addressed by the chair of a committee. That problem must to be addressed by the leadership on both sides of the chamber.

Senator Kinsella: Thank you, Senator Stewart.

Perhaps I might address the Deputy Leader of the Government, then. By way of recapitulation, this issue is important for all honourable senators. A request for leave has been made by the Chairman of the Foreign Affairs Committee to allow that committee to sit tomorrow, Wednesday, even though the Senate may then be sitting. The issue is that Wednesday, in our common understanding, was to be a short day to allow committees to sit on Wednesday afternoons.

Not just today but at other times, Senator Stewart has brought to our attention the fact that committees operate on that assumption and arrange their business plans, only to be frustrated in executing their business plan by the Senate going way beyond 3:00 or 3:30 p.m. on Wednesday afternoons.

Senator Stewart has explained to us that that is the main concern. He would like some assurance from the leadership on both sides that, on Wednesdays, we would try harder to respect that tradition. We on this side agree to make every effort to complete our work on Wednesday afternoons at around 3:00 or 3:15 p.m. If you can also agree, perhaps we do not need to have this motion.

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

Senator Kinsella: It depends upon the answer.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, we must make an effort to allow committees to sit. They do invite witnesses, many of whom come from out of town. We inconvenience them if we are not able to hear from them.

I must congratulate senators on this side who have refrained, for the most part, from making Senators' Statements on Wednesdays, unless it was something quite urgent, as was Senator Kenny's statement today. They have tried to make their speeches on either Tuesdays or Thursdays. Senators on the other side have attempted to do the same thing. With that level of cooperation, perhaps at some time in the future we can invoke a more formal process whereby there will be some guarantee to committee chairs.

Barring that formal process, Senator Stewart has witnesses to hear from tomorrow, and I should like him to have permission to hear those witnesses tomorrow.

Hon. John Lynch-Staunton (Leader of the Opposition): The Speaker will remember that the reason for the 1:30 p.m. sittings on Wednesdays was to allow committees to meet later on in the afternoon, no later than 3:00 or 3:30 p.m.. To offset the shortened hours of the chamber sitting on Wednesdays, we had agreed to sit on Monday nights. That worked for a while. Now we have forgotten Mondays, but we have continued on with the practice of having early sittings on Wednesdays. As a result, Wednesday has become a normal working session, going on until five or six o'clock. The whole purpose of starting the session at 1:30 p.m. has been defeated.

I do not think it is correct, unless there is an urgency, for committees to sit at the same time as the chamber. This is not for appearances' sake, but because the work done here can often be as important in the debates as what goes on in committees. At various stages of our work — the introduction of bills, second reading, committee referral, then third reading — we are often doing several at the same time. Sometimes even two, three or four committees are sitting when we are sitting. That is an improper practice.

If the deputy leader could guarantee to us that, on Wednesdays from now on — and we will strive to be cooperative — we will sit no later than 3:30 p.m., unless there is a proven urgency, then I think Senator Stewart's motion is in order. However, we need that assurance first.

Senator Carstairs: Let me assure the Leader and Deputy Leader of the Opposition that we will do everything on our part to ensure that sessions end on time. We did sit yesterday, which was a Monday. I can assure senators we will be sitting next Monday in order to fulfil the business of the chamber before the Christmas break.

Senator Kinsella: On that basis, I do not think leave is necessary.

The Hon. the Speaker: Is leave granted?

Senator Lynch-Staunton: Senator Kinsella said that leave was not necessary; not that he would withhold leave. He just felt it was not necessary.

The Hon. the Speaker: I cannot put the motion unless leave is granted.

Senator Lynch-Staunton: Leave is granted.

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

THE SENATE

CONDUCT OF BUSINESS—NOTICE OF INQUIRY

Hon. William M. Kelly: Honourable senators, I give notice:

> That on Thursday next, December 11, 1997, I will call the attention of the Senate to the way in which the Senate conducts its business.

[*Translation*]

QUESTION PERIOD

FEDERAL-PROVINCIAL RELATIONS

REDUCTION IN TRANSFER PAYMENTS TO PROVINCE OF QUEBEC—REQUEST FOR PARTICULARS

Hon. Fernand Roberge: Honourable senators, my question follows the announcement made yesterday regarding the government's decision to set at $12.5 billion the cash floor for transfer payments made under the Canada health and social transfer (CHST). The government would have us believe that this amount represents an increase in health care payments. However, the figures indicate otherwise.

For the current 1997-98 fiscal year, cash payments paid to Quebec under the CHST for health, education and social assistance will total $3.850 billion. Next year, these payments will be reduced to $3.804 billion. The following year, in 1999-2000, they will only be $3.748 billion. These downward adjustments will continue until federal cash payments to the provinces total $3.546 billion, by the year 2002-2003.

Yet, the government claimed yesterday that it was implementing a stable transfer system. In fact, cash payments paid to Quebec for health and education will be reduced by over $300 million over a five-year period. Honourable senators, I remind you that these cuts are in addition to this year's reduction of $700 million compared to last year. Could the minister make inquiries and inform the Senate of the reasons why, in spite of a cash floor set at $12.5 billion, Quebec's share will diminish by $307 million over the next five years?

[*English*]

• (1430)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know that I can produce the specific numbers for the province of Quebec. As one would expect, federal transfers are not excluded from the federal fiscal consolidation effort.

The federal government cut its own spending earlier, more drastically and in greater measure than transfers to the provinces. The government has made it clear that it will use increased fiscal flexibility to make strategic investments in priority areas, and action was taken early and directly on that commitment based on favourable fiscal results that emerged this past spring.

This action was an early commitment to increase the guaranteed annual cash payment to provinces and territories under the CHST from $11 billion to $12.5 billion a year.

Provinces will be receiving more than $6 billion in extra cash over the next five years. With respect to individual provinces, I do not have those numbers. However, I would be happy to provide them for my honourable friend.

[*Translation*]

Senator Roberge: Could the minister find out at the same time why, in the same time period, Ontario's share of the cash transfers will increase to $173 million?

[*English*]

Senator Graham: Yes. While I am doing that, I should like to remind the honourable senator that even before the federal government balances the books, it is putting more money into transfers to the provinces. In fact, the government is raising the cash floor from $11 billion to $12.5 billion, the single largest reinvestment made by the federal government.

REDUCTION IN TRANSFER PAYMENTS TO PROVINCES—
EFFECT ON ATLANTIC PROVINCES

Hon. Mabel M. DeWare: Honourable senators, my figures show that, four years ago, the provinces received more than $19 billion in cash transfers for health, education and welfare through what was then known as the Canadian Assistance Program and Established Programs Financing. This year and each year between now and 2000, they will receive $12.5 billion, to which the leader just referred. The government's math provides some good news, as the original plan was to give them even less.

The problem is that some provinces will get less under the new scheme while others will get more. Indeed, seven of the ten provinces will actually see their cash transfers fall even further, including all of Atlantic Canada.

The cash transfer to Nova Scotia will fall from $427 million to $411 million, which is a difference of $16 million. The transfer for Prince Edward Island will fall from $60 million to $59 million, which is a reduction of $1 million. The cash transfer to Newfoundland will fall from $281 million to $251 million, which is a difference of $30 million. New Brunswick will lose $11 million. The total loss to the Atlantic provinces is $58 million.

At the same time, three provinces, Ontario, Alberta and British Columbia will see their cash payments actually rise. Atlantic Canada's loss is their gain.

Can the Leader of the Government tell us if his government believes that it is fair to ask the provinces that can least afford it to continue to receive less money year after year by way of support for health, education and social assistance?

Hon. B. Alasdair Graham (Leader of the Government): I thank the honourable Senator DeWare for doing the mathematics for me. I only wish I had done it myself prior to coming into the Senate today. I would be happy to investigate the reasons why those particular numbers appear in the manner in which she has presented them.

Senator DeWare: I appreciate that. The root of the problem seems to be the formula that determines transfers, as it will no longer be based on the special needs of the provinces. It seems it will now be based on population. It will not matter that we are less able to raise money than the so-called "have provinces."

Honourable senators, because the population of the Atlantic provinces is not growing as fast as Ontario, Alberta or British Columbia, the smaller provinces will get less cash while the larger ones will get more. The $12.5 billion figure is prorated by provincial population.

Will the government consider the way it calculates transfer payments to ensure that cash transfers to Atlantic Canada, Saskatchewan and Manitoba do not decline any further?

Senator Graham: I shall certainly bring those very legitimate concerns to the attention of the responsible minister.

ENVIRONMENT

REDUCTION IN GREENHOUSE GAS EMISSIONS—SUPPORT BY
PROVINCES OF GOVERNMENT POSITION TAKEN AT KYOTO—
REQUEST FOR PARTICULARS

Hon. Mira Spivak: Honourable senators, on December 1, the federal government proposed that Canada's position at the Kyoto meeting on global climate change would be that developed countries should target 2010 emissions that are 3 per cent below 1990 levels and that Canada should reach the 1990 levels by 2007.

Given the consultation process preceding Kyoto, could the Leader of the Government tell us which provinces and territories support the position that the federal government is currently advancing in Kyoto, and could he also tell us which ones do not support this position?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, if I were in Kyoto I would be able to offer Senator Spivak a more definitive answer. I know that the Province of Alberta is well represented in Kyoto, as the Honourable Senator Ghitter has alluded to in the past.

I do not know the positions of the individual provinces. Certainly there was an enormous amount of consultation at meetings in various parts of the country prior to the Kyoto conference.

The meetings of officials have proceeded for several days. I understand that meetings of ministers got under way yesterday or the day before and are continuing until tomorrow.

The Canadian delegation is in the midst of negotiations and is considering the best approach for all of Canada. In that context, I am sure all of those present from the provinces are being consulted. The negotiations are in a state of flux at the present time and it might be premature for me to speculate on what the outcome might be.

REDUCTION IN GREENHOUSE GAS EMISSIONS—TARGET YEAR FOR IMPLEMENTATION OF GOVERNMENT POSITION TAKEN AT KYOTO—GOVERNMENT POSITION

Hon. Mira Spivak: I thank the Leader of the Government for his answer. I should like to point out that Manitoba is distinct from Alberta, as are all provinces.

In their December 1 announcement, the government also revealed that not until 1999 would they be able to provide more detail as to the costs and specific actions that would be required to meet our Kyoto commitments. By 1999, the year that the government will have settled on the costs and actions that will be needed to fulfil their Kyoto commitments, 2007 will be eight years away.

• (1440)

Assuming that it will take some time to implement the actions that the government will propose in 1999, it could be the year 2000, 2001, 2002 or 2003 before the government takes steps to meet its Kyoto targets. Some of these actions will undoubtedly entail negotiations and agreements with provincial governments, which means it could be as late as 2006 before the government can meet the targets which were set out.

Perhaps the Leader of the Government in the Senate could tell us in which year implementation of the Kyoto decisions will begin, because, surely, that must have been taken into consideration prior to the Kyoto meeting.

Hon. B. Alasdair Graham (Leader of the Government): Yes, honourable senators, discussions were held, and consideration was given to when the new objectives or conclusions of the Kyoto conference might be put in place, or kick into place, if I may use that terminology.

I do not believe a final agreement has been reached on that. I know that the Government of Canada will cooperate with the provinces and territories and, in partnership with industry, the environmental groups and individual Canadians, develop a practical, flexible, step-by-step plan for reducing emissions. Many economic analyses of potential costs attributable to taking action to reduce emissions have been done, but no conclusions have been reached respecting timing or actual costs.

REDUCTION IN GREENHOUSE GAS EMISSIONS—INFORMETRICA STUDY ON MEETING TARGETS—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, late last week, the consulting firm Informetrica released a study entitled, "The Scale of the Challenge for Reducing Canadian Greenhouse Gas Emissions." This report states:

> We conclude that there is almost no chance of meeting this goal in Canada under any reasonable economic scenario...

And I stress this last part:

> ...given current commitments to action.

Could the Leader of the Government tell us if the relevant ministers are aware of this study, whether there have been any responses, or what the reaction has been to this prestigious firm's study?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the government has been following the study and has examined the report which will be taken into consideration by the government in reaching its conclusions. It provides very important data. I am not sure the government would necessarily agree with the findings of the study but, certainly, those findings will be taken into consideration.

Senator Spivak: I am glad to hear that.

REDUCTION IN GREENHOUSE GAS EMISSIONS—CONCEPT OF DIFFERING TARGETS—GOVERNMENT POSITION

Hon. Mira Spivak: In the current discussions in Kyoto, the idea of tailoring reductions targets to individual countries' economic and social profiles rather than having a one-size-fits-all commitment has gained some currency, particularly in view of the most recent American proposal. Where does the Canadian delegation stand with respect to this concept?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the media is reporting, of course, on a possible deal on targets and time-tables which could see Canada accepting a reduction of 5 per cent from 1990 levels bythe year 2010. Media reports have also indicated that the same target will be given to other key countries, perhaps even the United States. However, the possible deal that was reported would have some other countries with bigger targets and some with lower targets, depending upon their capacity, their ability, and their will. At this point, these reports are speculative, but negotiations are ongoing.

[*Translation*]

NATIONAL UNITY

RECENT REMARKS OF PRIME MINISTER—POSSIBLE CONDITIONS OF SECESSION OF QUEBEC—GOVERNMENT POSITION

Hon. Pierre Claude Nolin: Honourable senators, I would like to return to the matter of the Prime Minister's statement last weekend on Quebec's secession. He said in fact last week in Quebec City that he would be prepared to negotiate Quebec's separation, if certain conditions were met.

I would first like to know what conditions the Prime Minister was referring to?

[*English*]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the Government of Canada has always said that Quebecers would not be kept within Canada against their will. That being said, breaking up a country is not a step that one would take lightly. Before proceeding, one would have to ensure

that this is what Quebecers really want, and the question in another referendum would have to be very clear.

Senator Lynch-Staunton: "Yes" or "no"?

Senator Graham: The will of Quebecers to leave must be clearly expressed. In addition, of course, any process that would lead to secession must respect the law.

Senator Lynch-Staunton: What does the law say on secession?

Senator Graham: The government has asked the Supreme Court of Canada to rule on the legality of unilateral secession.

Senator Lynch-Staunton: I had thought that Mr. Dion answered that question himself on the weekend when he said that a UDI would be illegal.

[*Translation*]

Senator Nolin: The Prime Minister has said he was prepared to negotiate. The Leader of the Government in the Senate has said the government is not prepared to negotiate.

This morning, the Quebec minister of intergovernmental affairs, Mr. Brassard, said, and I quote:

> This is what we have always said.

Bear in mind that this minister is a separatist. I repeat what he said:

> This is what we have always said.

Mr. Chrétien has acknowledged that the federal government would negotiate. Could the Leader of the Government in the Senate tell us under what authority the Prime Minister could negotiate?

[*English*]

Senator Graham: The Prime Minister would be negotiating on behalf of Canadians, but recognizing at the same time that nine other provinces and the territories are involved. I am sure the Prime Minister would take all of that into consideration.

[*Translation*]

Senator Nolin: The Supreme Court received the request from your government to decide on the issue of Quebec's secession. We will learn in all likelihood from the Supreme Court that the amending formula would be appropriate if Canadians agreed to allow one province to separate from the others. Have the Prime Minister, the Minister of Intergovernmental Affairs or officials of your government had formal or informal discussions on this matter with the representatives of the nine other provinces?

[*English*]

Senator Graham: Not that I am aware, honourable senators. We are aware, of course, of the meetings that took place with the premiers in Calgary. We know there is a first ministers' conference later this week in Ottawa, at which this matter may or may not arise. However, I am not aware that there have been discussions, either formal or informal, between the Prime Minister and the premiers up to this point in time.

• (1450)

IMMIGRATION

TRACKING AND DETENTION OF UNSUCCESSFUL REFUGEE CLAIMANTS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question to the Leader of the Government in the Senate is a continuation of the line of questions I had for the honourable leader yesterday. My questions deal with immigration.

Honourable senators, 78 per cent of those refugee claimants refused by our immigration boards cannot be found anywhere in Canada, or outside of Canada. Will the Leader of the Government tell this chamber what plans are being considered to detain those who are dangerous, or who are judged to be unlikely to depart of their own free will? Where will they be detained, and under what controls to ensure that Canadians are protected?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I take my honourable friend's question seriously, as I did the questions he put yesterday. I am still attempting to obtain clarification for him on this matter as soon as possible.

DETENTION FACILITIES FOR REFUGEE CLAIMANTS—REQUEST FOR PARTICULARS

Hon. Donald H. Oliver: As the honourable leader knows, the Department of Immigration maintains detention facilities across the country. Can he tell us how many refugee claimants are presently in detention, the number of centres, and the annual cost to Canadians to maintain these centres?

Hon. B. Alasdair Graham (Leader of the Government): As the honourable senator would recognize, those are figures that I do not have readily at my fingertips. However, I will be happy to obtain them.

FISHERIES AND OCEANS

NEGOTIATIONS ON MULTILATERAL AGREEMENT ON INVESTMENT—CONTINUATION OF LIMIT ON FOREIGN OWNERSHIP OF COMMERCIAL LICENCES—GOVERNMENT POSITION

Hon. Gérald J. Comeau: Honourable senators, my question to the Leader of the Government in the Senate is in regard to the Multilateral Agreement on Investment. One of the fundamental

objectives of the MAI is to treat non-resident investors as if they were domestic investors; what is called the national treatment principle. The government assures us that attempts will be made to protect our culture, but the government has also been very vague on the other important sectors of our economy.

Would the minister, therefore, advise this house whether our negotiators will seek to continue the 49-per-cent foreign ownership limit on commercial fishing licences in Canada?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not sure what is the present position. I presume that my honourable friend is correct in his assumption, but I will have the matter clarified.

Senator Comeau: I might advise the minister that indeed there is a 49-per-cent limit on foreign ownership of licences. Unfortunately, almost nothing has been said by the negotiators as to how they will handle these extremely important issues that impact on all the coastal communities of Canada.

As a supplementary, would the minister also advise whether the government negotiators have been consulting with the fishing industry on this subject? If so, what has been the government's position in relation to the fishing industry?

Senator Graham: The answer, honourable senators, is that they have been consulting with the fishing industry. I believe the position of the industry is exactly as suggested by my honourable friend. That is something else that I will have clarified for him.

NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—POSSIBLE CABINET DISCUSSION ON AWARDING CONTRACT FOR HELICOPTER PURCHASE—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, did the cabinet consider the awarding of a contract for new search and rescue helicopters this morning?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, my honourable friend would be the first to recognize that it is not appropriate for me to comment on any discussions that took place in cabinet this morning.

Hon. Lowell Murray: Would it be appropriate for the honourable minister to let us know whether it was considered last week?

Senator Graham: The matter of the helicopters is under active consideration by the government.

Cabinet met last Thursday. As honourable senators know, I was not in my place in the chamber; I was on a speaking engagement out of the country at that time, so I would not be able to comment, even if I were permitted to do so, as to any deliberations that took place in the cabinet meeting that was held last Thursday.

Senator Forrestall: If that is the last cabinet meeting before the Christmas break, I gather we will not see any decision until sometime in the new year.

Senator Graham: If that is a question, I would hope my honourable friend is wrong, and that I am correct in saying that it is to be hoped that there will be a decision before the end of this year.

Senator Forrestall: Cabinet will meet again, then. I am pleased to hear that.

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—STATE OF SEA KING HELICOPTER FLEET—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Twenty-four of the Sea King helicopters that were grounded have now been inspected, and all but two were released. Repairs were effected. Where are the other six? Are they on ships at sea? We have 30 in the inventory.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the answer is yes, there are 30 helicopters in the inventory. As I indicated yesterday, 24 were cleared, and six remain to be inspected. They will be inspected by December 18.

Of the 24 that were inspected, only two were found to be in need of repair. As to precisely where the other six are located, I would need to consult with the appropriate authorities at National Defence. I will bring forward an answer for my honourable friend.

Senator Forrestall: Was there any criticism from our NATO allies with respect to the grounding of these aircraft? My understanding is that these aircraft are at sea, and a number of them are engaged in some training exercises. Were we criticized for not being able to live up to our obligations?

Senator Graham: Not to my knowledge. It is my understanding that those helicopters are at sea on exercises. As to precisely where they are, on whatever ocean, I cannot positively say. It might be a military secret, as a matter of fact.

