

SENATE DEBATES

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

	Pages	Date
First Reading	685	November 7, 1989
Second Reading		
Senator Jean Bazin	697 – 699	November 7, 1989
Senator L. Norbert Theriault	709 – 710	November 8, 1989
Senator Allan MacEachen	724 – 729	November 9, 1989
Senator Jean Bazin	729 – 730	November 9, 1989
Report Stage		
Senator Jacques Hebert and others	951-955	December 20, 1989
Senator Jacques Flynn	980 – 981	December 20, 1989
Senator Allan MacEachen	981 – 984	December 20, 1989
Senator Jacques Flynn	984	December 20, 1989
Senator Jacques Hebert	1109 – 1112	February 14, 1990
Senator Gerald Beaudoin	1112 – 1114	February 14, 1990
Senator John Stewart	1114	February 14, 1990
Senator Edward Lawson	1114	February 14, 1990
Senator Duff Roblin and others	1114 – 1119	February 14, 1990
Senator Gerald Ottenheimer	1119 – 1120	February 14, 1990
Senator Martial Asselin	1120 – 1121	February 14, 1990
Senator Allan MacEachen	1196 – 1199	February 15, 1990
Senator Gerald Beaudoin	1199 – 1200	February 15, 1990
Senator John Stewart	1200 – 1203	February 15, 1990
Senator L. Norbert Theriault	1203-1204	February 15, 1990
Senator Beaudoin and others	1204-1205	February 15, 1990
Speaker's Ruling	1209	February 20, 1990
Senator Allan MacEachen	1214 – 1220	February 20, 1990
Senator Arthur Tremblay	1220 – 1225	February 20, 1990
Senator John Stewart	1225 – 1226	February 20, 1990
Senator L. Norbert Theriault	1226 – 1229	February 20, 1990
Senator Jean-Maurice Simard	1229 – 1235	February 20, 1990
Senator Joyce Fairbairn	1235 – 1236	February 20, 1990
Senator Philippe Deane Gigantes	1250 – 1252	February 21, 1990
Senator Michael Kirby	1252 – 1255	February 21, 1990

SENATE DEBATES

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

	Pages	Date
Third Reading		
Senator Lowell Murray	1256 – 1257	February 21, 1990
Message from Commons		
Senator Arthur Tremblay	1277 – 1278	March 14, 1990
Senator Allan MacEachen	1278	March 14, 1990
Senator Jacques Hebert	1313 – 1315	March 20, 1990
Senator Gerald Beaudoin	1315 – 1317	March 20, 1990
Senator Anne Cools	1317 – 1319	March 20, 1990
Senator Allan MacEachen	1319 – 1323	March 20, 1990
Senator John Stewart	1324 – 1326	March 20, 1990
Senator Charles McElman	1326 – 1330	March 20, 1990
Senator Finlay MacDonald	1330 – 1331	March 20, 1990
Senator Stanley Haidasz	1331 – 1332	March 20, 1990
Message from Commons	1598 – 1599, 1604	May 10, 1990
Senator Jacques Hebert	1639 – 1645	May 16, 1990
Senator Edward M. Lawson	1645	May 16, 1990
Senator Pierre De Bane	1645 – 1646	May 16, 1990
Senator Jean-Maurice Simard	1682 – 1686	May 17, 1990
Senator Allan MacEachen	1708 – 1711	May 22, 1990
Senator Duff Roblin	1711 – 1716	May 22, 1990
Senator Gerald Beaudoin	1729 – 1732	May 23, 1990
Senator Jacques Flynn and others	1732-1738	May 23, 1990
Senator John Stewart	1738 – 1743	May 23, 1990
Senator Jacques Flynn	1743 – 1746	May 23, 1990
Senator Jacques Hebert	3129 – 3139	October 19, 1990
Senator Richard Stanbury	3139 – 3142	October 19, 1990
Senator Michael Kirby	3144 – 3147	October 22, 1990
Senator Arthur Tremblay	3147 – 3149	October 22, 1990
Senator L. Norbert Theriault	3149 – 3151	October 22, 1990
Senator Brenda Robertson	3151 – 3154	October 22, 1990
Senator Allan MacEachen	3154 – 3160	October 22, 1990
Senator Jean-Maurice Simard	3161 – 3167	October 22, 1990

SENATE DEBATES

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

	Pages	Date
Senator Ethel Cochrane	3168	October 22, 1990
Votes	3169-3170	October 22, 1990
Royal Assent	3170	October 22, 1990

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

FIRST READING

Page 696

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-21, to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act.

Bill read first time.

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

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1) (f), bill placed on the Orders of the Day for second reading later this day.

SECOND READING

Page 697

Hon. Jean Bazin moved the second reading of Bill C-21, to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act.

He said: Honourable senators, I am pleased to speak today on Bill C-21, the government's proposed changes to the Unemployment Insurance Act.

These changes are tied to the great labour-force challenges Canada now faces – challenges which, if left unmet, have grave implications for the high standard of living which Canadians currently enjoy. Let me remind you that the proposals of this bill are part of the labour force development strategy. It is a plan the government has constructed to help Canadian workers and employers to be responsive to the changing demands of the labour market. By building on Canada's human resource capacity, so underdeveloped in many instances, the strategy will boost the ability of our country to compete on a global scale.

[Translation]

Honourable senators, Canadians know that the success of our exports depends on the extent to which our goods and services suit not only the taste of the American market, but also the taste of a much wider world market. Marshall McLuhan's notion of a global village has never been so relevant as it is today. Revolutionary means of communication have brought countries closer together and information travels at an astounding pace.

[English]

Information and flexible manufacturing technologies are essential in creating the high value-added products and services that are the key to our future prosperity, and these require workers with skills of a higher level and of a flexible nature, skills that give them the ability to bridge the needs of the various disciplines.

Workers of tomorrow will have to be prepared not only to fill the needs generated by new information but also to be flexible in their career outlook. Studies of recent college graduates show that they will change jobs at least three times in the first ten years after they begin to work and that they will make at least one major career shift during that time.

Higher levels of education will also be required in the new information age. In the next decade two out of three new jobs will demand some education or technical training beyond high school.

How ready are Canadian workers to meet the challenge?

Sadly, they are poorly prepared. The shocking study on illiteracy released by Southam News last year jolted many of us with the news that almost one – quarter of the Canadian population is functionally illiterate. Tied to this dilemma is the distressing number of young people who

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

drop out of high school – about one out of every three students.

In addition, Canadian employers have not paid enough attention to the training needs of their employees. Surveys by the Canadian Labour Market and Productivity Centre show that 41 per cent of full-time workers received no training during the past two years. Another 18 per cent had received one week of training or less. Fifty-three per cent of unskilled workers received no training at all.

Compare these numbers with those of Sweden. Over 90 per cent of Swedish young people undertake some amount of post-secondary education. An extensive system of retraining is also in place, utilizing over twice the levels of resources devoted to this in Canada. After transfers to individuals – pensions and welfare – and defence spending, retraining is the largest government expenditure in Sweden.

[Translation]

Honourable senators, Canadians want to work. They want to keep building for their children the kind of society that has made Canada a country with one of the highest standards of living in the world. Canadians realize that this country has reached a level of social and economic justice that is the envy of our neighbours to the south.

Page 698

However, the problems affecting our labour market may soon have a negative impact on our future. Even in regions with high unemployment, there is already a demand for highly skilled workers. It is clear that our present unemployment system does not take full advantage of the potential of unemployed Canadians.

One way to deal with the many challenges we are facing in this respect is to update the unemployment insurance system. Although this

excellent income support formula will be maintained, we can do more to help the unemployed by giving them the training they need to find steady, productive employment on the labour market.

[English]

In 1987 – 88 section 26 of the UI Act allowed more than 76,000 claimants to get skills training. The government now proposes to reallocate \$350 million of UI funds to increase training opportunities for claimants. With the help of private sector sponsors, an additional 60,000 claimants will become better equipped for long-term labour force participation. We will also be helping to boost the entrepreneurial aspirations of UI claimants. Using their business ideas, the unemployed will become part of our labour market solution, because they will be stimulating the economy and hiring workers.

Other measures will insert flexibility into the UI program.

For example, UI claimants will be able to receive a lump sum portion of their benefits. This could allow them to relocate to an area where better job prospects exist. The changes proposed will also demonstrate to older workers that their contribution is valued in our workplaces. To that end they will be given more chances to take advantage of the expanded training and job search services. Indeed, the current UI Act is out of touch with the makeup of today's labour force. Through this bill we are bringing the legislation up to date and into line with the Charter of Rights and Freedoms.

First, people who work past age 65 will now be able to contribute to UI and to receive UI benefits. It makes no sense to deny a significant part of the labour force the right to participate in the program, especially since older workers represent a vast pool of experience on which our society will increasingly depend. Second, the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

system of special benefits is being expanded to allow for greater fairness and equality for Canadian workers.

Fifteen weeks of maternity benefits will now be available during the time surrounding the birth of a child, and 10 weeks of parental benefits will be available to natural and adoptive parents, either for the mother or the father, or to be shared between them. Altogether, claimants will be able to draw on a combination of special benefits up to a maximum of 30 weeks.

[Translation]

Undeniably, social and economic forces are changing the profile of our labour force. These proposals reflect the need to deal with today's realities and the desire of Canadians for equality and fair treatment.

Bringing the provisions of the Unemployment Insurance Act into line with the Canadian Charter of Rights and Freedoms is only one aspect of the updating process we have begun. The bill proposes measures that should have been adopted long ago to reduce employment barriers while still protecting those who need protection.

[English]

People who quit their jobs without just cause and claimants who fraudulently collect benefits will face increased penalties. In areas of low unemployment claimants will now have to work longer to qualify for benefits, and the duration of their benefits will be shorter. Critics have reported that these changes will mean hardship for claimants in areas of high unemployment. They could not be more wrong. In Kamloops, for example, where the unemployment rate has been 15.2 per cent, claimants will still need to work only 10 weeks to qualify for UI benefits, and they will be able to draw benefits for up to 50

weeks, depending on the number of weeks they have worked.

However, in regions of lower unemployment the qualifying period will be increased and the duration of benefits will be reduced on a sliding scale. Currently the qualifying period for regular benefits is from 10 to 14 weeks. The measures proposed here will change that range so that it will be from 10 to 20 weeks, depending on the rate of unemployment in a particular region. For example, in Toronto, where the rate of unemployment is about 3.5 per cent and where jobs are easier to find, a person will have to work 20 weeks to qualify. As well, a Toronto claimant who qualifies with the minimum number of weeks of work will receive a maximum of 17 weeks of benefits. This is still more than four months of benefits in Toronto.

It may be worth noting that when the qualifying period was increased by two weeks in 1977, a year when the average unemployment rate was 8.1 per cent, higher than it is today, more than 70 per cent of UI claimants were able to meet the increased requirements.

In many parts of this country jobs are plentiful and UI exists as a disincentive to work. The measures that are being proposed will work to encourage people to accept jobs when they are available. These measures maintain the security coverage of UI, according to need. The solution to Canada's problems does not lie with the government alone. All Canadians must work together as we mount the high road towards a more highly skilled labour force. To that end the government has involved business and labour from the inception of the labour force development strategy. Their studies will shape the way the strategy provides new training opportunities.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The changes we are proposing for the UI system are important for the future of our country. Canadians want a more flexible and fairer unemployment insurance system. Through these measures the government is moving towards making UI more sensitive to the needs of Canadians in a dynamic labour market. No longer should UI contribute to maintaining some Canadians in a vicious circle of short-term employment and unemployment. Faced with the great challenge of meeting the needs of a global market, our UI system will have a new and more constructive role.

[*Translation*]

Page 699

I would like to quote from an editorial that appeared in *Le Devoir* on October 21, 1989, under the heading: *Several Reforms in One – Bringing unemployment insurance back to its original purpose*, by Jean Francoeur:

These measures will result in a savings of \$1.3 billion that will be immediately reallocated, dollar for dollar:

There will also be...

more parental and sick leave, eligibility of persons 65 years and over, for a plan from which they are currently excluded (\$500 million) and above all, expansion of various programs to assist unemployment insurance and welfare recipients, more specifically through occupational training (\$800 billion).

From this perspective...

According to the editorial writer...

. . . Bill C-21 strikes a new balance that appears to be superior to the status quo, while it is also a step towards bringing unemployment insurance back to its original purpose, which is to provide income support between jobs.

[*English*]

The size of the UI program will not change. What has changed is the assumption that the UI program is static and cannot be improved or refocused the better to help the unemployed Canadians find meaningful, long-term work.

What is proposed is that the UI program be an active participant in a changing labour market. At this extraordinary time in our country's history the changes we propose bode well for all Canadians, young and old, and from all regions. Thank you, honourable senators.

Hon. Senators: hear, hear!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wish to adjourn the debate. Before doing so, I should like to tell honourable senators that I would make my comments on Thursday, but, if any other senator wished to speak in the meantime, it would certainly be agreeable to me. If things go as I expect on Thursday, I think we will be able to send the bill to committee; but that will depend on whether there is an undetected interest in speechmaking on that day.

[*Translation*]

Hon. L. Norbert Theriault: Honourable senators, before the debate is adjourned, I would like to ask the bill's sponsor to explain whether in these notes. In fact, I would like to congratulate him on the way he expressed his views on this bill. His speech would probably go over well in Toronto or anywhere else, but it would not be very popular in New Brunswick.

Nevertheless, I would like to ask him whether his notes contain anything about the way the money saved by this new bill will be reallocated throughout the country. For instance, if this bill causes New Brunswick to lose money – say, \$50 million that won't be paid by unemployment

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

insurance – will the province, in conjunction with the federal government, receive all this money for job training?

Senator Bazin: Honourable senators, that is a very good question. Of course, this is in the works. At this very moment, a wide range of consultation is being conducted by the labour organization to which I referred earlier. The people working for the organization have a very tight schedule. They will make recommendations.

Actually, the money should be reallocated, dollar for dollar, in the province in question. However, consultations end on December 1, I believe. Reallocation will be implemented depending on the results of consultations in which, of course, the provinces are involved.

On motion of Senator Petten, for Senator MacEachen, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 709

Resuming the debate on the motion of the Honourable Senator Bazin, seconded by the Honourable Senator Balfour, for the second reading of Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act. — (*Honourable Senator MacEachen, P.C.*).

Hon. L. Norbert Theriault: Honourable senators, I cannot let the opportunity of the debate on Bill C-21 go by without expressing my concern about the effects of this bill on my region.

Honourable senators, yesterday we had the pleasure to hear the bill's sponsor. He gave us the government's point of view, if I am not mistaken. I had the feeling it was the viewpoint of a rich city dweller who cares little about the effect of legislation on the less fortunate.

To summarize my thinking, I would say that the present unemployment insurance plan is probably the fairest one in all the industrialized countries. It provides initial benefits to victims of technological change, seasonal industries, business rationalizations, natural resource depletion and it also grants extended benefits where the regional unemployment rate exceeds 4 per cent. Moreover, the government bears the full cost of these extended benefits since it admits its responsibility for employment planning and unemployment control. So far, the government has felt that premiums paid by employers and employees should not be used to cover the extra cost of benefits for the jobless in places where there is not full employment.

The government thus provides compensation, additional insurance for those who more easily fall prey to unemployment. Therefore, I thought that we could all be proud of this fair national program. Just because other industrialized countries have stricter eligibility requirements

than ours does not mean that we have to copy them.

The minister, Mrs. McDougall, used Japan as an example.

There one must work 26 weeks to collect unemployment insurance. She concludes that Canada is much too generous and must raise its eligibility standards. Mrs. McDougall would certainly do better if she imitated Japan's employment policy. Japan has less than 3 per cent unemployment. When our own unemployment rate is down to that level, then perhaps we could consider imposing stricter criteria here in Canada.

If you must compare, don't compare apples and oranges. In any case, just because our American neighbours give their unemployed a raw deal doesn't mean we have to harmonize our system with theirs. No Canadian would want to be unemployed in the United States!

During the hearings of the Forget Commission, a number of intervenors stressed the fact that any reduction in the benefit period and any increase in the number of admissible weeks would inevitably increase poverty and the disparity between rich and poor in this country.

The Atlantic region, where many of the unemployed live, would suffer immediate and disastrous consequences following any reduction in unemployment insurance payments. Unfortunately, the survival of many communities in Eastern Canada depends on unemployment insurance. We certainly do not have full employment in the Atlantic region. The economic prosperity this government is so proud of is hardly apparent in regions like northeastern New Brunswick, where we have 20 per cent unemployment, like Cape Breton with 21 per cent, Prince Edward Island with 18 per cent and Newfoundland with as much as 27 per cent.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

One of the reforms proposed in Bill C-21 is to take at least three weeks off the benefit period for the unemployed in the Atlantic provinces. This is harsh medicine for the poor who are constantly haunted by the spectre of unemployment. We have people who desperately need the meager income they get from unemployment insurance, since they don't have job guarantee. What does the reform have to offer to the unemployed in disadvantaged areas?

Yesterday, Senator Bazin quoted *Le Devoir*, and I will also quote an article that appeared in *Le Devoir* on April 14, which says:

As the Wilson Budget confirmed on April 26 and 27, the government has decided to stop paying the cost of extended benefits in regions with high unemployment, which totaled \$2.4 billion in 1988. A detailed analysis of the reform shows that the government has found a very subtle way to withdraw from the unemployment insurance plan, by changing the way benefits are calculated. This new calculation, which eliminates the concept of initial benefits and extended benefits, no longer provides for a calculation of regional contributions. That is the strategy the government used to get out of the program.

Honourable senators, we know that in the Atlantic provinces, the percentage of total income derived from unemployment insurance is 2 or 3 times as much as in the rest of Canada. We also know that a large part of the contributions or moneys required to pay fishermen's unemployment insurance benefits had until now been provided by the federal government. With everything that is happening in this country today, fishermen, workers, and the unemployed wonder whether eventually since the federal government is withdrawing completely from the unemployment insurance program, in other words, it is withdrawing its contributions from the unemployment insurance fund – the wealthier provinces like Ontario, Alberta and

British Columbia will start pushing for withdrawal from this federal program. Then what will happen to the Atlantic provinces and to less fortunate provinces like Manitoba, Saskatchewan and also Quebec, up to a point?

Page 710

Bill C-21 is just another way to show the Americans that we are prepared to harmonize every aspect of our economy with theirs, regardless of what happens to the unemployed and the less fortunate.

According to recent statistics, we know that people earning less than 525,000 annually will pay for practically the entire 5500 million the government wants to save by withdrawing from the unemployment insurance program.

This is further proof of the present government's philosophy, a philosophy inspired by Reagan and Thatcher and which they want to apply here in Canada.

Honourable senators, when we consider that the committee of the House of Commons which dealt with this bill would not even let the premier of my province of New Brunswick appear before it to explain how the people of New Brunswick would be affected by this measure –

Honourable senators, I hope the Senate will refer this bill to a committee and I hope the committee will take the time to consider the disastrous effects this bill will have on the people of my province and my region.

On motion of Senator Petten, for Senator MacEachen, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

APPOINTMENT OF SPECIAL COMMITTEE
ON BILL C-21

Page 724

Leave having been given to proceed to Motion No.3:

Hon. Allan J. MacEachen, for Hon. Royce Frith, pursuant to notice of Tuesday, November 7, 1989, moved:

That a special committee of the Senate be appointed to consider, after second reading, the Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That nine Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee; and

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

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

Hon. Senators: Agreed. Motion agreed to.

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Bazin, seconded by the Honourable Senator Balfour, for the second reading of the Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act. – (*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, we all understand that this is an important bill, and, because it is so important, I thought it might be useful to put the bill itself in a political and economic context.

Page 725

We might begin an examination of Bill C-21 by simply asking: How much money is involved and where is it going?

How much money is involved? The answer is billions of dollars.

Where is it going? Under Bill C-21, billions of dollars will be diverted from the unemployment insurance program to fight the deficit. There is, of course, a smokescreen consisting of additional funding for training, but that is all it is – a smokescreen.

We all know that the government finances a part of the unemployment insurance program from its general revenues. In the 1988 calendar year the unemployment insurance program had a total cost of \$11.76 billion. The government contributed \$2.72 billion and premiums from employees – employers raised 511.84 billion, leaving a surplus of \$2.78 billion, a cumulative surplus of 5427 million. With the cumulative surplus in the unemployment insurance account, with the unemployment insurance account in the black, it was possible, on November 15, 1988, shortly before the election, to announce a reduction in premiums from a rate of 2.35 per cent of employees' insurable earnings to 1.95 per cent. That announcement of a 17 per cent reduction in premiums, without any corresponding warning that there was danger ahead, was, of course, very much welcomed.

With that reduction in premiums the unemployment insurance account would still be in a current surplus position in the amount of 5818 million. At the end of 1989 the cumulative

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

surplus would be \$1.25 billion. In 1989 premiums were to raise \$10.28 billion, and the federal government's contribution was to be \$2.9 billion. The unemployment insurance account was not in a critical state; it was in the black, with a rising cumulative surplus. So we must look elsewhere for the reasons that will explain why we are now amending the Unemployment Insurance Act, why we are reducing benefits, and why we are increasing the period of eligibility for the unemployed.

This was the situation at the time of the election: a healthy unemployment insurance account, with the federal government a full participant.

This bill, however, changes everything. In the words of the Minister of Finance, "the full cost of the unemployment insurance program (will be) ... financed through employee – employer premiums." These premiums will, of course, increase. In November 1988 it was announced that premiums were being decreased to 1.95 per cent of insurable earnings. They are now being raised to 2.25 per cent, where they will stay for three years. It is interesting to note that thereafter further increases may be inevitable.

Mr. Wilson, in his budget paper, states:

This rate –

referring to the 2.25 per cent rate –

is *lower* than the rate that would be required initially to reflect fully the fact that all unemployment insurance expenditures will now be financed by premiums.

It would be interesting to ask what premium rate is necessary to make up the 53 billion the government will no longer be contributing. Will it be higher than the 2.35 per cent rate that was in effect for many years prior to the pre-election reduction? It would be interesting to know that.

Perhaps we will hear about that later in the committee.

Mr. Wilson's 1989 Fiscal Plan shows that the government anticipates savings of \$425 million in the fiscal year 1989 – 90 and \$ 1.9 billion in 1990 – 1991 by virtue of these changes. These are net savings, because, although the government annually injects almost \$3 billion into the program, the contributions by employers and employees are tax deductible. In addition, the government itself, as a major employer, will see its UI employer premium contribution rise. In any event, even taking into account these factors, the government will cut its contribution to the fund and, accordingly, its expenditures by almost \$2 billion.

To state that this major restructuring of the UI program in the interests of deficit reduction was something of a surprise is an understatement. To understand fully what has occurred, it is necessary to turn our attention to Mr. Wilson's budget – not of 1989 but of 1988.

This was Mr. Wilson's pre-election budget. In the place of tax increases in that budget, the minister proclaimed the success of his medium-term plan and asked for congratulations. Such was the fiscal and economic health of the country in February 1988.

What of the deficit? The Minister of Finance declared that in 1984 it had been "out of control," but that fiscal stability had now been restored. When asked why he did not further reduce the deficit, Mr. Wilson said:

The reason we didn't do more is I don't like increasing taxes.

I know that these words are difficult to fathom after what was announced in Mr. Wilson's most recent budget, notably the GST, and in view of the legislation now under debate, but that is what he said: "I don't like increasing taxes." The

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

increased premiums for employers and employees under this legislation are equivalent to a tax. We are increasing taxes in this bill.

However, there was one short section in Mr. Wilson's 1988 Fiscal Plan that disclosed how vulnerable the minister's position was to fluctuating interest rates. In a section entitled, "Sensitivity of the Government's Fiscal Position to Alternative Economic Assumptions", Mr. Wilson revealed that:

For the case of a 100-basis-point reduction in interest rates ... the budgetary deficit decreases by about \$1 – 1/2 billion after one year and over \$3 billion after four years.

Conversely, a 100-basis-point increase in interest rates would increase the budgetary deficit by approximately \$1.5 billion after one year.

In his 1988 budget, Mr. Wilson forecast an interest rate of 8.6 per cent for 1988 and projected an even lower rate for 1989 – namely, 7.8 per cent. He added, fully confident of the validity of his interest rate forecasts, that:

Page 726

Lower expected interest rates should restrain the growth in public debt charges in 1989-90.

As we all know, the Minister of Finance was dead wrong in his forecast of lower interest rates. At the time of his budget in February 1988 they stood at 8.6 per cent. In April they rose to 9 per cent. In July they were up to 9.5 per cent, and by August they reached 10 per cent. By the time the election was called they had risen to 10.5 per cent. They now stand at 12.36 per cent.

When the election was called a year ago, and interest rates were at 10.5 per cent, it should have been clear to the minister and to the government that the fiscal situation was in increasing difficulty. But that was not revealed to the

Canadian electorate. In fact, in May of 1988, in a speech in London, England, the minister crowed about how the deficit had been brought under control and said:

The structural changes that we are making in the Canadian economy have strengthened the foundation for economic growth and investor confidence. That strength will continue in the years ahead as our initiatives take root, grow and bear fruit.

There was so much fruit being borne by the trees so carefully nurtured by Mr. Wilson that, throughout the summer and fall of 1988, it was all that the government could do to harvest the bounty fast enough and proclaim the benefits to the people of Canada in the form of a diversified list of promises, rising interest rates notwithstanding.

When concerns were expressed one year ago during the election campaign about possible cutbacks in the unemployment insurance program, John Crosbie took centre stage to reject categorically the changes. As reported in the Gazette of October 14, 1988, he stated:

We'll be looking at (the UI program) in a couple of years, –

That would be in 1990.

– presumably to see what improvement can be made or whatever, but there are no changes planned in UI.

On October 14, 1988 – just one year ago – he stated that there were no changes proposed in UI.