FEDERAL-PROVINCIAL RELATIONS

REDUCTION IN TRANSFER PAYMENTS TO ATLANTIC PROVINCES EQUAL TO INCREASE IN SOCIAL TRANSFERS—GOVERNMENT POSITION

Hon. Brenda M. Robertson: Honourable senators, I have a supplementary that goes back to questions raised by the Honourable Senator DeWare. I will come back to this again tomorrow and the next day.

I should like to know from the Leader of the Government in the Senate whether the cuts we discussed yesterday in the social transfer payments for Atlantic Canada represent the increases in the social transfers that were announced twice previously by this government?

Hon. B. Alasdair Graham (Leader of the Government): No, not that I am aware, but it is an interesting question. I will bring forth an answer.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 25, 1997, by the Honourable Senator Oliver regarding changes to the Canada Pension Plan and the Investment Board; a response to a question raised in the Senate on November 19, 1997, by the Honourable Senator Oliver regarding the Investment Board not being subject to Access to Information; a response to a question raised in the Senate on October 23, 1997, by the Honourable Senator Kinsella regarding commemoration of the 50th anniversary of the Universal Declaration of Human Rights; a response to a question raised in the Senate on November 20, 1997, by the Honourable Senator Forrestall regarding the lack of helicopters for a number of navy frigates; and a response to a question raised in the Senate on November 20, 1997, by the Honourable Senator Spivak regarding the demolition of government laboratories and the possibility of a restoration of funding.

HUMAN RESOURCES DEVELOPMENT

CHANGES TO CANADA PENSION PLAN—ACCOUNTABILITY AND TRANSPARENCY OF INVESTMENT BOARD—UNDERTAKING TO PUBLISH QUARTERLY FINANCIAL STATEMENTS—GOVERNMENT POSITION

(Response to question raised by Hon. Donald H. Oliver on November 25, 1997)

Bill C-2 requires that the Board prepare unaudited quarterly statements and provide them to the federal and provincial Ministers of Finance. The Board may choose to make those statements directly available to the public but the legislation does not require this.

Under Bill C-2, the audited annual financial statements of the CPP Investment Board must be made public and must be tabled in Parliament. Within the context of the annual report, these statements will provide a more accurate and useful picture of the long run financial performance of the Board, and ensure that the Board is fully accountable to federal and provincial governments and the public.

During the consultations on the draft CPP legislation, including House of Commons Finance Committee hearings, several pension fund experts recommended against publishing quarterly statements. They argued that the routine publication of quarterly results could tend to draw attention away from the longer-term investment objectives of the Board. Other large pension funds like the Ontario Municipal Employees Retirement System and the Ontario Teachers Pension Plan do not publish their quarterly results for these reasons. For a pension fund, long-term investment performance is paramount.

CHANGES TO CANADA PENSION PLAN—INVESTMENT BOARD NOT SUBJECT TO ACCESS TO INFORMATION ACT—GOVERNMENT POSITION

(Response to question raised by Donald H. Oliver on November 19, 1997)

Applying the Access to Information Act to the CPP Investment Board would be inappropriate.

The Board's mandate is to invest CPP funds at arm's length from governments in the best interest of plan members. As an investment institution, much of its day-to-day activities will be commercially sensitive and would be exempt under ATI in any event.

While ATI does not apply to the CPP Investment Board, by legislation and regulations the Board's operations will be very transparent and it will be subject to close public scrutiny.

For example, the Board will be required to:

- make public its investment policies, code of conduct, corporate governance practices, proxy voting guidelines, and by-laws
- disclose the compensation of the five most highly compensated officers of the Board
- prepare quarterly financial statements that will be sent to federal and provincial Finance Ministers, and an annual report that will be tabled in Parliament
- hold regular public meetings in each participating province to allow for public discussion and input

UNIVERSAL DECLARATION OF HUMAN RIGHTS

COMMEMORATION OF FIFTIETH ANNIVERSARY—PLANS OF GOVERNMENT

(Response to question raised by Hon. Noël A. Kinsella on October 23, 1997)

The United Nations has invited all countries to celebrate the 50th anniversary of the Universal Declaration of Human Rights in 1998. The Department of Canadian Heritage is to coordinate a year-long commemoration of the 50th Anniversary beginning on December 10, 1997.

The 50th Anniversary provides Canadians an opportunity to reflect on the importance of human rights in the life of the country, as they are a fundamental unifying value and an important part of our legacy to future generations.

The objectives of the commemoration are to promote respect for human rights and responsibilities; mark Canada's national and international progress in implementing human rights standards; develop innovative and responsive approaches to emerging human rights issues; and, to link values highly esteemed by Canadians — values such as respect for the rule of law, dignity of the person, fairness, equitable treatment and democratic participation — to a broader government agenda related to social cohesion and social justice.

ACTIVITIES PLANNED AROUND DECEMBER 10, 1997 FOR THE LAUNCH OF THE 50TH ANNIVERSARY COMMEMORATIVE YEAR OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

Youth/counsellor workshop in Winnipeg where participants are invited to take part in the Stop Racism National Video Competition (March 21) and Credo campaign - about 200 Canadian youth to attend	December 4, 1997
50th anniversary of UDHR - 9th Symphony to be performed by McGill Orchestra, McGill University	December 4, 1997
Committee on Race Relations and Cross Cultural Understanding with Harmony Movement is setting up a photo exhibition called Many Faces, ONE Voice in Calgary's city hall	December 4, 1997 to January 3, 1998 - special attention on December 10th
The Foundation Léo-Cormier dedicated to the education of human rights is organizing a fundraising brunch in Montréal. Daniel Jacoby, protecteur du Citoyen au Québec, will be the invited lecturer for the occasion - 300 persons are expected.	December 7, 1997
Launch of 50th Anniversary Internet Site and CREDO campaign targeting youth by Minister with MuchMusic/ MusiquePlus (Minister invites youth to identify their human rights values)	December 9, 1997
United Nations Association of Canada, National Capital Region Branch, to hold a lecture by Jean-Claude Parrot on the International Labour Organization and Human Rights, in Ottawa	December 9, 1997
The Pearson Peace Medal to be awarded to Dr. Hanna Newcombe of the Peace Research Institute - Dundas by the United Nations Association of Canada, Hamilton & District Branch with Amnesty International and Project Plough shares at Hamilton City Hall	December 10, 1997
Public programming related to the 50th anniversary at the National Library of Canada	December 10, 1997
Saskatchewan Social Services will hold a Universal Declaration Birthday Bash in Regina to focus on youth and marginalized groups, the rights of women and children, a presentation by youth on "What Human Rights Mean to Us"	December 10, 1997
Alberta Civil Liberties Research Centre will show a video "Discrimination, Human Rights and You" (15 min.) in Calgary	December 10, 1997
The Department of Canadian Heritage is spearheading a national campaign at the federal level for the 50th Anniversary/UDHR — Press releases, material for exhibit panels, information packages	December 10, 1997 to December 10, 1998
Exhibit in the Department of Canadian Heritage main and regional offices	December 10, 1997

Joint event by the National Arts Center and the National Gallery of Canada in the context of the 50th Anniversary/ UDHR	December 10, 1997
Nova Scotia Human Rights Commission to hold a special Human Rights Day to include flag raising ceremony, address from Premier and Keynote speech, a panel discussion on human rights in Halifax	December 10, 1997
Amnesty International to hold, in Montréal, a Day of Action and launch a campaign to get 50,000 signed pledges of commitment to the UDHR, including 500 celebrity signatures from leaders among youth, women, entertainers and artists, business trade unionists, faith communities and politicians. Candlelighting ceremonies also planned.	December 10, 1997
United Nations Association of Canada, Edmonton chapter and the UN Club at Grant McEwan Community College to do official launch announcing the International Conference in Edmonton by the CHRF to be attended by Ministers of Canadian Heritage, Justice and Foreign Affairs, Mary Robinson, New High Commissioner for Human Rights at United Nations to be invited on a state visit - "Universal Rights and Human Values - A Blueprint for Peace, Justice and Freedom"	December 10, 1997
Official launch in Fort McMurray by the Fort McMurray Multicultural Association	December 10, 1997
Official launch in Grande Prairie by the Grande Prairie Multicultural Association	December 10, 1997
The Annual Tom Millar Award dinner (130 people) will take place in Sydney, Nova Scotia to become the venue for the 50th anniversary launch and to be followed by a one day mini conference.	December 10, 1997
The United Nations Association in Toronto will announce the winners of the essay contest in public and separate school systems of Greater Toronto. For the launch, spearheaded by the Toronto Coalition for the 50th, a resolution is being developed to embrace the letter and signature of the Universal Declaration of Human Rights in the Ontario legislature; new Mayor to speak and Mrs. Humphrey to be invited.	December 10, 1997
La ligue des droits et libertés du Québec will announce his action program for the commemorative year.	December, 1997
Announcement by the Montréal Coalition for the 50th Anniversary of the UDHR of the Congrès mondial sur la Déclaration universelle des droits de l'homme to be held at l'Organisation de l'Aviation civile internationale- (Décembre 9 &10 1998)	December 10, 1997
In Montréal, youth will be invited to participate in Stop Racism National Video Competititon (March 21). The Dubmatique band will present a show at this event that will also draw attention to the 50th Anniversary of the UDHR.	December 10, 1997

NATIONAL DEFENCE

LACK OF HELICOPTER FOR NUMBER OF NAVY FRIGATES—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on November 20, 1997)

Air Command provides Maritime Command with a total of eleven Sea King detachments which fully meet the requirements set out in the 1994 White Paper. The White Paper calls for a high readiness task group on each Coast consisting of an IROQUOIS class destroyer, three HALIFAX class frigates and one replenishment ship, which require a total of ten Sea King detachments. An eleventh detachment is required for Canada's full time commitment of one ship to NATO's Standing Naval Force Atlantic.

Maritime Command employs a three-tiered approach to fleet readiness: ships fulfilling national commitments are at High Readiness; ships in refit or major maintenance periods are at Extended Readiness; and, the remainder of the fleet is at Normal Readiness. Ships at Normal or Extended Readiness do not normally require Sea King detachments to fulfill their operational role. As well, certain taskings such as sovereignty, coastal and fisheries patrols may not require a Sea King detachment. Therefore, ships can be deployed at sea and operationally ready for a mission without a Sea King detachment embarked.

FORESTRY

DEMOLITION OF GOVERNMENT LABORATORIES—POSSIBILITY OF RESTORATION OF FUNDING—GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on November 20, 1997)

In response to the federal government's Program Review, the Canadian Forest Service (CFS) underwent strategic restructuring to rationalize its operations and to reduce infrastructure costs in the interest of providing maximum funding to research within the context of a reduced operating budget. As a consequence, Petawawa National Forest Institute (PNFI) was identified as one of the several Natural Resources Canada (NRCan) operations to be closed as part of a redefined departmental initiative to refocus our Science and Technology (S&T) programs. These programs address issues of national and international significance and service our clients through stronger, more effective partnerships with the provinces, industry and other players in the forest sector. All the major programs from PNFI have been transferred to the five current CFS research Centres and accordingly the majority of basic research activities from PNFI are ongoing. Although the buildings have been closed the Petawawa Research Forest remains an active component of CFS's research activities. It continues to be a research forest of National stature used by scientists from around the world.

Claims of expenditure for upgrades prior to decommissioning were in fact for operational maintenance, purchase of equipment and some site enhancements. With the closure of the site all research equipment and transportable assets relevant to ongoing program activities have been moved to other CFS research Centres with their respective researcher's programs.

The Department of National Defence is the owner of the property and as such makes the decisions regarding the long-term use of the site. The final phase of deconstruction has been delayed twice in order to seek alternate tenants for the townsite. The site in its current state represents a safety risk both in terms of security and liability and requires significant annual expenditures for heating and infrastructure to simply be maintained.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

ENERGY—DEPARTMENT OF THE ENVIRONMENT—CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) table the answer to Question No. 13 on the Order Paper—by Senator Kenny.

ENERGY—DEPARTMENT OF JUSTICE—CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) table the answer to Question No. 26 on the Order Paper—by Senator Kenny.

ENERGY—DEPARTMENT OF MULTICULTURALISM—CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) table the answer to Question No. 31 on the Order Paper—by Senator Kenny.

ENERGY—DEPARTMENT OF NATURAL RESOURCES—CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) table the answer to Question No. 34 on the Order Paper—by Senator Kenny.

DEFENCE—STATUS OF CLOTHE THE SOLDIER PROJECT

Hon. Sharon Carstairs (Deputy Leader of the Government) table the answer to Question No. 60 on the Order Paper—by Senator Forrestall.

DEFENCE—STATUS OF THE ARMOURED PERSONNEL CARRIER REPLACEMENT PROGRAM

Hon. Sharon Carstairs (Deputy Leader of the Government) table the answer to Question No. 61 on the Order Paper—by Senator Forrestall.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before I call Orders of the Day, I wish to remind honourable senators that we will be taking the official photograph of the Senate tomorrow at 1:30 p.m.

• (1500)

ORDERS OF THE DAY

CANADA PENSION PLAN INVESTMENT BOARD BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill C-2, to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts.

Hon. David Tkachuk: Honourable senators, I wish to make it clear at the outset that we on this side of the Senate chamber believe in saving the CPP. Have no misunderstanding about that. However, there are a number of important issues that we believe are relevant and important not only to this side of the house but to all senators. Some senators, including me, are interested in this bill from a personal point of view as well. This bill was brought in last week so that we could work on it. Now, we must complete that work and pass the bill by Christmas. I do not think that we are handmaidens. We do not have to take orders. We must do what is right.

This bill has important consequences for many of us, and more particularly, for our children and our grandchildren. Those people who are already retired and at the age of 65 will receive all their benefits. There are no changes for them, even if they were not full contributors to the CPP. I am not complaining about that. For those people who are in the middle and who will soon be retiring, it is not a big problem for them. They will have some reduced benefits and some increased costs. To those people who have been paying all their lives — that is, all the baby boomers who will begin to turn 50 — they will receive benefits and be faced with another 15 years of increased costs.

I will tell you for whom this is important. I have a daughter who is 24 and a son who is 21. Many of you have children and grandchildren. The government is asking them to pay 9.9 per cent — I am sure it is 9.9 per cent because the minister wanted the number to be under the figure 10. That represents 10 per cent of their income, and it will increase with inflation. The $35,000 that they pay on today will inevitably be more tomorrow.

Presently, we enjoy the benefits of a $3,500 deduction before the CPP kicks in. Paul Martin froze that. As inflation eats away at it and the numbers rise, that number remains the same. This goes against everything we have ever done on this program since its inception in 1966. It stays the same. In 10 or 15 years, that $3,500 will be worth $1,500, $1,000, $500, depending on what government does and what happens to inflation.

Senator Taylor: Elect the Liberals and it will be high!

Senator Tkachuk: If we elect the Liberals, inflation will be high? We already know that! We know what we had to do in the 1980s to fight what the Liberals did in the 1970s, when we had 18-per-cent and 21-per-cent interest rates. Keep the Liberals in power long enough and I know what will happen.

Let me continue in that vein. Perhaps honourable senators opposite do not want to hear what Paul Martin will be doing, and the explaining that you will have to do back home in 10 or 15 years when your children ask you what you did about this bill. When they retire, their CPP benefits will be worth about what they put in, plus 2.5 per cent.

I do not get it. I do not understand why we are being asked to do that to our children, so that those who are retiring today can receive full benefits and those who are retiring soon can get their benefits. I do not get it. I will try to explain it today, and — I hope I can convince you.

The CPP is part of a larger program that Paul Martin is introducing. Everything involves reform. We will have a reform of the Old Age Security benefit, which is coming up after Christmas. It is important to get through this before Christmas so that we can consider changes in the cut-backs that will come due after Christmas. We on this side think that both matters should be discussed together because it is part of a pension program and a part of a social security net for people in this country who retire at 65 and who want to retire with some dignity.

We strongly believe that this measure is a payroll tax and a job killer. Yesterday, Senator Kirby said it was not a payroll tax. The Department of Finance did a study in April 1995 which was reported in *The Toronto Star*. The study noted that the relatively modest increase of CPP premiums between 1986 and 1993 resulted in 26,000 fewer jobs. It further noted that the increases have had and will continue to have a negative impact on the labour force. That contradicts the government's arguments that

CPP premiums are not a payroll tax but, rather, a pension contribution. In their own report, the Department of Finance stated that employers' contributions to CPP and the Quebec Pension Plan are part of the compulsory payroll tax. The department warned against higher payroll taxes in that same report and called this tax just that, namely, a payroll tax.

We on this side strongly believe there are a number of important issues contained in this bill that we should discuss before it is passed. There should be decreases in other taxes, perhaps other payroll taxes such as the employment insurance payroll tax, to make up for the increases in the CPP, so that the negative impact on jobs will not be felt as strongly.

We should have a full evaluation of any changes to the Old Age Security system and how it will affect future incentives to save. The Auditor General should have free access not only to the fund but also to the board itself, lifting the limits on RRSP contributions so that people can have an opportunity to look after themselves, and removing the foreign investment restrictions on RRSP investments.

Honourable senators, there are elements of truth in all things nefarious. That is why we call it propaganda. The government is an accomplished practitioner in this art of propaganda, with their plea to save the CPP and their prediction of dire consequences if action is not taken today, this minute. They made only token consultations. Invoking closure on the debate on Bill C-2 was the first indication of the government's intention. Now we are being told in the Senate by the government that it is important to act now because the Minister of Finance has an agreement with the provinces.

• (1510)

The government's usual *modus operandi* is diversion, mixed with a little fabrication. It was convenient to have the diversion of a postal strike with its ensuing back-to-work legislation before the house while Bill C-2 was being introduced in the other place and closure was being imposed. It was also convenient for the government to falsely accuse the former prime minister of criminal intent and behaviour after its incompetence was fully exposed to the Canadian public following the Quebec referendum.

It is not a question of means justifying the end. In this bill, the means and the end are equally wrong.

Time allocation has been imposed seven times on other bills, most recently on third reading of Bill C-22, the Pearson airport bill. It was imposed on Bill C-110 which proposed certain constitutional amendments; on Bill C-12 which dealt with employment insurance; and on the committee report on Term 17. It is becoming a habit; a habit that is hard to break.

Bill C-2 is just another in a series of bad bills, incompetent work and dictatorial action. It was introduced last week in the Senate, preceded by time allocation in the other place. With passage of this bill, the government will be imposing the largest tax grab in the history of the country. Canadians are unaware of what is happening, in particular our young people who will be the most affected and the most mistreated. We owe it to them, our grandchildren and our children, to study this legislation thoroughly and to amend it, because it is not their fault that this program has been so badly managed. They will have little chance of collecting under the CPP, hence the changes the government intends to make.

We are simply shovelling our hard-earned money into the greedy hands of Paul Martin, Minister of Finance, who wants to be the man who slays the deficit dragon, and we know how he intends to do it. He has followed three policy themes to accomplish that end.

First, he has transferred much of the tax burden to the provinces, forcing what I call "downloaded increased taxes." Provincial and municipal governments, who were receiving less money, had to increase taxes. The government transferred debt.

Second, this government has taken advantage of the low interest rates which resulted from the efforts of the Conservative government over eight years to bring the deficit and inflation under control and to bring interest rates down.

Third, Paul Martin then not only raised licence fees and taxes, he used the accumulated surplus in the EI fund to pay down the deficit. It is this third policy theme with which we, on this side, feel most uncomfortable. He used the surplus in the EI fund, not to extend benefits, not to reduce premiums — which is normally what is done in a payroll deduction — but to cut benefits for a totally separate policy objective. He used this payroll tax purely and simply, to achieve his policy goal of cutting the deficit.

We can only imagine what he will do with the surplus he hopes to achieve in the CPP fund. We foresee social engineering on the economic policy front that will threaten the health of the fund. That is why the Auditor General is prohibited from examining the fund unless the directors of the fund agree. It should not be for the directors to agree or disagree. Parliament must insist that the Auditor General report to us on the fund and on its administration. However, the Auditor General will report to the directors of the fund on how they manage their affairs. That is not acceptable.

We are talking of $100 billion by the year 2006, and rapid increases thereafter. That will put the equivalent of the present day operating expenditures of the whole Government of Canada in the hands a few people who are not required to report to Parliament. A government is judged by its record. On this record, it will fail.