However, the Minister of Employment and Immigration revealed on October 3, 1989, before the legislative committee on Bill C-21, that the government was, in fact, already looking at possible changes to the UI program at the very time Mr. Crosbie was providing his words of

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

reassurance. This is what the minister said before the committee:

In terms of when we began doing this, certainly it was before the election that I suggested to my officials that we should be looking at training options to get us ready for this world that we saw coming. Then we went off, like everyone else in this room, and pounded the pavement for three months.

Of course, to examine training options involved an examination of where the money was to come from, and that raised the whole question of the unemployment insurance program. In any event, those are the words of the minister in the committee, candidly telling us: "Yes, we were looking at these things before the election." Unfortunately, they contradict not only the words of Mr. Crosbie but apparently those of the Prime Minister himself.

Turning again to the statement of Mr. Crosbie during the election campaign, I should like to remind honourable senators that not only did he call the rumours "complete nonsense" but he assured reporters that he went to the Prime Minister himself to set the record straight; he went to the highest authority:

You're damn right I asked him (prime minister) about it. And he said no. No one is planning any changes in the unemployment insurance program ... We're not contemplating any changes.

No, of course not. That is why the Minister of Employment and Immigration had her eager beavers in the department, before the election, examining all the options as she went out pounding the pavement and not clearing up the assurance that had been so falsely made by the Minister of Trade.

Further, as the election campaign was drawing to a close, economists were expressing concern

that increased interest rates were pushing to 532 billion the projected 1989 – 90 deficit.

Was the Minister of Finance concerned last November?

Apparently not, even though he knew the facts about the relationship between increasing interest rates and the deficit. Apparently he was not concerned. An Ottawa Citizen story, dated November 15, 1988, reads:

A report that the government now expects the deficit to rise to 532 billion next year is wrong ... "No, that's not accurate," Wilson said as he left a Conservative rally at which Prime Minister Brian Mulroney spoke to about 3,000 business supporters.

Mulroney refused to answer any questions on the report as he left the rally. However, Wilson said his department has no projections showing the deficit will rise.

Honourable senators, on the very day that Mr. Wilson was providing these assurances the 90-day commercial paper rate was 10.85 per cent – 225 basis points above the 8.6 per cent rate projected in the 1988 budget. That made it plainly evident to everyone that the fiscal situation was in trouble. However, what is worse is that the rate was 305 basis points above Mr. Wilson's 7.8 per cent projection for 1989, and rising. In those circumstances, one would have expected the Minister of Finance to express some slight concern. After all, he had earlier disclosed, as I have mentioned, that every loopoints increase in the interest rate would add 51.5 billion to the deficit. If interest rates simply froze at their November rate, an additional 54.5 billion would be added to the projected 528.6 billion deficit for fiscal year 1989 – 90. The situation would be even worse if interest rates continued to rise – as they did.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

In November of 1988 Mr. Wilson said to Canadians: "Forget there's an election," when describing how firmly the government intended adhering to its spending commitments. Now he is asking us to forget that there had been an election and to forget everything that he and his colleagues had said.

Page 727

Of course, after the election we know that things changed, and they changed very quickly. On April 10, 1989, the Minister of Finance mounted the rostrum to call all Canadians to arms. He opened his speech at the Retail Council of Canada by saying:

Today I want to share with you my concern for our country's future.

He went on to say that Canadians faced:

...one overarching problem. That problem is the growing size of the public debt and the exploding cost of paying interest on that debt.

He then cited the dramatic rise in interest rates:

...since early 1988...in Canada, we have seen an increase of almost four percentage points.

Of course, he did not mention at all that those interest rates were already more than 2 percentage points higher when he was reassuring Canadians in November that all was well.

Honourable senators, two days after Mr. Wilson spoke before the Retail Council of Canada, changes to the unemployment insurance program were announced; changes that we are now examining and which the New York Times described as possibly foreshadowing:

...a widening erosion of one of the industrial world's most generous social security systems.

Honourable senators, why were these changes necessary?

We found out two weeks later when Mr. Wilson presented his budget. On page 10 of his "Fiscal Plan", the minister disclosed that:

These higher interest rates have put upward pressure on the deficit ... In 1989 - 90, (public debt charges) are now expected to be \$6.4 billion higher than estimated in February 1988. Hence, program expenditures have to be reduced and taxes increased to keep the deficit on a declining trend.

Therefore, honourable senators, in this bill we have what amounts to an increase in taxes and we have a reduction in program expenditures, both at the expense of the Canadian unemployed. The cuts to the unemployment insurance program, to VIA Rail, to Official Development Assistance, to defence expenditures, and the indefinite postponement of the childcare program are all presented as measures necessary to rein in the deficit which had somehow escaped the firm grasp of the Minister of Finance and was now suddenly running amok.

Honourable senators, the question is: Was the loss of control over the deficit as sudden and as unexpected as the government would like us to believe? The Ottawa Citizen has been trying since March of this year to obtain Department of Finance projections on the deficit, the national debt and interest rates dating back to early 1988. Mr. Wilson has refused to release any of the documents requested, even in the face of threats of court action by the Information Commissioner. Inger Hansen. Is there any wonder that Canadians feel that they were misled in the election campaign by the Minister of Finance about the state of the nation's finances?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

So, honourable senators, that is the political context and the economic context. Following the election, notwithstanding the assurances that had been given by the government, we are now faced with a major restructuring of the unemployment insurance program. Therefore, as we consider the legislation, I think it is legitimate to ask all honourable senators to recall the assurances of Mr. Crosbie, Mr. Wilson and Mr. Mulroney in October and November of last year. At that time, according to the trade minister, there were no plans to make changes to the unemployment insurance program, and stories to that effect were "complete nonsense." Well, all I have to say is that the bill before us certainly makes "complete nonsense" of Mr. Crosbie's words.

Though this legislation has as its genesis the battle against the deficit, I noted with interest in his otherwise excellent remarks before the Senate on Tuesday, that Senator Bazin failed even to mention the word. He chose to focus instead on what I earlier referred to as the "smokescreen" – namely, increased funding for training programs. Senator Bazin would have us believe that this is progressive legislation and that it is inspired by the government's profound commitment to ensuring that Canadian workers and employers, through increased training opportunities, will be able to meet the challenge of a rapidly changing world economy. According to our learned colleague, "information and flexible manufacturing technologies" provide the keys "to our future prosperity."

Well, that is a commendable declaration, but what is the reality behind the declaration? The reality, as seen by past performance, is a willful disregard by the government of the training needs of Canadian workers.

In her testimony before the legislative committee in the other place, the Minister of Employment and Immigration said, "We have more demand for training programs than we can meet." Why, I ask? Part of the answer, surely,

lies in the fact that the budget for training and job creation has been substantially reduced since this government came into office. In fact, when the Honourable Warren Allmand charged in the committee that job creation and training programs had been reduced from \$2.2 billion in 1984 to \$1.5 billion in 1989, no one could put up any objection and no one attempted to clarify the situation. To my knowledge, and I should like to hear it, there has been no disproof of the assertion that there has been a 30 per cent decrease in funding for training and job creation under this government.

An absolute decrease of \$700 million since 1984 certainly goes a long way in explaining why this government has trouble meeting demands for training' programs. Senator Bazin claimed that "Canadian employers have not paid enough attention to the training needs of their employees." Well, that may be true. However, in all fairness, it should be added that the government has hardly provided an example. It has hardly regarded training as a priority. In fact, it has taken the opposite approach.

Page 728

Under this legislation now before the Senate, funds will be reallocated – that is the word the government prefers to use – funds will be reallocated so that more money will be available for training. Specifically, \$230 million will go to three private sector training schemes and another \$545 million will go to four initiatives to help train the unemployed, for a total of \$775 million. After cutting back funding by about \$700 million, the government gives it back and calls it "A Labour Force Development Strategy for Canada."

Where will the money come from? Well, this is the real "strategy": it will come from the unemployed.

Some Hon. Senators: Shame!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: The government intends to take away from the unemployed \$770 million by tightening entrance requirements and reducing the duration of UI benefits. This can only be characterized as another example of the government's determination to strengthen the mettle of disadvantaged Canadians by adding to their adversity. I should have thought that the unemployed had enough to contend with already, but there it is: the government's commitment, its profound commitment to training, paid for by the unemployed.

Under the government's new strategy, additional moneys are also being provided under such headings as parental benefits and seniors benefits, for which an additional \$550 million will be allocated. Where will that money come from? The government intends to save \$450 million by tightening the restrictions for workers who leave their jobs without a satisfactory explanation – they will have their waiting period increased from "one to six weeks" to "seven to twelve weeks."

The Labour Force Development Strategy, therefore, involves the transfer of approximately \$1.3 billion from the unemployed to a variety of new and existing programs. However, I repeat, that money is all coming from decreased benefits to the unemployed. That is the key to the strategy.

Although this shift of funds is described in bureaucratic parlance as a reallocation, it is not in fact wholly internal to the UI program. Money is, in fact, being shifted, in a sort of shell game, between the Canadian Job Strategy Fund and the UI program.

Honourable senators, one of the most troubling aspects of this bill concerns the reduction in the maximum benefit period and the increase in the variable entrance requirement. As I mentioned, these changes will free \$770 million for other uses. What is of particular concern to me is that,

even in those regions of the country where the unemployment rate is very high, these changes will cut back benefits and make it more difficult to obtain benefits.

The minister responsible, the Honourable Barbara McDougall, confirmed that this was indeed the case. She said:

... the average loss in Newfoundland is two weeks; P.E.I., two weeks; New Brunswick, two weeks; and in Nova Scotia, it is four weeks.

She characterized this impact as "very modest." I respectfully disagree.

To reduce benefits in those parts of the country that have yet to experience fully, or even partially, Canada's economic recovery is not a policy that displays sensitivity. When combined with the reduction in funding for ACOA and the virtual dismantling of VIA Rail in my area,' the message from this government becomes even more callous. I find it quite disturbing.

It has been reported that Newfoundland will lose, under this legislation, approximately \$30 million in annual UI benefits. I believe that the figure for Nova Scotia is \$70 million. I could be wrong on that, but it is a large figure indeed. The government counters with the claim that, in Newfoundland, it intends to replace those funds with \$45 million in the form of training programs. But the fact remains that Newfoundland is to lose \$30 million, which takes the form of income circulating in the economy, each year, and the government has provided no assurance that the equivalent amount of money will be restored to Newfoundland through other programs; not at all. The money saved in Newfoundland may enrich the program elsewhere, and there is no assurance that Newfoundland will be compensated through the actions of the government for the amount it has lost. Let me continue this point of a possible infusion of

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

training funds by reading a passage from the Globe and Mail of October 10, 1989, postmarked Deer Lake, Newfoundland:

This is supposed to be good news for Newfoundland, but it is difficult to find anyone who does not immediately say, upon hearing of this: "Training for what?" Lucrick Crane is a fisherman. His wife, Theresa, and his daughter, Connie, work in the local fish plant. They do not want to be trained; their all – consuming worry is getting enough stamps to survive the winter.

Under this bill, it would be more difficult for Lucrick Crane, Theresa and Connie to survive next winter.

To me, in any event, it appears that the ministers of the government are taking pride in this action, and they seem to be totally unaware of the circumstances of those whom they govern when they bring forward this program, push it through the House of Commons, ask us to approve it and expect us not to raise our concerns.

On Tuesday the government released its report on the new unemployment insurance regions and the Deputy Leader of the Government tabled that report in the Senate today. We will want to examine that report, because the delineation of the regions will have a bearing on the entrance requirements and the duration of claimants' benefits, since, as I understand it, both will vary according to the region in which the unemployed worker may be located. We will have an opportunity to examine that report as we deliberate on this bill. But it is interesting to observe that the report was tabled the day after the bill cleared the House of Commons so that members of the House of Commons were denied the opportunity of having this additional information as they examined this important bill.

Page 729

Honourable senators, the bill is now in the Senate. Today we set up a committee to deal with the matter, and we intend to deal with it as we deal with other bills that come before us.

The chairman of the Standing Senate Committee on Social Affairs, Science and Technology told me a couple of weeks ago that there had been an extraordinarily large number of requests from organizations throughout Canada asking to be heard. Yesterday I received a long letter from the President of the Canadian Labour Congress, asking the Senate to examine this bill and to listen carefully to the analysis that will be provided by the Congress of the impact of the passage of this bill on the workers of Canada. He asked that we carefully analyze the impact study, which they will provide, and to compare it with that of the government, and he requested that, if we find it necessary, we proceed with our own study so that we understand the impact of this legislation on the various regions of Canada.

Honourable senators, the day before that I received a letter from the Canadian Catholic Conference, asking the Senate to examine the bill and to hold hearings in the regions in an effort to understand better the impact the bill will have on the regions of Canada. I think we have to do all of that, and we are prepared to do it.

If we do our job properly, I do not see how, with my present understanding and knowledge, we can clear this bill before next year. It is now November 9 and we have set up the committee, which will soon start its work. We will hold hearings in Ottawa and, if we so decide, elsewhere in Canada. Then the committee will report to the house and it may be that changes to the bill will be recommended, and those will have to be considered in the Senate and possibly in the House of Commons. I think it would be wildly optimistic to expect that we will complete all of that by December 22, when the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

parliamentary calendar would call for the House of Commons to adjourn.

I am raising that point now in the expectation that we will avoid a false crisis or a false confrontation at a certain point. If we understand now that certain things have to be done which will take time, we will not be using delay as an instrument to block, delay or frustrate the bill. Whatever time is necessary we ought to take, and then the bill will be completed.

Therefore, I commend the bill to the committee. I have not spoken as much about the provisions of the bill as I will later, because I think it is important to place it in some political and economic context, a context that tells us that the Canadian people were never forewarned. The people in my province and in the Atlantic never received a hint that, first, the fiscal situation was hopeless and, second, that one of the ways in which the fiscal situation would be improved would be through asking for large sums from the unemployed of Canada. We never knew that. We know it now and we have to deal with those facts as well as we can.

Honourable senators, I am sorry to have taken more time than I expected, but the bill is very important.

Some Hon. Senators: Hear, hear!

[*Translation*]

Hon. Jean Bazin: Honourable senators –

The Hon. the Speaker *pro tempore*: Honourable senators, I must inform the Senate that if Senator Bazin speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Bazin: I do not intend to argue what was said by Senator MacEachen, especially his political analysis. In fact, Senator MacEachen

gave us a political perspective and took this opportunity to describe past situations.

There are, however, a few points I would like to make.

Regarding his reference to Newfoundland, I would like to point out that when changes were made in 1978, everyone in Newfoundland managed to work the additional weeks they needed to qualify.

They say it is absolutely impossible to find work in Newfoundland, and they tell the story of the fisherman and his wife.

The truth is, that since 1984, the number of jobs in Newfoundland has increased faster than the national average. Twenty – seven thousand jobs were created in Newfoundland during the past five years. Of course, there was plenty of room for improvement in Newfoundland.

If we listen to the suggestions being made on the other side and if we refuse to take a modern perspective on training qualified employees and especially on much needed cotion between employers and employees, the situation may become hopeless.

In fact, this bill provides a foward – looking perspective on the basic needs of Canada's industrial sector and it shows how we can meet those needs.

And that is how we should judge this bill. To my knowledge, over 100 organizations, in fact, as many as 180 organizations and witnesses were heard by the committee of the other place, which travelled across Canada.

In the circumstances, I think the special committee formed by the Senate should seriously consider the harm that might be done if the bill is not passed as soon as possible. That being said, this bill should be considered carefully, not from

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the perspective of our global economy, closing VIA Rail and so forth, but on the basis of what is being proposed in the clauses of this legislation.

In the circumstances, I do not really want to debate the substance of this bill. I simply want to put Bill C-21 in its proper perspective. I want to put the proper perspective on the objectives being pursued by this bill.

Hon. Eymard G. Corbin: Honourable senators, would Senator Bazin agree to answer a question?

Senator Bazin: Yes.

Page 730

Senator Corbin: You said that at least a hundred witnesses were heard across the country – I do not remember the exact figure. Can you tell me what proportion of them spoke against the bill as written?

Senator Bazin: Honourable senators, I do not have the precise statistic because some presentations were in between. Some said yes, they agree with eliminating age discrimination and they agree with making the bill compatible with the Charter of Rights and Freedoms, yes they agree with such – and – such a clause but not with something else. It is extremely difficult to come up with a precise figure.

Furthermore, representations from the Canadian Labour Congress were made not only by that body but by several of its member organizations throughout the country. This will no doubt come up in the committee, but it will be interesting to know how many CLC members across the country have already made representations to the Commons committee.

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

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

On motion of Senator Bazin, bill referred to the Special Committee on Bill C-21.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

REPORT OF SPECIAL COMMITTEE

JACQUES HEBERT

Chairman

Page 951

Hon. Jacques Hebert, Chairman of the Special Senate Committee on Bill C-21, presented the following report:

Wednesday, December 20, 1989

The Special Committee of the Senate on Bill C-21, an Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, has the honour to present its

FIRST REPORT

Your Committee, which was authorized to consider Bill C-21, an Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, has, in obedience to the Order of Reference of Thursday, November 9, 1989, examined the said Bill and now presents its interim report as follows:

The Committee held its organization meeting on November 28, 1989. Since then, the Committee has received extensive technical briefings by officials from Employment and Immigration Canada and has commenced its public hearings on the bill. To date, the Committee has received testimony from 15 witnesses representing labour, business and other interests. In addition, the Committee has received many requests from groups and individuals who want an opportunity to present their views on the bill.

On December 19, 1989, the Committee approved a tentative list of witnesses to be scheduled in January 1990. It is the Committee's intention to resume its public hearings on January 3, 1990.

Respectfully submitted,

The Hon. the Speaker: When shall this report be considered, honourable senators?

Senator Hebert: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(f), I move that the report be adopted now.

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

Hon. Senators: Agreed.

Hon. Jacques Flynn: Honourable senators, I wish to raise a point of order. I have just read the report. I do not see what the Senate can approve in this report. Senator Hebert can very well report to us but this report contains no conclusion. I do not see how the Senate can be asked to approve a report that contains no conclusion. I have no objection if he explains to us what the committee did, but asking the Senate to adopt something which asks nothing –

Hon. Royce Frith (Deputy Leader of the Opposition): except an indication of the Committee's plans, for which it does not require the Senate's approval. But there is no reason not to grant approval for what has been adopted, namely the list of witnesses.

Senator Flynn: Honourable senators –

[English]

Senator Frith: May I finish?

Senator MacEachen: Perhaps we should adjourn the Senate and let Senator Flynn have his own private session!

[Translation]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Frith: Honourable senators, the committee's intention to continue its hearings on January 3 does not require the Senate's approval. I see no reason to refuse this approval if it is requested by the chairman of the committee.

Senator Flynn: Honourable senators, I emphasize that the report does not ask for approval. It says:

[English]

On December 19, 1989, the Committee approved a tentative list of witnesses to be scheduled in January 1990. It is the Committee's intention to resume its public hearings on January 3, 1990.

Page 952

Well, if it wants to do that, it can. We do not have to say "yes" or "no". He can tell us about the committee if he has something to add, but to ask us to approve something that is already within the mandate of the committee, to me, is extremely superfluous. If you want to approve it, approve it.

Senator Guay: It's wonderful that you agree.

Senator Frith: Question!

[Translation]

Hon. Jean-Maurice Simard: Honourable senators, I would like to ask Senator Hebert for an explanation. I am a member of this committee. If I remember correctly, the motion as approved by the committee was to indicate that the committee would terminate its proceedings by the end of January. It seems this indication has been removed. Is there an explanation? You say we will hear witnesses in January 1990. This does not preclude the committee's sitting in February. I remember clearly that January 29 had been mentioned, and certainly the end of January 1990.

Hon. Joseph-Philippe Guay: Honourable senators, consider the number of witnesses you have on your list!

Senator Hebert: Honourable senators, I think it is quite clear, as I said before, that the committee does not intend to go beyond the end of January. I don't see why we should tie ourselves down in a report as straightforward as this one.

If we happened to have a very important witness we had to hear on February 1st, I think it would be ridiculous to come back here.

Senator Simard: I understand the point raised by the chairman of the committee. However, when we report on a text approved in committee, the report should reflect what was approved, no more and no less.

Senator Hebert: I think the senator must have a draft of the report that was distributed.

In fact, what the senator claims is part of the present report does not appear in the draft he probably has.

Senator Simard: I am not talking about the draft, I am talking about the text, the terms and the essence of the motion that was approved yesterday. I am not referring to any drafts that might have been circulated at that time.

Senator Hebert: Honourable senators, this is an important point. When we discussed this brief report, I had the clerk distribute a copy or draft of the report to all committee members. This draft is practically identical and certainly reflects the intent that Senator Simard would like to see in the report. It is entirely identical to what we approved. It was before him and he agreed.

Senator Simard: I agreed to January 29.

[English]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. Duff Roblin: Honourable senators, I find myself a trifle confused about the goings on in this committee, and I should like to ask the chairman whether this document we see before us is one that has received the approbation of the committee. I am not talking about some other document but this exact one. Did this document receive the approbation of the committee or does it find its origin in some other source?

Senator Hebert: It is exactly the report that was approved by the committee. I made sure that during that discussion of the committee the draft of this report was distributed to everybody around. That is why I was reminding my colleague, Senator Simard, that he must have the original in his documents. Then he will see that there was no change, or perhaps a minor mistake in English or something like that, but certainly not deleting a sentence of the importance of the one he mentioned.

Senator Frith: Was it approved unanimously?

Senator Hebert: Yes, it was approved unanimously.

Senator Simard: It was approved, but, regardless of what the draft said, my understanding of the decision was that we would hear witnesses until the end of January. There is no reference now. This motion leaves the door open for a further meeting in February.

Senator Guay: Was your understanding written?

Hon. Orville H. Phillips: Honourable senators, this document, which I agree is not a report, states:

It is the Committee's intention to resume its public hearings on January 3, 1990.

Could the chairman tell us –

Senator Frith: Or any other member of the committee.

Senator Phillips: – if arrangements have been made for January 3 and if there are witnesses scheduled for that day?

Senator Hebert: This decision was taken by the committee yesterday, and I immediately asked the clerk, in front of my colleague, as a matter of fact, to start phoning witnesses – and we have a list of 38 possible witnesses – and to organize meetings as quickly as possible. He started this morning, I presume, for January 3, January 4 and the next week, et cetera. I have no idea of the result yet, but I can ask the clerk and inform the senator later on.

Senator Phillips: Thank you.

The Hon. the Speaker: Honourable senators, is it the wish of the Senate to proceed with the adoption of the report?

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[Translation]

NOTICE OF MOTION

Hon. Jacques Flynn: Honourable senators, I give notice that tomorrow, December 21, 1989, I will move the following motion:

That the Senate convey to the Special Committee to which Bill C-21 has been referred the following message: (a) to report Bill C-21 without amendment no later than January 4, 1990; (b) to pursue, if it so desires,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

its study of the subject matter of the said Bill and to report its observations and recommendations to the Senate in due course.

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I listened to the notice of motion. If there is a question of order relating to that motion, it should be raised at the first opportunity, which might be considered to be tomorrow rather than now when the notice is given.

However, if I heard the motion correctly, and I did not have a copy of it, it proposes a schedule of action for the committee that would be contrary to the motion that had already been adopted for the proposal put forward by the committee itself. In order not to be held out of time on the point of order, I raise that now.

[Translation]

Hon. Jacques Flynn: Honourable senators, I do not know whether Senator Frith is right about the time, but this is exactly as provided under rule 45: one day's notice must first be given for instructions to a committee. If circumstances so suggested later today I would seek leave to proceed today. With respect to the substance I fail to see how this motion contradicts the committee's instructions in any way.

The committee said they would resume their sittings on January 3, 1990. I am telling them that the Senate is asking that they report the bill without amendment on January 4 and continue to hear evidence later on if they wish. There is no contradiction with the report. That is precisely the point. Once again Senator Frith has interpreted my earlier remarks as a serious objection. What I want to emphasize is that a report tabled in the Senate simply for the guidance of honourable senators need not be formally adopted. It may be debated if necessary

but it does not have to be adopted. What Senator Hebert suggested in his report was that committee members intended to continue hearing witnesses on January 3. Nobody prevented him from doing that. There is absolutely no need to adopt the report. It does not make any difference whether the report is adopted or not. That is quite simple. Look at the rules; they refer to reports tabled only for the information of the Senate. There is nothing there. If you want to make a federal case out of this, it is your privilege.

[English]

Senator Frith: Honourable senators, Senator Flynn has me at a bit of disadvantage because he knows what his motion says, whereas I had to pick it up as best I could.

Senator Flynn: Sorry.

Senator Frith: In listening to it, I am quite prepared to adjourn the point of order that I raised and the debate on the point of order until we actually deal with the motion, whenever that may be. I simply did not want it to be held that I had not raised the matter at the earliest possible moment.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

[Translation]

Page 955

Hon. Jacques Hebert: Honourable senators, with leave of the Senate and notwithstanding rule 49(1) (a), I move:

That the Special Committee of the Senate on Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, have power to sit at three thirty o'clock today,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed. Motion agreed to.

Page 980

Hon. Jacques Flynn, pursuant to a notice given earlier this day, moved:

That the Senate convey to the Special Committee to which Bill C-21 has been referred, the following message: (a) to report Bill C-21 without amendment no later than January 4, 1990; and (b) to pursue, if it so desires, its study of the subject – matter of the said Bill and to report its observations and recommendations to the Senate in due course.

He said: Honourable Senators, I seek the Senate's leave to immediately move the motion of which I gave notice earlier today. If explanations are required, I can give them now.

The reason I asked the Senate to consider this motion is that Bill S-12 which the Senate adopted yesterday was defeated this afternoon on first reading in the House of Commons.

One has a right to one's own opinion, but under the circumstances, my motion becomes an alternative.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable Senators, we may dispose of it today.

Senator Flynn: As you wish.

The Hon. the Speaker: Honourable Senators, Honourable Senator Flynn, seconded by Honourable Senator Doody, moved:

That the Senate convey to the Special Committee to which Bill C-21 has been referred, the following message: (a) to report Bill C-21 without amendment no later than January 4, 1990; and (b) to pursue, if it so desires, its study of the subject-matter of the said Bill and to report its observations and recommendations to the Senate in due course.

Is it your pleasure, Honourable Senators, to adopt the motion?

Senator Flynn: Honourable Senators, it will not be necessary to detain you much longer, for the subject matter of this motion was implicitly debated yesterday, if not explicitly, when we dealt with Bill S-12 which as I said, met an insurmountable obstacle when it reached the House of Commons.

The government leader in the House of Commons objected to first reading of this bill because it was out of order. A division was held on first reading of the motion and the bill was defeated by 131 votes to 87. In short, the members on the government side opposed the bill on first reading and the members on the opposition side, including the NDP, voted in favour.

Under the circumstances, the remedies which according to Senator MacEachen were in this bill, supposing they existed, could not be applied.

If Bill C-21 is not passed before January 6, as he explained yesterday, a number of benefits provided under this legislation will not be available to claimants, which will have adverse consequences for quite a few people.

If Bill C-21 could be amended by the committee, we could always say: The committee can take 'as long as it needs to improve the bill. However, the committee cannot make any

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

changes of a financial nature, such as increasing benefits. I think everyone realizes that.

Senator MacEachen said as much yesterday when he tabled Bill S-12. He said that, normally, the House of Commons had to agree to validate, as it were, his proposal by obtaining a recommendation from the Governor General, the royal recommendation. Furthermore, the bill had to be completed by the passage of the section printed in italics in Bill S-12.

Considering that the special committee is constitutionally powerless, I think that the best thing for the committee to do is to report this bill, without amendments, and in time for Royal Assent, before January 6. That is why I said in my proposal that the committee should report on Bill C-21 by January 4 at the latest. Of course we have no objection to an earlier date, and tomorrow would be just fine. My point is that tabling the report by January 4 would mean that the bill could receive Royal Assent on that date. It could also become effective immediately, the same day, in time for January 6, which technically is the date on which the provisions mentioned by Senator MacEachen yesterday could be in effect.

The special committee has now prepared a program for hearing witnesses. We are not going to tell the committee to stop hearing these witnesses and to stop considering the bill, because there is no objection to the committee making comments and recommendations. And that is in fact the only thing the committee will be able to do if it postpones reporting the bill until the end of January or in any case after January 6, 1990.

Page 981

Anyone, any group that has any complaints or grievances to air will be able to do so before the committee. The committee will be able to say what it thinks of these complaints and grievances. It can say that it thinks the

government should amend the bill to improve certain benefits. The committee can say that, but it can do no more. And it could do so without causing the inconvenience of not having the bill passed by January 6, and I am referring to the fact that the benefits provided under the bill would not be available to those expecting to receive them as of that date.

From the practical point of view, I think there can be no harm in adopting this resolution. If the Senate refuses, and that is indeed a possibility, the public or claimants will suffer, while if this bill is reported without amendments within the time frame specified in the motion, we will achieve what Senator McEachen was trying to achieve, and more, when he tabled Bill S-12 yesterday.

[English]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I am really not surprised at the insensitivity which has once again been demonstrated by the Conservative Party as it approaches the question of the unemployed in Canada. Today, in the House of Commons, the Conservative majority showed its callous disregard for the unemployed by refusing to accept a solution to the situation which had been employed by the same government all these past years. It can take the responsibility for its own actions in the days and months ahead, as we will on this side take responsibility for ours.

The Conservative government, in refusing to maintain the unemployment insurance entrance requirements at the ten-week level for economically-depressed regions of the country, will penalize the unemployed of Canada.

Let the record show that the Prime Minister and his government had a choice between maintaining the current level of support for the unemployed and adopting a confrontational stand with the Senate of Canada. Mr. Mulroney

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

and his followers chose to let the unemployed fend for themselves.

Yesterday the Senate passed Bill S-12, a piece of legislation designed to ensure that the variable entrance requirements for unemployment insurance now in force are maintained beyond January 6, 1990. The Senate legislation, Bill S-12, now defeated by the Conservatives in the House of Commons, would have ensured that workers losing their jobs in the current economic downturn would still be eligible for existing unemployment insurance benefits.

After January 6, 1990, people will no longer be able to qualify under the uniform 14-week entrance requirement. Under Bill S-12, protection would have been guaranteed until such time as the Senate had had a chance to complete its work on Bill C-21.

Honourable senators, the Special Committee of the Senate on Bill C-21 is now studying this complex piece of legislation. It is a piece of legislation under which the government itself abdicates its responsibilities to the unemployed by totally withdrawing the financial support which the treasury had hitherto maintained for the unemployment insurance system of Canada. The withdrawal of that financial support is seen by many Canadians as a further effort by the Government of Canada to harmonize its programs with those of the United States.

Some Hon. Senator: Shame!

Senator MacEachen: Believe you me, when Senator Stewart quoted the Minister of Employment yesterday, there was a clear indication that this bill is part of the Conservative agenda, and fits very neatly and easily within the free trade concept.

Senator Perrault: Precisely.

Senator MacEachen: It is about time that these relationships were analyzed and studied in a committee of Parliament. They certainly were not studied in the House of Commons committee.

We now have a proposal embodied in this resolution that Bill C-21 be aborted – that it be torn out from the committee before the committee has had a chance to study it; that it be passed; and then that the committee be allowed to continue its work and make inane and future advisory recommendations, which seems to be the only role that Conservatives can see for the Senate of Canada.

The Conservative Party is out of touch with this country. Its insensitivity with respect to the unemployment insurance bill is appalling. Its insensitivity increases as its popularity declines.

Senator Perrault: Plummetts.

Senator MacEachen: Today we are asked to pass a resolution which will terminate the effective role of the committee and end the debate – and then we can all go to sleep and leave the unemployed, who are so badly damaged by this bill, to their own devices. Well, that is not what others in the country are saying.

I do not know what Senator Flynn or his colleagues across the way would do with this batch of letters which I received just on Monday. What answer will we give to them?

Senator Guay: They don't want to give them any answer! **Senator MacEachen:** These are citizens of Canada who are asking to be heard and who want to have an impact on the bill. They do not want to participate in an academic exercise. They do not want to participate in a sodality meeting.

Senator Guay: That is right.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: They want to have analyzed the impact of this bill on their welfare and on their communities and to have the Senate take remedial action where it is possible. I am not convinced that it is impossible to make changes to the bill that will improve it – not convinced at all. Other Canadians are not convinced either.

Page 982

I was impressed with the statement issued by the Canadian Conference of Catholic Bishops on December 12. The following statement was issued by Bishop Valois, the chairman of the Episcopal Commission for Social Affairs:

The withdrawal of Federal Government financing from the U.I. program, coupled with the new entrance restrictions, penalty clauses and related measures, will have a serious impact on the dignity and lives of hundreds of thousands of working people and their families.

Well, is anybody on the other side interested in finding out and examine whether that statement is true or not?

Senator Guay: No!

Senator MacEachen: Are they not interested in finding out whether the passage of Bill C-21 will have a serious impact on the dignity and lives of hundreds of thousands of working people and their families? We are asked in this resolution to dispose of Bill C-21 without finding out. The statement goes on to say:

In view of the fact that many groups and individuals were denied an opportunity to appear before the House of Commons Legislative Committee on Bill C-21, and because of the central role of the Unemployment Insurance Program in our system of social programs, we therefore ask that the Senate exercise its responsibilities for "sober second thought" by conducting public

hearings across the country. Particular efforts should be made to hear from the people most directly affected by these cuts and to propose amendments aimed at overcoming the negative impact of the legislation.

Some Hon. Senators: Hear, hear!

Senator MacEachen: Now, this proposal dismisses that request. It would dismiss the request from the Canadian Labour Congress, which, through its president, has asked the Canadian Senate to discharge its responsibilities, to act as a chamber of second thought, and to undertake its own assessment of the impact of the changes in the Unemployment Insurance Bill. It may be undesirable at this hour of the day, honourable senators, to go into great detail about the impact, but it is not at all clear what the impact of this bill is on the poor, the unemployed, and the working families of Canada. It is not at all clear.

I laid on the record yesterday the differing analyses of the province of Newfoundland and the Commission of Employment and Immigration in Canada. There is a serious discrepancy between the analysis of the impact of the Government of Newfoundland and the Government of Canada.

In the interests of brevity, I will deal with only one aspect of the argument, and that is the area of impact. What is the impact? The federal government, in its document, "Success in the Works", presents some estimates of the impact of these new measures based on a detailed simulation of the operation of the unemployment insurance program that takes into account numerous factors; these estimates are presented in many tables.

For example, in Table 13 on page 25, it is revealed that the age group hardest hit by Bill C-21 is the 25 - to 34-year old age group.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Guay: Shame!

Senator MacEachen: They will be absorbing a \$450 million reduction in benefits, or 37.5 per cent of the reduction pie.

Senator Perrault: Happy Christmas, unemployed!

Senator MacEachen: Table 15 at page 27 shows that 530,000 unemployed Canadians will be affected by a combination of benefit reductions and increased eligibility requirements. They will be affected by these two measures to the amount of \$800 million.

Senator Guay: oh, my God!

Senator MacEachen: Now, the government calls this a saving to the treasury, but it clearly is a loss of income to the 530,000 Canadians.

The Hon. the Speaker: Excuse me, honourable senators, according to rule 12, it says:

If, at 6 o'clock in the afternoon, the business be not concluded, the Speaker or the chairman of the committee leaves the chair until 8 o'clock.

And so on, unless you wish to ignore the clock.

Some Hon. Senators: Ignore the clock.

The Hon. the Speaker: Please continue, Senator MacEachen.

Senator MacEachen: Honourable senators, the firm, Global Economics, was commissioned by the Liberal Party and the Canadian Labour Congress to examine the proposed changes.

Now, the conclusions of that study differ significantly from the government's study. Whereas the government predicts that the gross decrease in unemployment insurance benefits

will amount to \$1.2 billion in 1990, this study forecasts a drop of \$1.52 billion. The study also found that the combination of measures to make more stringent entrance requirements and the reduction of benefits will affect 775,000 Canadians, in comparison with the government's estimate of 530,000. I do not know what the answer is, but, surely, we ought to know whether it is 775,000 or 530,000 before we pass this bill. Should we not know that?

Senator Cools: Absolutely!

Some Hon. Senators: Yes.

Senator MacEachen: The average loss to all these Canadians is about \$1,486, and the most pronounced loss is to individuals in Newfoundland, each of whom will lose about \$2,500.

Some Hon. Senators: Shame, shame!

Senator MacEachen: Individuals in Prince Edward Island will lose \$2,300.

Page 983

Senator Perrault: Defend that one!

Senator MacEachen: Of course, the Atlantic region and Quebec are the hardest hit.

Senator Guay: Senator Flynn does not know that.

Senator MacEachen: I am simply asking, should we not know? Furthermore, the Canadian Centre for Policy Alternatives also produced a study, with the help of Tristat Resources Limited, the consulting firm responsible for the statistical and analytical work of the Forget Commission, which yielded results much closer to those of the Liberal Party and the CLC than to the study undertaken by the government through its commission. This particular study concluded that the gross cut in unemployment insurance

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

benefits will amount to \$1.8 billion, as opposed to the \$1.2 billion predicted by the government. Would it not be a good idea for the Senate to find out whether it is \$1.2 billion or \$1.8 billion, because every dollar of UI benefits affects an unemployed Canadian. Have we become so casual in our attitude toward the unemployed that we no longer care whether they are hammered by \$1.2 billion or \$1.8 billion in loss of income? So I submit that the proposal before us is irresponsible in the extreme –

Senator Stollery: Absolutely.

Senator MacEachen: It would be irresponsible to pass the bill without knowing the impact.

Senator Guay: They do not know any better.

Senator MacEachen: It is not as if these studies were the only source of information on the impact. We had testimony, as I referred to yesterday, from several provincial governments. The Province of Newfoundland, the Province of Prince Edward Island and the Province of Nova Scotia all said that the impact will be devastating. The minister from Newfoundland said that the impact combined with the fisheries crisis is the most devastating event in the history of Newfoundland.

Senator Perrault: How can they pass it?

Senator MacEachen: Should we not look at that to find out whether or not it is a fact? Then came the representative from Prince Edward Island, which is hardest hit of all. That province will lose \$12 million as a result of the change in the variable entrance requirements. Should we not be looking at that to see if there is some way in which we can reduce the burden on Prince Edward Island, which loses \$12 million on that one change when the national loss to the unemployed is \$130 million? Prince Edward Island will therefore be asked to take up about 10 per cent of the burden. Is there a way that that

could be modified so that the smallest province is not the hardest hit? I find it necessary to argue that the Senate has a moral obligation to examine this bill and, where possible, to present amendments to the bill for consideration by the Senate.

Some Hon. Senators: Hear, hear!

Senator MacEachen: I must say that I find the attitude of my colleagues opposite almost as if they are living in a fairy land, in a land of make-believe, as if they do not know what is happening in Canada.

Senator Guay: They don't!

Senator MacEachen: They don't know what is happening in the Atlantic provinces.

Senator Perrault: And they don't care!

Senator MacEachen: Does anyone across the way know what is happening in Atlantic Canada?

Senator Haidasz: Speak up!

Senator MacEachen: There was an article in the Globe and Mail on December 12 entitled "Tough times down East continue to get tougher", and I demonstrated yesterday that the unemployment rates in three of the four Atlantic provinces are higher than ever. I believe Prince Edward Island has a higher September and October unemployment rate now than it had at the height of the worldwide recession. In this most serious period of unemployment we are bringing in a bill that will have a very adverse effect on that part of Canada that is most adversely affected by unemployment.

Senator Perrault: Unbelievable!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: The article entitled "Tough times down East continue to get tougher" says:

The devastation of the offshore fishery comes at a hard time for Newfoundland. Hibernia has been delayed, a proposal to develop Labrador hydro – electric power has come unglued, and more stringent changes to unemployment insurance take effect in January.

We are expected to pass the bill without examining the questions that I am raising.

Then the article turns to Summerside, Prince Edward Island.

In Summerside, PEI, where Ottawa is closing the area's major employer, the 800-member Canadian Forces base, the townfolk are literally worried sick, some local doctors are saying.

Yesterday Senator Phillips did not seem to be in phase –

Senator Guay: He does not know about it.

Senator MacEachen: – with the worry of the people of Summerside.

One said recently that he is seeing more patients suffering from depression, headaches and insomnia than ever. Summerside residents have petitioned their government to import mental-health specialists from Alberta – the great roulette player of the resource provinces – to help people deal with the uncertainty in their future.

We know that fish-plant closings are in the offing in Canso. Lockeport has already had its hammering. St John's, North Sydney and all of these towns have had fish-plant closings that will add to the unemployment I have described, and at the same time we are bringing in the most draconian amendments to our unemployment

insurance system ever. We are withdrawing government support for that system.

Page 984

Senator Frith: Dismantling it is what they are doing. **Senator MacEachen:** We are basically altering a fundamental element of the Canadian social contract – and we are asked to pass it and then, after we pass it, to study it.

Senator Perrault: Unbelievable!

Senator MacEachen: I find that unacceptable. We will continue to study and to do our work as quickly as possible, but we are also going to do everything possible to ensure that the Canadian people understand what is happening regarding the implications of this bill and to ensure that the extra burdens that will be placed on the unemployed will be on the conscience of the Canadian people. They are not going to escape through ignorance, and they should not be allowed to escape through ignorance, much as that seems to be the strategy. Why should we not examine in some detail whether the removal of government support is not a prelude to a further erosion of the unemployment insurance system?

I had a letter from an important citizen in Nova Scotia, who said that the government is withdrawing its support. It ceases then to become a social insurance system, because society, as a whole, is not participating in the program any longer. It is financed solely by employers and employees. That is the American system. .

When I was a graduate student at the University of Chicago, I learned the differences between the Canadian system and the American system. They have experience-rating there, wherein the better your employment performance the less you pay in premiums. Will that mean that we will have a system of experience – rating advocated in Canada under which employers will leave areas of high unemployment to settle in the strong economic

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

areas in order to have a better experience-rating? I fear that as a possibility, and I think it ought to be examined.

Honourable senators, I do not think I can support this motion. I hope the committee will do its work and examine the implications as carefully as possible and return to the Senate as quickly as possible. If it has proposals to make to us, we ought to consider them and carry on from there. In the meantime, the Senate will have to take responsibility for its conduct. We are not attempting to shirk our responsibility. The Canadian people will see on television today – it will be on the screen all night – that the Conservative Party in the House of Commons denied benefits to the unemployed Canadians who will be coming on stream in January, benefits to which they ought to be entitled – not the Senate, but the Conservatives on the other side.

Some Hon, Senators: Hear, hear!

Senator Flynn: Honourable senators –

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if Senator Flynn speaks now, his speech will have the effect of closing the debate on the motion.

[*Translation*]

Senator Flynn: Honourable senators, I just want to say a few words.

I believe it is unfortunate that Senator MacEachen could not appear on television to deliver his speech tonight because he was in top form and he appealed to every possible sentiment.

I would not say his arguments had a demagogic slant, but it was close enough. It was quite impressive. He did manage to impress some of

the senators sitting around him, but I would say he did not impress me –

Hon. Joseph-Philippe Guay: That is understandable.

Senator Flynn: – because, for one thing, the bill has been in the Senate for over a month. Some of its provisions have been considered and Senator MacEachen quoted various opinions. Surely the Senate could have formed an opinion.

Second, Senator MacEachen has failed to show how the Senate could amend the financial clauses of this bill.

Senator Guay: The committee will do its work. Senator Flynn: Even less than the Senate.

Dear Senator Guay, if the Senate cannot do something a committee is even less capable of doing it.

You should understand that, you have been here long enough not to utter such stupidities.

Senator Guay: You are not saying anything, only stupidities. Senator Flynn: You make a lot of noise but not much sense.

[*English*]

Hon. H.A. Olson: You study the bill first.

Senator Flynn: Yes, you study it – I am sure you know it by heart. You usually know everything about everything. This is the first time I have seen you pleading ignorance.

[*Translation*]

I do not want to extend the debate. First I just want to point out that Senator MacEachen has not shown us how the Senate or the special committee could amend the provisions of this bill which have a financial impact.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Secondly, when he says that, by agreeing to this motion, we would prevent people from stating their views, it is not true at all since it gives the committee the authority to continue to hear witnesses, their grievances and their complaints. The committee will be allowed to table a report.

Senator Guay: After the bill has been passed.

Senator Flynn: That is all the committee can do in any case.

Anything else is just an emotional and unreasonable plea under the circumstances, with a view to playing politics at this stage.

I find it extremely unfortunate that the majority on the other side of this chamber has not taken this opportunity to find a solution to the problems faced by people who expect some benefits from Bill C-21.

[English]

The Hon. the Speaker: Honourable senators, it was moved by Senator Flynn, P.C., seconded by Senator Roblin, P.C.:

Page 985

That the Senate convey to the Special Committee to which Bill C-21 has been referred, the following message:

(a) to report Bill C-21 without amendment no later than January 4, 1990; and

(b) to pursue, if it so desires, its study of the subject – matter of the said Bill and to report its observations and recommendations to the Senate in due course.

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

senators in favour of the motion please say "yea"?

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

Some Hon. Senators: Nay.

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

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

REPORT OF SPECIAL COMMITTEE

Page 1109

Hon. Jacques Hebert: Honourable senators. I have the honour to present the Third Report of the Special Committee of the Senate on Bill C-21, to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act.

I ask that the report be printed as an appendix to Debates of the Senate and minutes of the proceedings of the Senate of this day and form part of the permanent record of this house.

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

Hon. Senators: Agreed.

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

Senator Hebert: Honourable senators, with leave of the Senate and notwithstanding rule 45(1) (f), I move that the report be considered now.

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

Hon. Senators: Agreed.

Senator Hebert: Honourable senators, there is no doubt that my participation in the work of the Special Senate Committee on Bill C-21 is the most profound and distressing experience I have had since I was appointed to this Chamber. I sincerely thank all my colleagues on the committee, whose hard work even during the Christmas recess, made it possible for us to present our final report almost on the announced date.

The committee members, at least the majority of them, should be proud to have produced this report with its sound and moderate recommendations, which should be acceptable to the government.

As Pierre Vennat wrote in his *La Presse* editorial of February 8, 1990:

The McDougall Bill obviously needs amendments and the minister, if she is acting in good faith, should not dismiss out of hand the report that the Senate will present to her.

Too many Canadians today depend on unemployment insurance, for lack of any other income, to allow a phony war on the Senate's future to distort the debate on the future of one of Canada's key social programs.

We will soon have the government's reaction. We acknowledge that the amendments proposed by the committee are reasonable, that the hundred or so witnesses we have heard echoed the profound conscience of our country and that for once, we should listen to it? Optimist that I am, I hope so from, the bottom of my heart! I dare to think that the government, a burst of dignity, will accept the honourable compromise that the Senate will put before it.

Page 1110

It is imperative, as the *La Presse* editorialist pointed out, that the debate not be derailed by the same old song and dance about the Senate, which, according to Conservative theory, should not even examine bills or, if it does, should ignore the clearly expressed wishes of those who best represent the people of Canada, should silence its own conscience and, without saying a word, should rubber stamp the most regressive legislation.

It is imperative that the Prime Minister refrain from raising his voice of doom and gloom to castigate the infamous Senate, this ragtag

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

collection, of appointees who will be tolerated if they keep their mouths shut. We would like to hear what he has to say about the proposed amendments.

It is imperative that the Minister of Employment and Immigration – who bothered to come and lecture, the Senators before the committee! – not forget to discuss our amendments rather than to rant against the Senate itself, because it dares to propose a minimum of improvements to a bill that is fundamentally unsound.

As for the minister's lecture, I would at least like to point out some of its most nagrant inaccuracies. For example, Mrs. McDougall said that we had heard 85 witnesses, 54 of whom had already appeared before the House of Commons committee. In fact, our committee heard exactly 105 witnesses, and only 43 of these had appeared before the other place, excluding, of course, public servants. Furthermore, if these 43 witnesses insisted on testifying before the Special Senate Committee, they no doubt had excellent reasons. Several complained that the government had given them insufficient time to prepare their briefs and that the Committee granted them a mere quarter of an hour to be heard, which was often interrupted by diatribes from Conservative MPs who disagreed with the witnesses.

One thing is certain: your committee did not waste its time in listening to these 105 witnesses who included three provincial ministers that the government had refused to hear, the Canadian Conference of Catholic Bishops, representatives of the major labour unions, volunteer directors of social agencies from across the country who work daily with the victims of unemployment and an assortment of eminent sociologists, lawyers and economists. It was also essential that we go to hear the desperate pleas of the fishermen and humble workers of St. John's, Newfoundland and Canso. Nova Scotia, two

communities where the damage caused by Bill C-21 would be particularly devastating. If Minister McDougall had been with us in St. John's and Canso, her attitude today would be entirely different, and she would not be accusing the Senate of having dragged its feet.

In this regard, I would merely like to remind her that in the House of Commons, where closure was twice invoked to limit debate, it took 96 days from first reading of the bill until the first hearing. The Senate public hearings started only 23 days after we received the bill.

[English]

I am convinced that all senators present in this chamber would like to see a thorough reform of the Unemployment Insurance Act of 1940, the last major revisions of which go back to 1971. The present government has been in power for six years; it could have tackled the problem. At one point it seemed to show some interest by creating the Forget Commission. A report was produced at a cost of \$5 million and was then quickly consigned to oblivion.

Without any serious consultation, the government improvised Bill C-21 and passed it off as a reform, when, in fact, it is purely and simply a demolition operation designed to destroy the present unemployment insurance plan. With all its imperfections, this plan – our plan – is one of the best in the world. It is certainly the envy of the jobless in the United States, a country that so fascinates the Mulroney government that it would like to imitate even its worst features.

I am also convinced that all senators present in this chamber wish to have the national deficit reduced; it has quite simply doubled since Mr. Wilson became Minister of Finance. But how many senators are ready to accept budget cuts that directly hit the poorest Canadians, that is to say, those who, for all sorts of reasons beyond

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

their control, find themselves out of work and have to rely on unemployment insurance to pay the rent and feed their families?

Were it absolutely necessary, a cut in the government's contribution to the unemployment insurance fund might be defensible if current economic conditions were slightly favourable and the unemployment rates were particularly low. But that is not the case; quite the contrary. The fisheries industry in the Atlantic provinces is in crisis; massive layoffs have hit the automobile industry in Ontario; unemployment in Quebec and elsewhere is increasing; retail sales have decreased substantially across the country; and Canadian consumers' confidence has plummeted. All of these facts reveal a slowing down of the Canadian economy.

Statistics Canada has just announced the fourth consecutive monthly increase in the unemployment rate, which is now 7.8 per cent and affects more than one million Canadians.

Senator Simard: It went down in New Brunswick.

Senator Hebert: That is because you have a good provincial government.

Senator Frith: It is a Liberal government.
Senator Simard: I will get back to that. **Senator Guay:** You asked for it.

Senator Hebert: Those who would dare to pretend that a 7.8 per cent unemployment rate is not yet catastrophic need to be reminded of some hard regional facts. For example, the rate is 16.7 per cent in Newfoundland, 16.6 per cent in Prince Edward Island, 10.9 per cent in Nova Scotia, and 10.5 per cent in Quebec, the province most affected by the recent rise. But these are merely statistics – cold, hard figures, and I can already hear the Prime Minister replying with other figures:

Page 1111

for example, that 42,000 jobs were created in January, which is true. However, he will neglect to mention that most of these jobs are in southern Ontario and that this does not alter either the economic crisis in the Atlantic provinces –

Senator Guay: Right on!

Senator Hebert: – about which he has voiced some doubt, or the fact that in his own province, Quebec, unemployment exceeds 10 per cent.

Let us forget Statistics Canada for a moment and briefly consider the daily reality of the innumerable Canadians who, in order to survive from day to day in this country, in this seventh richest country in the world, have to line up at food banks, which have become the symbol of a profound malaise in society. When a Canadian resigns himself or herself to begging for a paltry food basket to keep the children from starving, there must be real poverty.