It is an anomaly of governments to charge taxes for employment insurance premiums, and then reduce services to accumulate a surplus to pay down a deficit. It then writes cheques for something else. The government charges taxes for transportation then imposes user fees at airports and tolls on highways for the right to use the airports and highways that we

have paid taxes to build and maintain. It imposes taxes to create historical sites and national parks and then charge people to get in. It charges premiums for pensions but, by the way, cannot pay those pensions, so the government has to charge us more.

The government purports to be reforming the CPP, but this is not reform at all. Look through the bill. It is simply paying more money for less benefits. Anyone can do that. Even the Liberals can do that.

The government is unable to manage the present program so it wants more money to enable it to manage it better. That is like the fox guarding the chicken coop, Al Capone in charge of the liquor board, Doug Young in charge of Bill C-22, Allan Rock in charge of justice, Christine Stewart in charge of greenhouse gases, Sheila Copps in charge of the truth squad, and the Prime Minister in charge of the Quebec referendum.

We must remember that the author of Bill C-2 is Paul Martin. People forget that he authored the 1993 Red Book. Remember how Paul Martin and all his minions bragged, when they won the 1993 election, that he had authored that Red Book and that that is why they won the election.

Paul Martin is a real smart guy. Paul Martin promised to get rid of the GST in that Red Book. We remember that. We remember that he had to stoop to bribing three Atlantic provinces, with other people's money, to fulfil his promises of harmonization. He later apologized to the Canadian people for misinforming them.

Meanwhile, the Prime Minister and Deputy Prime Minister, Sheila Copps, were promising to get rid of the GST, but they did not really mean it, they said, although they were caught out on tape not telling the truth.

Paul Martin promised in the old Red Book that the government would cancel the helicopter purchase and use the money to pay for more social programs. Now, $900 million later, we have no helicopters that fly safely. They are all grounded.

That is the Paul Martin we on this side know — duplicitous. He penned the Red Book to renegotiate the free trade agreement. He took all the kudos after the 1993 election.

Now he says: "Rush Bill C-2. Trust me." The minister says that he needs the bill now to satisfy an agreement with the provinces. I have heard of no agreement. No one here has heard of an agreement. If someone on the other side knows of an agreement, please tell me.

We have not heard one province asking us to abandon our parliamentary responsibilities and rush this bill through by January 1 on the threat that they will cancel their agreement. The Minister of Finance is rushing so that he can get another $400 million in taxes for the 1997 tax year. The brunt of this bill is being borne by middle- and lower-income workers.

Merry Christmas Canada. Let us give Canadians a Christmas present by defeating this bill. Let us kill the bill.

We are well aware of the Liberal record. We resent the fact that this bill will not be given full Senate scrutiny. We also know what will happen when things go wrong with this bill, as they will. I outlined the government's record on making promises. We know its record on responsibility. I can just see it. When this bill is in shambles, Paul Martin will be 95. Jean Chrétien will be 95 or 96 or 102.

• (1520)

Senator Taylor: They will still be in power.

Senator Tkachuk: He will not take responsibilities. The Grits will never take responsibility for their actions, as they did not when they cancelled the Somalia inquiry, and when they made false accusations against a former prime minister. They said, "I didn't do it — not me. It was someone else. I don't know who, but I'm not responsible."

After accusing Canadian citizens and companies of obtaining illegally a contract at Pearson airport, they said, "Oh, not me. I did not make those accusations." There was not an iota of evidence to prove that what they were saying was correct. They did not take any responsibility after cancelling the EH-101 contract. They are still talking about it in cabinet. Nor did they take any responsibility after their failed strategy in job creation. Nor did they take responsibility after almost losing the country in the Quebec referendum. "Trust us," they say. One thing we can count on is if this government says it is good for Canada, it is not good for Canadians.

At the time of the 1966 social contract with Canadians, the Liberals were in power. They entered into a social contract with their citizens. It was they who did it. "We will take your money and provide you with a pension," they said. As soon as they got their grubby hands on the cash, it was lent to the provinces at favourable interest rates. They were cheating Canadians who trusted that when they got old, they would have a pension. We trusted them 30 years ago, and they are expecting us to trust them again today.

Yet, no one takes responsibility. "It is not our fault," they say. "Those damn actuaries, it is their fault. It is the people's fault. It is not the government's fault." Baby boomers, who have paid all their working lives since the program's inception, now have the audacity to reach 50. We have had the audacity to reach 50!

Senator Cools: Not me.

Senator Tkachuk: Then they had the gall to limit their breeding, thus causing a situation whereby, 15 years from now, there will be fewer people working to pay for the people who turn 65 at that time. They limited their breeding. We were not at war; it was not caused by abstinence. From what we know of social behaviour during the 1970s, abstinence was not the order

of the day. People were, shall I say, "fuddling". It was not their fault; it was the fault of scientists. The birth rate ground to a halt. That, in turn, wrecked the amortization tables. The cause, they say, was social behaviour. That is what caused the end of this pension plan. It is one other social plan gone astray. The good old days are gone.

We have another problem. People live longer. Again, science has interfered with a social plan. Retiring at age 65, dropping dead three to six years later, depending on your gender, was good for governments. At its inception in 1965 — payments started on January 1, 1967 — in order to be eligible for CPP benefits, you had to be 68, and 68 was about the same year that the average male died. It was the perfect pension plan: Pay all your lives, and then die just as the first cheque is put into the mail. If there was a postal strike, the government had the benefit of both worlds — the pensioner was dead and the cheque was in the mail.

From the beginning, the CPP was simple, but it was misnamed. It was misnamed because it is also a life insurance program. When you die, you get $3,500 cash. That is good. However, it is a silly program when it is part of a pension plan.

Will they reduce this to $2,500? The argument goes like this: We are short of money to pay the pensions, but we will continue to pay you lump sum payments when you die, after you are dead. Instead of cancelling the benefit, there is an argument made as to whether it should be means tested when cancelled or not. That is an area where we can save a lot of money because, as people are dying today, cheques are going out in the mail, at $3,500 a shot. Yet we do not have enough money to pay proper pensions when people are alive.

It is also a disability program. There is nothing wrong with having a disability program, but it is part of the Canada Pension Plan now. It is part of a payroll tax to buy universal disability insurance, and then the social engineers took over.

I want to give senators an historical perspective. There have been many amendments made over the years to the CPP. Yet, the government has said, "We will not touch that fund." However, they touched the other fund. Since 1973, they have been making new legislation and implementing new programs. Why will they not use the fund that will accumulate on the other side, over which Parliament has no control? We saw this stuff today when we were studying the Estimates. The government has said that we did it, as Tories. However, the Liberals were in power a lot longer, so they are much more responsible.

Retirement and earnings tests for individuals were eliminated in 1974. Benefits were provided to male and female contributors, to surviving spouses and dependent children. I am not saying there is anything wrong with these programs; most are pretty good. However, instead of taking it out of general revenue, the government took it out of the CPP because, in the old days, there was lots of money in that fund. There were not as many old people. There was a great number of working people, and lots of cash. They said, "We can throw it around." No one was thinking what would happen when people in the large demographic group turned 65.

The amendments provided for the elimination of CPP children's benefits which previously applied — they changed it again — where more than four children of a deceased or disabled contributor had been eligible for such benefits. Now, if you have more than four kids, that is fine, too. However, it was another increased cost to what should be a pension plan. The government should have taken the money out of something else, or increased the amount of CPP premiums so that people were told the truth, and also told, "To pay for this it will cost you 10 cents or 20 cents more a month." The cash was there, so they used that cash.

Legislation was enacted for spousal credits. When people get divorced, they have to keep up with the times. They can split the benefits. That was not done before. At the inception of this program, that was not allowed.

• (1530)

However, as time went on, the government did allow for that, making it part of the problem. Because men die earlier and women live longer, the money went mostly to women. It costs more money. I am not saying that is bad. I am just saying that all of a sudden it costs more money because women are either lucky or live better or cleaner lives than men, and they live longer.

Senator Gigantès: They survive us. It takes strength and intelligence.

Senator Moore: Meaning we are not intelligent?

Senator Gigantès: Not as much as the women are.

Senator Tkachuk: Then the benefits were extended. The provision went from having to live together for seven years to share in CPP benefits — in other words, when one died the other one would pick up the cash — down to one year. If you lived together for one year, the other person was considered your husband or your wife, and benefits again were extended to the surviving spouse — another increased cost.

Yesterday, Senator Kirby alluded to the possibility that there may be other social changes in those arrangements. I know what that means. It is possible that governments may recognize gay marriages, and I think he wanted to let us know that there may be these kinds of changes taking place. That is fine, if the government wants to do that. Now you have two guys living together; one dies, the other one is picking up some cash. That costs more money. Well, two guys who live together for one year may not be gay. How would you know?

Senator Gigantès: You want surveillance cameras?

Senator Tkachuk: So there is an opportunity for fraud. Governments have a record of using cash and will use cash once it is accumulated into one little pile and they can get at it.

This is not a pension program. Let us make that clear. This is a payroll tax to pay Old Age Pensions, disability, life insurance, benefits to survivors, orphans, children, or exemptions for child rearing. We did not have that either, and there is nothing wrong with that. They decided that seven years of child rearing would make you part of the CPP labour force, and therefore you can get benefits. That is a social program; a good social program, but it is coming out of the pension fund.

We have spent all this cash over the last 30 years and we say now, "Oh, it is not our fault. It is not legislators' fault. It is the people's fault. They expect too much. We do not have enough money. Pay us more money and things will get better, we promise you."

Senator Gigantès: Are you quoting the Reform Party?

Senator Tkachuk: I do not think so, although I have a few things to say about Reform here too, which I will get to right away.

I would like to quote Preston Manning's comments from Tuesday, October 28, in committee. These are the other guys in the other place. He was appearing before the House of Commons committee, and he said:

> I might begin by saying that some time relatively soon, my colleagues and I would like the opportunity to present an approach to pension reform which is an alternative to that presented by the ministers.

He was speaking of Martin and Pettigrew.

> The alternative we would like the committee to consider rests on four pillars rather than three: the seniors benefit, which is targeted to lower-income people; a smaller, more focused CPP, not a scrapped CPP;

There is the big change from the last election.

> ...an expanded RRSP program; and tax relief to seniors. We will argue that our four-pillar plan delivers more retirement income per dollar invested than this three-pillar plan the government is putting forward.

I think I have explained some of the ideas we got from the government side. The Reform Party had said in the past they wanted to scrap the CPP. They have a problem with scrapping the CPP because when you do that, you have what they call an unfunded liability, which was a little mixed up here yesterday. The liability of $600 billion becomes unfunded if we all quit paying CPP premiums, but the obligations still have to be met. That is what Reform was proposing through the election campaign and over the previous four years. They have changed. Now they want a smaller CPP.

However, Preston Manning could never explain the first program. He was going to cancel the CPP. When he was asked how he would pay the $600 billion, he said they would issue bonds. No one understood what the bonds were for or how that would help to solve the problem, but they had bonds — $600 billion worth of bonds that people could take out and then cash in when they turned 65 — definitely funny money. Now they have a CPP program which they wanted to explain to the minister in committee. Well, they could not get it together. Preston Manning, who made a promise to do it before committee meetings ended in the other place, failed to do it. I can see why.

They are making false accusations in the House about people. It is the typical Reform program we have come to expect. They are off in left field somewhere, although I do not think they would want to be described that way.

Now they want to create a super-RRSP, which does not make any sense because, not only is it at odds with what they said in committee and what they said in the election campaign, it does not fit into their tax plan. Remember, they have a tax plan with a flat tax. With the flat tax, you reduce the amount of exemptions. They wanted to reduce, guess what, the RRSP exemption, and of course that will not fly either. It might have been a flatter program. We are not getting any ideas from them.

Now I will turn to the Liberals.

Senator Gigantès: Be careful.

Senator Tkachuk: Since taking office, they have taken $300 million in new taxes from senior citizens by income-testing the age credit. They want Canadians to mature their RRSPs by the year they turn 69 rather than the previous age limit of 71. However, seniors do not know about it, and this will be another huge tax grab — Merry Christmas, Canada — by the Liberal Government and Paul Martin. Twice they have killed plans to increase the RRSP contribution limits so that people could put money away for their future given that the government will not provide for them.

Bill C-2 will introduce the Seniors Benefit, which will replace age and pension credits, which, in turn, will both be eliminated — an enormous problem here for Canadians.

The Canadian Association of Retired Persons says that as many as 80,000 Canadians may fail to convert their RRSPs on time. Where are the big advertising programs of the Government of Canada which they mount when they really want to advertise something? This is a government program they do not want to advertise. They want it to slip in, just like this bill, so that people will not know and will not make the proper financial decisions, but instead will be exposed to a huge tax load for the year 1997. That is what Paul Martin wants, so that in February he can brag in his budget speech about how he has cleaned up the deficit — on the backs of the unemployed, on the backs of senior citizens, and on the backs of young people who will be paying the $400 million to the new pension plan.

Senator Gigantès: That is because over nine years you did nothing to address the deficit.

Senator Tkachuk: That is not true.

• (1540)

The Minister of Finance met with the provincial premiers, most of whom were provincial Liberals, and he could not hammer out an agreement. The only reason the federal government is dealing with the situation now is that the minister of finance at the time, Michael Wilson, obtained an agreement that created a certain situation. There is a word in law for something from which one cannot extricate oneself, and where a decision must be made. That is why they have an agreement today. We tried to get it done in 1986.

Senator Gigantès: And you failed. You could not do it.

Senator Tkachuk: Because the Liberals would not agree. I will defend my government, and my honourable friend will defend his.

I will not delve too far into the OAS because there are other speakers who wish to deal with this issue over the next two weeks. Perhaps we, as senators, will be able to discuss this matter well into the new year, which I hope we do.

I am sorry, honourable senators. I have lost my place.

Senator Gigantès: You are reading from the wrong script.

Senator Taylor: It is obvious that my honourable friend does not have any notes.

Senator Tkachuk: I think I am getting to honourable senators opposite.

I was told by the Honourable Senator Kirby that members opposite would only have one speaker on this issue. I have a feeling that we may hear from a few more senators after I and other senators point out some of the weaknesses in Bill C-2.

Honourable senators, I would reiterate that this is not a pension program: this is a payroll tax! In the past, it harboured cheap loans for provinces, and it will harbour a $100-billion fund that will grow to a $1-trillion fund. It will be placed away from Parliament so that we cannot see it, and so that ministers of finance in future governments, whoever they may be, can fool around with this fund, use it for economic development, and threaten the future of Canadian pensions. We must not allow that to happen. We will have a small group of people, responsible to no one, looking after everyone's pension. They will not be responsible to Parliament.

Honourable senators, we will not need to pay the price. We will be long gone before the young people who starting out now, and who expect a pension plan when they grow old, will reap the benefits of what we sow today.

Honourable senators on this side and honourable senators on the other side, I do not know why you would want to rush this bill. What is in it for you? What is in it for the Minister of Finance? What is in it for anyone to rush this bill through Parliament by December 19? No reasonable explanation has been given to me, and I am sure no reasonable explanation has been given to my honourable friends, other than the PMO, Mr. Goldenberg and Mr. Martin, telling you to pass this bill by December 19. They are telling you not to think about the consequences, because they are right. How do we know they are right? Why not take more time, honourable senators?

Senator Gigantès: Having listened to you, we know they are right.

Senator Tkachuk: Why not take the time —

Senator Gigantès: And the tedium?

Senator Tkachuk: — the tedium and the boring drudgery of doing our job in a proper manner — I am sorry that this is not very exciting — so that in the next three or four months we will have a Canada Pension Plan of which we can be proud; one that we can take to our children and say that we did the best we could to give them a pension plan at a reasonable rate when they turn 65. That is what we need to tell them at Christmas when we go home; not that we passed the bill.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, I will not go back over the very important points raised by my colleague with respect to the intergenerational inequity in this bill. I would like to look at other aspects of the problem.

Honourable senators, the government is proposing to amend the CPP. I would have found it appropriate to examine all the major aspects of the plan at this time. This has been done for some important facets such as its survival, its management and its performance. I will address these shortly.

However, the most fundamental point has been overlooked: its impact. Should membership be obligatory or optional? This strikes me as an important question. Why, for instance, if I do not wish to contribute and prefer to look after my own financial security, should I be obliged by law to participate in the plan, even if I am prepared to sign a document absolving the government of all responsibility on my account? Why must everyone belong to a plan whose money will be invested by others, by public servants?

The government's response to this fundamental question is obligatory collectivization. The government seems to assume that Canadians are irresponsible, ignorant, and improvident, and that big brother in Ottawa knows best.

If he is so competent, what has this big brother been doing for 20 years? He agreed to give pension benefits to people, but forgot to levy what he needed to be able to do so, and what he levied, he loaned to the provinces at such low rates that, unless there are drastic changes, the plan will go bankrupt.

Here we have a classic case of public mismanagement. On the one hand, they hand out goodies and, on the other, they forget to charge for them. And now they have learned nothing from this sad tale: Ottawa is asking for even more from everyone and tells us that this time it will invest the money wisely and that it will be for the future good of all.

Honourable senators, I would much more prefer looking after my own retirement, and I know many Canadians who would like to be free to do what they want with their own money.

There are many other aspects of this bill that require serious consideration, but I will deal here with only one or two.

The bill provides for the creation of a government agency responsible for investing the funds collected from contributors to the Canada Pension Plan.

This agency will have more or less the same powers as the Caisse de dépôt du Québec. The management of these funds will therefore be given to a government monopoly, as was done with the generation and distribution of electricity.

However, how can the performance of a monopoly be assessed? And do you know of any monopoly where unacceptable mismanagement did not occur at one time or another? There is a long list of unfortunate cases of poor management — we have all heard stories of the extravagant expense accounts of people in the public sector who think they own the jobs they are holding — of bad investments, such as those made in real estate by an agency like the one we are creating, for example, of consumer gouging — we have seen monopolies charge excessive rates, because they were the only ones providing the service — of unreasonable benefits, such as complete job security for employees at the expense of the taxpayer — as has occurred in crown corporations you are familiar with — of differences in economic and social objectives — this also happened when an agency was created and given a mandate, and then after 15 years, it started doing something else, we have all seen this — of conflicts of interest involving officials who make no difference between their personal interest and that of the public, et cetera.

There is a long list of horror stories involving monopolies. The whole history of the public sector, here and elsewhere, is full of such unfortunate incidents. I will not speak here about what occurred in Eastern Europe or in the Communist Bloc. But in this country and in countries like France and England, such cases have been a constant feature of the past 15 or 20 years.

You may tell me that such things also happen in the private sector. Of course, but in this case it is everybody's money that is at stake, and not just private funds.

That is why careful consideration must be given to this proposal for a new government structure. I am referring to the Investment Board.

All the contributions will be invested by this so-called Investment Board. I would like to start by saying that in 10 years, we will have a government agency managing some $150 billion.

Do you realize how much power these people will have? Every week, every Monday morning when these people arrive at work, they will find in front of them millions and millions of dollars that they will have to invest immediately. Three billion dollars is $3,000 million. Theoretically, this is $600 million a day. This has to be invested right away, it cannot wait until the afternoon.

Do you think that the heavy machinery required for these operations will be efficient? Impossible, honourable senators. There will be lost efficiency, which means financial losses. Those who believe that "big brother" will be kinder than the community of specialists in the private sector are seriously wrong.

Even for the private sector specializing in this type of operations, whether mutual funds, national brokerages, or trusts, when the volume exceeds $50 or $60 million, the performance ratio is not proportional to the volume of the funds being managed.

Private enterprise is aware of that. It seems only the government is not.

The huge monopoly to be created presents a very high risk of inefficiency, of bad investments, and therefore of poor performance. Why should everyone be obliged to contribute, to provide funds to a manager who may do a worse job than the person who actually owns those funds?

My second point, somewhat of a corollary of the first, is that the bill should call for the creation of three or four funds with precise objectives entrusted to different managers: public or private — preferably private, in my opinion — with specific performance indicators to be complied with, such as a performance percentage. In this way, the performance of each group of fund managers could be measured. If some are deemed to have not done a good job, they are replaced, something is done about it.

We are familiar with the virtues of competition in the private sector, which results in a raised level of performance. That is good for the consumer, so why would it not be applicable to this particular type of services?

Analysis of investments, or the decision as to the choice of investment for a business, is a highly technical undertaking, but also a risky one. This is why, in all wisdom, we must not "put all our eggs in one basket," as the old saying goes. Ought we not to have a number of baskets instead, so that any one bad decision will not be a huge disaster?

This diversification of investments is wise; ought it not to be institutionalized in the law, and ought not the number of independent responsibility centres for investments to be increased?