The fact is that 3.7 million of our country's citizens live below the poverty line. This is scandalous and should prevent us all from sleeping at night, especially when we know that a quarter of these are children under the age of 16.

Some Hon. Senators: Shame!

Senator Hebert: One in six Canadian children is undernourished. I certainly believe, as does Mr. John Crosbie, that things are worse in Bangladesh, but that should not ease the conscience of Canadian legislators if they still retain a glimmer of compassion.

Alas, as Winnipeg sociologist Harvey Steens stated:

Poverty is not a vote-getter. The people who use food banks are certainly not the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

folks who make a difference at election time.

The poor, be they working poor or unemployed, are obviously a negligible quantity to politicians obsessed with the next election rather than concerned about public welfare or the fate of the underprivileged. This is the only explanation that comes to mind when I try to understand why the government had the audacity to introduce a bill like Bill C-21, which will further increase the suffering of the poor and cruelly afflict the many people who already face hunger.

Senator Simard: That has not been proven.

Senator Guay: They don't care!

Senator Hebert: The most pernicious provision of Bill C-21 is without any doubt the government's complete withdrawal from the unemployment insurance fund. This flatly repudiates the spirit of the 1940 act and the 1971 amendments. It also repudiates the Prime Minister's solemn promise, which was confirmed during the last election campaign by Mr. John Crosbie, that the Mulroney government would not touch social programs. The Prime Minister himself called them "a sacred trust."

Senator Guay: Another promise broken!
Senator Simard: What a joke!

Senator Hebert: Oh, yes. That is another joke of Mr. Mulroney's. Is that what you mean?

Senator Asselin: He was talking about your report!

Senator Hebert: From there it is only a short step to conclude that the government has no mandate to tamper with the unemployment insurance program. It promised the opposite. According to several of the most important witnesses we heard, the lack of mandate and the

broken promise would justify the Senate's blocking the bill. Nevertheless, your committee chose a more reasonable route and is proposing compromise amendments that a responsible government should welcome recognizing that a good way to reduce the deficit is to create jobs, not to starve the jobless.

[*Translation*]

The rare proponents of C-21 have stooped to insinuating that the unemployed take advantage of the system, although the Department of Employment and Immigration itself admits that barely two per cent of beneficiaries commit fraud. The truth is that Canadians want to work and do so where there are jobs, for example, in southern Ontario. The unemployment rate is only 4.7 per cent in Toronto and Hamilton, but it has just passed 13 per cent in St. John's, Newfoundland. Will anyone dare to claim that Torontonians are better citizens than the people of St. John's? The simple fact is that there is more work available in one city than in the other. Yet one of the underlying concepts of Bill C-21 is that unemployed Newfoundlanders really ought to move to Ontario!

Allowing the government to stop contributing to the unemployment insurance fund would in fact encourage it in its "laissez-faire" attitude in the crucial field of job creation. As stated by Mr. Mitchell Kosny, who appeared before the Committee on behalf of the Social Planning Council of Metropolitan Toronto:

By withdrawing the government's contribution to the UI fund, this bill removes a major and significant impetus for the government's commitment to full employment policies and to the unemployed and economically depressed regions and workers caught in the growing and ever-increasing number of poor quality, low-paid jobs.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Furthermore, what guarantees shall we have that businesses, which would have to contribute more to a reduced unemployment insurance fund, will not soon demand new cuts in unemployment benefits, as business representatives have already suggested? What authority would the government have to object to such cuts, or indeed to the privatization of unemployment insurance?

The principle of the government's financial contribution must absolutely be maintained to preserve the Unemployment Insurance Plan itself. The amendment proposed by your Committee does not go so far as to ask that the contribution remain unchanged, but at least that it continue to be made to provide half of the additional funds required to compensate for regional disparities.

Page 1112

Another amendment proposed by your Committee is meant to protect fishermen in the Act itself, so that their special status will not depend on a mere administrative decision.

On the other hand, one of the most devastating effects of Bill C-21 would be to extend the qualifying period unduly and at the same time, to reduce the number of benefit weeks.

Ever since 1971, successive governments have compensated for inadequacies in the Act by adopting variable entrance requirements based on differing regional unemployment patterns. Thus, instead of having to work for 14 weeks to qualify for benefits, workers in high-unemployment areas could qualify after only 10 weeks of work; this is crucial in areas where the few available jobs are seasonal in nature.

[*English*]

On January 6 of this year all regions automatically returned to the 14-week qualification period because the government had

refused to submit the routine bill, which is usually passed in December of each year. This was a less than subtle attempt to pressure the Senate into completing its consideration of Bill C-21 before January 6, failing which a number of unemployed workers in the poorest areas of the country would definitely suffer the consequences. However, Bill C-21 is too important and too dangerous for the Senate to agree to rush it through. That is why it adopted its own bill, S-12, which would have avoided the necessity for individuals to suffer, even for the general good. The very next day the government used its majority in the House to defeat this bill overwhelmingly, even though the opposition parties had agreed to carry it without debate. A few days later the government went away on vacation.

Senator Guay: They are always on vacation!

Senator Hebert: Of course, Bill C-21 would reestablish the principle of variable entrance requirements, but with drastic alterations increasing to 20 weeks the maximum qualifying period for unemployment insurance benefits. It would also reduce the number of benefit weeks considerably. It is as though the government is convinced that workers become unemployed through their own fault, and that one only has to tighten the screw for unemployment to decrease. The truth, if I may be allowed to say it again, is that unemployed workers do not want benefits, they want work. The government must therefore start creating jobs and stop trying to make us believe that an investment in training is all that is needed to solve the problem. As fishermen in Canso, Nova Scotia, were asking us:

"What is the point of training for jobs that don't exist?"

In this instance, your committee did not go so far as to recommend the status quo. The amendment it has just submitted to the Senate in this regard is only an attempt to moderate the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

radical changes proposed in Bill C-21 and to attenuate their most damaging effects in regions where unemployment is excessively high.

Your committee agrees that worker training should be a constant concern in a country which must meet the challenges of the 21st century. However, it would be appreciated if the government could tell us more about its programs and if it could assure us that the \$800 million to be taken from the unemployment insurance fund, to which it does not want to contribute any longer, will truly be used to help the unemployed and not to benefit only large corporations wishing to provide further training for their skilled workers. As a matter of fact, businesses themselves pay for this sort of training in most industrialized countries because they benefit from it directly.

An amendment submitted by your committee suggests that literacy be included in the concept of training; after all, there is no point in trying to teach increasingly complex technologies to illiterates.

Another suggested amendment is aimed at reducing the penalties to be imposed on workers who leave their jobs for reasons they consider valid but which would be difficult to voice publicly, such as sexual harassment.

Finally, your committee's report raises numerous other shortcomings in Bill C-21, as honourable senators will see in the report.

Many members of the committee have been deeply shaken by the moving testimony they have heard since last December, and they would undoubtedly have liked to move more radical amendments, or, indeed, to recommend that the Senate block the bill. A majority of committee members opted for compromise and conciliation, however, and they decided to move amendments which the government could find acceptable. Even as amended, Bill C-21 remains a bad piece

of legislation, a step backwards, but it will no doubt be less inhumane than it might have been.

In concluding, I would like to quote one of our witnesses, Monsignor Charles Valois, who appeared before the committee on behalf of the Canadian Conference of Catholic Bishops. He stated:

The federal proposals contained in Bill C-21 are based on a disturbing hypothesis. Human labour and workers are viewed as a commodity to be bought and sold, recycled, moved or removed from the market ... Emasculating the unemployment insurance plan at the very time that it is most needed is unacceptable morally and politically.

That is the end of my quotation and that is the end of my speech.

Some Hon. Senators; Hear, hear!

POINT OF ORDER

Hon. Gerald A. Beaudoin: Honourable senators, I rise on a point of order.

[*Translation*]

Some amendments made by the Opposition to Bill C-21 change the way public funds are spent and in some cases even increase the expenditures authorized by the other House. This is contrary to Section 53 of the Constitution Act, 1867.

Page 1113

I will give three examples right now, but there are more: benefits and eligibility requirements in Table II, reduced penalties and funding of occupational training.

The French version of Section 53 of the Constitution Act, 1867 reads as follows:

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

53. *Tout projet de loi ayant pour objet l'affectation d'une portion quelconque du revenu public, ou la création de taxes ou d'impôts, devra prendre naissance à la Chambre des communes.*

The English version is as follows:

[*English*]

Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

[*Translation*]

The purpose of Bill C-21 which is now before the Senate is to amend the federal Unemployment Insurance Act. It is a money bill, witness clause 2(1) (persons over age 65), clause 9 (child care), clause 19(2) and clause 20. This bill has received the royal recommendation under 54.

We must therefore decide whether the amendments to Bill C-21 are in order. In my opinion, regardless of their merits, they are not legally acceptable. They seek to do indirectly what they cannot do directly.

There are at least two theories on money bills.

The first theory is that any bill authorizing or involving the expenditure of public funds or imposing a tax must originate in the Lower House as specified in Standing Order 80(1) of the House of Commons. The Senate cannot alter such a bill. That is one theory.

Former Deputy Minister Elmer Driedger, in an article entitled "Money Bills and the Senate" published in *Ottawa Law Review* (1968) 3, pages 25 to 46, states this theory and supports it. That is what the Fathers of Confederation intended in 1867.

Some want to change this. They say that things have changed. In the recent examination of Bill S-12, five precedents were cited. Using this technique, the Senate made amendments without specifying the amount to be spent.

I and members on this side of the House opposed this, on the grounds that I did not want to lend my support to a constitutional convention which would weaken Section 53.

Although I am personally very interested in Senate reform, I want it to be done properly, using the amending formula, and not indirectly.

Some of the Opposition's amendments clearly change the planned expenditure of public funds provided in Bill C-21, and Senator Tremblay will come back to this point. Some will say that this is a theory.

There is a second theory on the expenditure of public funds as reported by the Senate on May 9, 1918.

The first paragraph of this report reads as follows:

[*English*]

That the Senate of Canada has, and always had since it was created, the power to amend bills originating in the Commons appropriating any part of the revenue or imposing a tax by reducing the amounts therein, but has not the right to increase the same without the consent of the Crown.

[*Translation*]

Even if we apply the latter theory, I maintain that certain amendments proposed by the Official Opposition seek increases in public spending and are thus not in order.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Bill C-21 reduces public spending in some areas and increases it in others. The opposition suggested that the bill be amended to increase these expenditures and that, for instance, the funds required for professional training come from a source other than the Unemployment Insurance Fund. The opposition wants this money to come from the Treasury – the Consolidated Fund. This is certainly a public expenditure. It involves an increase in spending.

They will say they are not exceeding the amounts already authorized under the Unemployment Insurance Act. However, this is not the Unemployment Insurance Act. This is Bill C-21 which amends the Unemployment Insurance Act. Bill C-21 cuts certain expenditures, and the opposition takes a different view and changes the allocation of these expenditures.

To agree with the opposition – I am still looking at this from the legal point of view – would mean that every time a government wants to reduce in a given area spending, already authorized by law, the opposition in the Senate would be able to move amendments of a financial nature, on the grounds that it is not adding to the expenditures provided under an existing act. I think this does not comply with the letter or the spirit of sections 53 and 54 of the Constitution Act, 1867.

Mr. Speaker, it is an issue that, always from the legal point of view, remains an important one and I therefore seek the Chair's ruling.

Hon. Senators: Hear, hear!

Hon. Louis J. Robichaud: Would Senator Beaudoin perhaps allow me a short question?

Senator Beaudoin: Of course, Senator Robichaud.

Senator Robichaud: I admired both the legal and technical aspects of Senator Beaudoin's speech.

Assuming that the reason for his speech was that the amendments proposed by Senator Hebert were not in order, would Senator Beaudoin support the principles contained in those amendments?

Senator Beaudoin: Honourable senators, the purpose of my speech was to explain that regardless of the merits of Bill C-21 and of any amendments that may be proposed and on which of course the two sides of this Chamber do not agree, the initial debate must be on the constitutional aspect, since this goes against certain provisions of our Constitution.

Page 1114

We may be right or we may be wrong. That is a matter of opinion. I don't want to discuss that. That is not my point. My point is that at this stage, we are indirectly going against one of the principles of the Constitution. So I say that at this stage, it is not a matter of the principles we support.

I feel we do not have the right to go against a provision of our Constitution. That is my opinion. The Chair will hand down its ruling and we will then look at other aspects of this bill. We will get back to our discussion.

I am raising a preliminary question.

Senator Robichaud: Honourable senators, leaving technical and constitutional considerations aside, could Senator Beaudoin answer my question, which was whether he supports the principles set forth by Senator Hebert?

Senator Beaudoin: Senator Robichaud, I spoke to one particular aspect. My colleagues will discuss the merits. I already mentioned my

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

colleague, Senator Tremblay, who will answer this question. Others will follow.

Senator Robichaud: Senator Tremblay may answer in his own way, but I imagine all senators would like to hear this answer from Senator Beaudoin.

Hon. Joseph Philippe Guay: He can't answer!

[*English*]

Hon. John B. Stewart: Honourable senators, yesterday Senator Fernand E. Leblanc presented a report from the Standing Senate Committee on National Finance on the subject of the royal recommendation. Little did he realize how timely his report is.

Senator Phillips: He realized that.

Senator Stewart: I understand that it is his intention to move the concurrence of the Senate in that report this afternoon.

Senator Murray: Not so fast.

Senator Stewart: Consequently, Senator Beaudoin is thoroughly primed on these matters, because he is an active member of the Standing Senate Committee on National Finance.

This afternoon the Special Committee of the Senate on Bill C-21 presented a set of amendments that are complex and seem to be important. I saw this report for the first time at 12 minutes after two o'clock today. I leafed through it while trying to listen to Senator Hebert and then to Senator Beaudoin. I must confess that I am somewhat baffled by the language of the report, and more particularly by some of the niceties of the proposed amendments.

Senator Beaudoin now has raised a point of order, questioning the validity' of one or more of the amendments made by the special committee.

If we are to understand the amendments – and we must understand them if we are to discuss the question of order – we have to relate the amendments first to the relevant clauses of Bill C-21 and thus to the relevant sections of the Employment and Immigration Department and Commission Act. Unfortunately, I do not have that statute, the statute to be amended by C-21, with me this afternoon.

My initial reaction to Senator Beaudoin's point of order is that, although it is a most interesting point, it is not well founded. He rests his argument on the assumption that Bill C-21 is a new and independent act. However, Bill C-21 is a bill to amend an existing statute, the Employment and Immigration Department and Commission Act. What has to be considered is the three-way relationship among the amendments made by the special committee, the clauses of Bill C-21, and the sections of the parent act.

Frankly, honourable senators, not having the parent act here this afternoon and not having had time to study that three-way relationship or to study Erskine May on these points, or Beauchesne, I should like to ask honourable senators to take this interesting point of order under consideration. I think we should not treat it so lightly that we attempt to deal with it this afternoon. We should take it under consideration and give it the kind of examination that an important point of order such as this deserves. We can then return to this point of order when this matter comes next before the Senate. That is what I am proposing. Senator Beaudoin would probably agree that it is an important point of order and should be treated with due consideration.

Hon. Royce Frith (Deputy Leader of the Opposition): We should adjourn the debate on the point of order.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. C. William Doody (Deputy Leader of the Government): Unless someone else wishes to speak on the matter.

Senator Stewart: If someone else is prepared to speak on it this afternoon, I have no objection.

Senator Doody: That is all right.

Hon. Edward M. Lawson: Honourable senators, may I please make a few brief comments? I do not think the unemployed, or workers generally across this country, are that much concerned about the order or technical aspects of this matter. I do not know of a single other piece of legislation that I have received so many submissions on. I have yet to have one worker or one labour organization express support for this "bountiful" piece of legislation that is coming to assist them – not a single one.

Senator Barootes: All labourers?

Senator Lawson: It has been my experience that workers have an inborne sense of fairness. If it is fair –

Hon. Duff Roblin: Honourable senators, I hope that my honourable friend will allow me to interrupt him. We are discussing a point of order, not the merits of the bill. His remarks should be directed to the point of order. When the point is decided, and if the amendments are before us, then we will naturally be delighted to hear what my friend has to say; but that is not the stage we are at.

Page 1116

Senator MacEachen: Which amendment applies to that change'?

Senator Roblin: You wrote them; you ought to know! Senator Frith: Senator Beaudoin is raising the objection. Is he not going to tell us what his point of order is? Otherwise, it is not in order!

To complain about a matter of order you have to say what it is.

Senator Beaudoin: Frankly, it is all amendments that authorize the distribution of public moneys from the employers – employees fund, or that, for example, increase the number of weeks of benefits or the reduction in penalties. I have the French text here, but I assume that it is the same in English. I refer to all amendments that have a direct consequence on the spending of money. I was very careful in my initial remarks. I did not say all amendments. I said some amendments.

Senator MacEachen: Which ones?

Senator Beaudoin: The amendments that increase expenditures.

Senator Frith: You can't raise a slap-dash point of order like that! Tell us which ones.

Senator MacEachen: Tell us which amendments you object to.

Senator Roblin: This is called a diversionary tactic.

Senator MacEachen: I want to know which amendments he is opposing.

Senator Beaudoin: My objection is related to the amendment about 20 weeks instead of 18 weeks.

Senator Stollery: Which one is it?

Senator Beaudoin: It does not matter.

Senator Barootes: The former Minister of Finance can surely find that.

Senator MacEachen: We are taking Senator Beaudoin seriously. He has raised a point of order against amendments and we are asking him

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

now to please tell us which of the eight amendments he finds, in his view, to be breaching either the Constitution or procedures. I think that is a reasonable request. I am not raising a point of order because I think they are totally in order, but I would like to find out which of those he finds objectionable. That is all I am asking, and I will give him ten minutes to tell me.

Senator Guay: Give him time to think it over.

Senator Beaudoin: Recommendation No.8, to remove the payment of training courses from the UI account, is certainly one of them.

Senator Frith: Next.

Senator MacEachen: That is not No.8.

Senator Guay: You sure did not study it.

Senator Beaudoin: I have the documents that I had yesterday. I received the report at 2.10 p.m.

Senator Guay: The same here.

Senator Frith: Senator Beaudoin is raising a point of order, so surely he must know what he is raising it on.

Senator Beaudoin: Of course I do!

Hon. Arthur Tremblay: Honourable senators, Senator MacEachen has said that there are eight amendments in the report.

Senator MacEachen: Yes.

Senator Tremblay: Yesterday, when we had the list of amendments, there were 15 amendments. There appears to be a problem in counting the number of amendments.

I would ask the honourable senator to demonstrate to me that there are only eight

amendments as compared to the ones I read yesterday. I only received my final copy before two o'clock this afternoon. Perhaps with that information Senator Beaudoin could answer the honourable gentleman's question.

Senator MacEachen: I do not have any secrets that are not available in the report. I would turn to the appendix, which reads, "List of Proposed Amendments to Bill C-21". It mentions amendment No.1, page 13, clause 9. That is the first amendment. Then there is listed amendment No. 2(a) (b) (c) and amendment No. 3(a) (b) and so on. There are in total eight amendments with various parts. It would certainly help me if we could find out from Senator Beaudoin to which of these amendments he is taking exception on the grounds enunciated.

He may wish to take some time to do that. He has made a general comment which, up to the present, has not focused on the amendments, and I am not sure it is a legitimate point of order if he cannot tell us which of the amendments he finds objectionable. You have to identify the amendment before it can be considered by the Chair. Senator Beaudoin asked the Chair to rule, but he has not yet told the Chair which amendment he finds objectionable, and I think that is necessary at this stage or the point of order should be withdrawn.

Senator Beaudoin: Yesterday, when we completed our study, we had 15 recommendations before us. We saw this report only a few minutes ago. It is a question of correspondence.

Senator Frith: That is the report you passed last night.

Senator Beaudoin: No, this report was received at 2.10 p.m.

If you are asking me to identify the amendments, I would refer you to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

recommendation No.4 and recommendation No.8. However, if you want me to put my finger on the details that are contained in this report, which I had not seen until early this afternoon – even if it is the same as the one we studied yesterday, obviously, you will have to give me at least ten minutes.

Senator Frith: Of course.

Senator Haidasz: Take three weeks!

Senator Beaudoin: The numbers have been changed.

Page 1117

Senator Frith: Honourable senators, I do not know how any senator can raise an important point of order on which he expects a ruling without being specific. How can the Speaker make a ruling in such circumstances"! I think the point of order is out of order and should be called out of order unless the senator who raised the point of order is prepared to say which clauses are out of order. He is only giving us examples. What are we going to debate"! What is the point of order that we are expected to debate"!

I am not saying the point order is frivolous, but surely the senator cannot expect us to join the debate on his point of order and then ask the Speaker to rule if he is not going to specify which clauses are out of order.

I take it he is not saying that some of the descriptions or quotations in the report are out of order; nor would he, because his point of order – and he said this himself – quite properly deals with the amendments. By the time we have completed this part of our deliberations today and have adjourned the matter so that we can deal with it when we come back to it, as suggested by Senators Stewart and Roblin, we will have to know what we are dealing with. If Senator Beaudoin wished to take a few minutes,

perhaps we could proceed with the order paper and revert to this later. Before we adjourn the matter, however, so that we can consider it I believe he should specify the points of order.

Senator Roblin: Honourable senators, I don't know whether I can believe what I am hearing. Is it true that the members of this committee looked at and studied a report which had 15 amendments and yet, when the report is submitted to this chamber, the amendments had been reduced to eight'?

Senator Frith: No, that is not what happened. The committee met last night and debated this report when Senator Beaudoin was present.

Senator Roblin: Was this report the product of the committee"!

Senator MacEachen: Yes, and the appendix.

Senator Roblin: I should like to make some suggestions to deal with the area where the problems arise. If you look at the amendment on page 5 –

Senator MacEachen: Honourable senators, I am sure Senator Roblin has his own points of order, but I should like the originator of the point of order, Senator Beaudoin, to proceed. If he is withdrawing his point of order, then that is fine.

Senator Beaudoin: No.

Senator MacEachen: If he is persisting, I think we are entitled now to be told what amendments he has in mind. That is a simple question. Otherwise, it is an unacceptable point of order and is an unacceptable incursion into the time of the Senate and the attention of honourable senators for a senator to raise points of order and then not to tell us which amendments are in error.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Roblin: Without having any desire to speak for Senator Beaudoin, because he can speak for himself, I would like to say what I think requires consideration.

Senator Frith: That is another point of order.

Senator Roblin: It is on exactly the same point of order: the propriety of the motion before the house at this time. There is no difference.

Senator Frith: It is Senator Beaudoin's point of order we are debating.

Senator Roblin: In this chamber I think I may be allowed to express my views, and I intend to do so.

Senator Guay: You do not know what clauses he will refer to.

Senator Roblin: I know what clauses I am making reference to. I would refer to the clause on page 5 that has to do with recommending that one – half of certain expenses under this amendment should be paid for out of the Consolidated Revenue Fund instead of as arranged for in the bill itself.

Senator MacEachen: Where is that'?

Senator Roblin: I am referring to the amendment on page 5 that carries over to page 6.

I would also refer to the clause on page 19 that changes the benefit rate and the disqualification period, which certainly should be investigated because perhaps it infringes on the rule. In my view, *prima facie*, it does. I would also refer to page 24, where there is reference to shifting certain expenses that are to be paid for under the bill from the unemployment insurance fund to the Consolidated Revenue Fund for reasons that are given. It seems to me that these are certainly questionable changes to the bill with respect to the constitutional proprieties. If I may repeat

again what the rule of Beauchesne's is on this matter, it is worth listening to quite carefully:

An amendment is out of order if it imposes a charge upon the Public Treasury –

That is one thing.

– if it extends the objects and purposes –

And surely these clauses are subject to consideration as to whether they extend the objects and purposes; they may well do so.

– or relaxes the conditions and qualifications –

An Hon. Senator: They don't!

Senator Frith: Let us get it down.

Senator Roblin: It does relax the conditions and qualifications as set out in the bill. So on those three issues, as far as I am concerned, I would like to know what the correct ruling is. I do not propose to give it myself, but I do propose to ask that it be studied and that we be advised.

Senator Frith: Honourable senators, could the Chair tell us what we are debating now? Are we debating a new point of order?

Senator Guay: Ask Senator Roblin!

Senator Frith: One way we could handle it, of course, is for Senator Beaudoin to say that he adopts what Senator Roblin has said. That gives us an example of three.

Page 1118

Senator MacEachen: That is enough.

Senator Frith: And then we can ask the person who has raised the point of order if there are any more, and then we can know what it is we are

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

dealing with. In the absence of that, I press my point that the point of order is out of order. Senator Beaudoin can withdraw, and then Senator Roblin's point of order is in order because he has given three examples. However, I would like to know where we are. If Senator Beaudoin says, "I adopt Senator Roblin's three," then I accept that. We can then ask if there are any more, and then we will know what we are dealing with.

Senator Beaudoin: For the increase, the identification may be found in Appendix 2, number 7, clause 52.

Senator Frith: Appendix 2 or B? Senator Beaudoin: Page 2 at the bottom. Senator Frith: Appendix A, page 2?

Senator Beaudoin: That is right, number 7, page 32, clause 52.

Senator Frith: All right.

Senator Beaudoin: Where it says:

strike out lines 44 and 45 and substitute the following:

That is an increase.

Senator Frith: All right. I have that.

Senator Beaudoin: Please go to page 4, Nos. 9 and 10, proposed regulation and sitting days.

Senator MacEachen: Yes?

Senator Guay: Get Senator Robertson to tell you all about it.

Hon. Brenda M. Robertson: Excuse me, honourable senators. These numbers have been changed from the document we had last night, and, if you will excuse me, I shall go and

identify the correct sections. I will be right back. These are not the same numbers we had earlier.

Senator Roblin: So you have changed the numbers! You said you had not.

Senator Frith: No.

Senator Roblin: She just said these were not the ones she had in the committee.

Senator Frith: She said they were not the ones that were there last night. She was not there.

Senator Murray: A one – party deal.

Senator Frith: Come on! For goodness sake, don't kettle and pot it!

An Hon. Senator: It's sleazy!

Senator Frith: Senator Beaudoin, we do not think your point of order is sleazy, but some of your colleagues seem to think so.

Senator Nurgitz: Oh, no! Changing the numbers is sleazy.

Senator Frith: We think your point of order is worth looking at.

Senator MacEachen: Senator Beaudoin has a copy of the report tabled today by Senator Hebert and he has Appendix A, and he has identified for us two items which he regards as out of order, and I accept that. One is identical to the item raised by Senator Roblin and the other has to do with tabling the regulations of fishermen's benefits. Those two have been raised.

Senator Beaudoin: Honourable senators, yesterday we discussed the whole substance of the whole report. It is not my fault if the order has been changed. I do not blame anybody for that.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Guay: We are dealing with this report.

Senator Beaudoin: All right. So I have identified clause 52 and then 9 and 10, but 9 should be found on page 5 of Appendix A and 10 on page 6. That is table number 2. That is a schedule under section 54, table I; and page 2, clause 52, number 7. I can at this stage identify those three.

Senator Robertson: There is another one.

Senator Frith: At this stage? What does that mean? Senator Guay: Ask Senator Robertson. She knows.

Senator Gigantes: Did you find the paper that differs from this?

Senator Beaudoin: The order is different.

Senator Frith: Take your time, but tell us which ones. Senator Gigantes: Senator Robertson went to her office to fetch it. Which one is different?

Senator Beaudoin: I think I should accept your invitation, Senator Frith, to go to another –

Senator Frith: No, no! Go to another what?

Senator Beaudoin: That is what you suggested. Okay. Take those three.

Senator MacEachen: That is satisfactory. The point of order has been made, Mr. Speaker. Senator Beaudoin has identified three items that he has regarded as out of order, and Senator Roblin has identified three. There is an overlap. I appreciate knowing those items to which an objection is taken.

Senator Guay: Hear, hear!

Senator MacEachen: If there are objections to any of the others, they ought to be raised now.

Senator Asselin: There is no exclusion of others. There is no exclusion. You asked for an example. Senator Beaudoin gave you three examples.

Senator Frith: No. We did not ask for examples. We asked for the specific amendments.

Senator MacEachen: We asked for specific amendments and he has given us the amendments to which he has taken exception. Now is the time to put your amendments on the table, if you find them irregular, because it is too late to raise them later.

Page 1119

Senator Asselin: No, no!

Senator Roblin: I am not so sure it is. If this particular point of order is adjourned for future consideration, as has been suggested by my colleague, Senator Stewart, and myself, the purpose of that adjournment is to give us a chance to study this more carefully. So, when we come back, do not be surprised if there are other points of order raised,

Senator MacEachen: It will be too late.

Senator Roblin: It will not be too late by any means.

Senator Murray: Come now!

Senator Frith: The point of order is raised now,

Senator MacEachen: The point of order is raised now and you could have waited until tomorrow if you had wanted to, but you cannot have it both ways.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Roblin: If I find, after studying this document more thoroughly, that there are other points that I have not seen in a document put on my table just within the last hour, I certainly intend raising them, and if someone were to tell me that I was not entitled to raise other points at that time, I would consider it curious.

Senator Frith: Very good. You might find it curious. Beauchesne is pretty curious,

Senator MacEachen: Or Erskine May.

Senator Roblin: You can run over some things, but you cannot run over the rules.

Senator Simard: Senator MacEachen is going to rule on this point of order.

Hon. Gerald R. Ottenheimer: Mr. Speaker, it is my understanding that there is a point of order before the Chair, to which Senator Beaudoin, Senator Roblin and a number of honourable senators on the other side have spoken to, and it is that same point of order on which I would like to speak, however briefly. I am not going to get into the constitutional arguments per se that Senator Beaudoin has elucidated nor the specific references that Senator Roblin has alluded to in Beauchesne's. I would like briefly to refer to some commentary in Erskine May, Parliamentary Practice, and that is the twenty – first edition, which I understand is the latest. I will provide the page references and will have to read them in some context, because I would not want honourable senators to think I was reading out of context. Obviously, I will not read pages and pages, but I will provide the page references so that anyone who wishes to do so may identify them.

On page 687 the general heading is "Scope of Financial Procedure" and it is stated there, "Charges upon the public revenue". May distinguishes two, and it would be just as well for me to read them. There is a third, which is

not applicable here and I do not think there is any need to refer to it.

A charge "upon the public revenue" or "upon public funds" now means an obligation to make a payment out of the Consolidated Fund or the National Loans Fund, i.e., an item of national expenditure. In relation to expenditure, financial procedure is, with one exception mentioned below, exclusively concerned with charges payable out of the two Funds, Charges upon the public revenue are divided *into charges payable out of moneys to be provided by Parliament*, i.e., moneys voted year by year in response to demands presented in the form of estimates; and *charges payable directly out of the Consolidated Fund and the National Loans Fund*, i.e., moneys payable out of the Funds under statute without further parliamentary authority.

I think that is what, in Canadian terminology, we call statutory obligations or some such thing. So Erskine May clearly distinguishes that charges upon the public revenue, which require the royal initiative, or however one wishes to phrase it, means an obligation to make a payment out of one of these two funds: the Consolidated Fund or what we in Canada call a statutory obligation.

Going further on page 693, I will read this section briefly. The second paragraph on that page says:

When bills which should have been brought in on resolutions have been introduced without such preliminary proceedings, the Speaker has declined to propose the necessary questions and the bills have not been proceeded with.

Presumably that shows the result, if and when the Chair finds that what in fact has been introduced should have been introduced by resolution or is a matter which should be introduced with the royal message.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Finally, on page 715, these are subheadings under a heading on page 713 that says, "Matters requiring the Queen's recommendation", which goes from (a) to (i). It comprises approximately two and a half pages. Under that heading I wish to refer to one entry under (j) and to two entries under (g). I will first refer to (j) on page 715, under the subheading "Further charge by extension of time":

Matters of the following description have also been treated as a charge:

(6) reads:

Increase of period for making advances, without increase of total amount of liability.

That is a direct quotation. I presume that means even if there is not an increase of total liability. So increase of period for making advances, which presumably in our parlance means payments, and without increase, which I assume means even if there is not, or even without, an increase of the total amount of liability. Anyway, it is there and can be interpreted by the Chair.

Then (g) (I) reads:

Increase of charges by extension of purposes, etc. When a bill contains provisions extending the purposes of expenditure already authorized by statute, such provisions may require the Queen's recommendation. The following examples may be given:

Page 1120

I will refer to one, which is (g) (1):

Extension of cases in which compensation can be paid.

Under (h), which is the final item, the heading of which is "Increase of amount of charge".

When a bill contains provisions varying a formula for grant so that an increased payment would result, a money resolution is required.

Those are what appear to me to be the most relevant references to the point of order which is now before Your Honour, and I submit them for the Chair's consideration and, indeed, the consideration of anyone else.

Senator MacEachen: I will certainly consider Senator Ottenheimer's references in Erskine May, if I may, but it would help us in our consideration if he would relate those particular citations to the contents of Bill C-21 where he thinks the amendments have in some way transgressed the rules in Erskine May.

Senator Ottenheimer: Honourable senators, I do not mean this frivolously or offensively, but I have been – not here – in other incarnations too long to fall into the trap. I have confidence that the Chair and the Chair's advisers will make the appropriate analyses and correspondences and draw whatever conclusions they wish.

Senator MacEachen: Very wise, very wise.

Senator Stewart: Honourable senators, it has been demonstrated that I should not feel embarrassed by having had to admit that I was not in a position to react to the point of order that was raised. I think the discussion has been helpful. Senator Beaudoin now has told us the specific amendments which he claims are out of order because they exceed the terms of the royal recommendation that was appended to Bill C-21. I believe I see Senator Beaudoin nodding agreement.

Then Senator Ottenheimer directed our attention to certain passages in Erskine May that he thinks we should read as a general admonition. He does not attempt to show how they may assist us in determining the point of order. Presumably he means that it would be

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

well for us to have a look at those pages as we contemplate this matter overnight. I am sure that we will take his suggestion seriously. It seems to me that we are at the point where we could very well go to work on considering the important point of order which Senator Beaudoin has put before us by challenging some of the amendments.

[Translation]

Hon. Martial Asselin: Honourable senators, I find it a little surprising that the leaders of our friends opposite, the Hon. Senators MacEachen, Frith and Stewart. .. perhaps I was not here in this chamber when these debates took place ... but it is not the first time that a point of order is raised on the important issue of whether or not the Senate can amend a money bill originating in the House of Commons.

Many times, when we were sitting in the opposition, we raised the same objection. When Senator Frith was Deputy Leader of the Government here in the Senate, he, like his leader at the time, Senator Perrault, defended the sacrosanct principle that money bills cannot originate in the Senate.

I thought I would mention some quotes dating back from the time when the government leaders sat on this side of the chamber and defended the principle put forward by Senator Beaudoin.

I can tell you that, on Thursday, March 4, 1982

...

[English]

I want Senator Frith to listen now, because I am going to give a citation.

[Translation]

The passage I wanted to quote goes back to March 4, 1982, when Senator Perrault was

Leader of the Government in the Senate. We were discussing the possibility of introducing government bills in the Senate. Senator Flynn had started a debate on this issue: should we allow money bills from the House of Commons to be amended by the Senate?

Senator Perrault answered, and I quote:

Yes, honourable senators, that matter was taken up this morning. We are hoping that next week there will be some bills available for the Senate. Those immediately available relate to the expenditure of money and cannot be initiated in this chamber.

So in fact he was defending the principle that money bills cannot be initiated by the Senate.

I looked a little further, and even Senator Frith defended this principle. I may remind Senator Frith of a debate we had in the Senate on March 17, 1982, when we were discussing legislation and the possibility of introducing government bills of a financial nature in the Senate.

Senator Frith, in response to Senator Flynn, said the following:

Honourable senators, we hope to receive more legislation in the near future. However, as I mentioned before, most of the bills that the government has ready for introduction in Parliament are money bills which must be first introduced in the other place.

I wonder why Senator MacEachen was asking Senator Beaudoin earlier to explain when, in the bill before us today, these financial measures are affected by the Constitution.

Senator MacEachen, who is an expert at parliamentary procedure, knows perfectly well that when his party was sitting on this side of the Chamber, it always defended the principles set forth by Senator Beaudoin.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

So why the about-face today?

The only reason I can see is that they want to annoy the government and propose amendments to a money bill, although Senator Frith, when he was on this side of the Chamber, always claimed this could not be done.

Page 1121

Honourable senators, I have the impression that everything has been said about Senator Beaudoin's point of order. Even Senator Stewart (*Antigonish – Guys borough*) who was puzzled earlier, seemed to be less so after the speeches by Senators Roblin, Ottenheimer and Beaudoin.

If we want to get any further with the debate, I think we should submit the question to the Chair so that it can make a ruling on this important matter.

The Hon. the Speaker: Honourable senators, after this debate. and not having the same legal insights as you do in some cases –

[*English*]

Honourable senators, I will take it under advisement.

Senator MacEachen: Honourable senators. I expect the Speaker is prepared to hear the arguments contrary to the views expressed by Senators Beaudoin and Roblin. I understand that tomorrow the Speaker will hear the contrary arguments and any new arguments.

The Hon. the Speaker: If it is the wish of the Senate, I will hear the contrary arguments tomorrow and, after listening to those contrary arguments, I will take time to consider the matter and then give my ruling.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1196

On the Order:

Resuming the debate on the motion of the Honourable Senator Hebert, seconded by the Honourable Senator Theriault, for the adoption of the Third and Final Report of the Special Committee of the Senate on the Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, (with ten amendments), presented in the Senate on the 14th February, 1990.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I indicated yesterday that we on this side would attempt to convince doubters on the other side as to the regularity of the amendments that are proposed in the Senate report. The argument is so simple that I can understand why it has escaped more complex minds than mine. However, as one who takes a simple approach to these questions, I find the argument totally simple and totally convincing.

Senator Beaudoin and Senator Roblin, I believe, both made the same point, namely, that the amendments proposed in the committee report increased expenditures beyond those contemplated in Bill C-21, and that in order to do that a royal recommendation was necessary, or, alternatively, that the royal recommendation which was presented by the government did not authorize or contemplate these expenditures.

On the latter point, it is absolutely impossible to know from reading the royal recommendation what appropriations are proposed in Bill C-21. They are not specified. In the committee, at the request of Senator Stewart, the officials provided an answer on that point. We were told that neither the Department of Justice nor the sponsoring department had analyzed the bill to identify appropriations. I believe that the reason is that there are no appropriations in Bill C-21

and that, therefore, they did not need a royal recommendation, and that the law officers in the House of Commons attached a royal recommendation in accordance with the practice which has been analyzed so carefully in the report of the National Finance Committee.

Page 1197

In any event, I do not find any appropriations in Bill C-21. I invite honourable senators opposite to tell us where the appropriations are.

What is contained in Bill C-21 is reductions in existing appropriations – charges or amounts that are contained in the existing statute. I would agree with the argument that has been advanced on the other side, if we were not dealing here with an amending bill, which deals with a parent statute in which is contained the appropriations. It is on that simple point that I rest my case. We did not embark on these amendments without carefully considering the procedural situation.

My argument will apply to all the amendments which have been objected to by Senator Beaudoin and Senator Roblin, with the exception of the fishermen's regulation amendment, to which Senator Beaudoin referred but on which I am not sure he has raised a serious objection. We will know about that later.

My argument applies to amendment No.7 on page 5 of the report. It is amendment No. 7 in the appendix, but it is referred to on page 5 of the report. That is an amendment to which Senator Roblin took objection. My argument will apply to that. He also took exception to amendment No.9 on page 15.

Senator Roblin: I did not refer to that one. The next one is page 19.

Senator Frith: Senator Beaudoin objected to No.9.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: I understood that, on page 16 of the report, amendment No. 10 was objected to. Objection also was taken to amendment No.5, which has to do with penalties. The argument that I will apply to the amendment relating to government contributions will apply to these other amendments.

Bill C-21 is an amending bill that amends the parent statute of the Unemployment Insurance Act. Our amendment in the text proposes that we strike out clause 52 on page 32 of Bill C-21. Honourable senators, the effect of clause 52, if adopted, would be to remove entirely section 118 of the existing Unemployment Insurance Act.

This is clearly an amending bill. Clause 52 would eliminate entirely the existing provision in the parent act for funding regionally extended benefits.

Concerning that point, I do not think that either the government or a member of the House of Commons or the Senate needs a royal recommendation to eliminate a charge on an existing statute. With the exception that money bills, under the Constitution, cannot originate in the Senate, it is my view that members of the Senate have precisely the same opportunities to amend bills as members of the House of Commons who are not ministers. So we have the same status, with the exception I have stated, as a non – ministerial member of the House of Commons.

The description of the original act is "An Act respecting unemployment insurance in Canada."

Senator Roblin: This one?

Senator MacEachen: No, the statute, the original act. If I moved this amendment, either in the House of Commons or in the Senate, when the bill came forward, it would be completely in order because it would be reducing or eliminating a charge. That is the simple

principle. It makes sense, because once the government decided to repeal section 118 of the parent act it provided the entry for amendments to that section. If we attempted to amend another section that was not contained in the amending bill, of course, we would be clearly out of order. The point I am making is that the government in its amendment eliminated the existing charge. What we are trying to do is eliminate a portion of the existing charge. Honourable senators must bear in mind that Bill C-21 is not a statute. It is a series of proposals. The parent statute contains the appropriations, and it is those appropriations we are reducing. We are not increasing appropriations in the existing statute. That is my reasoning.

Do I have any authority for that reasoning? I shall try to provide solid authority, and I can take no greater authority than the one quoted by Senator Ottenheimer yesterday, that being Erskine May. In the 21st edition, published in 1989, at page 716, there is a passage entitled "Matters Involving Money which do not require the Queen's recommendation". It begins:

(a) Provisions involving the reduction of charges. No special form of procedure applies to proposals to reduce existing charges –

The existing charges are in the statute.

– and they may be moved in the House or in Committee without the royal recommendation.

A proposed reduction of a charge may consist in reducing its amount, or restricting its objects, or inserting limiting conditions, or shortening the period of its operation.

They are talking about the proposed reduction of existing charges. The passage goes on in the final paragraph to hit on the very case we are dealing with.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The same principle applies in the case of amendments moved to a bill which abolishes or reduces a charge authorized by existing law. Amendments to such a bill, which are designed to restore a portion or the whole of the charge which the bill proposes to reduce or abolish, are in order without the need of a preliminary financial resolution.

That is the form in which royal recommendations used to be launched.

I would agree with the point of order that was raised if the amendments proposed by the committee were not dealing with existing appropriations. With respect to government obligation to our amendment to that existing statute only reduces part of that obligation. It is a reducing scheme from the existing statute, and not an increase. I would suggest that, because of what Erskine May has said, the government would not have needed a royal recommendation to reduce, and neither would a member of the House of Commons or of the Senate. If we were moving an amendment to increase the existing statute, then, of course, we would be in serious difficulty.

I do agree that the amendment does increase in certain cases the financial burden over and above what is in Bill C-21, but that is not the test; the test is what the burden is in the existing statute, according to Erskine May.

One honourable senator referred to the removal of a payment, which would be a reduction in a charge, surely it would not be suggested that even the government would require a royal recommendation to reduce a charge if a private member can do it without a royal recommendation.

My argument applies to government contributions, it applies to the tables, because the tables entail a reduction in burdens below those maintained in existing statutes. It also applies to

the penalty clause, which, as Senator Roblin says, decreases the number of penalty weeks, which would create a charge, but we are restoring the original situation that is contained in the original statute.

That is my submissions, based on Erskine May and, I think, based on common sense. We are not increasing existing burdens or charges provided for in existing statutes, and Erskine may very clearly says:

The same principle applies in the case of amendments moved to a bill –

Bill C-21 –

Which abolishes or reduces a charge authorized by existing law. Amendments to such a bill, which are designed to restore a portion or the whole of the charge which the bill proposes to reduce or abolish, are in order without the need of a preliminary financial resolution.

I think the argumentation applies to those amendments.

Senator Beaudoin raised on objection to the amendment concerning the regulations relating to fisherman's benefits. I believe he referred to page 4 of the appendix to the report and, more specifically, to subsections 130(9) and (10). Now, I am not sure whether I heard the subsections correctly, but those subsections would provide that nay changes to fisherman's regulations would be subject to a negative resolution of either house of Parliament.

I was surprised to learn in examining this bill that fishermen's benefits could not be eliminated by order in council. I do not blame the present government for that provision in the law. It was put in 1971 and it authorized that governor in council to make any regulation with respect to fishermen's benefits. It also authorized the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

cabinet, by proclamation, to eliminate them. That is still the law. Officials told us it was done in 1971 in the expectation that, in an early time frame, a new system of fishermen's income support would be put forward. Well, that has not happened. It is now 20 years later, and it seems to me that that is a bad situation to allow to perpetuate, whether you could end fishermen's benefits just by a cabinet meeting. That is why we provided that the regulations could not be changed without giving Parliament an opportunity to deal with them. So the proposed section would provide that any change to the fishermen's regulations would be subject to a negative resolution of either house of Parliament.

Hon. Duff Roblin: Does that special 1971 clause apply only to fishermen?

Senator MacEachen: Yes, so far as I know.

Now, the use of negative resolutions is not new. They occurred in the Western Grain Transportation Act in 1983 and in the 1988 Official Languages Act. The system under the fishermen's regulations would be that, if the government made a change in the regulation, it would lay it before Parliament, and if a number of members said, "Well, this is terrible," they could put down a resolution and it would be voted upon and disposed of. That is what is proposed by the amendment.

So I do not see why this would be out of order. It seems to me to be straightforward and simple, but maybe I have missed something. Perhaps the numbering problem was such that we had some confusion

Honourable senators, I am not at all surprised that a point of order was raised on the committee's amendments, because we did fishermen's consider very carefully what procedural basis existed for amendments to the sections we have chosen. The justification is that this is an amending bill which touches existing

appropriations and reduces them; that is what the government has done. We have reduced them, but not as much. Therefore, we are within the rules, and I hope that the simple logic-it is not complicated - would appeal to all the senators on both sides of the house.

I think with amendments 9 and 10 there is an existing financial burden occasioned by the three-phase benefit system in the current act.

Senator Roblin: That is the statute.

Senator MacEachen: That is the statute, and Bill C-21 reduces that burden; in other words, it increases entrance requirements, it reduces the duration of benefits, and that is a reduction of what is provided for in the existing statute.

Our amendments do not restore or go above the existing statute. In fact, we have reduced them below the existing statute. We have said regarding those tables: "We are not going to undo what the government has proposed, we are going to undo part of what it has proposed." But it is still, with our table, less of a reduction in comparison to the existing appropriation.

So on amendments 9 and 10 we are within that rule, and I would hope that we can deal with these matters substantively.

Page 1199

Senator Beaudoin referred to that rule in the House of Commons that has been raised before. I am not going to deal with it. I hope that Senator Stewart or someone else will deal with that particular point because it is an important point. It was invoked by the Speaker of the House of Commons in making a recent ruling, and the effect, of course, of that rule in the House of Commons, which is a standing order, is to reduce the constitutional authority of the Senate. It tries to amend the Constitution. I do not mind the House of Commons making grand statements about what its powers are, but there is no reason

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

that we should pay any attention to them when they violate the Constitution of Canada.

Some Hon, Senators: Hear, hear!

Hon. Arthur Tremblay: Honourable senators, I would like to understand what Senator MacEachen has just explained to us.

[*Translation*]

There are two related amendments. The first one affects both tables. I think it is Nos. 9 and 10 on our list.

[*English*]

There is 9 and 10, then there is the amendment found on page 5 of the report, which does provide for half of the total.

From what is said in the report, the actual existing legislation does mean \$2.2 billion of expenses for the government. That is found at page 4 of the French version of the report. The effect of applying the two tables in the appendix – the ones on page 13 and 14 of the French version of the report – from the best estimates we can get, would mean extra expenses in the order of \$2.6 to \$2.8 billion. So the effect of this amendment is an increase. Following your approach, this amendment might be out of order, because the same amendment does not provide for half of the costs. How do you reconcile that one amendment increases and the other amendment corrects that increase by saying, "It will be only half of the increase."

I would like to understand how you handle that.

Senator MacEachen: I am not sure I entirely understand what the senator has raised. However, the first amendment I discussed has to do with government contributions. We know that under the existing statute the government pays all of the costs of unemployment insurance

benefits occasioned by a level of unemployment greater than 4 per cent. That is the government's contribution. The best estimate we had was that that cost \$2.2 billion.

In this amending bill the government would eliminate that contribution. In turn, we would only eliminate half of it. That, then, is our proposed amendment with respect to government contributions, and I think that we are clearly within the rules of procedure.

With respect to the tables, there is a mixture of expenditures that arises from the fact that part of the benefits – that amount over 4 per cent – is presently paid for by the government. Then, under that, in the first two phases, the other part is paid by employer and employee contributions.

I do not see that we are in any way increasing the burden over the present system. In fact, part of the expenditure in the table is covered by the \$2.2 billion. However, if you are questioning the facts, I do not have the computers or the econometric models to enable me to run through the cost of those tables. However, by logic, I do know that half is less and the government contribution –

Hon. Martial Asselin: I realize, Senator MacEachen, that you are having some problems differentiating between a reduction and an increase. However, you have not answered Senator Tremblay's question.

Senator MacEachen: I am trying to answer it. I am not sure that I understood it, but, insofar as I could understand it, I tried to answer it.

A further point is that the table that is in the form of an amendment to Bill C-21 is less costly than the present system, and that is the test. It is less costly because the entrance requirements are tougher than under the present system and the duration of benefits is less than the present system. Accordingly, then, it has to be less costly

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

than the present system but, undoubtedly, more costly than Bill C-21.

[*Translation*]

Hon. Gerald A. Beaudoin: If nobody else wishes to rise, honourable senators –

Hon. Eymard G. Corbin: Are you not resuming debate?

Senator Beaudoin: Therefore, I gladly yield to Senator Stewart.

[*English*]

Senator Stewart: Senator Beaudoin seems to be assuming that he is rising to close a debate.

Some Hon. Senators: No, no!

Senator Stewart: In that case, please go ahead.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this is not a motion closing a debate. This is a point of order, and senators can speak as many times as they want on a point of order. In other words, debate is never closed on a point of order until everyone stops talking. Therefore, anyone who wishes to speak may do so. What I am saying is that Senator Beaudoin can speak and then Senator Stewart can follow; it does not matter what order they choose. Since Senator MacEachen has just spoken, perhaps Senator Beaudoin should follow.

[*Translation*]

Senator Beaudoin: Honourable senators, the Leader of the Opposition has just said that they agree the amendments suggested in our report would increase the allocations when compared with Bill C-21. I think we all agree on that. I emphasized six of these amendments.

[*English*]

Therefore, if I go according to Appendix A, in English, then items 2(a), 5(a), 6, 7, 9 and 10 are the items where, so far as I can see, there is an increase –

Page 1200

Senator Frith: But not over the statute.

Senator Beaudoin: What I said a moment ago was that there is one that exceeds the statute. Those six are definitely an increase over what prevails in Bill C-21.

You then go one step further and you say: "That is not good enough; there has to be an increase in comparison with the existing law," which is the Unemployment Insurance Act "and related statutes. However, if you look, for example, at amendment number 9, one thing that should be pointed out here is that the recommendation, first of all, increases program costs relative to the proposal in Bill C-21 – and I think you are not in disagreement with that. However, more importantly, it also increases program costs relative to the current program entrance requirement.

Under the present system – that is, the one that is now in force, according to the law – the present entrance requirement includes two components: the normal 14 – week requirement and the additional work requirement for repeat claimants. Because of the existence of that repeater provision some claimants must already work up to 20 weeks in order to receive U I benefits.