My third point concerns the relationship between the government, the Minister of Finance in particular, and the agency in question. It will always be tempting to use these funds to finance governments, at lower rates than if it had been invested in the open market. That is, in fact, what has been done since 1996 under the present system. It must be ensured that a conflict of interest of this kind is not permitted at all. I will return to this shortly.

My fourth point concerns investment policy. The law should provide that the administrators of the fund are responsible for ensuring contributors a reasonable pension, while providing them with the best return, that is, the safest and best return possible.

Canada's economy represents about 2.5 per cent of the world economy. So it would be wise to permit the fund not only to diversify its investments in stocks and bonds but also to invest worldwide. Diversification of values, in a variety of instruments, in various sectors, in different countries and currencies is thus a measure of wisdom and judgement to be left to those in charge, who must, of course, be accountable for their actions.

Honourable senators, it would be tempting for the administrators to act as investors on occasion by investing in all sorts of businesses with their judgement either arbitrary or verging on patronage. We have seen this in Quebec. There must be strict rules to prevent this sort of thing, if we want to avoid regrettable misuse.

The matter of the pension plan's objectives is basic. In this respect, the legislation must be clear. The board must first and foremost look after the interests of the contributors whose income security depends on its performance to a large extent.

The history of the Quebec Caisse de dépôt et placement warrants examination in this regard. In the mid-1960s, at the time it was set up, Mr. Lesage, the Premier of Quebec at the time, described it as an instrument of social security. He added, at the instigation of some, that it would also be an instrument of economic development, with the result that, little by little, the managers who were not sufficiently dynamic in the eyes of the directors were replaced. The directors changed over the years. At first it was an executive from Sun Life, who was cautious and managed the fund as if it was the people's money. It was not Mr. Caouette's money, it was real bucks. The second director was also an experienced investment fund manager, but the government changed in Quebec, and we ended up with people who were more dynamic and who wanted to direct the economy. That is when it was decided that the people running the Caisse were not dynamic enough and had to be replaced. That was done. That is how a deputy minister of finance came to be the president of the Caisse de dépôt et placement du Québec at a time when Finance Minister Parizeau was a very influential member of the Lévesque cabinet. This led Quebec industry leaders and other stakeholders to raise all sorts of questions about the policy and management of the Caisse under his direction.

You know the arbitrary risks inherent in choosing the companies in which the board can invest. Of course, there are provisions to limit the ratio, but everyone knows that the percentage of shares required today to control a company is relatively small. Can you imagine what kind of arm-twisting this will lead to? To collectivize an operation is to politicize it. That is what we are doing here, notwithstanding the precaution taken to maintain the board members' independence from the government. Even if we are told that they will come from outside the government and operate at arm's length from the government, we must be realistic.

I would now like to address an important aspect of the bill, namely the impact of the plan on the two pillars of income security mentioned by Senator Kirby. The 25 or 30 per cent amounting to $22 billion a year goes to old age pensions. Every year, we save $80 billion, or 10 per cent of the gross national product, which goes to income security, including $22 billion from old age pensions, $23 billion from the Canada pension fund and $30 billion or $35 billion from private pension plans. These amounts are likely to become smaller. This means that the percentage of the $80 billion coming from old age pensions will gradually become smaller.

Savings coming from private pension plans should remain stable in the future or else get smaller depending on the decisions we make. Contributions will increase by 70 per cent within five to seven years. There will be a substantial tax grab. So, what will become of private pension plans? I think the amounts will remain stable, but they could also drop, if this increase is not compensated by an equivalent decrease in income tax, for instance.

As for RRSPs, they are likely to diminish if employment insurance contributions and taxes are not lowered.

In my opinion, we will likely see a reduction in private savings, along with an increase in public savings. Is it a good thing to increase the role of the state? This is what is being done here. I ask the question: How can increasing public savings while reducing private savings be beneficial for a country? It implies that if it is in the public domain, the money will be better invested than if individuals invest their savings in the private sector. Who can possibly think that it makes sense?

What happened in the past? Can it be said that the government was more cautious than individuals in the management of its funds? Take the example mentioned earlier, the Canada pension plan, which was established in 1966. Things were great at the time. The problem is that the government provided benefits without collecting enough money to pay for these benefits. The result is that nothing works any more and that the plan is going bankrupt. I am not blaming one government in particular, but the public sector's attitude is often like that. I simply note that this is the way things have been done for 40 years.

Did the government display more shrewdness in the management of business investments? Look at the performance of crown corporations. Air Canada, CN and Canadair all did well after being privatized. In other words, good management started once the government was no longer involved.

So, we should be cautious before giving the public sector increased responsibilities for the management of funds. We must be careful before transferring money from the private to the public sector.

Let us now look at the impact of the plan on jobs.

• (1600)

The Hon. the Speaker: Your 15 minutes are up. Is leave granted to continue, honourable senators?

Hon. Senators: Agreed.

Senator Bolduc: Honourable senators, clearly, we will be increasing the cost of jobs for businesses, and the cost of work for individuals. How can another payroll tax be positive for the creation of jobs? I would like an answer to this good question.

Another question concerns the interprovincial competition that can be expected. It is obvious that the provinces which used to benefit from preferential rates from the federal fund will pay the going price in future. They will borrow, but at a higher rate. The increase in debt servicing costs will inflate each province's budget.

As far as business investment is concerned, will the populations of the provinces agree to have their savings used for businesses in other provinces at the expense of their own? Will the provincial governments be tempted to influence the investment board to serve their interests? This leads to a significant question: Where are the rules of ethics which will guarantee the independence of administrators?

A moment ago I said that when a government agency, a public office, is created, there is a risk of politicizing the process.

Participation in business, with such enormous amounts, cannot be limited to a few major companies — the Canadian market is not all that big — but will also extend to a multitude of medium-sized businesses. The available funding will be sufficient to invest in hundreds of medium-sized businesses. In Quebec, for example, if I remember correctly from its last report, the Caisse de dépôt already invests in almost 800 Quebec businesses.

Now, how are these 800 to be selected and monitored? There is likely to be arbitrariness and patronage.

In addition, the Board will be everywhere and inevitably set conditions. Businesses will have to toe the line as the provinces do when Ottawa doles out conditional funding, as you may recall. This concentration of power, this centralization will be unhealthy. With $40 billion, the federal government called the tune for the provincial governments. With $150 billion, the board will be three times stronger and will call the tune for business. This technocracy and its perverse effects make me nervous. I hope one day we will have nothing worse than Mr. Sorros' manoeuvres to criticize.

The regulations governing investments and the behaviour of administrators have not been revealed. They are not ready. What guidelines will there be for administrators? A parliamentary review is therefore vital before their implementation.

In concluding, I would say to the government that the preferable alternative to its bill would be to simply oblige everyone in the labour force in Canada to invest a percentage of their savings in funds under private management or let government assume its role by providing a safety net for those who could not set aside enough money for their old age.

Here is an intelligent response to the challenge before us. However, and it is regrettable in this era of the welfare state, it seems to me that we prefer to make sweeping rules that apply to everyone in order to resolve the problem of a few.

Hon. Philippe Deane Gigantès: You talk with admiration of private investment management. How do you explain the disaster at Olympia & York, for example, under the management of Mr. Eyton, our colleague, and the fact that major players like Conrad Black closed Dominion Stores and took the money Dominion Stores employees had invested in a pension fund, a fund they never drew from? Are you telling us that the private sector will be more generous and wise than the Caisse de dépôt in Quebec?

Senator Bolduc: I did not say disasters did not happen in the private sector. I have lost money. That is no big deal.

Senator Gigantès: It is not a big deal if you have $3 million, but it is if you lose $35,000 or $70,000 and this is all the money you have. It may not be a big deal for you, but it is for small investors.

Senator Bolduc: Honourable senators, I never said there would not be any damage in the private sector. Some damage is done every day. But it is the private sector. I did lose my money but the public did not lose it. What you are doing with this bill is giving enormous powers to a few people with money belonging to all Canadians, particularly the poor. It is serious because we do not know how long this will last. Bills at second reading are always good measures. I saw more than my share in 40 years. Ministers come up with their legislation and they promise miracles. Three years later we take stock and discover that things are not like they were supposed to be. The minister's comments do not have nearly the same impact after three years.

I am not saying everything is managed perfectly in the private sector, but I will tell you that it is the people's own money. It is not public money. No one is forced to invest in Royal Trust.

Senator Gigantès: The public is made up of individuals. These individuals are private persons. Under the proposed system, they would invest in something which may not make huge profits, but which will not experience the disasters of the private sector.

Senator Bolduc: It is a matter of choice. In this case it is compulsory, whether you like it or not. Otherwise, if you decide to stop investing your money, you make a choice that could cost you.

Senator Gigantès: With a system such as the one proposed, one thing is for sure. There will be no Trevor Eyton to squander the money, there will be no Conrad Black or Olympia & York to take it away from you.

Senator Bolduc: I do not want to answer questions on specific cases, because I find it objectionable.

[*English*]

Hon. Gerry St. Germain: Honourable senators, the honourable senator who has just spoken brings a wealth of experience to this chamber. He was one of the top bureaucrats and one of the top men in the Quebec government at one time. He brings that experience to this forum.

I would prefer to ask this question of the government side, but no one will speak further on it. Therefore, I will ask Senator Bolduc.

This involves a question that I asked Senator Kirby yesterday. It is a question of accountability. In theory, it is possible that this fund will become larger than the entire budget of the federal government in the years to come. Yet we are placing it in the hands of 12 people.

Does the Honourable Senator Bolduc concur, as Senator Kirby did, that there should be some scrutiny by Senate and House of Commons committees whereby these 12 people who will be sitting on this board will be under a certain amount of scrutiny before they are placed in this lofty, powerful, very responsible position?

[*Translation*]

Senator Bolduc: Honourable senators, that is a very good question. In my opinion, the answer should be an unequivocal yes. There is no doubt about it. There is one thing in the bill that is very acceptable. The Auditor General will be able to look at the management of the Investment Board.

As a result, there will be some accountability in the form of an audit. According to Mr. Massé's report, there are 85 to 90 different government organizations. This is all very interesting, but none of them will have as much money as the one we are talking about. We are talking about $150 billion, an astronomical amount. We are talking about an annual amount on the order of 15 per cent to 20 per cent of Canada's gross national product. It is an enormous amount. I therefore think there has to be some sort of accountability, and one of the ways to achieve that is for parliamentarians to be involved in drafting the Auditor General's report; in my view, there should be an amendment along these lines, to guarantee that that is the case.

[*English*]

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a brief question for Senator Bolduc. I believe the Caisse de Dépôt is the most powerful pension fund in Canada. What accountability does that fund have to the Canadian public?

Senator Bolduc: It has not very much accountability to the Canadian public. This has been discussed many times in Quebec City and last year, for the first time, they appeared before a parliamentary committee. This is very important. For example, those in Quebec City will spend three or four days discussing the plans of Hydro-Québec and that involves peanuts compared to this huge fund. This is a serious matter.

Senator Grafstein: Honourable senators, I do not question the issue of accountability. The problem is whether one would be able to obtain the very best people by the public process, the newspaper process or the media process, or whether the accountability process is better when governments, which are indirectly accountable, make those appointments and those nominated are then accountable to a parliamentary committee.

Senator Bolduc: When you talk about "accountability," I would suggest that that is second best. It is not a perfect situation, although you will have a parliamentary committee taking some responsibility. It is better than nothing but, in my opinion, it is second best.

I am fairly sure that, in one way, the pure accountability we are talking about is quasi-impossible. My answer to that is: Multiply the funds. Have different people manage different funds so that we will have some evaluation, some comparison and some diversification.

[*Translation*]

Hon. Michael A. Meighen: Honourable senators, this is precisely where I wanted clarification. Are you recommending that the fund be divided into four $25-billion portions and that so many firms administer each $25-billion portion in its entirety? Or are you recommending that one firm be responsible for one sector, such as the real estate sector and another firm be responsible for another sector?

Senator Bolduc: Honourable senators, in my opinion, it could be by sector, but my preference would be for the total to be broken down into four portions covering a variety of investments. Of course, some people could specialize in real estate, but I have not gone into this more deeply because in Quebec City we have only one Caisse. However, it seems to me it could be four funds managed independently of each other, and we could see how that would do. Otherwise, if you have a block

of $25 or $30 billion in real estate, you know what that means. Earlier, we were mentioning the Reichmann brothers and we know what happened in their case; all you need is three or four such bankruptcies a year and everyone suffers.

Senator Meighen: If I recall correctly, Senator Eyton had nothing to do with the Reichmann brothers' troubles or their pension fund. At any rate, that is another story. You mentioned decentralizing the decision-making process, did you not? Do you see any advantage to having decision-making centres such as the firm handling the $25-billion segment being located in different parts of the country?

Senator Bolduc: In Quebec, when the problem came up in connection with the pension plan in 1966, we insisted on having our own plan. I am not saying that this is how it should be across Canada; that is not my point. What I am saying is that, in Quebec, at the time, Jean Lesage had made it very clear that the fund was designed to provide social security. Quebec's traditional demands have always been toward decentralizing social policy to a certain extent, because it has a lot to do with culture and mentality; we said that we wanted to look after education, health and social affairs ourselves in Quebec because the culture in Quebec is slightly different from the rest of the country. That is why we wanted to look after these matters. That is why we fought so hard for the Caisse de dépôt et placement at the time: to have this flexibility.

I am not saying this practice should be generalized and extended to Ontario or any other province; it may cause problems I had not thought of so far. There is no doubt that it could be more difficult for some provinces. I do not exclude however the idea that provincial politicians could bring pressure to bear on this organization so that, when investments are made, people from each region benefit. To what extent will ethics and conflict of interest rules be overlooked? My experience tells me and I can tell you that it is going to be complicated.

[*English*]

Hon. Terry Stratton: Honourable senators, I should like participate in the debate on Bill C-2, the Canada Pension Plan.

If I may, I should like to refer to the comments made by the previous speaker respecting Chile, and how that country went to 10-per-cent contributions to their pension plan, which is now 90 per cent privatized. The story was told by a former finance minister, who was appearing before a Senate hearing in Washington, United States. He told that committee that they had discussed the issue of their pension plan with their public and that he made television appearances every month and explained to the public, as each phase was developed, what would happen. The public took it piece by piece by piece. They were informed; and they could understand the information they were being given.

At the end of every television interview, the finance minister reiterated that, if they did not like the private sector pension plan, they could stick with the public sector pension plan. He did this all the way through, for months, until it came time for the people to decide which plan they wanted.

Within the first six weeks, 25 per cent of the public were in the private pension plan. Today, 90 per cent of the public are in the private pension plan, and that plan is doing extremely well. Despite the crisis with the Mexican peso, which involves their next door neighbour, their equity market survived, and is, in fact, doing well. Investors are getting good returns.

Two lessons are to be learned from that. First, a communication plan on the part of the government can sell a fund that is fundamentally sound; and, second, a private pension plan can work.

Honourable senators, we will have a private pension plan in this country within 10 years, because those "generation X" kids will demand it from us. The "excess generation," as the article calls you and I, will have no say in the matter.

My fundamental point is that there must be a communications plan.

• (1620)

This bill is seen by many people across the country as nothing more than another tax grab by the Liberal government, a tax grab in the range of $100 billion. Imagine bringing in a bill of such magnitude without giving Canadians the opportunity to have input into such dramatic changes to their retirement system as we know it, changes which will dramatically change the three pillars of our pension system, OAS, GIS, and the Canada Pension Plan.

As I noted in a question to the Leader of the Government in the Senate on October 30:

> My question pertains not to the proposed changes to the Canada Pension Plan but to the government's efforts to sell those changes to Canadians. Can the minister report on what the government has spent and what will be spent in the future for communications concerning the Canada Pension Plan, including polling, focus groups, communications, advice and strategy and advertising?

Other than the simple response that there was a 1-800 number that people could call, I received no response. That is what the government determines is a sufficient communications plan for Canadians to understand what the heck is going on. That is a travesty. That, to me, is not responsible government whatsoever. Can you imagine a prime minister who said that he is a man of the people, a man who is determined to change the way government is done, now ramming through the most dramatic changes to our pension system without informing the Canadian public of just what the government is proposing and allowing input from them?

Honourable senators, I refer to questions raised in this place over the last several months, questions that relate to the ever-increasing taxes that this government is imposing on the lives of all working Canadians. For example, on October 1, Senator Michael Meighen asked the following:

> My question relates to employment insurance premiums. Given that, according to best estimates, the account will be at a $16-billion surplus this fiscal year, could the Leader of the Government explain to members here today why his Minister of Finance refuses to consider any reductions of premiums...

He went on further to state:

> Honourable senators, to bring C.D. Howe's quote up to date, "What's a billion?" To say that we should rejoice that the premium was not increased from $2.80 to $3.20 is a little like saying that the Leader of the Government should be happy that I am only going to whack him over the head three times instead of ten.
>
> It seems to me that employment insurance premiums should not be a primary method of fighting the deficit or the debt....
>
> Would the Leader of the Government in the Senate undertake to table the information produced by the Chief Actuary indicating that it was prudent to accumulate a $15-billion surplus, which as I understand it would translate into a forecast level of unemployment of 10 per cent to 15 per cent? Perhaps this government knows something that other people do not.

Honourable senators, we are building this huge surplus and raising Canada Pension Plan premiums — in other words, it is a double tax on Canadians. You argue that the Canada Pension Plan is not a tax, but that is not how our kids see it. Our kids see it as a tax, because you are taxing their generation to pay for the retirement of our generation. It is a tax no matter what you say, and no matter how you say it.

On October 23, I asked the following:

> Honourable senators, I rise to ask a follow-up question to the response of the Leader of the Government to Senator Meighen's question of October 1 on employment insurance premiums. The honourable leader stated that a cut in the EI premium would cost the government some $4.2 billion in lost revenues. I would point out to him that this amount may be overstated by 25 to 50 per cent, because it fails to take into consideration increased revenue through greater employment and investment that would be generated by a reduction in premiums.
>
> Be that as it may, the honourable leader will no doubt recall that in 1995, the Minister of Finance indicated that when the EI surplus reached $5 billion, we would reduce premiums to the break-even point because the surplus would then be sufficient to deal with a recession equivalent to the recession of 1990.
>
> Accordingly, would the Leader of the Government tell us for what purpose the government is accumulating a $7-billion surplus in the fund for this calendar year, a surplus which will total $13 billion by December 31, and $15 to $16 billion by the end of the fiscal year, namely March 31, 1998? Would the Leader of the Government clarify today whether the amount in excess of $5 billion is designed to deal with a future recession of a two- to three-year duration, with the unemployment rate in the range of 11 to 12 per cent, or is it simply a surtax on jobs through high EI premiums, with a view to using the accumulated surplus to reduce the deficit?

My concern is that the youth do not believe that, when they reach their retirement age, they will see a nickel of the Canada Pension Plan. My kids do not, and I understand that Senator Tkachuk's kids do not. If our children are thinking that, then I am certain many more people out there are thinking the same thing. Does the government not owe it to these youth of today to say that, in five or ten years, yes, the fund will be on good ground? I am sure it is trying, but somehow the message is not getting through. As a result, when the bill comes to us for consideration, all hell breaks loose.

I do not think Canadians are aware of what is taking place in this place today, or what will happen as a result of passage of this bill. It will have a multiplier effect. Not only are we dealing with the Canada Pension Plan, but we are also dealing with the modernization of the other parts of the retirement structure, the Guaranteed Income Supplement and the Old Age Security. When you put all of that together, over time, Canadians, and particularly our youth, will say that enough is enough. You cannot have high EI premiums or high taxation through high EI premiums to pay your deficit down; then jack up your rates on the Canada Pension Plan; and then modify the OAS and GIS such that people receive reduced payouts, because you are hitting the same generation. You have bought off the seniors, and you are hitting the kids. They will not forget that.

On October 30, Senator Tkachuk asked the following:

> The government's package of changes to the Canada Pension Plan includes a freeze on the $3,500 exemption below which workers and their employers pay no CPP premiums. While the initial impact is small, over time inflation will erode the value of that exemption. According to the government's own figures, over the long run the revenue impact will be the equivalent of a 1.4-per-cent tax on payroll. Relative to their overall income, those hardest hit by this freeze will be low-income earners generally, mainly part-time workers and students.

> Why is the government trying to fix the CPP by hitting hardest those least able to afford it?...
>
> Could the Leader of the Government in the Senate prevail upon his colleague the Minister of Finance to have his officials produce information showing the impact of the freeze in the earnings exemption for different ranges of income?
>
> For example, could data be prepared showing how much the freeze will benefit the government from those earning income below the poverty line relative to their family income, and how much it will save those with incomes above the poverty line relative to their total income?

• (1630)

In other words, it is and will be perceived as another tax.

On November 5, Senator Oliver said:

> Canada's retirement system is built on three pillars: First, minimum level of retirement income from general tax revenues as found in OAS and GIS programs; second, employment-based universal pension essentially designed to replace 25 per cent of earned income up to the average industrial wage as found in the Canada Pension Plan; and third, voluntarily pension savings with tax deferral incentives such as found in the RRSP.
>
> The Liberal government has chosen to decrease benefits in pillar number one under the new Seniors Benefit program; increase contributions and decrease benefits under pillar two, the CPP program; and reduce tax relief under pillar three by altering the conditions and reducing the age of withdrawals under the RRSP. Would the Leader of the Government in the Senate please explain how decreasing benefits while increasing premiums will secure retirement for Canadians?

In effect, the government is imposing a tax, is it not?It is reducing benefits to people who have paid into this plan for a very long time, since the inception of the Canada Pension Plan.

The United States has taken another path. There, they are increasing the retirement age to 67, I believe, over 24 months. They are increasing it by one month per year to give people time to adjust to the new reality of that retirement age. In effect, that will keep things in relative control.

It should have been explained to Canadians that the government explored that method and rejected it for specific reasons. As others have said before me, people are living longer. While the age of 65 was formerly not achieved by many, it is being achieved by most today. That should be taken into consideration as a basis for increasing the age for retirement because it will decrease the burden on the young people who today believe that they will have to pay the whole shot for us.

Senator Oliver continued:

> Honourable senators, in these times of slowing real incomes, increasing long-term interest rates, high personal taxes, increased CPP premiums, and ridiculously high EI premiums, where does the Leader of the Government believe that Canadians, who will receive less money from public plans, will find money to put away in their RRSPs to secure their own retirements?

On November 6, Senator Oliver asked:

> Honourable senators, in 1995, the Department of Finance conducted a study on the impact of the increase in CPP premiums between 1986 and 1995. During that period, employee contributions rose from 1.85 per cent to 2.25 per cent of earnings, and the combined rate rose from 3.6 to 5 per cent.
>
> The Department of Finance estimated that this minor increase led to a loss of some 26,000 jobs for Canadians. Would the Leader of the Government in the Senate be willing to table any studies done either by the Department of Finance or outside sources that will look into the impact of the coming 70 per cent hike in CPP premiums? Does the government know how many jobs will be lost, this at a time when Canada is just recovering from the recession of the last few years? How many Canadians must pay the price for the planned increase in premiums?

The Hon. the Speaker: Honourable senators, I regret to interrupt the honourable senator, but his allotted time has expired.

Senator Stratton: I would like to finish my speech, if I may.

The Hon. the Speaker: Is leave granted for Honourable Senator Stratton to continue?

Hon. Senators: Agreed.

Senator Stratton: Thank you, senators.

In the *Financial Post* or *The Globe and Mail* it was recently explained that, as employers will have to pay higher CPP premiums and as most employers or companies have a limited budget for wages, they will have to pass on the cost to people through the price of their product, or they will have to lay people off, or they will have to go to contract workers.

The concern is the long-term effect this huge increase will have on full-time jobs.

On November 18, Senator Oliver said:

> Canadians who turn 69, 70, and 71 this year have only another month and a half to convert their RRSPs to an annuity or a RRIF. If they fail to do so, they could lose up to one-half of every dollar they have in their RRSPs to taxes; yet many of these same Canadians are not aware that the government has lowered the age to 69 and of the deadline for making the conversion.
>
> Indeed, a survey conducted last spring found that only about 30 per cent of RRSP holders aged 50 to 70 were aware of these new rules. As of three weeks ago, less than one-quarter of the Royal Bank's customers in the 69 to 71 age bracket had converted their RRSPs. The Canadian Association of Retired Persons says that as many as 80,000 Canadians may fail to convert their RRSPs on time.
>
> Bearing this in mind, and considering the confusion that now exists about this matter, will the government consider extending the conversion time so as to ensure that no senior citizen is forced to hand over half of his or her life savings as a result of being caught off-guard by this proposal?

In other words, will the government ensure that they are not nailed with more taxes?

Senator Oliver continued:

> As a supplementary, honourable senators, the budget papers from April of 1996 grouped the revenues from this measure with other measures announced at the same time. We were told that the net tax grab from this and other measures that restrict tax assistance for retirement savings, notably yet another freeze in RRSP contributions, would total about $40 million this year and $175 million next year. We were not told how much of that came from lowering the age for RRSP conversions.
>
> Could the minister report back on two things: First, what revenues does the government expect to gain from lowering the RRSP conversion age to 69? Second, how much of that revenue is the result of taxing as current year income the RRSP savings of Canadians who fail to make the conversion?

Again, Canadians are not being told what is happening. When that many Canadians are unaware of what is happening, we have a severe problem.

On November 20, I said:

> Honourable senators, I wish to address my question to the Leader of the Government in the Senate. It dates back to October 1, 1997, to a question asked at that time by Senator Meighen, which is only 51 days ago.
>
> I will quote Senator Meighen, who said:
>
> Would the Leader of the Government in the Senate undertake to table the information by the chief actuary, indicating that it was prudent to accumulate a $15 billion surplus, which as I understand it would translate into a forecast level of unemployment of 10 per cent to 15 per cent? Perhaps the government knows something that other people do not.
>
> The question is: When is that answer coming? It has been 51 days!

On November 25, I said the following:

> For some seniors, the Seniors Benefit proposal could result in marginal tax rates approaching 70 per cent. Some RRSP experts are already telling middle-income Canadians over the age of 50 to forget about RRSPs, because they will lose more tomorrow because of changes to the Seniors Benefit than they will save in tax today.

• (1640)

In a paper released the week prior to November 25, the Association of Canadian Pension Management said that the Seniors Benefit will stifle savings. To quote from their paper:

> Middle-income Canadians might simply decide to supplement government programs through the accumulation of non-income producing capital, such as homes or interest-free mortgages for their children. They may simply avoid retirement savings plans that generate heavily taxed income...

They go on to suggest that Ottawa structure the Seniors Benefit in such a way that it will not result in an effective tax rate in excess of 50 per cent.

Was the government listening when I asked that question? Senator Graham said, "Of course, yes." Did the Leader of the Government in the Senate read *The Financial Post* editorial that morning in which it was recommended that this problem be changed to reflect such an issue? From what I understand, in the other place all amendments have been struck down and no further amendments are coming forward. As we know, no amendments were passed.

Changes to pension legislation represents one of the largest issues facing seniors as they move into retirement. This government is not paying attention to what Canadians are saying. What disturbs me most is that it is not informing the public as to what is taking place, particularly with respect to this issue of changes to the pension legislation. Seniors, as a whole, do not know about these changes. Has the government developed a communications plan to inform Canadians of this issue prior to

the passage of this bill? To that inquiry, Senator Graham replied, "Yes." He also said that this was a matter to which I had referred before, and that there are 1-800 lines available. He said that that was the communication plan on the part of the government.

The crux of this whole taxation matter came about on November 26, when I asked the following question of the Leader of the Government in the Senate:

> On October 1 of this year, Senator Meighen asked a question concerning employment insurance. On October 23, I asked a further question, referring to my colleague's earlier question. I received a response yesterday to my question, and I wish to read it into the record. This concerns employment insurance and the reserve. It states:
>
> A reserve is necessary, since it makes it possible to apply more stable premium rates throughout the economic cycle, thus making it possible to avoid increasing them in a recessionary period. In addition, the reserve makes it possible to ensure there are sufficient funds to pay benefits when they are most necessary.
>
> What happened in the last recession was a $2 billion surplus in the Employment Insurance Account turned into a $6 billion deficit in two years, and it was necessary to increase premiums by 30% at what was already a difficult time for job creation. Consequently, the government believes that it is wise to establish a reserve in the Employment Insurance Account.
>
> I am assuming that since you have given me this response, that was indeed the strategy on the part of the government.

I then went on to say:

> If I may, I will quote from *The Financial Post* of today, November 26, a 1997. An editorial entitled "EI surplus is a deficit-reduction tax" states clearly that the EI will result:
>
> > ...in an accumulated surplus suspected to top a scandalous $19 billion by the end of 1998.
>
> If you need $8 billion to look after a recession, using the last recession as the example, what kind of recession are you planning on?

That is to say, what kind of recession are they planning on in the future with a reserve of $18 billion?

Provincial finance ministers met in Ottawa. I think last night they had dinner with Finance Minister Paul Martin. In an article in *The Globe and Mail* yesterday, it was stated:

> With Ontario's Ernie Eves and B.C.'s Andrew Petter leading the charge, the provincial ministers have made it clear that they consider Mr. Martin's recent $1.4 billion cut to unemployment insurance premiums insufficient...
>
> The premiers have insisted that they have some input into Ottawa's budget-making and how it allocates the surplus among new spending, tax cuts and debt repayment.
>
> In a telephone interview on Friday, Mr. Petter said the NDP government in British Columbia wants Ottawa to offset a dramatic increase in Canada Pension Plan premiums with reductions in UI premiums.
>
> "We're worried about the impact that Canada Pension Plan increases will have in terms of the burden they will impose on business and workers, and the potential they have to reduce job creation by a huge amount if they go ahead without some kind of offsetting relief," Mr. Petter said.
>
> Ontario's Conservative government is also demanding large cuts to UI premiums, Mr. Eves said in an interview...
>
> Alberta Treasurer Stockwell Day also indicated last week that he'll be pushing Mr. Martin for tax cuts.

As can be seen by the above questions raised by senators and provincial ministers of finance, there are serious concerns about the changes to our pension plan system; questions whose answers have not been communicated to Canadians; questions which should be discussed with Canadians in public hearings across the country. But, no, this government is determined to proceed, virtually ramming the bill through Parliament, so that Canadians will have absolutely no opportunity to ask questions and be informed as to the extent of these changes, and the extent of the massive tax grab that this government is imposing on Canadians.

I predict today that, although this government has managed to get away with things for which our government would have been slaughtered, I think this bill, coupled with what is coming down the track and the changes in OAS and GIS, coupled with the arrogance of the stance taken at Kyoto, this is the kind of arrogance that, inevitably, will be the downfall of this government. I predict that that is about to happen.

Hon. Thelma J. Chalifoux: Honourable senators, I have a number of concerns regarding the statements of Senator Stratton. I would like to know what his position is on the working poor and on part-time workers. In this country, there are more part-time workers and more working poor than there are people who identify as middle class. What is the honourable senator's opinion on that?

In this country, we have a totally isolated segment of society which is called "the mid-Canada corridor." We have the urban centres in the southern part of Canada. We have all the services in the northwest part of Canada. However, in the middle, we have nothing. Even in terms of communications, there is very little. I worked there. I understand.

What would the honourable senator do in the area of communication for those in isolated settlements regarding private pension plans? There are no words in Cree or michif for "private pension plan."

I was a member of the working poor in 1965 and 1966 when this plan was put into force. I did not agree with the Canada Pension Plan. However, I will guarantee honourable senators right now that I totally agree with deductions being made, because now at least I have a pension.

• (1650)

What will happen if this plan goes through is that the people in this country who really need it will get it. No one in the area of the country where I come from can afford an RRSP. They do not even know what it means. They have to travel 240 kilometres to the closest bank. Many do not speak English. English is not their first language. Cree or michif is. What would you do in this case for these people who have nothing?

Some Hon. Senators: Hear, hear!

Senator Stratton: I thank the honourable senator for her question. It was an excellent question, and it is one that she should ask of the government. She should ask the government what they are doing to communicate the changes to our pension plan system as a whole.

Senator Chalifoux: I am asking you.

Senator Stratton: I understand that, and I will get to that in a moment. However, it is a question the honourable senator should also be asking of the government.

First, because of the $600-billion debt that the pension plan has, I do not think that we can privatize it at this time. I do not think the people the honourable senator talked about, and the people of my generation, are prepared enough financially to make that transition. You cannot do that immediately. I am not saying that will happen today. I am saying that it is likely to occur over time.

One needs only consider the situation of Chile. Chile is a long, skinny country on the west coast of South America, and I really do believe they have a communications problem there as severe as ours. I told honourable senators the story of the finance minister in Chile, going on television every three weeks to a month, and breaking down the new plan into segments, talking to the people, because they all have television, and communicating in that fashion. That was the government's way of dealing with it in Chile. I am not suggesting that is a solution here, but I am asking: How do you communicate? The only way to communicate is eyeball to eyeball. You have to get out and talk to people in their backyards. There is no great hurry for this bill to get through, at least not to the degree that you could not do that. Why not insist that your government take our committee out there to talk to your people?

Senator Chalifoux: We talked to the Conservative government about that for many years and nothing was done.

Senator Comeau: We are not in power now. You should push your people.

On motion of Senator Gigantès, debate adjourned.

CANADA COOPERATIVES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-5, respecting cooperatives.

Bill read first time.

The Hon. the Speaker: When shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on Orders of the Day for second reading on Thursday next, December 11, 1997.

CRIMINAL CODE INTERPRETATION ACT

BILL TO AMEND—SECOND READING—MOTIONS IN AMENDMENT—DEBATE ADJOURNED TO AWAIT RULING OF SPEAKER

On the Order:

> Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill C-16, An Act to amend the Criminal Code and the interpretation Act (powers to arrest and enter dwellings),
>
> And on the motion in amendment of the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that the motion be amended by deleting all the words after "That" and substituting the following therefor:
>
> "Bill C-16, An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings), be not now read a second time because
>
> (*a*) the Senate is opposed to the principle of a bill which has been placed before Parliament as a result of the judgment of the Supreme Court of Canada of May 22, 1997, and of the Court's Orders of June 27 and November 19, 1997;
>
> (*b*) the Senate finds it repugnant that the Supreme Court is infringing on the sovereign rights of Parliament to enact legislation and is failing to respect the constitutional comity between the courts and Parliament; and

(*c*) the Court is in effect coercing Parliament by threatening chaotic consequences respecting law enforcement and arrests if Parliament does not pass this bill."

Hon. Orville H. Phillips: Honourable senators, I had adjourned the debate but I understand Senator Wood wishes to speak.

Hon. Dalia Wood: Honourable senators, I rise to speak in support of Senator Cools's amendment. The amendment, described as a reasoned amendment, is a parliamentary device which allows a member to raise concerns and opposition to the principles of a bill. The public's emerging concern with judicial activism, particularly in the area of criminal law, is compelling our interest and study. An example of this concern may be found in a December letter to *The Ottawa Citizen*. We should be mindful of these growing questions and concerns.

I commend Senator Cools for bringing this amendment forward at this time. She often acts as our conscience, and I, for one, would like to thank her for all the hard work she puts into researching the bills that come before us.

Senator Phillips: Honourable senators, I was rather reluctant to enter this debate because I do not have a legal mind. Then the thought occurred to me that most lawyers do not either — and that includes a number of them in this chamber.

My interest in this subject was piqued by a newspaper article where a detective was complaining about the awkward situation he would be in if this bill passed. Formerly, if he was pursuing someone into an apartment building, he could go in under the provisions of a hot pursuit and arrest the individual. Now, if the person being pursued enters an apartment building, and there are 50 or 60 apartments in the building, the detective is worrying that when he goes to a judge to get a warrant, does he have to get a warrant for each of the apartments in the building, because he really does not know which one he is in.

Then Senator Cools, in her remarks, also aroused considerable curiosity on my part, and I inquired about the case in which Mr. Feeney killed Mr. Boyle in British Columbia. Mr. Boyle was an 85-year-old man who was bludgeoned to death by a much younger man.

Two people said they saw Mr. Feeney drive Mr. Boyle's truck from the scene. The police followed a truck to Mr. Feeney's residence. They found the truck parked outside the trailer, with blood leading from the truck into the trailer. They followed the normal procedure of knocking on the door and announcing they were police, and there was no answer. They said the door was open and they entered. There they found Mr. Feeney asleep. Obviously the bludgeoning of the victim had tired him and he had gone to sleep. He still had blood on his face and on his shirt. The police checked the trailer, and they found the money, stolen from Mr. Boyle, hidden under the mattress. They arrested Mr. Feeney under a warrantless arrest.

If there was ever a smoking-gun case, that was it, and the police should have been in hot pursuit, but when one of the constables was being cross-examined during the trial, he admitted that he had no reason to suspect Mr. Feeney, and that the only reason he entered the trailer was to question him. I think that individual must have been trained by Sergeant Fiegenwald because there was certainly every reason to arrest Mr. Feeney.

• (1700)

Prior to the Constitution Act, 1982, the police had that authority in the case of hot pursuit. It is my interpretation that they still possess that authority. It is not enshrined in the Criminal Code. It is one of those principles that came into our law from the British system. As Senator Cools pointed out, no statute was broken. Therefore, the federal requirement that all federal laws must comply with the Charter of Rights and Freedoms was not affected.

Yesterday, Senator Beaudoin was explaining the different parts of the Constitution, the British North America Act of 1867, the Charter of Rights, and so on. At times, it appears the Supreme Court of Canada considers that the Constitution consists only of the Charter of Rights and Freedoms. Despite all the evidence — the stolen truck, the blood on the accused — the judges were only interested in one thing, and that was the arrest warrant. This can only be described as judicial nitpicking.

There was no warrant because the police acted on the spot when they had the accused, and I think they acted quite properly.

Honourable senators, the Supreme Court ignored the rights of Mr. Boyle. Section 7 of the Charter indicates that Mr. Boyle had the right to life, privacy and security of the person, and those rights were not to be taken from him except by and in accordance with the principles of fundamental justice.

I find it strange that the Charter is always interpreted from the criminal's viewpoint. It is never interpreted with the victim in mind. I think the justices of the Supreme Court of Canada should be sent a message reminding them that the victim also had rights under the Charter.

In all fairness, honourable senators, I must say that three of the justices dissented with the majority decision. They felt the police action had no bearing or outcome on the decision. The chief justice came down the middle and quoted the decision made by former chief justice Brian Dickson, which I understand finds that, if the subject is not spelled out in the Constitution, it is implied as being there. However, there again, that is merely my interpretation.

I emphasize again that Mr. Boyle had the right to his life. He had the right to have a vehicle and operate it, and he had the right to have money in his possession. All those were taken away from him, and all the Supreme Court of Canada could think of was that piece of paper called a "warrant" and to criticize the police for not having such a document.

I wanted to suggest that perhaps criminals should apply for a warrant before they commit murder, but I do not want to pursue that because I am afraid that some Charter judge will give them a warrant or a licence to do so.

Fifteen years ago, I would have been shocked at criticism of a decision rendered by the Supreme Court; but, today that is commonplace. When a major decision comes down from the Supreme Court, the media is there to interview people who wish to comment, mostly negatively, on the decision. Newspapers publish articles on the decision, and I have one here from *The Ottawa Citizen* of December 4 entitled, "Court Rulings: Justice or insanity?" As I stated, we would not have seen a headline like that 15 years ago.

Senator Cools raised the question about the right of the Supreme Court of Canada to issue directions to Parliament. I have no objection to the Supreme Court ruling that something is unconstitutional and striking down a piece of legislation. That is their function, and Parliament has referred it to them. However, the enactment of laws remains the function of Parliament. It is not the function of the Supreme Court of Canada or any other court to make laws.

Honourable senators, I read in today's paper where the families of the Leslie Mahaffy and Kristen French, both of whom were killed by Paul Bernardo, are appealing to the judge to make a law prohibiting evidence of that type being heard by the public in court. The interesting point is that they are asking the judge to make the law; they are not asking Parliament. I repeat: That is the function of Parliament.

Parliament is the highest court in the land and that must always be so. It would be most unusual to have a lower court issue a directive to a higher court.

Honourable senators, I commend Senator Cools for all the work and research she has done. Many aspects of her amendment are worthwhile considering. However, I feel she has omitted to take into consideration one aspect of our legislation.

• (1710)

Any law passed by Parliament does not become law until it receives Royal Assent, and having the Supreme Court direct Parliament to pass a law by December 19, 1997 takes away the prerogative of the sovereign. That is why we have Royal Assent. We could have the ridiculous situation of one of the judges who ordered the enactment of this legislation by December 19 coming into this chamber and giving Royal Assent on behalf of the sovereign.