Under your amendment the entrance requirement is 10 to 18 weeks. Some claimants who now need 20 weeks under the current program will be able to receive UI benefits with only 18 weeks."

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Bill C-21 eliminates the repeater provision. Your proposal agrees to the elimination of that repeater provision. However, you include only a 10- to 18-week entrance requirement, and this is an increase over what we now have under the present system. Therefore, the result will be that certain repeat claimants will gain access to unemployment insurance benefits that they are not entitled to receive under the present system. So in that sense it is not only an increase compared to Bill C-21, it is an increase that is not authorized under present statutory law.

Senator MacEachen raised a very interesting point a moment ago about the Constitution. He said that he is not concerned with Standing Order 80 of the House of Commons. It is not the Constitution of Canada. I do not quarrel with that. It is the internal constitution of the lower house, but it is something important.

Senator Frith: To them.

Senator Beaudoin: But then he said perhaps they go against section 53 or 54 of the Constitution; and, if that is the case, those sections would prevail. I agree with that. The Constitution is in the BNA Act, with which both houses must comply.

In the Standing Committee on National Finance I listened very carefully to the experts, who appeared at the invitation of Senator Leblanc and Senator Stewart, and I learned one thing: it is not always clear where the powers of one house start and where they finish. That is why I referred to an opinion given by a former deputy minister of justice in my speech yesterday, who said that the Senate cannot alter the amount of money or the purposes for which the money may be spent. That is one school of thought. There is another school of thought which says that the Senate has the right to alter a bill, providing it does not increase the spending of the money.

Senator Frith: That is the much better school! That is a higher school.

Senator Corbin: That is a wiser school!

Senator Frith: The first one is the lower school.

Senator Beaudoin: We are not obliged to render judgment on that, but I agree that it is another theory. I do not know if it has been observed or complied with in the last century here, but let us say that it is another theory. But even in that case the tables on which you base your amendments increase the spending of money compared to the present legal situation under the Unemployment Insurance Act. I do not think the problem is as simple as some members of the opposition think it is. It is a very complex problem, and we have examples where there have been increases, even compared to the present legal situation. I will stop there for the moment.

Hon. John B. Stewart: Honourable senators, as we know, Senator Beaudoin has challenged the validity of certain amendments to Bill C-21 made by the special committee to which it was sent, and I submit that his point of order is not valid.

Yesterday and again today Senator Beaudoin made reference to and relied to some extent on a rule of the House of Commons, namely, Standing Order 80(1). That standing order asserts:

All aids and supplies granted to the Sovereign by the Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such aids and supplies ought to begin with the House, as it is the undoubted right of the House to direct, limit, and appoint in all such bills, the ends, purposes, considerations, conditions, limitations and qualifications of

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

such grants, which are not alterable by the Senate.

That is a claim made by the House of Commons.

But, honourable senators, we really do not need to discuss the grounds or the correctness of that claim here this afternoon, because the bill that is now before the Senate, Bill C-21, is not a bill designed to give aids and supplies to the Crown. The report from the Standing Committee on National Finance, which was tabled on Tuesday, explains the difference between a bill designed to give aids and supplies to the Crown, on the one hand, and a bill for what they call at Westminster novel purposes.

That distinction is opened up in Erskine May. If honourable senators will turn to the twentieth edition, page 755, they will see there that Erskine May distinguishes between two ways in which public money is appropriated. One method of appropriation is by bills that originate in the supply process in the House of Commons. Such bills are preceded by supply votes. Their purpose is to assist the Crown – and that is the origin of the expression "aids and supplies" – in meeting the normal, annual costs of maintaining the executive government.

Page 1201

Erskine May devotes a separate chapter to the question of voting aids and supplies; the question of passing the bill to make good the aids and supplies granted. We know, as Erskine May says is true at Westminster, that when such a bill comes to this place it is for Royal Assent. It comes decorated with a green ribbon and is presented separately by the Speaker of the House of Commons for Royal Assent. That is a bill of aids and supplies, and that is the kind of appropriation to which the House of Commons, by its Standing Order 80(1), lays exclusive claim.

That is not the kind of bill we now have before us. We have a bill before us which is designed to change a statutory expenditure. In Erskine May a separate chapter, Chapter XXX, deals with this second type of appropriation. We do not even need to go to Erskine May to discover the distinction. If the people in the House of Commons would read their own standing orders they would see that not all appropriations deal with aids and supplies.

Standing Order 79(2) states:

The message and recommendation of the Governor General in relation to any bill for the appropriation of any part of the public revenue or of any tax or impost shall be printed on the Notice Paper and in the Votes and Proceedings when any such measure is to be introduced and the text of such recommendation shall be printed with or annexed to every such bill.

That was done in the case of Bill C-21. The next standing order, 79(3), states:

When estimates are brought in, the message from the Governor General shall be presented to and read by the Speaker in the House.

That is the technique by which the royal recommendation is put before the House in the case of a request for aids and supplies. These are quite different kinds of appropriations, and I cannot understand why the people in the other place seem to assume, when their own rules make the distinction, that their claim with regard to one form of appropriation, whether or not it is valid there, applies also to the other form of appropriation.

We are not dealing with aids and supplies here. We can put that aside. We do not need to get into the constitutional argument that some would like to make on that. Some people take what I call the Ontario view, which is that the House of

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Commons controls all so-called "money bills". Well, I tell you that nobody in 1867 from Quebec or Nova Scotia or New Brunswick would ever have accepted that. But, as I say, I do not need to get up this afternoon to assert the rights of Nova Scotia or Quebec or New Brunswick against that old Ontario view, I hope now abandoned even there –

Senator Frith: Speaking for Ontario, we have abandoned it.

Senator Stewart: – that the House of Commons, in which Ontario was supposed to have a majority, controls all money bills.

Let us go to the kind of appropriation bill we really have before us. We have an appropriation bill designed to reduce certain expenditures that are now authorized by statute. It is Senator Beaudoin's contention today that six of the amendments made by the special committee appropriate money beyond the term of the royal recommendation of June I, 1989.

As Senator MacEachen has said, what Senator Beaudoin has failed to take into account is that Bill C-21 is a bill to amend an existing law. Bill C-21 does not initiate a new program. Rather, its purpose is to change the unemployment insurance system – an established system. Some of the sections in the basic act authorize payments for particular purposes. When we examine the amendments made by the special committee we find that none of those amendments changes a clause of Bill C-21 in a way that makes a new appropriation. All of those clauses of Bill C-21 reduce payments from the Consolidated Revenue Fund for the purposes defined in the parent acts. Indeed, it would have been in order in 1971, when those parent acts were being made, to have moved all the clauses of Bill C-21 as amendments to the bill then before Parliament. That being true, it is in order to move the amendments made by the committee.

Let us look, for example, at one of the clauses, which has been referred to several times this afternoon, clause 52 of Bill C-21. It would have been in order to have moved to drop section 118 from the parent bill in 1971. Any private member of either house could have done that. No royal recommendation would have been necessary to refuse to authorize a payment. It follows that the royal recommendation of June I, 1989, does not apply to clause 52 of Bill C-21. It affords it no protection whatsoever. That being true, it follows that amendment 7, which deals with clause 52, does not need a royal recommendation. That amendment decreases the amount of the existing appropriation.

Let me summarize. I have three points. I suggest that all those clauses of Bill C-21 amended by the special committee are clauses that reduce the appropriation made in the parent acts. Consequently, the royal recommendation of June I, 1989, was unnecessary insofar as those clauses are concerned. It adds nothing so far as those clauses are concerned. Indeed, we can well understand why we were told in the committee that neither the sponsoring department nor the Department of Justice had made a formal analysis to discover what appropriation was being sought in Bill C-21. It is the kind of situation which, we have been told, happens again and again. Someone says, "Well, this deals with payments, whether it increases or decreases them, so we will stamp on it a royal recommendation." That is one point.

The second is that all of the amendments made by the special committee make changes to sections of the parent acts – sections which were opened up and thus put before Parliament by Bill C-21. They are relevant to the purposes of Bill C-21 and cannot be ruled out of order on the ground of being irrelevant to the purposes of Bill C-21.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Third, all amendments made by the special committee would have been in order in 1971, in that, first, they are consistent with the purposes of the sections with which they deal and, second, they do not increase any appropriation beyond what was recommended in the relevant message, the binding message of recommendation; namely, the recommendation given prior to the 1970 legislation.

Page 1202

That is the situation. It is really very simple. If we think of the royal recommendation as a foundation, then the bill builds a house on it, and obviously the bill cannot go beyond the foundation. What we have in Bill C-21 is a move to reduce the size of the house within the perimeter of the foundation. The amendments proposed by the special committee say: "Oh, no, you are shrinking it too much. We will agree to shrink it some, but we do not want to go quite as far as you do." All of the recommendations made by the special committee stay well within the original foundation and, consequently, are not out of order by reason of going beyond the terms of the relevant royal recommendation.

Thank you, honourable senators.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I just want to make one point, and that is with respect to the factual argument made by Senator Beaudoin. Indeed, if it can be demonstrated that that particular amendment exceeded the existing statute, then, of course, I would have to bow to my own argument. I am prepared to consider it further, but I do not see how the table increases the expenditures. The honourable senator referred to the burdens of the repeater clause, but that clause is not as a result of any amendment which the special committee has made.

Senator Beaudoin: On that point, are you not restoring the 10- to 18-week requirement?

[*Translation*]

Hon. L. Norbert Theriault: It's reduced to 18 weeks.

Senator Beaudoin: No, that's the minimum requirement. If people become eligible earlier, I imagine it will cost more.

Senator Theriault: Honourable senators, the table which is part of the schedule shows the required number of weeks to qualify for unemployment insurance. If you take more weeks, the government gets more revenue and you pay less. So the entrance requirement doesn't increase, it goes down.

Senator Beaudoin: According to my information, the existing legislation says 14 weeks, with from 14 to 20 weeks for repeaters, the people who go back.

Bill C-21 says from 10 to 20 weeks. So there is a difference.

And there is nothing for repeaters. I am not sure how that translates into French, but I suppose "repeaters" will do.

Hon. Roch Bolduc: How about "recidivistes"!

Senator Beaudoin: No, they aren't recidivists. They are people who come back.

In your amendment, it says 10 to 18 weeks and you remove requirements for repeaters. This will involve spending several million dollars more.

Don't ask me the exact amount. We are fighting for a principle here. I realize millions and hundreds of millions are important, but the point of order is not about a specific amount.

The point of order is about the fact that the proposed amendments involve expenditures that are over and above the provisions of C-21, and

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

expenditures that are "x" million dollars in excess of what is provided in the existing legislation.

I think Senators MacEachen and Stewart are saying: Yes but we have the right to do that in the Senate. The House of Commons may have adopted its standing order 80, but we are not bound by that.

I am willing to agree that we are not bound by a standing order of the House of Commons, any more than they are bound by a rule of the Senate.

However, if we apply your theory literally, does this mean that every time a government wants to reduce its financial contribution in a given area, the Senate can in all cases, without violating section 53 and 54 of the Constitution, revert to the existing legislation and ipso facto undo any government bill?

Do you go as far as that?

If that is the case, you are going very far indeed, because under our system of responsible government, the cabinet is responsible for introducing money bills in the other place.

The cabinet is responsible to the elected representatives of this country. It can be brought down on its Budget. This has often happened on both sides of the House, to Liberals and Conservatives. However, can the Senate, every time the cabinet wants to implement a principle that implies a reduction in spending or another philosophy in a given bill, can the Senate reallocate amounts left, right and centre and totally change the philosophy and the financing approved by the elected representatives of this country? I would like to know whether you would go as far as that.

[English]

Senator Frith: It does not say that. It says, "cannot increase."

Senator Stewart: Is this a rhetorical question?

Senator Beaudoin: It is not a rhetorical question. I think it is the basis of our system.

Senator Frith: It says, "cannot increase." It does not say what you are saying. There is nothing in the Constitution that says Parliament – House of Commons or Senate – cannot touch what the government does in managing the financial affairs. It simply says that the Senate cannot increase the burden over an existing statute. The question is this: Can the Senate do that with any legislation? The answer to that is yes.

Senator Stewart: Senator Beaudoin addressed a question to me. I asked him if it was a rhetorical question and he said it was not a rhetorical question.

Let me respond to his question. If we go back to the time when our system was being created, what was feared in Quebec and Nova Scotia was that Ontario would control the House of Commons.

Page 1203

As it happened, given the nature of the economies and the tax system of the time, the people west of the Ottawa River paid 'far more into the, federal treasury than the people of Quebec or the lower provinces. It was thought that, using their majority and arguing that, after all, it was their money, they would, if not restrained, cut off legitimate expenditures needed by the people in Quebec, Nova Scotia and New Brunswick. The representatives from those parts of the country insisted that there be a Senate with power to prevent that from happening: in other 'Nards. to prevent the representatives from Ontario from saying, "It is our money. We won't spend any on Quebec,"

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Roblin: They could not prevent that in the Senate. Senator Stewart: They could prevent that by refusing to permit reductions in expenditure.

Senator Roblin: That is not your point.

Senator Stewart: That is exactly my point. I am making my own point and I will interpret my own point. Senator Roblin himself can put any gloss on what he wants to say.

Senator Roblin: Quite true.

Senator Stewart: It surprises me to hear a representative from a region of the country other than Ontario taking the position that Senator Beaudoin is taking today. The reason this institution is here is to prevent precisely the sort of thing that he says we ought not to be doing, both with regard to taxation and expenditure. The UI bill is a good example.

Senator MacEachen: Honourable senators, Senator Beaudoin has come back again to his argument, which I think is confined to amendment No. 9. Senator Beaudoin acknowledges that. It is a factual dispute, but I am not sure because I do not have all the tables here. Furthermore, I cannot make the calculations. However, if it is proved that the amendment would increase expenditures above the current provisions of the statute, then I would bow to the logic of my own reasoning and say, "Let us kick it out."

I do not know how we establish this across the aisle, though.

Shall we send the report back to the committee to deal with that point, or shall we have a discussion: or shall we have the officials privately approve it and give that information to the Speaker before he rules on that? Otherwise, the Speaker will have to rule not only on a

procedural point but also on a factual point. That is an additional burden.

I am prepared to bow to the logic of my own argument. If this amendment exceeds the current expenditures, then it should be struck down.

Senator Frith: How do we determine that?

Senator Roblin: I am not sure that I can throw any light on this problem but I have one point to raise. We have accepted the logic of the previous arguments that, if the new amendments proposed in this report are lower than the provisions made in principle in the present statute, we have no concern. The point now being raised is the reverse of that, but, using the same logic, namely, that if the rule set out in the amendments that are before us now offers the prospect of a higher set of standards than are available in the statute, then by the same line of logic it is an expenditure that is over the statute.

Senator Frith: Yes.

Senator Roblin: All the Speaker has to do, if he is interested in this point, is to examine the exact wording of this amendment and of the statute to determine whether or not this amendment offers a more generous situation than the statute itself. That would solve the matter without having to go to the trouble of this arithmetic exercise that is being suggested. That might logically be accepted.

Senator Frith: If he could. However, I do not know if he can.

[*Translation*]

Senator Theriault: Honourable senators, it is not as simple as senator Roblin would like us to believe. We can get two different sets of results with this table. The first section of the table increases the income, the qualification period

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

goes from 14 to 18 weeks. In the second section, it is reduced from 14 to 10 weeks.

We have spent hours discussing this problem with senior officials. The government told us only they had the facilities to give us the results we want.

With this in mind, the Speaker should review all the figures, to see what they mean in terms of income if the qualification period goes from 14 to 18 weeks, when only 14 weeks are stipulated in the Bill, and what they mean when that number of weeks is reduced from 14 to 10, since Bill C-21 also reduces the qualification period. It is very hard to come to an accurate figure.

I suggest that if the government officials want to know where the Speaker stands, the Chair would have to take time to review the results they would come to if the table we are referring to was applied.

[English]

Senator Roblin: The logic that we have applied to this question has not dealt in specific dollars – and – cents terms. We have accepted the implications of the logic. I am simply saying that we can do that both ways if the Speaker wishes to. However, if he wants to do something else, that will be his business. I simply offer that as a suggestion to speed up matters a good deal and to prevent possibly a serious delay in receiving any decisions.

Senator Theriault: I accept Senator Roblin's logic: the Leader of the Opposition has accepted it. In fact, we all accept that if the amendments we propose to Bill C-21 increased expenditures as they now stand under existing statutes, we would bow to that situation. We would say, "Fine. We accept that logic." However, no one has been able to prove that this will increase it. That is what I am saying.

[Translation]

Senator Beaudoin: About the factual situation, all I can add is –

[English]

Page 1204

If a claimant has 19 weeks of work he will not qualify for benefits under the current program. He would not qualify for work under the proposed amendment, but that person would qualify under your proposal because he only needs 18 weeks instead of the required number now. That is the factual situation.

[Translation]

Senator Beaudoin: With respect to the Constitution, Mr. Speaker, I have nothing to add except that I think the last word concerning the government's financial policy must eventually come from the elected House.

Hon. Gildas L. Molgat: Honourable senators, Senator Beaudoin, you are saying that the last word must come from the House, but not from a constitutional standpoint. You are saying and maintaining that from a practical standpoint, from the point of view of the image of the Senate in the public's eye and everything else. But from a constitutional standpoint, are you suggesting that this chamber does not have the same rights and obligations as the House of Commons?

Senator Beaudoin: I am very glad you should raise this question. What I am saying is that, constitutionally, we have the same rights, except in three cases.

Bills entailing expenditures must originate in the House of Commons. Second, as a result of section 42 of the Constitution Act, 1982, we no longer have a veto over constitutional amendments. I think we all agree on that. Third, under the constitutional agreement which has

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

been in force in Canada since 1846, the government answers only to the House of Commons. Even if the Senate were to vote non – confidence in the government, that would not change anything at all.

Senator Molgat, I agree that we have the same powers, except in those three cases. Concerning what I said earlier, I suggest there are two approaches. Senator Frith said that the second is better, and that is we can do anything as long as we do not increase the burden.

I say that amendment No.9 does increase the burden. And I say that according to some legal experts like Driedger and others, he is not the only one, there are those who claim that we do not have the right to change the legislation or the purpose of public expenditures.

So I am talking about fiscal policy. I do not want to repeat myself. That is what I am saying. It is my opinion. I am leaving this matter in the hands of the Speaker of this chamber.

Senator Molgat: Honourable senators, I will see exactly what Senator Beaudoin said in tomorrow's Debates of the Senate. I thought he said that, in fiscal matters, the other place had the last word. I do not accept that position. It is not the Constitutional position.

The other place does not necessarily have the last word in fiscal matters. This Chamber has equal status. We cannot increase, but we can reject and change.

Senator Beaudoin: Honourable senators, I am happy that you got me started on this again. I am saying it is true that the Senate can vote against a budget originating in the other place. It is true that we can vote against a money bill in that sense. However, the government in the other place retains full powers. It can do it again tomorrow morning. In that sense, it has the last word and that is what I am saying.

Hon. Fernand E. Leblanc: We all agree on this.

SPEAKER'S RULING RESERVED

The Hon. the Speaker: Honourable senators, I am being asked to rule on the test of whether we are increasing the appropriations for the Unemployment Insurance Act. Senator Theriault has indicated that his committee looked into this point. I do not know the basic assumptions of the government officials, but, given my economic background, I am well aware that assumptions can make a great difference in these matters. I doubt very much that I can conduct the review in a relatively short time. I would like to have some people whose views are natural look at the matter. With that in mind, I cannot say when I will be able to rule. I shall do my best, but whether the human resources are available to assist me today or tomorrow I cannot say at this point. I shall have to return to my chambers and find out. If that is not agreeable, I am open to any suggestions that might be agreeable to honourable senators.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Doody and I have been trying to find out as best we can what will take place in the House of Commons over the next few days, before the break. Of course, as he has already said, you can never be sure. However, for whatever benefit it is, I believe the other place dealt with some legislation today and then set aside the rest of this week and Monday to debate the resolution on bilingualism. Tuesday, as Senator Doody and Senator MacEachen have said, is budget day. Wednesday has been set aside for debate on the budget, and Thursday has been set aside for the usual post – budget non – confidence motion. Friday is an Opposition day, and the break starts at four o'clock on that day.

I have just outlined the agenda of the other place to suggest that we should not b.e governed

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

by any feeling of pressure that Bill C-21 must get to the House of Commons in order to be dealt with between now and when they come back in March. However, I do think it is reasonable for the government to ask for some assurance that the bill will not still be in the Senate when the break takes place. I believe the government already has that assurance from Senator MacEachen, but he can correct me if I am wrong.

Senator MacEachen: Absolutely.

Senator Frith: At least I understood him to say that that would not happen or that, at least, we would not allow it to happen.

Senator MacEachen: Unless we have more points of order.

Page 1205

Senator Frith: Yes, if we can get all the points of order out of the way. Therefore, my suggestion is that we not put pressure on His Honour, since it would be of no particular advantage, and that we come back, as usual, next Tuesday with the assurance from the opposition side that we mean to hale that bill out of here before the break.

Senator Haidasz: No chance!

Hon. C. William Doody (Deputy Leader of the Government): I beg your pardon?

Senator Haidasz: I was not talking to you.

Senator Doody: I thought that you might have been, but thank you for the assurance that you were not.

I thank Senator Frith for his comments. To the best of my knowledge at this time, the timetable he has presented for the House of Commons is what they are currently contemplating. However, I have been told that should this bill reach the other place they would try to deal with it

immediately upon receiving it; that if they were to get the bill today, tomorrow, Monday or whenever, they would try to persuade the House of Commons to deal with it at that time.

Senator Frith: They would have to have unanimous consent to do that.

Senator Doody: That may be, but that is not something in which I can get involved.

Senator Frith: I can.

Senator Doody: That is right, but from this rather vulnerable position my responsibility is quite clear, and that is to try to move the bill out of this place and down to the other place as quickly as I can. However, I agree, without pinning myself to it, that Tuesday is probably a reasonable target date at this point. If His Honour can have his ruling ready prior to that time, I would like to be in a position to ask the Senate to reassemble to deal with it. Like Senator Frith, I am not trying to put undue pressure on His Honour, but I think it would be wrong not to be here if His Honour were ready to hand down his ruling, in which event I would ask that the Senate be called back to deal with the matter.

Senator Frith: May we ask His Honour if he feels comfortable with that timeframe of Tuesday?

Senator Simard: Or Monday.

The Hon. the Speaker: I would hope to be ready by Tuesday. Certainly I will work on it over the weekend.

Senator Doody: Honourable senators, I am not inviting His Honour to wait until Tuesday. I would encourage him to use all the facilities at his disposal to bring in his judgment as quickly as he can. Again, like Senator Frith, I am not trying to exert undue pressure; I simply reiterate that we would be ready to come back to deal

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

with his ruling sooner, if His Honour were ready to present it earlier than Tuesday. If not, we will return on Tuesday.

Senator Frith: In that event, I offer, in advance, leave to revert to Notices of Motion.

Senator Doody: I shall check with my leader first, as I am on a day-to-day contract over here.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

SPEAKERS RULING

Page 1209

The Hon. the Speaker: Honourable senators, I was asked on Thursday last to rule on a point of order. If I may, I shall do so now.

[*Translation*]

Honourable senators, on Wednesday last, the Honourable Senator Beaudoin raised a point of order regarding the acceptability of certain amendments contained in the Third and Final Report of the Special Committee of the Senate on Bill C-21. Four amendments have been called into question as listed in Appendix A of the Report; they are amendments number 5, 7, 9 and 10.

With respect to amendments 5 and 7, the Chair is guided by Erskine May's 20th edition, pages 797 and 810, which deals with matters requiring the Queen's Recommendation and matters that do not require the Queen's Recommendation. Among the many precedents referred to that would require a Royal Recommendation, the following may be cited:

A charge is also involved by any proposal whereby the Crown would incur a liability or a contingent liability, payable out of money to be voted by Parliament.

That is on page 797. Quoting again:

Another type of expenditure is ... the imposition of charges to be paid directly out of the Consolidated Revenue Fund.

That is on pages 797 and 798. Another quote:

When a bill contains provisions extending the purposes of expenditure already authorized by statute, such provisions may require the Queen's recommendation. The following examples may be given: (I) Extension of cases

in which compensation can be paid ... and (2) Extension of classes of insured persons....

You will find that on page 802. With respect to matters that do not require the Royal Recommendation. Erskine May states the following:

No special form of procedure applies to proposals to reduce existing charges, and they may be moved in the House of Commons or in Committee without the Royal Recommendation.

A proposed reduction of a charge may consist in reducing its amount, or restricting its objects or inserting limiting conditions, or shortening the period of its operation...

The same principle explains an apparent anomaly in the case of amendments moved to a bill which abolishes or reduces a charge authorized by existing law. Amendments to such a bill, which are designed to restore a portion or the whole of the charge which the bill proposes to reduce or abolish, are in order without the need of a preliminary financial resolution. Such amendments do not in fact propose a charge but simply seek to determine the question to what extent, if any, an existing charge shall be reduced.

You will find that on page 805 of Erskine May.

Based on the above citations in Erskine May, and after careful review of the proposed amendments, I find amendments 5 and 7 to be in order.

[*English*]

Dealing now with amendment No. 9, I have consulted senior officials in the Department of Employment and Immigration and independent economic consultants. I have studied their assumptions carefully and I concur with them.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

While the effects of the amendment must inevitably rely on a number of these assumptions, and are consequently somewhat subjective, I have concluded that the amendment will result in an increase in costs over and above the parent act.

Because of the interrelationship between Tables I and 2, and the consequent interdependence of the amendments proposed to each of these tables, I must also rule amendment No. 10 out of order.

When the order is called the Senate may proceed with consideration of the committee report, but with the exclusion of the amendments numbered 9 and 10.