MOTION IN SUB-AMENDMENT

Hon. Orville H. Phillips: Therefore, I move:

> That the motion in amendment be amended by deleting the word "and" at the end of paragraph (*b*) and by adding the following after paragraph (*c*):
>
> (*d*) the Court, by its Order of November 19, 1997 that Bill C-16 must be enacted by December 19, 1997, is impeding proceedings in Parliament and is subordinating the Senate of Canada; and
>
> (*e*) the Court is usurping the royal prerogative of the Sovereign who, with the advice and consent of Parliament, keeps and upholds the Queen's Peace and the public peace and security of all.

The Hon. the Speaker: Honourable senators, I have a problem. Offhand, I do not know if you can amend a reasoned amendment. I must look at the precedents. As you are aware, reasoned amendments have not been used on many occasions, and I wish to be sure that we are on the right track. I will take this under advisement.

Debate adjourned to await the ruling of the Speaker.

[*Translation*]

QUEBEC

LINGUISTIC SCHOOL BOARDS—AMENDMENT TO SECTION 93 OF CONSTITUTION—REPORT OF SPECIAL JOINT COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pépin, seconded by the Honourable Senator Lucier, for the adoption of the Report of the Special Joint Committee to Amend Section 93 of the Constitution Act, 1867 concerning the Quebec School System, deposited with the Clerk of the Senate on November 7, 1997.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I would like first of all to thank the co-chairmen of the joint committee, our colleague Senator Lucie Pépin, and the other co-chairman, MP Denis Paradis, for their excellent work in rather exceptional and sometimes trying circumstances.

In fact, as has been said here and elsewhere, considering the decision of the Minister of Intergovernmental Affairs that government support for the amendment to section 93 of the Constitution was already an established fact and that the government majority in committee left no doubt as to what conclusions it would reach, the committee's role could have been limited to that of a rubber stamp.

Furthermore, the committee was not allowed to hold hearings outside Ottawa and was required to table its report no later than November 7, 1997, with only three weeks to hear witnesses and prepare its report. What a contrast with the extremely slow process followed by many less important bills that gather dust for months on parliamentary shelves before receiving Royal Assent.

In his November 27, 1997 speech, Senator Wood gave a very good description of the strait-jacket in which the joint committee had to work. Everything was rushed. No announcements were made that hearings were being held, contrary to what is usually done. The list of witnesses changed almost from hour to hour. Some witnesses had only a few hours' notice that they would be appearing before the committee, and their presentations suffered as a result, as they said themselves.

Despite these setbacks, and especially because of the understanding and hard work of its two co-chairs, the committee was nevertheless able to carry out its work with some degree of coherence. Other committees would not have been able to accomplish this, considering the extremely strict and even unfair requirements that were imposed.

Under such conditions, it was quite normal that participation in the committee could have been interpreted as sanctioning the conditions imposed by and for the government. However, this was an issue that was worth risking this false interpretation, because the Parliament of Canada is dealing with a request from the Quebec National Assembly, with its sovereignist majority, to exempt Quebec from certain constitutional obligations it has had to live with for 130 years.

[*English*]

Unfortunately, there was not enough time to involve the committee in preparatory briefings in order for it to have as complete an appreciation and understanding as possible of all the implications of Quebec's resolution. As a result, it tended to stray from the substance of the reference before it. "Religious education," "religious instruction," "denominational schools," "confessional schools," "linguistic rights," "minority rights" and other terms were used so often that they tended to become interchangeable to the point that they occasionally melded together.

Section 93 was a result of a compromise at a time when two religious beliefs dominated everyday life in Canada to an extent hard to describe today when even one's most difficult moral decisions are usually self-determined, rather than imposed without question by a recognized higher authority. In 1867, Catholics and Protestants were guaranteed certain privileges which were not even considered for other religious denominations. Their numbers and influences were such that the idea that a section 93 was nothing else but a deserved right did not even arise.

In the early 1980s, when a Canadian constitution was being debated, section 93 remained as it was written in 1867, despite the fact that Canadian society had evolved to the point where the debate we are now having should have been held then. Even more to the point, the authors of the Constitution Act recognized that section 93's limitations to two privileged Christian beliefs would conflict with the Charter's anti-discrimination implications, so much so that section 93 was provided immunity from the Charter in section 29. Indeed, section 29 could not be clearer. It reads as follows:

> Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

Why the issue of confessional schools as well as other issues crying out for change, such as Senate reform, were left untouched during the long debate before and during patriation and surrounding the Constitution Act itself is for those who were there at the time to explain. Certainly a golden opportunity was lost to give Canada a basic law more in tune with modern Canadian society, except for the adoption of the Charter of Rights and Freedoms. Even it is not without its flaws, not the least being the notwithstanding clause which can be subjected to abuse. Perhaps all of this is a reflection of the one constant which has marked Canada since its origins, a country identified by its extraordinary political and social diversity and contradictions.

In any event, we are faced with a request from the Quebec National Assembly to be removed from the obligations to maintain formal Catholic and Protestant school structures in the cities of Montreal and Quebec City and to maintain minority or dissentient Catholic and Protestant schools outside those areas at the request of minority Catholic or Protestant parents, as the case may be. Provincial legislation to establish linguistic schools is already being put into effect. These can be established without amending section 93. Quebec, however, points out that to have multiple school systems can only lead to overlapping, duplication, and confusion, with all their attendant additional costs.

In addition, religious education as provided for in section 93 is reconfirmed in the province's Education Act, which by itself may be reassuring at first glance, but not in reality as it is a protection which is simply not as iron-clad as a constitutional guarantee.

• (1720)

When the Education Act, Bill 107, was passed in 1994, the National Assembly agreed to apply the notwithstanding clause so that the privileges given to denominations in section 93 could not be successfully challenged under the Charter. Notwithstanding clauses expire every five years and this one is up in 1999. Will it be re-enacted? The Parti Québécois, in opposition, voted against it at the time. The two ministers who appeared before the joint committee would not reveal their party's position, preferring to await a broad consultation before stating it. An uninformed guess, however, leads me to believe that, if the Parti Québécois still forms the government two years hence, the notwithstanding clause will not be renewed, thereby leading to the gradual removal of Catholic and Protestant teaching in public schools as we know it today.

Honourable senators, a question which we must ask ourselves before deciding on this resolution, and with the evidence we have before us, is the following: By approving the National Assembly's request, and with the possibility that the notwithstanding clause will not apply after 1999, will Parliament in effect be opening the door to the eventual removal of all religious instruction in public schools in Quebec? Based on past experience and present assumptions, my answer is, "probably yes."

In rebuttal to this, many will point to a letter sent to the Minister of Intergovernmental Affairs by the Bishop of Baie-Comeau on behalf of the Assembly of Quebec Bishops. It is dated September 30, 1997, and appears as Appendix H in the joint committee report. In it, Bishop Morissette repeats the assembly's approval for the establishment of linguistic school boards, but he also adds an important caveat which was only given passing mention in the report itself. The letter states:

> Our approval for changing the status of school boards has always been accompanied by one condition: that the denominational guarantees established in Bill 107 be maintained.

The Anglican Bishop of Montreal, in a letter dated November 3, 1997, to the same minister, and included in the report as Appendix I, wrote as follows:

> ...we...favour the creation of linguistic school boards and the establishment of a non-denominational educational system which respects the choice of parents to require that their children receive religious and moral education in conformity with their beliefs.

We cannot afford to ignore these views, particularly as they coincide with those of many, parents in particular, who testified before the committee. Linguistic schools are quite acceptable, we heard repeatedly, as long as the present religious component is maintained.

Franco-Protestants and English Catholics were particularly concerned. While numerically they may not be impressive to others, surely they must be to the Parliament of Canada, the guardian of minority rights. Surely, the Parliament of Canada cannot subscribe to the notion that the rights of minorities can be altered, much less obliterated, by a decision of a majority when, at best, that majority may have a detached interest in the concerns and preoccupations of the minority.

Some assurances may be found in a statement made by the Quebec Department of Education in a advertising supplement which appeared in *The Gazette* of Montreal on November 29. It is headed: "Confessional Schools and Services." I will read the two pertinent paragraphs. This is the official Quebec policy, from the Department of Education, on confessional schools and services under the new linguistic board system. It states:

> The change from religion-based to language-based school boards does not mean that all Québec schools will become secular. Each institution will have the option of maintaining or reviewing its current status as a Catholic or Protestant school. Students will continue to take religion courses or to receive pastoral animation or religious care and guidance services if they so desire.
>
> Before the end of the third year after the linguistic school boards are in place, the schools will be asked to consult the parents and decide whether or not they wish to maintain their confessional status.

Those unfamiliar with Catholic and Protestant school boards in Montreal and Quebec City should know that in many cases, particularly in the Protestant system, it is the language of instruction which predominates. Many schools have little, if any, religious content, while in others it is very strong. Parents already have a say in how much religion they want their children exposed to and that will continue under the new system.

While section 93 guarantees are only a matter of religious denominations, the essential characteristics of the resulting Quebec school system have, nonetheless, been linguistic. One does not speak often of going to a Catholic or Protestant school any more. One usually speaks of going to a French or an English school. It was inevitable, then, that the committee would be drawn into a debate on how the amendment of section 93 might affect linguistic rights, particularly those claimed by the minority.

While section 23 of the Charter establishes minority linguistic education rights, Quebec is not bound by all its provisions and so has adopted legislation in this field which, in effect, creates two classes of English-speaking Quebecers as it distinguishes between those educated in Canada and those educated elsewhere. Only those parents educated in English in Canada can pass on the benefit of minority English language education to their children. Those Quebec parents who were educated in English outside of Canada must have their children educated in French. We have in Quebec two classes of English-speaking Quebecers.

Quebec has been repeatedly criticized for this discrimination, and rightly so. How this undesirable situation developed can be traced to the then Minister of Justice, who is Prime Minister today.

I will quote from his book, *Straight from the Heart*, where Mr. Chrétien describes how he was responsible for exempting Quebec from the crucial parts of section 23. He says:

> During the weeks that followed, I continued to try to overcome Quebec's objections, to the extent of modifying the principle of minority language education and agreeing to fiscal compensation when Quebec opted out of amendments that affected culture and education. That required a hell of a lot of selling to Trudeau, but he went along in the end, as did the nine other premiers, who were willing to reopen their sealed bargain in order to bring in Quebec. Of course, Lévesque could never accept anything; but ultimately Ottawa incorporated these changes anyway, to leave the door open for Quebec to sign in the future.

Mr. Chrétien goes on to say:

> I used to joke that these were the first constitutional amendments in history to have been negotiated over the telephone.

Let it be noted that Mr. Chrétien takes pride of authorship — "of modifying the principle of minority education...". He boasts of getting the agreement of then Prime Minister Trudeau and the nine other premiers, and finds it amusing that this inexcusable abandonment of a fundamental principle was secured over the telephone.

Honourable senators, Quebec's partial exemption from section 23 was initiated and approved by Mr. Chrétien by including the following in the Constitution Act, 1982:

> 59(1) Paragraph 23(1)(*a*) shall come into force in respect of Quebec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.
>
> (2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Quebec.

Section 23(1)(*a*), from which Quebec is exempted by the authors of the Constitution Act themselves, requires that Canadian citizens:

> ...whose first language learned and still understood is that of the English or French linguistic minority of the province in which they reside...have the right to have their children receive primary and secondary school instruction in that language in that province.

While Quebec may be faulted for refusing to abide by section 23(1)(*a*), it could never have done so without the complicity of those who, during the discussions leading to the Constitution Act, 1982, agreed to withdraw Quebec from obligations to grant certain Canadian citizens, because of an accident of birth, a fundamental right allowed other Canadians. This is not compromise; this is abdication.

Finally, I want to comment on the notion of joint committees, particularly those charged with studying a particular item within a given period. It was said here, and repeated before the committee, that participation by the Senate must not be interpreted as an abandonment by it of the obligations imposed on the Senate in matters of constitutional amendments. It is true that, alone, we cannot defeat an amendment of this nature, as the Senate may be overruled by the House of Commons. However, as was shown in the case of the first Term 17 resolution, although the Senate impact on a constitutional amendment is limited, its efforts in this regard can be most constructive. I am convinced that if the amendments to it, which the Senate forwarded to the House, had been accepted, Parliament would not be faced with a second Term 17 resolution as it is now, as the Senate amendments satisfied the affected minorities while respecting the Government of Newfoundland's objectives.

• (1730)

The joint committee was not given enough time to review the Quebec resolution with the care it deserved. Witnesses were impressive in numbers, but time restrictions affected their presentations, and questions and answers were too often incomplete when they were not cut short. Twenty-three members on any committee is already too many. The indecent haste imposed on them by the government only made it even more unwieldy.

Joint committees of this sort benefit the government, not Parliament, as they are limited in both latitude and independence by the government's control over their agenda. This is not meant as a reflection on the work done by the co-chairmen or those who participated on the committee, who I again thank for their excellent work, in particular the co-chairmen, for they toiled under difficult circumstances. It is a comment on the concept itself and one, I gather, which can also be applied to the joint committee which has just completed its study of the proposed amendment to Term 17.

Should joint committees become the rule rather than the exception, and two-thirds of the membership is drawn from the House of Commons, how can one expect sober second thought to win even persuasive arguments? That is why it is essential that a constitutional amendment be thoroughly reviewed by the Senate, otherwise we will be party to the Commons always having its will on us.

The following, taken from the joint committee report, was not included as an afterthought, I can assure honourable senators:

> Sixteen Members of the House of Commons, and seven Senators, were named to this Special Joint Committee. Some of those Senators have stated that their participation in the Committee must in no way be seen as absolving them, or their Senate colleagues, from the Senate's constitutional obligation to assess any amendment proposed to the Constitution of Canada.

[*Translation*]

I am already hearing cries of alarm from those who will claim that the Senate, by adopting this attitude, will cause a delay which could compromise the reforms the Government of Quebec has in mind. I would like to remind those with such concerns that the reforms are already happening, are far advanced even, and do not need amendment of section 93 to reach their conclusion.

At the moment, there are 156 school boards in Quebec. As of July 1, 1998, there will be only 72 of them, 60 francophone, 9 anglophone and 3 for aboriginal people. Working toward that end is now the responsibility of the interim boards, which will make room for the new school boards when these are elected in June 1998. The entire process is possible because of the education legislation adopted last June, which lists all of the steps to be followed in implementing the new linguistic school boards.

The amendment to section 93 will do away with the confessional school boards and the dissentient boards only, and these will have to stay in place until the end of the current academic year early next summer.

Hence the argument that it is essential for Parliament to make a decision before the end of the year has no justification.

[*English*]

I hope that honourable senators will not be taken in by the specious argument that the sooner we approve the resolution, the more we will show how well the federation works. That is a sentiment which was trumpeted ad nauseum by government supporters following the adoption of the resolution in the other place. It is a sentiment which is certainly not shared by members of the Quebec government.

Constitutional amendments affect all Canadians, even if their immediate impact is felt in only one region of the country. They must not be treated lightly, particularly as they affect minorities. The federation's value lies in this country's historic respect for the individuality of minorities and for their desire not to have this individuality crushed by the numerical weight of the majority.

Senator Forest made a moving plea along these lines in her remarks on November 7. I commend her remarks to all colleagues, in particular those in which she reminded us of the contrast between the treatment of minorities in Alberta and Manitoba, which are most pertinent to our discussion.

What we are being asked to do in the final analysis is remove constitutionally guaranteed rights, as discriminatory as they may be by today's standards, and entrust them to a province which will honour them for a given period, with no guarantee that they will be incorporated on a permanent basis. The National Assembly has endorsed this unanimously, as did most witnesses who stayed with the issue, with varying degrees of enthusiasm. Prominent legal experts even argued that various Supreme Court decisions have interpreted section 93 in such a way that it has lost much of its significance.

All this may be true, but there are still Quebecers who feel that by adopting the resolution they will be abandoned by the very Parliament whose responsibility it is to protect them.

I wish to end my remarks by quoting from an opinion which was given to the Quebec government by what is known as the Catholic Committee of the Education Council of the province of Quebec, a consultative body which is asked to give its views on issues affecting the Catholic religion in schools. This opinion was written and delivered following the hearings of the joint committee. It is very pertinent that we are all aware of them.

I wish to quote from four paragraphs, and I am not quoting them out of context, as the sentiment in the four paragraphs I will quote reflect the tone of the entire paper. They state:

> The implications of the constitutional amendment requested by the Quebec government are not easy to interpret or measure accurately. Concerns and objections have been expressed, particularly by the English Catholic and French Protestant minorities. Experts in constitutional law have said that the amendment could have a surprising impact, far beyond the limited effects usually referred to in the media. The public may have trouble grasping the real scope of what is happening or making its views known because it does not have access to the necessary information and means of communication. It must therefore be acknowledged that if Parliament grants the request, public support for the amendment is less certain than support for the creation of linguistic school boards....
>
> Bill 109 —

— which is the Quebec Education Act passed in June —

> — upholds the principle of freedom of choice in schooling. However, the debates of the Joint Committee of the House of Commons and Senate highlighted the fact that the legislation in this area will be jeopardized the moment Quebec is excluded from the application of subsections 1 to 4 of section 93. According to some experts in constitutional

law, the only conclusion that can be drawn from the Ontario and Supreme Court case law, particularly the decision Adler, is that the amendment requested by the Government of Quebec could, in practical terms, deprive the National Assembly of its authority to enact legislation to allow any sort of religious element in the public school system other than by using the notwithstanding clauses....

The Committee therefore believes that the amendment could turn out to be something of a time bomb unless the Quebec government is prepared to renew the notwithstanding clauses or look for a better alternative that would allow it to retain in practical terms its authority to enact legislation on denominational schools....

Finally:

The Catholic Committee therefore strongly urges the Government of Quebec to immediately find a legal provision, constitutional or otherwise, that would allow it to strike a balance between the requirements of the Charters, including the requirements of section 41 of the Quebec Charter, and the legitimate expectations expressed by the public. Such a provision would rid the government of the dilemma described above concerning the use or elimination of the notwithstanding clauses. More importantly, it would allow a genuine democratic debate over a new social pact in the area of religious education.

Given their authorship, I think we have to reflect seriously on these thoughts.

Before we finally vote, honourable senators, I trust that when the resolution itself is before us we can go into Committee of the Whole to hear any witness who was not heard by the joint committee and whose reflections will guide us. In particular, I refer to the Minister of Intergovernmental Affairs who, after all, is the sponsor of this resolution on behalf of the Government of Canada. He is as well placed as anyone to reply to concerns expressed here and elsewhere. I would expect that he would welcome the opportunity to do so before a vote is taken.

• (1740)

I feel strongly that the minister must share his views with this house and engage in an open and frank exchange directly with its members. I urge the leadership on the other side to arrange such a meeting at the earliest opportunity.

There are still too many unanswered questions and disturbing uncertainties for many senators on both sides of this house to state a firm position at this time. The minister should be able to provide assurance, the lack of which so far has caused many of us here to remain hesitant to support this resolution, myself included.

Hon. Jerahmiel S. Grafstein: Honourable senators, education is everyone's business. When citizens debate their children's education, sometimes passion overwhelms reason.

It was with some trepidation that I entered the thicket of the Quebec school question, coming as I do from the province of Ontario. The dense history of the Quebec school question holds lessons for us all.

Once appointed to the committee, I set about to better understand the tangled roots of history lying beneath this question, to digest as best I could the numerous articles, studies and especially reports commissioned by successive Quebec governments over the last few years ranging from the articulate Parent commission to the Kenniff report to the findings of the Estates General. It became evident to me that a deep and thorough consensus had developed for radical reformation, at least among the elites of Quebec.

Claude Ryan, an old friend of mine and the then Minister of Education, had galvanized that reform process over a decade ago in Quebec. It was equally clear to me that the existing school structures were in desperate need of renovation, particularly in light of the overlapping school structures in Quebec and the financial restraints facing all governments.

Rather than an historic essay, perhaps it would be simpler if I could share with you my thought processes and the evidence I found as a member of the Standing Senate Committee on the Quebec Resolution Requesting Constitutional Change.

First, a brief word about committees and their work. There are, as all senators know, three committee structures in Parliament: the committees of the other place, our Senate committees — both special and standing — and the special joint and standing committees of the Senate and the House of Commons. I prefer Senate committees.

Senate committees are less partisan, more thorough and more careful. Joint committees are a compromise, but I am confident that the Senate's practice of care and attention was, for the most part, adopted in the work of the special joint committee on the Quebec school question.

It is true, as senators have pointed out, that the special joint committee was given a short time-frame to make its recommendations. However, committee members were assiduous in assuring all points of view were heard, unlike the Government of Quebec which chose not to have public hearings. This made our task doubly difficult.

As senators, we are unlike any other evidence-gathering body. We gather evidence, we serve as our own advisors, seek our own counsel, we become judges, and we become the jury. We are the supreme court of the land when it comes to legislation. We must view the evidence before committees with care. I urge all senators, before they vote, to carefully review the full transcript of the evidence.

Let me say at the outset that I was very sceptical, particularly after having read the Quebec resolution which was adopted unanimously in the Quebec Assembly, save for two abstentions, and which was quickly passed by the Quebec assembly requesting the federal government amend section 93 of the Constitution by deleting the subsections in so far as their application pertains to Quebec.

These sections were incorporated in the British North American Act, 1867. The Quebec resolution in its fourth recital gave the Quebec assembly's opinion that the proposed amendment to section 93 requested in no way constituted recognition by the Quebec assembly of the Constitution Act, 1982, which was adopted without its consent.

Honourable senators, noticing as you must that I am and remain a staunch supporter of the Constitution Act, 1982, this caused me great personal grief and concern.

The first hurdle I had to overcome was whether or not the wording of the Quebec resolution on its face was so invidious, so egregious and so inconsistent that the recital made it inoperable and, in the process, would defeat its own request to amend the 1867 provisions by the mechanisms of the 1982 Constitution.

I asked myself how the Province of Quebec could be asking for an amendment to the Constitution contained in the 1867 British North America Act, which was now part of the 1982 Constitution, while recognizing that the only methodology available to Parliament would be via the Constitution Act, 1982.

Section 43 of the 1982 Constitution contains bilateral amendment processes between the federal government and provinces where their interests are solely engaged. Clearly, the only highway, the only path the Government of Quebec or the assembly of Quebec could take to achieve its objective was via the 1982 Constitution.

Honourable senators, I then examined the federal resolution, which is the one we are being asked to consider. The federal resolution differs substantially from the Quebec resolutions. They are both appended to the report for your consideration.

The federal resolution made reference not only to the 1982 Constitution, but to section 23 of the Canadian Charter of Rights and Freedom incorporated in the Constitution Act, 1982.

I concluded, after listening carefully to legal advice proffered before the committee, that the operative clause of any constitutional resolution was the wording of the amending clause itself. While recitals are of interest, while they are opinionated, while they are descriptive, they are not binding.

Again, it was clear to me that the only way that the federal government could accede to the Quebec assembly's request was by utilizing the 1982 Constitution. The Government of Quebec knew this. We in Parliament knew this. Hence, I and others on the committee insisted that Quebec representatives be invited, despite reports we read in the press to the contrary, that the Quebec representatives would not attend at Ottawa.

Finally, representatives of the Government of Quebec were invited to attend, which they did, together with members of the opposition. They appeared before the committee so that this point and other questions could be addressed.

Members of the committee were pleased when the Minister of Education, Madame Marois, and the Minister of Federal-Provincial Affairs, Mr. Brassard, accepted our invitation to appear.

Minister Brassard repeated the well-worn, often-repeated, proposition that no Quebec government will feel bound to recognize the 1982 Constitution. Minister Brassard then acknowledged, almost in the same breath, that under the law of the land, under the Supreme Court of Canada, the Province of Quebec was indeed bound by the Constitution Act, 1982. This is now clear and unequivocal.

Clearly and fairly, the Province of Quebec deems itself bound by the 1982 Constitution. On the testimony received and based on my personal review, I concluded that the federal government indeed had the power under the 1982 Constitution, section 43, to accede to Quebec's request.

That Parliament should or would exercise such power was obviously a much more difficult question. I also concluded that this request from the Province of Quebec in no way, shape or form was a precedent or had any impact other than in the most slender symbolic way outside the boundaries of the Province of Quebec. This was a matter purely between the federal government and the Province of Quebec.

We recognize, under our Constitution, the nature of the exclusivity of this aspect of education under the Constitution as a provincial matter. This question, in pith and substance, is a matter of provincial education within the powers of the Province of Quebec.

Then, honourable senators, came the more complicated problem alluded to by Senators Wood, Pitfield, Bolduc, Lavoie-Roux and Kirby and Lynch-Staunton, namely, how to determine whether or not, as defenders of the Constitution, we in the Senate could satisfy ourselves that there was a majority of the so-called "minorities" affected by any proposed diminution of their rights or privileges. All senators agree that one of our paramount duties in the Senate is to safeguard the Constitution and the rights of the minorities under that Constitution.

I shall now turn to the essence of section 93, which is called by some commentators, a "Pocket Bill of Rights." That is a misnomer.

In essence, section 93 is a series of privileges rather than full rights. Rights in my view are full rights which are open to everyone in Canada on an equal basis. Hence, narrow privileges for access to denominational schools, even if referred to as "rights," are not in essence rights unless open to every class and every denomination.

Clearly, this is not the case here. Rather, section 93(1) to (4), is an historical yet vital collection of special constitutional privileges afforded to two religious groups in the Quebec society at Confederation in 1867, those two groups being limited to those of the Roman Catholic and Protestant persuasions at the time of Confederation.

• (1750)

Section 93 has yet another substantial problem which further diminished and minimized one's ability to define the subsections as containing full rights. On its face, these privileges, or limited rights, pertain only to the geography of the city of Montreal and Quebec City at the date of Confederation and beyond, into the province, to the privileges or rights of dissentient Roman Catholic and Protestant denominational school boards.

Therefore, it is so difficult for me to understand how the subsections of 93 can be considered full rights. They certainly could not be considered natural rights. They certainly could not be considered human rights. They could be considered privileges for geographically defined and certain narrowly cast denominational groups.

Notwithstanding this difficulty, I still considered we had a responsibility to examine whether these groups, said to be affected by these privileges or narrow rights or attenuated rights, agreed with their substitution — not their diminishment or removal — for the architecture of denominational access now afforded under the provisions of Quebec educational laws. I say "substitution" because, while the constitutional provisions were being attenuated, denominational rights had previously been incorporated in the Quebec Education Bill 109 and its predecessors leading to that bill. There is a clear, overwhelming consensus for citizens in the province of Quebec to maintain a form, some form, of denominational teaching within their school system architecture.

It is equally clear that there was an overwhelming consensus with few dissents throughout every segment of Quebec for renovating the Quebec school system into two linguistic streams, two linguistic boards, English and French. There is no question whatsoever in my mind, based on the evidence that I heard.

Now we come to the more difficult question confronting members of the committee — to determine if there was a "majority" of the so-called "minorities" affected or given these denominational privileges.

Even here, we had difficulty in definition. One of the groups affected is clearly a majority in the Province of Quebec. The majority of the population in Quebec is French-speaking Roman Catholic; therefore, it is difficult for me to conclude that this group in fact was a minority. Notwithstanding that, we still treated that majority as if it were a minority.

I will not repeat Senator Stewart's questions yesterday about section 93 and its limited scope, but I commend all students of the Constitution to examine section 93 and see how even the subsections of section 93, in so far as that section pertains to the province of Quebec, are much narrower in its scope than is clearly understood or debated in this Senate chamber. I will not go into that aspect of this debate. It would take half an hour, but I would be pleased to do so privately with any senator who is interested.

The evidence we heard was extensive, definitive and clear. Let me quickly review the committee's evidence that brought it to conclude that there was a strong majority of the so-called minorities affected.

We had a unanimous resolution in the National Assembly of Quebec, both parties, with two abstentions. We heard from two ministers from the Province of Quebec. We heard from the federal minister. The efforts made by the Quebec ministers seem to assure that a strong consensus had been obtained.

We heard direct evidence from 68 groups composed of over 100 individual witnesses. Notwithstanding the short time-frames allotted in our terms of reference and as referenced by Senator Lynch-Staunton, the committee clearly heard every viewpoint that people wished to express.

I hear Senator Wood. I will deal with her concerns in a moment.

While some individual groups did not give evidence, as pointed out by Senator Wood, I concluded that, having examined the materials from those groups, that their viewpoint was indeed expressed by others during the course of those hearings. I believe no viewpoint was excluded from our deliberations.

Accordingly, I came to the conclusion, since no viewpoint was excluded, that we heard from everyone. Indeed, there as no rush to judgment — for I would never have been part of it. The time frames in the hearings in no way diminished the committee's ability to obtain or weigh the evidence. The committee made a thorough investigation of that evidence. No point of view went unexamined, save for one raised by the Reform Party at the last minute, and I will deal with that later.

Let me for a moment repeat what we heard. There was a unanimous resolution, save for two abstentions, from the Quebec assembly. We heard from the opposition in the assembly; the Quebec government itself; English and French school boards; Catholic, Protestant and other teachers' groups; archbishops of the Roman Catholic church and the Anglican archbishop of Quebec, which I will deal with later; minority groups including Jewish, Arab, non-Roman Catholic and other allophone groups; students groups, both English and French. All agreed that linguistic school boards, which were a direct consequence of this amendment, were desirable and progressive.

There was some dissent. I will briefly touch on it, as did Senator Bolduc in his most insightful speech, especially with respect to the plight of certain French-speaking Protestants and certain English-speaking Catholics. There is no question at all that some in those groups feel detrimentally affected.

Again, under the current Quebec law 109, the notwithstanding clauses had been included, both with respect to the Quebec Charter and the federal Charter of Rights and Freedoms, therefore allowing for denominational teaching to be continued in Quebec.

How the Quebec government will ultimately continue to afford opportunities for denominational teaching is a much more difficult question to predict. However, it is clear to me, from all the evidence I heard and carefully cross-examined, that the majorities of the so-called minorities favoured this change. There appeared to be some exceptions at the outset that must be addressed.

The Hon. the Speaker: Honourable senators, I regret to interrupt but the allotted 15 minutes has expired. Is leave granted for Senator Grafstein to continue?

Hon. Senators: Agreed.

Senator Grafstein: Alliance Quebec, the foremost, mainstream English group, appeared at first to oppose section 93. However, on cross examination — and this is the value of the committee hearings — their interest was not so much in opposing section 93. Rather, their interest was focused on the failure of section 23(1)(*a*) of the Charter to be proclaimed in Quebec.

As Senator Lynch-Staunton put it so well, it means that there are in effect two classes in Quebec as it presently pertains. If you are English speaking and you come from outside of Canada, your children will be streamed by the Quebec government into the French-language stream. That is unfair. They are not without some type of relief and I will address that later.

However, this is an issue of linguistic rights. Here the question is not of linguistic rights but denominational privileges.

The same concern was raised by Senator Pitfield. This concern was shared by myself and other members of the committee. In cross-examining Alliance Quebec, it was clear that they did not oppose the amendments to section 93 but rather the enforcement of section 23(1)(*a*). Section 23(1)(*a*) requires a proclamation by the Province of Quebec, and a declaration of this proclamation is, of course, not within federal powers. We gave that up in 1982.

Senator Pitfield knows this well. He was an architect of the Constitution Act, 1982. It is clearly within the four corners of the assembly of Quebec to proclaim, if it chooses, section 23(1)(*a*). Many of us are unhappy with this aspect of section 23(1)(*a*). Students in over 13,000 families have been precluded from entering the English stream because the Province of Quebec has refused to proclaim section 23(1)(*a*).

Senator Lynch-Staunton: Who put it in?

Senator Grafstein: Yet all that the representatives of this group wanted was a strong reaffirmation from the federal government that the federal government would continue to stand for and press for the adoption of section 23(1)(*a*) by Quebec. These groups were not against section 93. Rather, they wished to use this opportunity to leverage the Government of Quebec to proclaim section 23(1)(*a*). This the Quebec government was clearly not prepared to do.

The second group, the aboriginal groups within Quebec, claimed that this resolution detrimentally affected their rights. The report makes clear — and we came to this conclusion aided and abetted by legal advice and statements by both Quebec and federal ministers — that aboriginal rights were in no way, shape or form, affected by this resolution. We said so in the report.

This left two groups, small but important, who claim to be detrimentally affected. It was not clear that the entirety of these two groups were objecting. These are the two groups to which Senator Bolduc referred.

There were certain spokespersons representing these groups. They were French-speaking Protestants and a smaller group of English-speaking Roman Catholics. The Catholics were represented by English-speaking priests.

Again, in Senator Bolduc's thoughtful speech, he refers to these groups. These groups represent somewhat less than 1 per cent of the student population.

The Hon. the Speaker: Honourable senators, I regret to interrupt once again. The clock now says six o'clock.

Senator Carstairs: There is agreement that we will not see the clock, Your Honour.

Senator Grafstein: It is not clear to me whether these witnesses represented the entire spectrum of the groups for whom they spoke. Having said that, their rights are of concern.

• (1800)

However, it is clear that denominational teaching will continue inside the province of Quebec by Quebec law.

It is difficult to see how their accessibility to denominational teaching in the public school system will be abrogated in the short run. Obviously, it is no small solace, unlike the case for many years in the province of Ontario, that minority denominational rights, religious education, was achieved, in part, through public funding in the province of Quebec. In other words, as Senator Lavoie-Roux pointed out, in the province of Ontario there is and was no public funding of other religious or denominational schools, unlike Ontario. Quebec, in effect, was more progressive than Ontario when it came to public funding of minority religious groups. I would commend the province of Quebec for that.

I want to make specific reference to this point because I have some personal experience in this regard. My two sons were totally educated in a private primary school system in Ontario because I wished them to have religious training, although I continued to pay, without subsidy or tax deduction, full taxes which went to the Catholic school and the public school systems.

Access to public funding in Quebec for denominational education remains available in Quebec. I find it hard to believe how the Province of Quebec in the future, even if the notwithstanding clauses are removed, would not continue to fund denominational training. Whether it is through a charter school, a public school system, or through a publicly funded private school system, denominational training to all groups, in my view, will continue in the province of Quebec for the foreseeable future.

Since we are projecting the future, that is my prediction for the future.

I wish to mention yet another aspect of the testimony referred to in the Reform Party opinion which is appended to the report.

At the last minute, after all the testimony was taken, the Reform members of the committee introduced a long petition containing thousands of names objecting to the federal resolution. Every opportunity was presented for these voices to be heard during the course of the hearings. We did not deny them an opportunity to be heard. On the other hand, we were not given an opportunity by the Reform Party to cross-examine those petitioners or to decide what weight, if any, we should give to their petition.

I concluded, honourable senators, that the overwhelming evidence was that the majority of the minorities affected by these rights and privilege were in favour of the amendments.

The Roman Catholic Archbishops of Quebec and the Anglican Archbishop have letters on record in which they clearly indicate they did not oppose the amendment.

I want to read those letters into the record because they are important.

I say this as an aside, knowing well that His Eminence Cardinal Carter would not have so garbed his objections if he, on behalf of Roman Catholics in Ontario objected to an amendment to the Constitution as it applies to the Province of Quebec. He is not a diffident man who hides his opinions under a basket.

A different situation exists in Quebec. I will read from the letter Senator Lynch-Staunton read from, specifically, the third paragraph in the first page of the letter from the Assembly of Quebec Bishops, dated September 30, to the Honourable Stéphane Dion which states:

> Nevertheless, our assembly did not oppose the choice to amend section 93. It has always been our conviction that the choice of means is the responsibility of the political authorities.

They did not oppose.

The Anglican Archbishop, Archbishop Andrew S. Hutchison, said the following at paragraph 2 of his letter dated November 3:

> The amendments proposed to Article 93 by the Quebec government, which would remove the obligation for the Quebec government to have confessional school boards, seems reasonable to us and in keeping with traditional positions enunciated by the Anglican church.

Honourable senators, the senior representatives of the mainstream Roman Catholic and Protestant groups did not register their opposition to these changes. This does not mean that this exercise was one of perfection. We remain dissatisfied that section 23(1)(*a*) remains, unattended, unproclaimed, and unenforced in the Province of Quebec. We remain dissatisfied that the federal government remains somewhat mute on this question affecting 13,000 families of English-speaking origin in Quebec. Indeed, many of us remain unhappy and regret the federal government's position taken with 23(1)(*a*) then and now.

I share, with Senator Pitfield and others, concern in that respect. However, unfortunately, I have a memory, and I recall very well that the 1982 Constitution, for which Senator Pitfield was a senior federal advisor, was a minimalist not a maximalist document. It was Senator Pitfield and others in power at the time who determined that, in order to pass the 1982 Constitution, the Province of Quebec should be given the option of proclaiming section 23(1)(*a*) and that the notwithstanding clause would be incorporated in the 1982 Constitution to eviscerate the charter, both serious sources of our current distress.

Many of us objected strenuously then, and do now, to giving the Province of Quebec these options. However, that is history. Many of us objected to the notwithstanding clause pressed by the other provinces, particularly Manitoba. Senator Pitfield was there. He understood that. I recall very well special agitation coming from Liberal supporters in the Province of Quebec. I should like to make special mention of the late Norman Wood, a staunch and strong federalist and spouse of our colleague Senator Wood, who violently disagreed with giving the Province of Quebec the right to proclaim section 23(1)(*a*) and violently disagreed with the federal government when it came to allowing the notwithstanding clause. This I remember.

However flawed the 1982 Constitution was with regard to these two aspects, the special joint committee shared a defining moment. For the first time since 1982, two ministers from the Province of Quebec have appeared before a special joint committee of Parliament in Ottawa and have, in public hearings, given *de facto* and *de jure* recognition to the 1982 Constitution. That, honourable senators, is a triumph of patience and a victory for all Canadians. The Charter with its flaws was a source of new and exciting equality and pluralism in Canada.

Pluralism and the new demographics was the dialectic that we heard emanating from the Bloc members. They talked about pluralism — for the very first time. Surely, with patience, good ideas can have great roots and can grow great and mighty trees.

However, members of the Reform Party, who proclaim equality across the land as a benchmark of their political theology, could not see their way fit to resolve the inequality as presented by section 93 when the opportunity presented itself.

Honourable senators, I fully support the report and the federal resolution. The way ahead for the Quebec educators, parents and students will not be easy. Reforms in educational systems, as we have seen in Ontario in recent days, are difficult, fraught with peril and beset with misunderstanding. However, I cannot but be impressed with the desire of the Province of Quebec and its citizens to renovate and modernize its school system and move it forward so that the next generation of Canadian citizens, born and educated in the province of Quebec, and others, will be able more fully to participate in our modern Canadian economy.

To paraphrase Laurier from 100 years ago, the 21st century will indeed belong to Canada.

Hon. Therese Lavoie-Roux: I should like to ask Senator Grafstein how he can affirm — perhaps we were not attending the same meeting — that Alliance Québec was in favour of the abolition of section 93?

They were, as were most people, in favour of linguistic boards, but when it came to the abrogation of section 93, not only were they not in accord with that when they appeared before our committee, they even wrote to us to reconfirm their disagreement with the abrogation of section 93. However, Senator Grafstein has said that both the French-speaking Protestants and the English-speaking Catholics were certainly not in agreement, although they were in agreement with linguistic boards.

It is not only the minority of the majority, in terms of the French-speaking Protestants, but also Alliance Québec that was in disagreement with this.

I should like to raise many other points but, in view of the time, I will stop there.

Senator Grafstein: Honourable senators, I would refer my colleague to the transcript. I was involved in the cross-examination of Alliance Québec and I asked whether or not they were opposing the abrogation of section 93, or whether it was in effect a camouflage for pushing the federal government to move on section 23(1)(*a*).

• (1810)

Read the transcript. If there is a dispute about evidence, rather than taking my word or that of the honourable senator opposite — with whom I do disagree — senators should read the transcript. The transcript will speak for itself.

Senator Lavoie-Roux: I think all senators would have wanted to read the transcript, but we did not have enough time.

The minister appeared before the committee on November 4. I asked him if he felt that minorities would be as well protected by section 23 of the Charter as they were by section 93 of the Constitution, and he said that they would not be as well protected.

Senator Grafstein: Honourable senators, I do not have to speak for the minister. I refuse to speak for the minister. He and I have a different viewpoint on section 23(1)(*a*) of the Charter.

Hon. Dalia Wood: Honourable senators, I have a question for the honourable senator.