Page 1214

On the Order:

Resuming the debate on the motion of the Honourable Senator Hebert, seconded by the Honourable Senator Theriault, for the adoption of the Third and Final Report of the Special Committee of the Senate on the Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, (with ten amendments), presented in the Senate on 14th February, 1990.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I am aware that we are now dealing with eight amendments rather than the ten amendments referred to in the Orders of the Day. That means, of course, that amendments Nos. 9 and 10 are not before the Senate at the present time. Those were the amendments which dealt with the duration of benefits and entrance requirements contained in the tables that are in the appendix of the report and listed as amendments Nos. 9 and 10.

We accept the ruling of the Chair.

The logic of the procedural argument, of course, was clear: if any of the proposed amendments exceeded the existing expenditures under the Unemployment Insurance Act, such an amendment would require a royal recommendation. His Honour has found that in all probability, and based upon elusive assumptions that always affect economic reasoning, the expenditures proposed in the amendments would probably be above current expenditures. We have no quarrel with that finding. Indeed, we have no capacity to controvert it, even if we wanted to.

However, the remaining amendments are still quite important. Amendment No.7, which has to do with government contributions, is a key amendment, if not the key amendment, is contained in the report of the Special Committee on Bill C-21.

The report of that committee emphasizes very clearly the unanimity, virtually, of the witnesses who came before the committee to express their concern that the government, in Bill C-21, proposed to withdraw completely its contribution to the unemployment insurance fund. The government has been a contributor to the fund since the very beginning; since 1971 it has been responsible for the payments arising from regionally extended benefits. Fishermen's benefits and participation in work programs. A special change was made in 1971 when the government took on responsibility for the payment of benefits ~occasioned by an increase in unemployment above the level of - + per cent. In fact, it has been a feature of the unemployment insurance system since 1971 that the government picked up the cost of benefits occasioned by unemployment above 4 per cent.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1215

In Bill C-21 the critical unemployment level, as it were, has been increased from 4 to 6 per cent. Regionally extended benefits are maintained in this bill, as was made clear by the testimony of the deputy minister in reply to my questions in the committee. However, the regionally extended benefits now kick in at 6 per cent rather than 4 per cent. By virtue of Bill C-21, the government will not pay at all for the cost of regionally extended benefits: it will not pay for the cost of fishermen's benefits; it will not pay for the cost of participation in work-sharing programs. In other words, it withdraws completely, and that is, of course, a fundamental alteration in the unemployment insurance system. The witnesses were virtually unanimous on that point.

Of course, the withdrawal of the government from its role is accomplished through the repeal of section 118 of the Unemployment Insurance Act. We are proposing an amendment to that provision. We are proposing that subsection 118(1) of the Unemployment Insurance Act be retained. This subsection requires the government to credit to the unemployment insurance account an amount equal to what is called "the government cost of paying benefit." It is by virtue of this subsection that the government presently is obligated to contribute to the UI fund.

Subsection 118(2) of the Unemployment Insurance Act provides a definition or an explanation of what is meant by the words "the government cost of paying benefit." This subsection states that regionally extended benefits, extended benefits made available through job creation projects and extended benefits made available through participation in training programs are what constitute "government cost of paying benefit." These are the benefits for which the government is directly responsible.

Since clauses 16, 18 and 19 of Bill C-21 eliminate these benefits, it was proposed by the committee that subsection 118(2) of the act be modified so as to provide a new definition of what constitutes "government cost of paying benefits." Under this amendment the government would continue to be responsible for funding a portion of regionally extended benefits, as determined under Table 2 of Bill C-21. As we know, Table 2 shows the maximum number of weeks of benefits a claimant may obtain. After providing a base level of benefits in areas of unemployment of 6 per cent or under, the table provides for increased weeks of benefit as the regional rate of unemployment rises.

As was pointed out, honourable senators, it is this increase in weeks above the base level that the amendment addresses, and it is part of this increase in the number of weeks that we would like the government to continue to fund. In fact, the amendment provides that continued government contributions will be directly linked to the regional rate of unemployment, and, in fact, it will continue the concept of government funding of regionally extended benefits, though in modified form.

We know that there was no philosophy of insurance or social policy behind the decision of the government to withdraw totally from contributing to the fund. There was a philosophy, clearly outlined, justifying why the government ought to contribute to the fund, and I will return to that in a moment. However, the government, in this case, said, "We intend to withdraw," and the reasons given were purely financial: to save \$2.9 billion generally and to save \$2.2 billion arising from regionally extended benefits. We have wrestled with this point, because we want to take into account the problems of the Minister of Finance. We could have struck out the section entirely. We thought that might be going too far. We took a midway course by putting forth an amendment that would require the government to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

pay one – half of the cost of regionally extended benefits.

So amendment No.7, which the Speaker has found in order, would provide for the continuation of the government in the program. The cost of regionally extended benefits, in the full year for which we have figures in the past, is \$2.2 billion. We are proposing in this amendment that the government continue to pay half of that cost in the future. There is nothing magic about that figure. What is magic is the principle, namely, that it is important that the government continue to contribute to the fund.

Many witnesses feared the consequences of government withdrawal. The government is withdrawing entirely, but under the law it still retains the authority to set all the conditions of benefits, entrance requirements and all the features of the act. However, it will soon lose its moral authority, if not its political authority, because employers and employees will rightfully argue, "We are paying for this. Why should we not run it? Why should the government run it?"

Another important argument arises from the questions and answers that were given today on the question of monetary policy. The government has at its disposal all the instruments of economic policy, monetary policy, fiscal policy and trade policy. These are all the instruments which determine the level of output and employment in a country. These are the instruments that can influence the level of employment and unemployment.

The government, therefore, has a direct influence on what happens in the country through these instruments of policy. That is understood. That reasoning permitted the Government of Canada to seek an amendment to the Constitution to give it the authority to legislate on unemployment insurance, because it was reasoned that employment and unemployment were the result of national and

international forces only within the competence of a federal government. They were beyond the influence of local forces and therefore beyond the competence of provincial governments. They said, "Give us the responsibility for regulating unemployment insurance because we are the ones who have the overall authority on the economic levers." That still prevails, but today the government says, "We do not intend to take our responsibility and pick up a cost which should be picked up when the government makes mistakes and fails to produce full employment." That is their philosophy.

Page 1216

Let us consider what is happening today in Canada. Government policy is affecting unemployment in all parts of the country – for example, in Summerside. A direct government decision is affecting Summerside. Unemployment will rise, unemployment insurance payments will rise, and employers and employees who have had absolutely no influence on the decision which produced that unemployment will pay the shot. Take the fisheries in Atlantic Canada. What is happening is the result of government policy. But the resulting unemployment will not in any way be paid for, or absorbed by, government contributions.

In 1970 the government put out a white paper on unemployment insurance. The following year it agreed to pay regionally extended unemployment insurance benefits when the unemployment rate was above 4 per cent. That was the first time the payments were directly related to the level of unemployment. In the 1970 report there is a justification for that decision. It is worth repeating because it is very sound and still applies.

The white paper was put out by Mr. Mackasey, who was Minister of Labour at the time.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal – Provincial Relations): It happened to Mackenzie King once also that he lost his place.

Senator MacEachen: What is that?

Senator Murray: He could not find his place. He discovered that he had left his documents in his office. He simply bowed to the Speaker, went to his office, selected the document and came back with it, while the House waited for him.

Senator Frith: And we would do the same, sir.

An Hon. Senator: Very sensible.

Senator MacEachen: I have not left the document in my office; I have it here.

Senator Doody: We would certainly wait for you if you had forgotten it.

Senator MacEachen: I found the quotation, which I should like to put on the record because it illustrates why the government of the day did pick up a portion of the costs of unemployment.

The white paper states:

... it (the government) is also ready to assume the cost of extra unemployment insurance benefits when the national unemployment rate exceeds 4 per cent or when regional unemployment is over 4 per cent, and exceeds the national average by more than one per cent.

That feature has been retained.

The white paper then goes on to state:

In looking at the problems of unemployment it becomes clear that it is the federal government which must continue to play a vital role in their solution. In a recent paper on the constitution entitled "Income Security and

Social Services," the government outlined its views as follows:

The case for exclusive federal powers over unemployment insurance lies in the nature and the source of the forces which give rise to unemployment, and hence the need for unemployment insurance and the capacity of governments to deal with these forces.

It is generally accepted that general unemployment is the product of a complexity of economic forces which are national and international in character. It rarely can be said to be the consequence of purely local forces.

Moreover, the provincial and local governments cannot by themselves bring under control the forces that cause unemployment; to do so requires the full panoply of economic powers associated with a nation – : fiscal, monetary, debt management, trade, and balance of payments policies, and indeed selective economic measures.

Even these, to be fully effective, must be complemented by international and economic arrangements. The viability of unemployment insurance, in other words, depends upon the successful use by the federal government of these instruments of economic policy, if they fall under federal jurisdiction, so should unemployment insurance.

The argument is advanced further:

The second reason for federal jurisdiction in this area lies in the uneven costs of unemployment insurance, as between the provinces. Certain provinces suffer from higher levels of unemployment than do others, with the result that payments in these provinces tend to be relatively higher, and contributions to the unemployment fund from them to be relatively lower.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

In the same way that it is clear that the federal government must tackle unemployment, so it is clear that its policies and programs to solve unemployment and other related problems must be highly coordinated if social development programs for Canada in the 70's are to be improved.

That was the reason why the federal government entered into the program and paid into it. The reasons are very solid. It is why virtually every witness who came before the committee, as I mentioned, expressed concern about the withdrawal of the federal government. Many feared that the decision was taken to harmonize with the practice in the United States. We were told in the committee that, with the exception of the United States, we will be the only industrialized country in the world to have an unemployment insurance system to which the government does not contribute.

Page 1217

The argument is advanced that one of the reasons for this change is to harmonize with the United States, that may be the case, but the original, more fundamental reason for government participation was the necessity of the government to share the burden, to ensure that the system was national in scope and that it was not threatened by the wishes of employers who had in the past expressed their concern and, indeed, apprehension about the richness of the unemployment insurance system in Canada. So the amendment proposed by the committee asks the government to stay in, not for the full cost but for 50 per cent. I think it is a good amendment.

The other amendment to which I would draw attention is the one relating to fishermen. It is an important amendment. Honourable senators understand that at the present time the Government of Canada pays the full net cost of fishermen's benefits. It is paid out of the

Consolidated Revenue Fund. The benefit/premium ratio for benefits for fishermen is 13 to 1. The benefit/premium ratio generally is 1.3 to 1. The justification for the government's support of fishermen's benefits is that it is an income support program. No doubt the program was included in the unemployment insurance system because it provided a convenient delivery mechanism for fishermen's benefits. Other employers and employees pay nothing. The benefits are paid by the Government of Canada because it is an income support program. I believe that is the case today. Certainly, when you have that variation in premium/benefit ratios, it gives you some reason to think.

When I looked at the parent act I was struck by the fact that the section introduced in 1971 relating to fishermen's benefits had a very odd characteristic—namely, that fishermen's benefits could be ended by proclamation and that any regulation affecting fishermen's benefits could be passed by the Governor in Council. In fact, the system itself could be ended by the Governor in Council. As I mentioned earlier, I wondered why Parliament had ever permitted that provision. Can honourable senators imagine a law that would permit the government of the day to eliminate crop insurance in the West? It would be unthinkable. No government should have that authority. However, the government of the day in 1971 obtained that authority from Parliament on the ground, as we are told, that it was a purely transitional section, that the government was busily preparing plans for a new system and it was, therefore, only a short-term item. In fact, we had one — of the

Senator Barootes: A Liberal majority did that!

Senator MacEachen: I am quite prepared to acknowledge that point. That subsection, which was originally introduced in the 1971 Unemployment Insurance Act, was intended to record the transitional nature of section 130 of the act, "until the plans being developed to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

protect self-employed fishermen against the uncertainties inherent in the primary fishing industry are ready for implementation," according to the 1970 white paper on unemployment insurance, at page 11.

We all know the history. Fishermen's benefits have remained tucked away in the Unemployment Insurance Act. They have been a constant target of the bureaucrats. Every time a minister wanted to amend the Unemployment Insurance Act it was proposed that something be done about the fishermen's benefits provision. Anyone who has been in cabinet as long as I was will know that. It was always a target, and it is still a target.

If the provisions of Bill C-21 are implemented, that provision becomes a sitting duck.

Senator Roblin: It doesn't change anything; it was always a sitting duck.

Senator MacEachen: Senator Roblin has said that it was always a sitting duck. I agree, but there was one important difference: The government could say, "Employer, be quiet. We're paying the shot on behalf of the general taxpayer." If this amendment is accepted, however, the government can no longer say that, and the question will be raised, "Why should the auto workers in Windsor pay for an income support program for the fishermen in Atlantic Canada! Why should we finance these benefits?" It is inevitable. In the report a person who writes for The Financial Post is quoted as saying something to the effect, "Now is the time to bring in something different to replace this program, including finding jobs for these fishermen in other parts of Canada." Those of us who are from Atlantic Canada understand what that means.

In the amendment now before the Senate we are saying, "Look, any regulation affecting fishermen's benefits and changing them should

be tabled in Parliament." If a number of members of the House of Commons or of the Senate find danger in these changes – for example, say, benefits are reduced – it ought to be debated and voted upon in Parliament. The government could still make regulations, but Parliament would have to approve, for example, a measure to reduce drastically benefits for fishermen.

The timing of Bill C-22 is awful. When this provision was included, I do not think the government was expecting that all hell would break loose in the Atlantic fishery. At a time when we are faced with fish plant closures, declining stocks, bewilderment in Newfoundland and other parts of the Atlantic provinces, the government is saying, "We intend to withdraw income support for the fishermen."

Senator Perrault: Shame!

Senator Roblin: We are not saying that!

'Senator MacEachen: "We intend to withdraw government income support for the fishermen and transfer the burden to employers and employees." I do not think that we should allow that to happen. This is a very important amendment.

Senator Asselin: Tell us where we will get the money.

Senator MacEachen: I believe that the Senate has a real opportunity to strike a warning signal to say that we are not going to permit a region of the country to be so severely disadvantaged.

Page 1218

Honourable senators, I think those amendments are extremely reasonable and I hope that they will find favour among senators, particularly Atlantic senators, who know the fishery, who know the history of fishermen's benefits, who know how threatened they are. I hope

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

honourable senators take this opportunity to try to protect those benefits as much as we can in the Senate,

Senator Perrault: Hear, hear!

Senator MacEachen: Honourable senators, I have just a few more comments. I am not going to deal with all of the amendments, but I want to deal with one or two more of them.

As senators know, if Bill C-21 is approved, there will be a big transfer of funds, from direct payments to the unemployed, to funds for training programs. That is a big feature of Bill C-21. The bill provides that each year the minister will lay before Parliament a plan, telling us how these moneys are going to be spent and where they are going to be spent. But one big question that arises, if, for example, Nova Scotia loses \$40 million in benefits as a result of the passing of Bill C-21, will it get that money back in the form of training programs? Well, nobody knows. The deputy minister will say – and I believe that he is truthfully speaking his mind – that he does not foresee any drastic or significant change in the apportionment of these funds. But we do not know. We have proposed an amendment, saying, "Well, give us some more detail."

If the bill is read literally, all the government would have to do would be to produce a four – line plan – four statistics, that is all. The deputy minister acknowledged that and said, "Of course we intend to put in more detail. We provide that more detail should go into the plan."

We also ask: When you tell us in your plan how much you intend to spend in Quebec next year, tell us how much you spent last year under the U I benefits so that the citizens of Quebec will know whether they have gained or lost or whether they stayed the same. We would prefer that information for every province and every U I region. If members of Parliament were to say,

"Well, this is awful; here is Alberta, or Manitoba, with hardly anything," the members of Alberta and Manitoba in the House of Commons could put down a petition to have the plan debated and voted upon. It could be approved or disapproved, that is all. We are not rocking the Constitution. We are not pillaging the Treasury. We are simply saying, "Give us some more information and give Parliament an opportunity to decide on the plan." That is rather reasonable, in my opinion,

There is one other amendment I want to talk about briefly – the "Henry VIII" amendment. Senator Forsey and Mr. Eglington appeared before the committee and described one of the proposed changes in Bill C-21 as being beyond even the powers that the British Parliament had conferred upon Henry VIII – namely, that he was entitled to pass laws on subjects which Parliament had not specifically dealt with. We think that this amendment in Bill C-21 deserves the title of "the Henry VIII amendment" or "the Henry VIII law", because it gives the Unemployment Insurance Commission the power to develop programs that are different from those contained in the bill.

Senator Macquarrie: Even we Stuarts would not do that! Senator MacEachen: Well, of course not. One wonders why that is done. Of course, the argument runs: We cannot foresee what we will require in the future and we would like to have that power. After all, it is in those fishermen's regulations that were given to the commission in 1971 by those farsighted Grits. Or, borrowing from that: Well, I don't like what is there from 1971 and I don't like what is here in 1990 under this clause. As senators know, under subsection 26.1 (3) the commission is given extraordinary powers to vary the developmental use rules:

Any scheme established under subsection (1) may, with respect to any matter, be different

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

from the provisions of this Act relating to that matter.

Well, the witnesses thought it was pretty bad and I think it ought to be drawn to the attention of the Senate, because there are persons like Senator Macquarrie who will strike a blow for liberty when given the opportunity. This is one opportunity that is right at his disposal.

Honourable senators, when I spoke on second reading of this bill I spent a long time talking about impact studies. The department said that the loss to Newfoundland would be "X" dollars. The CLC said that it would be "Y" dollars. The Province of Nova Scotia said that it would be "z" dollars, and the Province of Newfoundland said that it would be "X" dollars. In each case the estimate of the impact was wildly and widely varied. So wide were the differences that it would be rather frightening if the most extreme assessments were accepted. I thought it would be easy to resolve that matter in the committee. Well, it wasn't.

In committee we heard much evidence from the Assistant Deputy Minister of Manpower and Immigration, who defended his impact study, I must say, with much knowledge, dedication and tenacity. He was very tenacious. I believed in his impact study. He had that extra weapon which we all wish in an argument – namely, extra knowledge. If you know something that nobody else knows you are in a very strong debating position, and that is what he had, because he had access to the data. As Senator Cools would say, he had access to the data set and to the assumptions underlying the econometric analysis, no one else had that. These others were labouring in the dark and Mr. Carin was labouring in the light. We had no way of entering the light because we had no access to his data. We cannot tell you, honourable senators, who is right and who is wrong on this, Arguments have been advanced on both sides. One day a discerning member of the committee asked if we

could have access to this vital information and the officials responded that there was no legal objection, but that it required a decision of the minister. They told us that if we received a favourable decision, then, of course, they would return to see whether we could become children of light, along with the officials in the department. That is on impact studies.

Page 1219

You may also remember, honourable senators, that I made a point of referring to the loss that would occur to Prince Edward Island as a result of the passage of Bill C-21. You may remember I mentioned that Prince Edward Island would lose 512 million because of the change in the variable entrance requirement in comparison with about 5120 million or \$130 million for all of Canada. I wondered why a tiny province had to bear such a big burden. I asked if there was some way we ought to amend the bill so that that would be removed. My worries have been removed entirely, and from the most unexpected source. It is from the fact that unemployment has risen in Prince Edward Island. Unemployment has risen and therefore many entrants will require fewer qualifying weeks. Mr. Carin told us that we could insert a zero where we had 512 million. I cannot carry that any further unless I can control the unemployment level in Prince Edward Island.

Senator Perrault: Saved by unemployment!

Senator MacEachen: What this shows is how sensitively affected the citizens of Prince Edward Island, Nova Scotia, New Brunswick and the who of the Atlantic provinces are – particularly the unemployed – to changes of this kind. I mention that because I mentioned it formerly in my speech. I find my problem exacerbated rather than removed, even though a zero will now replace \$12 million.

We had a visit from the Minister of Employment and Immigration and I noted a

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

number of points she made. I do not have the exact quotations before me, but I think I can be faithful to her rendition.

She said, "You don't like these changes. What would you have us do if we don't get the money here! Would you have us increase the deficit or would you have us raise taxes?" Honourable senators, the answer is not as simple as that, because, as Senator Murray and Senator Olson described today, there is a major factor here affecting the accounts of the government, and that is monetary policy. It is not just taxes and it is not just the deficit that have to be taken into account to determine a matter of this kind.

We are told that today Mr. Wilson will have to resolve a problem of about \$3 billion or \$4 billion that has been dropped on his shoulders because of the monetary policy followed by the Bank of Canada in maintaining high levels of interest rates. It is not that easy to say that it is a choice between an increased deficit and increased taxes. But is it right, even in those circumstances, to ask the unemployed to bear this burden. They do not think they should, as they expressed themselves before the committee.

Then the minister went on to make a further statement, which I found somewhat disturbing. She said, "Don't let anyone tell you there are no jobs in Canada. There are jobs all across Canada, albeit there are more in some places than in others, but there are jobs all across Canada." Honourable senators, I was astonished by that statement, because it reminded me of statements that used to be made by a great Conservative Prime Minister in the United Kingdom, Mr. Harold Macmillan. He used to make statements of the kind:

"You never had it so good. There are jobs all over the United Kingdom."

Senator Barootes: The land is strong.

Senator MacEachen: "You are in a period of unprecedented prosperity." Those are the kinds of remarks made by governments. They were made by the Minister of Employment and Immigration. Such statements are dangerous, as was proved in the case of Harold Macmillan, because he too was ushered out of office, not by the electorate but by his own party. This happens when statements by ministers, as happened on this occasion, are widely at variance with the perception of the population of the country. Maybe the minister believes there are jobs all across Canada, but the people, certainly in Atlantic Canada, do not believe that. They have every reason not to believe that, because that is their experience.

I am somewhat worried that the minister, by this bill, has taken a somewhat – maybe bureaucratic, maybe mechanical approach to what is the people's problem, namely, unemployment and unemployment insurance. It is not a very enviable situation for any citizen to have to walk into an unemployment insurance office and say, "I have no job. I am at the end of my tether." There is a temptation in insulated societies – and at times Parliament itself and, certainly, the bureaucracy can become insulated – to be unaware of the realities of life and what it feels like not to have a job when you want one and your only recourse is the Unemployment Insurance Act and its benefits.

Bill C-21 is going to cut back. It tells workers that they have to work longer to qualify to get fewer benefits, and that if they step out of line and leave their jobs it will really smack them for months and cut off their benefits. They are unemployed; they are not "fat cats."

In our amendments, honourable senators, we have not gone the full distance to undo what the minister tried to do. What we did was to ameliorate –

Senator Frith: Soften the impact.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: – the provisions of the minister with respect to the government contributions. We did not undo that. We did not undo a major financial provision. We attempted to understand the problems of the government and, as well, those of the unemployed. It is in that spirit that we have made the amendments. We are seriously attempting to achieve some things; and I hope the minister will not dismiss us as if we were children and not worth being listened to, talked to or negotiated with. Why can they not negotiate these amendments with the Senate in a conference, if they find them difficult? Why not?

Senator Simard: Negotiate with the Liberals'? Can you imagine it'? I cannot believe it!

Page 1220

Senator MacEachen: Senator Simard is obviously an innocent when it comes to parliamentary work. I was the government House Leader in the House of Commons on three separate occasions and it was frequently the practice to negotiate with the opposition when you needed a bill and they did not like certain features of it. You negotiated. If you were smart you did it frequently. Sometimes governments are not smart. They attempt to put everything in one bundle. and often they fail. I remember when I was putting a particular bill through the House of Commons and the man on the other side who would not give me an inch was Mr. Diefenbaker. I went to his office and talked to him about it; that improved things a lot.

Senator Barootes: It was a minority government!

Senator MacEachen: It improved things a lot. It seems to me very unwise for any government in these circumstances in Canada to say to the Senate, or any other group, that it will not listen, talk or negotiate. I hope it will take a different attitude with respect to Bill C-21.

Some Hon. Senators: Hear, hear!

Hon. Heath Macquarrie: Honourable senators, I wonder if my distinguished fellow maritimer would permit a question. I do not regard him as a child by any means, since he has been on the Hill longer than I have, but I think he touched upon something that we cannot deal with fully under this item. I think the idea of conferences between the two houses is a very important subject for those who are gung – ho on Senate reform. It would be very useful.

I wonder if the honourable senator, whose parliamentary expertise I have admired for many years, would consider that perhaps he is slightly unfair in suggesting that the problems of unemployment in Atlantic Canada are in some unique way the product of the performance or nonperformance of the present government.

It seems to me – and I am sure he knows this – that we who began Confederation have seen the economic fulcrum moving to the West over the years. Our people have had to go to Boston or Upper Canada to find jobs. I gained many votes in 1957 because Walter Gordon suggested that the thing to do was to move the maritimers into another part of the country. Do you not think it is somewhat unfair to put the blame for these problems, which grieve us all and cry out for redress, totally on the doorstep of the people who are occupying the corridors of power in Ottawa now'?

Senator MacEachen: If I did not put it correctly, I regret it.

What I was saying is that government policy, whether it be monetary or defence, has an impact on unemployment and employment. The national government has a lot of power and has a substantial effect on the levels of unemployment. I believe I cited Summerside, but I could select some other illustration to make the argument that, because the government benefits so much

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

from such high employment, it ought to make some payment when there is high unemployment. and, therefore, provide help with unemployment insurance benefits.

I did not make the blanket charge that my honourable friend Senator Macquarrie thought I made. I was making that point.

Hon. Arthur Tremblay: Honourable senators, before I begin what I had planned to say I should like to ask Senator MacEachen a question in order to clarify one point. As I understood the fishermen's benefits scheme, you said that you have amended the sections relating to that in such a way that the government will keep paying the amounts required to fill the gap between the contributions of the fishermen and the cost of the benefits they receive. Is that what you meant to say, or did I misunderstand you'?

Senator MacEachen: I think you misunderstood me, senator. Honourable senators, there is no amendment in this set of amendments that obligates the government to continue with its contributions. We contemplated making that amendment in the committee. Maybe it should have been made. I hope it will be made before we deal with the bill, but we were waiting for some information from the department with respect to the composition of benefits. In brief, there is no amendment in these amendments to bring that about.