I do not agree with the concept of my honourable friend's consensus. Le Fédération des comités des parents de la province de Québec is a group mandated by the National Assembly to represent all parents and all schools in Quebec. They appeared before the committee. The president, Mr. Gary Stronach, when asked if the membership was aware, stated — and this is in his letter — that he did not ask his membership for their views. He said that he did not ask the parents whether they were for or against the amendment to section 93.

This is one of the largest groups in Quebec. If Mr. Stronach is part of the "for" or "against" theory, then there is a problem with the whole concept put forth by my honourable friend.

My honourable friend spoke of the Estates General, but he did not refer to their minority report, which covered over 70 per cent of their membership. Why are my figures different from those of my honourable friend?

Senator Grafstein: Again, honourable senators, this is a question of evidence. I refer all senators to the transcript.

I wish to speak specifically about the fact that we are dealing with elites as opposed to the groups they represent. We questioned these representatives during the hearings as to whether their underlying groups agreed with the position they had taken.

On the Catholic side, we had the position of the archbishops, as limited as it was. We had Catholic school boards and Catholic teachers. I remember specifically cross-examining Catholic teachers and asking whether they had discussions with students and their parents respecting the changes. Their view was that they represented the broad consensus of parents and students as it applied to this amendment. All parents wanted a change to renovate the school system, and this was the best modality in which to do that.

I agree with Senator Lynch-Staunton, Senator Wood and Senator Lavoie-Roux that this is not perfect. However, in addition to the evidence, we did refer to opinion polls that seemed to suggest a strong support for reform along these lines.

Yes, the resolution is imperfect. We would like to have done it "our way," as Frank Sinatra used to say, but we must deal with the Province of Quebec in this case. We had to bend imperfect tools to see whether they fit our minimum requirements. In my view, they did not fit our minimum requirements; they fit our reasonable requirements for constitutional amendment.

Senator Wood: Is it not true in the letter from the bishops of Quebec — the letter the honourable senator read — that they were in favour of repealing section 93? They questioned linguistic rights and suggested that denominational guarantees established by 107 be maintained. There was a caveat there that my honourable friend forgot to read.

Senator Grafstein: I find myself in great difficulty defending Roman Catholic theology let alone letters from Roman Catholic archbishops. I will leave it to each senator to come to his or her own conclusion on the testimony and on the letters, which are appended to the report.

Senator Lynch-Staunton: Honourable senators, Senator Grafstein is quite right in stating that reform is needed. Actually, reform is well under way in Quebec. The new system, it seems, will be in place for the next school year. New linguistic boards will be set up. There will be some difficulties, but, overall, it is proceeding quite well.

My question is: Why must we exempt Quebec from the provisions of section 93? What linkage is there between the new school system in Quebec and the request to exempt Quebec from certain obligations of section 93? I do not see any.

Senator Grafstein: Honourable senators, there is constitutional law. Quebec wants to proceed by the rule of law. They are seeking to renovate their system under the rule of law and the Constitution.

Senator Lynch-Staunton: That is not my question.

Senator Grafstein: My honourable friend said: Why can they not proceed? I assume that if they choose to proceed, they can. However, why should we in the Senate allow any province to proceed in a way that we consider unlawful? If there is an amendment to the Constitution, each senator in his or her heart and mind, after reviewing the testimony, must come to a conclusion. He or she can either vote for, against or abstain from the vote on the resolution.

I find myself in an odd position here defending the Province of Quebec. However, I believe that their position is lawful and legitimate. They want to be under the law, as does the Province of Newfoundland. They want to be under the Constitution. If they meet the standards of a constitutional change, I, for one, will support them, notwithstanding the fact that I mistrust their motivation and mistrust what they say. However, on matter of dealing with the rule of law, I am bound by the rule of law.

Senator Lynch-Staunton: My question has nothing to do with that answer. My question is based on the fact that the reform to the school system in Quebec is well under way and will be in place whether or not section 93 is amended. Section 93 protects two religious faiths. It was renewed in 1982 and given protection from the Charter. Quebec has finally adopted a linguistic school system that looks very promising and can be implemented without section 93 being amended, unlike Newfoundland, which needs an amendment to Term 17 to be able to implement a non-denominational system. The two resolutions are completely different in content and intent.

Again, my question relates to the fact that the new linguistic school board process is well under way. There will be elections to the boards in June. It is hoped that everything will be in place in September, less than one year from now. Why, then, must we modify section 93? What impact does the modification of section 93 or the non-modification of section 93 have on what is already under way?

Senator Grafstein: Again, honourable senators, there are two solitudes here. I believe that education, in pith and substance, is a provincial matter.

Senator Lynch-Staunton: That is not the question.

Senator Grafstein: That is what the Constitution says.

Senator Lynch-Staunton: I do not disagree.

Senator Grafstein: That is what section 93 says.

Senator Lynch-Staunton: No, section 93 does not say that.

Senator Grafstein: The Province of Quebec, by its lawfully elected assembly, has requested a resolution amending the Constitution. How can I ask them to respect the Constitution if I do not respect the Constitution? I respect the Constitution.

Honourable senators, this is a lawful request done in a lawful way. Perhaps certain words are egregious, but it is done in a lawful way, and I am prepared to support them. To my mind, the fact that they are prepared to proceed with their reforms before we legislate in any way, shape or form is their business; it is not my business. My business is to uphold the Constitution when they request we uphold processes under the Constitution.

Senator Lynch-Staunton: The reform of the school system in Quebec has nothing to do with the Constitution, even less with section 93. That was admitted in front of the committee.

I will give you the answer to my question, and it should trouble all of us. The answer is that Quebec wants to be exempted from providing Catholic and Protestant teaching in the public school system. It has nothing to do with the linguistic school system, which will be in place — if the calendar is met — before the beginning of the next school year. They want to erase religious instruction from the school system, which is imposed on them. Narrow as it may be, unfair as it may be, and discriminatory as it may be, it was still renewed in 1982 and given protection from the Charter only 15 years ago. That is the reason. Do we want to be party to that?

Do not mix up the reform of the system with the taking away of constitutional, legal rights of two identifiable religious faiths. That is what we are being asked to do.

My personal opinion is that religion should not be in the schools, but that is probably old-fashioned now. I do not know. I think religion should be taught in the home and in a house of worship, and the school should not be a major extension of what is happening elsewhere. However, I will not argue that point.

• (1820)

I am saying to myself that here in this Parliament we are being asked to remove legal rights. I hope that Senator Grafstein will at least agree that the minister should come before us in Committee of the Whole when we come to the resolution, and be prepared to answer some of these questions.

Will you agree with me that we invite the minister to attend and debate that and other questions?

Senator Grafstein: Honourable senators, I am trying to follow practice and procedure in the Senate. I am addressing the report of the special joint committee. For me, the question is elucidation for honourable senators to consider that report. To me, the evidence and the outcome are clear. There may be evidence in other places, and there may be views held by other people, but I had the evidence before the committee. I would not say it was totally unequivocal, but it was clear enough to satisfy me that there was a high enough hurdle having been passed to support the federal resolution. That is what I have said in my speech. Read the evidence. Read the transcript. It is clear.

[*Translation*]

Senator Bolduc: Honourable senators, I have listened to your arguments attentively. You have argued your case like good lawyers. There is no doubt about that. What you said basically is that it is up to Quebec to address its education problem and decide whether there will be guarantees of denominational education in the schools. You say it is a provincial problem. They will debate it until 1999, and then they will take action. We do not have to settle that here.

In my speech, I have said that there is no guarantee whatsoever that that is what will happen. But the right to dissentience that was guaranteed under section 93 of the Constitution will no longer be protected. The opinion of the Parti Québécois on this is known, and that is why it is a bit awkward.

[*English*]

Senator Grafstein: There are two parts to my honourable friend's question.

Question No. 1: Is there a constitutional amendment that should be supported here? I say, "Yes."

Question No. 2: He is quite right. Once we pass this amendment, it will be for the province of Quebec and those in the Province of Quebec to decide their educational architecture.

I should like the province of Alberta to do things the way we do them in Ontario. Fat chance when it comes to education! I should like the province of Newfoundland to do the things that we do in education in Ontario. Again, fat chance!

Honourable senators, I think we have fulfilled our constitutional responsibilities if each senator is individually satisfied that a reasonable test of the majority of the minorities has been achieved. Under the evidence presented to us — not outside the room, but before us — that was clear. In that respect, I support the report and the resolution.

The Hon. the Speaker: It was moved by the Honourable Senator Pépin, seconded by the Honourable Senator Lucier, that this report be adopted.

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

Motion agreed to and report adopted, on division.

[*Translation*]

QUEBEC

LINGUISTIC SCHOOL BOARDS—MOTION TO AMEND SECTION 93 OF CONSTITUTION—DEBATE ADJOURNED

Hon. Fernand Robichaud, for Senator Graham, rose pursuant to notice of Thursday, October 2, 1997:

> Whereas the Government of Quebec has indicated that it intends to establish French and English linguistic school boards in Quebec;
>
> and whereas the National Assembly of Quebec has passed a resolution authorizing an amendment to the Constitution of Canada;
>
> and whereas the National Assembly of Quebec has reaffirmed the established rights of the English-speaking community of Quebec, specifically the right, in accordance with the law of Quebec, of members of that community to have their children receive their instruction in English language educational facilities that are under the management and control of that community and are financed through public funds;
>
> and whereas section 23 of the Canadian Charter of Rights and Freedoms guarantees to citizens throughout Canada rights to minority language instruction and minority language educational facilities under the management and control of linguistic minorities and provided out of public funds;

and whereas section 43 of the Constitution Act, 1982 provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by His Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

CONSTITUTION ACT, 1867

1. The Constitution Act, 1867, is amended by adding, immediately after section 93, the following:

"93A. Paragraphs (1) to (4) of section 93 do not apply to Quebec."

CITATION

2. This Amendment may be cited as the Constitution Amendment (year of proclamation) (Quebec).

He said: Honourable senators, I am pleased to speak to the amendment to section 93 of the Constitution Act, 1867, concerning Quebec's school system.

The special joint committee on which I have the honour to sit was given the mandate of studying the proposed amendment to section 93. Today, we have before us the resolution to amend section 93 of the Constitution Act, 1867.

Briefly put, I support this resolution. The extinction of the privileges associated with the constitutional protection of denominational instruction, privileges enjoyed by some, but not all, parents in Quebec, is an issue that was debated fully and freely in the Province of Quebec. The vast majority of Quebec society, I believe, considers this constitutional amendment essential to the reorganization of the school system along linguistic lines, and the majority of those concerned want to see linguistic school boards introduced. I am also convinced that the majority of Catholic parents in Quebec who enjoy the guarantees provided under section 93 support this amendment, as do the majority of Protestant parents, who are in the same situation.

Honourable senators, the resolution before us is very clear: it moves that paragraphs (1) to (4) of section 93 cease to apply to the Province of Quebec. As is now the case, all Canadian provinces, including Quebec, will be authorized, under the Constitution, to legislate in matters of education. However, the Quebec National Assembly will no longer be subject to legislation predating Confederation with respect to denominational instruction.

These laws of Quebec that predate Confederation and concern Catholic and Protestant denominational schools have led to the creation of an unusual system, which gave Catholic and Protestant parents different rights, according to where they lived in the province.

Catholic and Protestant school boards are thus to be found protected by the Constitution within the old limits of Montreal and Quebec City. Elsewhere in the province the Catholic school boards are not protected by the Constitution, except in predominantly Protestant districts, where Catholic parents are in the minority.

Outside Montreal and Quebec City, the Constitution protects Protestant school boards if, in a district with a Catholic majority, the Protestant parents are in the minority.

Honourable senators, educational reform has been a concern of Quebec governments for over 30 years. And one of the subjects that keeps coming back, since the publication of the Parent report in the 1960s, is the establishment of school boards on the basis of Canada's two official languages. The ongoing challenge was to reconcile linguistic school boards with the constitutional guarantee protecting Catholic and Protestant school boards in Montreal and Quebec City. Even though the Supreme Court approved the system contemplated in Bill 107, the theoretical coexistence of linguistic and denominational school boards proved impracticable.

Obviously, it is primarily in Montreal that it appears most difficult to set up linguistic school boards without having to support an overlap and interpenetration of structures. Lorraine Pagé, of the Centrale de l'enseignement du Québec, testified before the committee that, in Montreal:

> ...we would have a francophone school board that would include a Catholic sector, a Protestant sector, and another sector; we would also have an anglophone school board which would have a Catholic sector, a Protestant sector and another sector, and in addition to that there would be a Catholic school board — there are so many it gets confusing — where services would have to be offered to francophones and anglophones, and another school board for Protestants, where services would be offered to francophones and anglophones.

This means that there would be at least four mandatory and separate school boards, including two with three mandatory sectors each and two others with two mandatory sectors each. As the witness said, there would be a superimposition of organizational structures. The same thing would happen in

Quebec City. This would create unnecessary costs and complications in the annual registration of students, the assignment of personnel, the distribution of resources and the establishment of voters' lists.

Some of the witnesses who appeared before the special joint committee seem to think that the debate on education that has been going on for over 30 years in Quebec is not only about freeing the Government of Quebec of the restrictions resulting from paragraphs (1) to (4) of section 93. But even if that were the case, in the five extensive public consultations carried out over the past five years, the reform of public education in Quebec was the major issue — and it is the organizational structures guaranteed by section 93 which obviously are impeding this reform. This very public debate necessarily raised the question of whether the Constitution should be amended to solve this problem.

After hearing the witnesses, the committee was satisfied that a majority of Catholic and Protestant parents — the two groups concerned — supported the amendment to section 93.

One aspect of the issue that was frequently mentioned is the Quebec National Assembly's unanimous support of Bill 109 and the amendment to section 93. Such unanimous votes are significant, but they do not mean there is a consensus in the Catholic and Protestant communities, whose privileges are at stake. Such unanimity in the Quebec National Assembly proves nevertheless that support for the amendment transcends party lines. The PQ government was reluctant to propose that amendment, because it involved using the amending formula provided for in the Constitution Act of 1982, which that government refuses to recognize. The government finally yielded to the pressures from Liberal opposition members.

Some people were concerned that the debate on national unity might detract from the substance of the amendment. If the only concern of the special joint committee had been to prove that "federalism works," it would not have insisted on hearing this evidence showing that there was a consensus among Catholic and Protestant parents. From the very beginning, the Government of Quebec assured this Parliament that there was an appropriate consensus in favour of the amendment in that province. However, the committee insisted on assessing and challenging these statements — so much so that the Quebec ministers responsible for education and for intergovernmental affairs eventually appeared before the committee, along with the official opposition critics on these matters. Clearly, what was — and still is — at issue is the legitimacy of the amendment.

It was mentioned repeatedly that, as a result of the Supreme Court decisions, it has become obvious that the rights that are positively guaranteed under section 93 are not as broad as they were originally assumed to be. However, we do not believe that the amendment was justified because the denominational education rights guaranteed under section 93 were nothing more than empty shells. Had we been satisfied that the majority of Catholics or Protestants in Quebec were opposed to the amendment, it would not have mattered whether or not their rights carried much weight. I think that Senator Lavoie-Roux was quite right in saying that minorities often require special protection to be free to exercise their rights. But it is possible to limit or remove this special protection with the consent of a majority of this minority.

It was then a matter of figuring out why a majority of members of these two groups were prepared to relinquish these privileges. It is important to point out that representatives of all the groups involved were consulted.

Be that as it may, honourable senators, this amendment will not spell the end of denominational, be it Catholic or Protestant, education in Quebec. The Education Act of this province gives parents the right to choose between Catholic or Protestant denominational education for their children. It will be up to parents to decide whether publicly funded denominational education should be maintained indefinitely. The fact that the notwithstanding clause was used by the Government of Quebec to protect the existing education legislation seems to indicate, however, that the government reacted favourably to the wish expressed by some parents to maintain Protestant and Catholic denominational schools. We have every reason to believe that the place of religion in public education will be subject to a full, open and democratic debate and that the parents' choice will continue to prevail, as it has for so long outside Montreal and Quebec City.

Throughout the debate that took place before the special joint committee and in this House, we considered the fact that subsection 23(1) of the Canadian Charter of Rights and Freedoms does not apply to Quebec and the issue of whether the amendment to section 93 would prejudice the educational rights of native Quebecers. Section 23 of the Charter and section 93 of the Constitution Act of 1867 concern educational rights and, instinctively, we might think they are closely linked. However, they are not constitutionally related and, in any case it seems entirely ill-advised to reduce consent for constitutional change to a mere transaction where one right serves as a bargaining chip for the improvement of another.

We also took the opportunity to ask ourselves whether the amendment to section 93 could prejudice Native educational rights, and we are satisfied that it will not. Had Quebec laws provided for denominational native schools in 1867, section 93 — which guarantees only the rights to denominational education — would have protected only the denominational nature of these schools and not their native aspect.

• (1840)

Honourable senators, I strongly urge you to support this resolution. Although we noted there was a consensus to amend section 93, we felt the real issue was the quality of the education of children in Quebec, and on that point opinion was unanimous.

Senator Lynch-Staunton: Senator Robichaud, allow me to correct an impression that you left and to ask you a question. You suggested that it is the PQ government that accepted the notwithstanding clause which will expire in 1999. In fact, it is the Liberal government in office in 1984 which, over the objections of the Parti Quebecois then in opposition, invoked the notwithstanding clause. The question is whether or not the decision made by the Parti Québécois in 1994 will be maintained in 1999. My impression is that it will. However, I wanted to make this correction, because you referred to the "government in place", when in fact it was the Liberal government of the day that made the decision, over the objections of the Parti Québécois then in opposition.

I am asking you the same question I asked Senator Grafstein, but to which I did not get an answer. Why is it so important to exempt Quebec from section 93 to allow it to reform its school system? What is the connection between the two?

Senator Robichaud: Let me give you my version of the facts. When we heard witnesses from Quebec, including school board officials, parents and teachers, some of them told us that, in its present form, section 93 brings about a superimposition of structures, particularly in the Montreal region. These people told us that this was preventing authorities from providing the best possible services. They cannot make optimum use of existing structures and services, because there is some duplication. The proposed amendment would alleviate this burden. These people also told us they wanted the resolution to be passed before the end of the year so they could start long-term planning. They would really appreciate having some time to implement these changes.

Senator Lynch-Staunton: I do not want to unduly prolong the debate, but I have another question for Senator Robichaud. Since we did not get answers to certain questions, would you agree to invite the Minister of Intergovernmental Affairs, who is the sponsor of this resolution, to appear before the Senate in committee of the whole? We would like him to give us certain assurances before we make a decision on this issue?

Senator Robichaud: Honourable senators, the minister who is the sponsor of the resolution has already appeared before the joint committee. He came at the beginning and at the end of the hearings, and my honourable colleague was there to ask him questions on the issues that were of concern to him.

If the honourable senator did not get answers to all his questions, that is an entirely different matter. I do not want to speak for the minister. He might answer these questions himself if, at some point in time, we ask him to appear before the Committee of the Whole.

On motion of Senator Kinsella, for Senator Simard, debate adjourned.

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Internal Economy, Budgets and Administration (budgets for certain committees), presented in the Senate on December 4, 1997.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move, on behalf of Senator Rompkey, the adoption of this report.

Motion agreed to and report adopted.

TELECOMMUNICATIONS ACT TELEGLOBE CANADA REORGANIZATION AND DIVESTITURE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-17, to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Thursday, December 11, 1997.

CANADA MARINE BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-9, for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Thursday, December 11, 1997.

ABORIGINAL PEOPLES

ROYAL COMMISSION ON ABORIGINAL PEOPLES—
COMMITTEE AUTHORIZED TO STUDY RECOMMENDATIONS

Hon. Charlie Watt, pursuant to notice of December 8, 1997, moved:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report upon the recommendations of the Royal Commission Report on Aboriginal Peoples (Sessional paper 2/35-508.) respecting Aboriginal governance and, in particular, seek the comments of Aboriginal peoples and of other interested parties on:

1. the new structural relationships required between Aboriginal peoples and the federal, provincial and municipal levels of government and between the various Aboriginal communities themselves;

2. the mechanisms of implementing such new structural relationships and;

3. the models of Aboriginal self-government required to respond to the needs of Aboriginal peoples and to complement these new structural relationships; and

That the Committee present its report no later than November 30, 1999.

Motion agreed to.

The Senate adjourned until Wednesday, December 10, 1997 at 1:30 p.m.

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