Senator Tremblay: That was my reading. I obviously did not hear correctly what Senator MacEachen said. Speaking of the fishermen's benefits scheme, it is clearly understood now from the answer that Senator MacEachen has given that the financing of those benefits for fishermen follows Bill C-21; that is, they are transferred to the unemployment insurance fund.

Honourable Senators, Senator MacEachen raised the possibility of an amendment with respect to the approval procedures for the regulations concerning the so - called fishermen's benefits scheme.

A similar amendment has also been proposed concerning the regulations or assistance plans available to some categories of unemployed.

I should like to read exactly what the Committee proposed on the first of these two points:

If, within ten sitting days after the day on which the plan is laid before either House of Parliament, a notice is given in either House of a motion to the effect that the plan is unacceptable signed by not less than fifteen members of the Senate, in the case of a notice given in the Senate, and by not less than thirty members of the House of Commons, in the case of a notice given in that House, and the question on the motion itself is not decided within ten sitting days after the notice was given, the plan shall, upon the expiry of that period of ten days, be deemed to have been rejected.

As to the regulations governing the fishermen's benefits scheme, the Committee proposed a similar procedure which required, however, in this case either of the two Houses to vote on a motion calling for the approval of the said regulations to be denied.

Honourable Senators, these are extremely radical proposals in terms of procedure and the function of the Senate in particular. Let us not be concerned with the Commons' role as such. Let us pay particular attention to the function of the Senate.

[*Translation*]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1221

The Senate already enjoys absolute veto on the legislation originating in the Commons. With the proposed amendments, they would like that the Senate's veto apply to the assistance plans available to those unemployed eligible among other things for training programs and the regulations concerning the fishermen's scheme: they even suggested that in the case of the former, the veto applied to them in such a radical and absolute fashion that the plans would be deemed to have been rejected even if the motion to the effect that they are unacceptable is not the object of a decision.

Honourable Senators, do you not find admirable such exaltation, or I should rather say hypertrophy of the Senate's absolute veto?

What we should think of it has already been expressed in the report submitted by the Special Joint Committee on the Senate's Reform, set up in 1983 at Senator Frith's initiative and which was chaired by Senator Molgat. Here is what this report had to say:

Almost all the witnesses who favoured an elected Senate felt that the Senate should not have the power to defeat the Government. We go along with this. It would be unhealthy, under our system of government, that Parliament should have two masters who might on some occasions, hold diametrically opposed views...

We therefore decided that it was wiser and more in keeping with the character of parliamentary government to give the Senate the power to delay but not altogether prevent the adoption of measures voted by the House of Commons. The Senate would therefore have a suspense veto of a maximum of 120 sitting days, divided into two equal periods of 60 days. Supply bills would not be subject to any delay.

The Special Joint Committee went on to discuss the mechanism that would regulate the exercise of a suspense veto. Until the Constitution was amended to implement its recommendation, the Special Joint Committee suggested the following possibility:

The Senate, without diminishing its constitutional powers, could adopt a procedure for a more flexible use of its veto –

– the absolute veto they have now –

– a procedure that would have the effect of making it suspensive.

Honourable senators, you will agree that what the committee on Bill C-21 is suggesting today is far removed from the proposal in the 1984 report.

As for the principle of a suspensive veto as opposed to an absolute veto for the Senate. I have not changed my mind since I signed the report of the Special Joint Committee in January. And I certainly do not agree with the new kind of absolute veto the special committee proposes to give the Senate.

I will now get back to another kind of amendment proposal, the kind that has an impact on financing. The report makes the following comment in this respect on page 5 of the English version:

Your Committee believes that the tripartite aspect of UI funding based on regional levels of unemployment is critical and must be maintained. However, mindful that the governments stated reason for abandoning its participation is deficit control. it will not recommend that that participation be retained at its current level of \$2.2 billion. Rather, your Committee recommends that one-half of the value of those weeks of benefits paid when the regional unemployment rate is in excess of 6

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

per cent, as determined in Table 2 of the bill, continue to be funded from general revenues, and not the UI account.

Furthermore, spending on the following would no longer come out of the Unemployment Insurance Fund:

(a) cost of courses and programs mentioned in section 26.

In other words, the entire training program for re – training the unemployed –

and assistance to claimants in starting a business or becoming self-employed:

provision to claimants of incentives to accept employment quickly, including bonuses and temporary earnings supplements.

What would be the budgetary impact of the two kinds of expenditures we just identified?

I think we can talk about it notwithstanding the Chair's ruling on amendments 9 and 10. This is another aspect which must be considered here, as Senator MacEachen himself did just now.

How much public money would be involved?

First, the difference between the expenditures in the benefit table from Bill C-21 and those in the table proposed by the Committee would be from \$2.6 to \$2.8 billion according to the best available estimates. Since the Committee suggests that the federal government cover half this difference – and Senator MacEachen just repeated this proposal. \$1.3 to \$1.4 billion would have to be added to the general operating budget, which really means the budget deficit.

Second, the intention behind Bill C-21 is to finance the activities just listed from the unemployment insurance fund. The Committee's proposal would mean an extra \$450 million in

the government's estimate, in addition to the \$1.3 or \$1.4 billion already mentioned, i.e. a total of almost \$2 billion.

I obtained a clarification by asking 'Senator MacEachen whether my reading of funding of fishermen's benefits was correct. I was therefore considering two hypotheses: either my reading was incorrect or it was correct. If it were incorrect and there were no transfer to the unemployment insurance fund for the expenses of the fishermen's plan, an extra \$250 million would have to be added. This is not the case.

Page 1222

In any case, the factors involved amount to nearly \$2 billion. Under the present circumstances and those that have prevailed for years, the alternative is clear. Either unemployment insurance benefits and unemployed workers' retraining are fully funded by employers' and employees' contributions or they are partly funded by government contributions. This means that they are actually financed out of the deficit.

A moment ago Senator MacEachen told us why, in his view and according to the principles outlined in Minister Mackkasey's 1971 White Paper, the government's contribution to unemployment insurance benefits and related costs, taken out of the Consolidated Revenue Fund, was a matter of principle. If I understood correctly, he told us that the government's economic policies were responsible for the state of under employment at any given time. These general economic policies include monetary policy and other factors he mentioned.

Far from me to argue that government policies do not have an impact on employment. But I must say from the outset that they are not the only factors, for it stands to reason that the behaviour, the approach and the more or less intense dynamism of the private sector also play a role in terms of employment or

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

underemployment levels. It is equally obvious that the activities of provincial, and even municipal governments have an impact on employment conditions.

This is not the reason why, as Senator MacEachen recalled, the Constitution was amended fifty – odd years ago to delineate jurisdiction in unemployment insurance.

The reason was and still is that, given the diversity of situations from one region to the next, an unemployment insurance program does not really work out unless it applies on a national scale.

If memory serves me right, it was in 1937 or 1938 that the Privy Council legal committee ruled that the Bennett government attempt to legislate to that effect, among other things, was unconstitutional, and so the agreement of the provinces was sought. They agreed to let the federal government have jurisdiction over unemployment insurance, even though it was an insurance indeed. By definition, the insurance field was linked to property and civil rights, if my interpretation of the Constitution is correct. This is the basic reason why jurisdiction over unemployment insurance was transferred to the central government.

I repeat the reason for this: An unemployment insurance program can be effective only if it is implemented on a national scale throughout Canada.

But this does not entail by any means that the ordinary budget of the federal government must provide for payment of some of the benefits. Another new principle is involved. Can anyone argue that federal economic policies alone are responsible for the employment situation. This does not seem right to me for the reasons I gave earlier.

I think we have to get back to the insurance plan, concept, that is a plan whose risks are borne by all taxpayers, namely employers and employees. In fact that is why the benefits should be paid out directly from the unemployment insurance fund.

I can see that Senator MacEachen does not accept that principle. The least that can be said is that we have diverging views and that Bill C-21 stands on a principle which is altogether alien to the opinion expressed by Senator MacEachen.

He has every right to his opinion, but all I am saying is that there is a world of difference between the bill and the approach taken by Mr. Mackasey in 1971.

By the way...

[*English*]

Senator MacEachen: And before that, senator. The federal government was in from the beginning.

Senator Tremblay: What do you mean by "from the beginning"?

Senator MacEachen: From the beginning of the Unemployment Insurance Act.

Senator Tremblay: You have just read the text of Mr. Mackasey's speech.

Senator MacEachen: Yes, there were changes in J 971, but the government was a contributor before that.

Senator Tremblay: It was not, however, put at a philosophical level, so to speak. It was common practice, but in 1971, in any event –

Senator Roblin: Do you know how much?
Senator MacEachen: It was 20 per cent, I think.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Tremblay: In any event, let us not discuss the numbers.

Senator MacEachen: Let us not discuss history.

Senator Tremblay: If we go back to 1971, and if I am well informed, at the time the estimate of the expenses arising out of the new project, including other types of benefits, were wrong by approximately \$1 billion. That is what I have heard, in any event, from some members of the government of the day. However, let us not discuss numbers.

Senator MacEachen: We might have to know sometime.

[*Translation*]

Senator Tremblay: So, the difference in philosophy is clearly identifiable.

Having said that, I wish to come back to what I mentioned earlier. In committee, we expressed our formal dissidence about what is said in the last paragraph of the report, and I quote:

This report represents the views of a majority of Committee members. Members who support the Government strongly disagree with the proposed amendments to Bill C-21.

Page 1223

What we mean by that is, of course, the key amendments. I have tried to explain why we voiced our disagreement.

These are essentially the reasons why we formally disagreed with the amendments being put forward by the Liberal majority in the Committee.

We do not accept that the Senate, to which Bill C-21 has been referred, should grant itself a new and outrageous veto in the process relating to the

assistance schemes stipulated in clause 20 and the unemployment insurance regulations pertaining to fishermen.

We do not accept either that some additional \$2 billion be taken from the budget deficit, which would be contrary to the whole basic direction of Bill C-21.

From what I could make out, the hon. Senator MacEachen, said earlier that the deficit does not result only from some programs, such as the ones we have mentioned. It can result, for example, from our monetary policy.

He told us for example that interest rates can have an impact of \$4 billion to \$5 billion on the deficit. But the thing is, our deficit is at \$30 billion.

If we look at the development of our deficit these last ten years, under three different Finance Ministers, including first Senator MacEachen, then Mr. Lalonde and nowadays Mr. Wilson, we see that the deficit, at the level it has been maintained, has been recurrent throughout the years.

That being so, it seems to me we can conclude that under the proposed amendments, this additional \$2 billion, compared to what is in Bill C-21, would inevitably add to the deficit.

Senator Tremblay: So, it is a proposal which would have the effect of adding almost two billion dollars to an already intolerable deficit. In his speech, Senator Hebert –

Hon. Jean-Maurice Simard: Where is Senator Hebert? Senator Tremblay: I'm talking from some recollection have of him.

Senator Simard: He did not think it important to be here today.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Tremblay: In his speech, Senator Hebert talked of the committee proposals as compromises. It may be so, but at two billion dollars, it is a very expensive compromise.

It was also Senator Hebert who said, and I conclude my remarks on this point –

[English]

Senator MacEachen: Senator, may I ask a question about the \$2 billion? What is the \$2 billion?

Senator Tremblay: It is half of the \$2.6 billion or \$2.8 billion coming from Table 2, as you have modified it, divided by two, or 50 per cent, which means \$1.3 billion or \$1.4 billion, plus the \$450 million for development programs, notably training for the unemployed. That brings us to \$100 million or \$200 million less than \$2 billion. That is what I am saying. It may be a little more. As you just said, the exact numbers are difficult to establish; that is why I am saying it is something in the order of nearly \$2 billion. That is the result.

Senator MacEachen: All right. I should like to follow it up to see if I can understand the figure of \$2 billion. Amendments 9 and 10 have been ruled out, so any cost there has disappeared. That leaves the government contributions, the penalty clause and the developmental uses. I do not know where the \$400 million comes in there. The honourable senator may have data from the department. If he does, I wish he would share it with us.

Senator Roblin: \$1 billion is pretty substantial. Senator MacEachen: \$2 billion is even more so.

Senator Frith: It is just twice as substantial; half full or half empty.

Senator Tremblay: I asked myself the same question about the implication of the ruling on

your proposal, which is on page 4 or 5 of the report. That is where you present the principle of the tripartite financing system. That amendment was not declared out of order, if you noticed.

Senator MacEachen: Oh, yes, I sure did.

Senator Tremblay: I am just starting from that amendment, which does refer to Table 2.

Senator MacEachen: Oh, yes.

Senator Tremblay: So I think it is clear that if you start from this amendment, which has been declared in order, and take its wording as it is, to establish numbers you have to act as if Table 2 could be considered. However, if it is out of order, and if we have to exclude amendment No.7, or whatever number we have in mind –

Senator MacEachen: No.7, yes.

Senator Tremblay: If I have to exclude all that in my analysis I am left with \$450 million for training and other activities like that, which will be financed through the general budget of the government.

Senator MacEachen: But where does the \$400 million come from? I would just like to know that.

Senator Tremblay: It is what I get from the department as the best estimate of the expenses coming from the items covered in amendment number – I will not have to go back to my office to find it. I have it here, if I can ask for a few seconds of your patience. I believe it is 26. Anyway, in French, those are the items.

[Translation]

a) for paying the costs of courses and programs mentioned in section 26;

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

d) for assisting claimants in starting a business or becoming self-employed; and

e) for providing to claimants incentives to accept employment quickly, including bonuses and temporary earnings supplements.

Page 1224

This appears on page 14 of Bill C-21. I've just read lines 13 and 14. It is written this way in the appended amendment and on lines 38 to 43. These are the items I am referring to.

It is the costs of financing those items excluded from government funding by Bill C-21 and returned to the regular budget by the proposed amendment which are estimated at \$450 million.

[English]

Senator MacEachen: But that is a saving for the government, because, for example, we struck out the assistance.

Senator Tremblay: I am not discussing the total expense now; I am just discussing the mode of financing, which refers to your principle. You say that the government should finance that, not the unemployment insurance fund. Bill C-21 proposes to finance that through the U I fund; you propose to finance that through the general budget. That is what I am discussing.

Senator MacEachen: Yes. I will not interfere with your discussion, but I gather that you stated – and maybe I misunderstood you – that there was an additional cost occasioned by the amendment to the developmental uses in the amount of \$400 million. I sought to find out in what respect, because in the section with respect to developmental uses we have stricken out certain expenditures.

Senator Tremblay: Yes, with the implication that if the same programs that are meant by those sections are implemented the government will

have to pay for them. In other words, there will be no cost to the government if we do not have programs of that type.

Senator MacEachen: Well, we would reply that we should not have one and save some money. That is what we are saying.

Senator Roblin: That is a cynical comment!
Senator MacEachen: We have said, "yes."
Senator Roblin: No training?

Senator MacEachen: No. no. We think that some of the items that we struck out under developmental uses make no sense.

Hon. Royce Frith (Deputy Leader of the Opposition): And I suggest that you do not look at them, because you will be embarrassed to find out that he is correct!

Senator Tremblay: You said that those items do not make sense?

Senator Roblin: That is what he said.

Senator MacEachen: I said that some of the items that we struck out do not make sense; that is why we struck them out.

Senator Tremblay: Because they do not make sense? Let me read the first one at least.

Senator Frith: Those amounts struck out do not make sense!

Senator Tremblay: It reads: "for paying the cost of courses and programs mentioned in section 26."

Senator Frith: It does not make sense to finance them the way the bill docs.

Senator Tremblay: That is what I am trying to say.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Roblin: That is what Senator Tremblay is saying.

Senator MacEachen: The government has the option not to spend money if it wishes.

Senator Roblin: That is what he is saying, but you will not let him speak.

Senator MacEachen: We are saying that some items here should be struck out. In other words, they have no place in this bill and will save some money.

Senator Tremblay: It is either one way or the other. On the one hand, if the programs make sense and should be implemented, they will cost something; but, on the other hand, you are saying that they should not be charged to the UI fund.

Senator MacEachen: No, they should not be proceeded with.

Senator Tremblay: They do not make sense?

Senator MacEachen: That is right. That is what I said.

Senator Tremblay: And you say, "Do not have that sort of program." That is what you are telling us.

Senator Roblin: Go tell the unemployed that!

Senator Tremblay: You are saying that paying for the costs of courses and programs and so on – that is, the whole field of training – makes no sense.

Senator Roblin: That is what he says!

Senator Theriault: That is right; it makes no sense.

Senator Tremblay: Make your choice.

Senator Frith: That is casuistry!

Senator Tremblay: I must confess that, because of the language, perhaps I have not succeeded in expressing myself clearly the right way.

From what I understand of your position I must admit that I cannot see the meaning of it, if those programs make no sense. If they are not implemented and there are no programs, of course, then it will not cost anyone anything. We assume that having training programs is one of the basic thrusts of Bill C-21 – that is, the creation of more elaborate programs for training unemployed people to enable them to be in a better position in the labour market. There is some sense in that.

Senator Roblin: He does not think so.

Senator MacEachen: Oh, yes; I agree with that.

Senator Tremblay: Then you have the problem that I stated with it. If you say that there is no sense in doing that, then you are right that it will not cost anyone anything. But the unemployed will be deprived of one of the best means to recycle themselves on the labour market. That is the only option. I assume that we will have programs of that kind.

Page 1225

I have stated all that I intended to on this point. I will conclude my remarks by referring to Senator Hebert's conclusion, as stated last week.

[*Translation*]

Senator Tremblay: Senator Hebert told us he did not like the Minister Mrs. Dougall to come and "lecture the Senators before the committee." He probably wanted to get even when he went up not to the rostrum but into the pulpit and

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

concluded his own presentation of the report with a quotation from Monsignor Valois.

I conclude my remarks in as humorous a note, supposing he made his remark humorously.

[English]

Hon. John B. Stewart: Honourable senators. I have a few words to say, prompted by what Senator Tremblay has just now said. He has tied Bill C-21 directly to what he calls "the problem of the deficit." We have been hearing about the deficit in Canada for several years, certainly since 1984. Yet Canada's debt continues to mount ever higher year after year.

During the 1980s the tactical maxim of U.S. politicians was.

"If you are going to increase the national debt, be sure to denounce the annual deficit." That was the Reagan maxim. That seems to be the maxim observed by the present Minister of Finance in Canada, namely, "increase the debt, but be sure to denounce the deficit on every occasion."

Senator Tremblay has said that in principle he is in favour of Bill C-21. In other words, he is in favour of a move toward the fiscal privatization of the unemployment insurance program. Fiscal privatization of this program is consistent with that the present government has done in other areas. I shall not question his decision to favour privatization. Clearly, however, I think he is making a serious mistake.

I want to talk chiefly and briefly about Senator Tremblay's attack upon two of the amendments made by the committee. He questions the constitutional propriety of the amendment with regard to regulations concerning fishermen's benefits. He questions the constitutional propriety of giving the Senate the statutory power to prevent changes to those regulations. Similarly, he questions the constitutional

propriety of giving the Senate the power to reject the developmental plan under which hundreds of millions of dollars are to be paid out.

If I heard Senator Tremblay correctly, he said that he will not pronounce on the constitutional propriety of the House of Commons adopting provisions such as those adopted by the special committee: instead, he focuses directly on the powers of the Senate. He states that regardless of what is proper in the case of the House of Commons, when we look at what the committee's amendments to Bill C-21 do on these two matters, they go beyond what he regards as the proper powers of the Senate.

The honourable senator referred to the fact that some years ago a constitutional amendment was proposed that would limit the powers of the Senate to a suspensive veto in legislation. That constitutional amendment has not been made. The powers of the Senate are the powers conferred by the Constitution Act, 1867. Our responsibilities with regard to Bill C-21 are those imposed upon us by the Constitution, not those recommended by a report of a joint committee.

Senator Tremblay: Perhaps the honourable senator will allow me to interject to avoid any misunderstanding that may lie between us. I am not questioning the constitutionality of the existing powers of the Senate. I merely mentioned a recommendation in the report of the joint committee in 1984. What is interesting about the recommendations of that committee is that they go far in the direction of the suspensive veto. However, I put those comments aside because they have no meaning in the present debate. I was not stating a constitutional position. I was trying to say that the other place will discuss this matter if it arises, when and if the amendments reach them. We have the amendments before us now, so let us discuss them. That is one point.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

My other point is that I referred to the report of the committee, not to say that the recommendations have been adopted but to show that there is a contrary view, which would, rather than give more power, give less power. Since I signed the report, I still agree with it. That is what I meant to say.

Senator Stewart: Honourable senators, I do not think there is any misunderstanding between the honourable senator and me on either of these points. Senator Tremblay has said that he signed the report and that, consequently, he feels, in this instance at least, bound to behave consistently with that report.

Senator Tremblay: Bound only on the basis that I bind myself.

Senator Stewart: Very well. Senator Tremblay, in conscience, feels bound not to go beyond the powers of the Senate as described in the report he signed. Of course, many of us did not sign that report. .

Page 1226

The fact is that if we allow Bill C-21 to pass the Senate, with or without amendment, we will have delegated great legislative power to the government to plan and to make payments. We cannot evade that fact. For years both the House of Commons and the Senate, especially the House of Commons, have grappled with the problem of controlling orders in council and regulations as a result of the delegation of legislative power. In the literature on parliamentary government probably no topic has taken up more pages since the Donoughmore Commission Report of 1932 in the United Kingdom than the problem of controlling delegated legislation.

As I read the report of the Special Committee on Bill C-21, it proposes that in this situation, where enormous powers are conferred by the Senate and the House of Commons on

bureaucrats and ministers, a procedure be adopted by which the Senate can evaluate what has been done with that power. That seems reasonable to me. It is true that if we had only a suspensive veto it might be logical and consistent to cut back our power to evaluate and set aside regulations and other statutory instruments. However, as long as we have our present constitutional power, as long as we have full constitutional responsibility for how that power is used, which we cannot evade, it seems to me that it is not only desirable but, indeed, our duty to provide mechanisms, such as those proposed by the committee, to assure that the legislative power we are delegating is used in a manner we regard as proper. I realize that Senator Tremblay regards himself as being restricted by a report which he signed, but I do not feel restricted by that report, and I suspect that most senators do not feel restricted by that report. Rather, what impresses us is the amount of delegation to the Governor in Council and to ministers which takes place and the need for the Senate to be mindful of the need to devise techniques by which to assure that that power is exercised in a proper and responsible way. The word "responsible" is the word I want to emphasize. The amendments that provide members of each house with opportunities to review and vote on the developmental plans and the regulations are intended to assure responsibility to Parliament.

[Translation]

Hon. L. Norbert Theriault: The work done by the Special Committee on Bill C-21 and my participation on it were one of the highlights of my time in the Senate.

Hon. Paul David: You are forgetting Bill C-22, Senator Theriault.

Senator Theriault: Honourable senators, I have tremendous respect for Senator Beaudoin's constitutional knowledge. I have tremendous

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

respect for Senator Tremblay's knowledge of joint federal – provincial programs. I must tell you that, as for their knowledge of the problems of the unemployed, having listened carefully to them for several days, I am more and more convinced that it was never one of their priorities, because they are ignorant of it, or if they do know something, they did not show it by their participation in this debate.

[*English*]

Honourable senators understand that I have been in this place for ten years. I reluctantly take the position that the Senate should contravene the wish of the House of Commons. There comes a time when one who has served in this place for a period of time – one who was appointed, as all of us were, under the Constitution as it exists and one who knows quite well the powers of this place – must speak out. When he feels that the rights of the poor, of the downtrodden and of the handicapped are being trampled upon by a government, whether it be Conservative or Liberal, then that person, as an individual and as a member of this place, must stand up.

Many people who have appeared before the committee have told us that no other piece of legislation ever placed before the House of Commons or before the Senate by any government has been such a direct attack upon the poor and the poorer regions of this country. While I can understand with some trepidation the positions of Senators Beaudoin and Tremblay, I am anxiously awaiting the position and the participation in this debate of senators from Atlantic Canada. I hope, honourable senators, that we hear from Senator Simard, my colleague from New Brunswick, and from Senator Robertson. I hope that they will make good their positions as stated when the committee visited St. John's, Newfoundland, and Canso, Nova Scotia.

Senator MacEachen: Hear, hear!

Senator Theriault: One of the statements of Senator Simard and Senator Robertson warranted a headline. Honourable senators, I can understand that they have only been in this place for four or five years – they are still seeking headlines. The headline states: "Tory senator hints at changes to unemployment bill." All of us are anxiously awaiting the changes that Senator Simard and Senator Robertson will propose to this house.

Honourable senators, as I have said, Bill C-21 is a direct attack upon a system that has been in existence since 1941, when the Government of Canada sought an amendment to the Constitution so that we would have in place an unemployment insurance program. Why would the Government of Canada want the legal authority, the constitutional authority, for an unemployment insurance program? Why would the ten provinces cede their rights to such a program to the Government of Canada? The reason is that at that time the Government of Canada recognized the need for the protection of the workers and the unemployed of this country. I recall that as a young man in New Brunswick in 1956 and 1957 I happened to be chairman of an association known as the Commercial Fishermen Association of the Miramichi. We chased Minister Gregg, who was then the minister responsible for New Brunswick in the federal cabinet, to try to impress upon him the need for something to be done for the fishermen through the unemployment insurance program.

Honourable senators, since 1941 we have had Conservative governments. One served from 1957 to 1962 or 1963 under Mr. Diefenbaker. One served for a short period of time in 1979 or 1980 under Mr. Clark. But not one of those governments either touched, or let it be known that it had any intentions of doing anything with, the unemployment insurance program so as to affect the poorer people of our country.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I say to my colleagues from the Atlantic provinces; I say to my good friend Senator Rossiter, whose family I have known for a long time; I say to Senator Simard; I say to Senator Robertson, to Senator Doody and to every other senator, especially from Atlantic Canada and from Quebec, where there is an unemployment rate of 10 per cent: You should stand up to the Government of Canada, regardless of political stripe, and you should tell the Government of Canada: "I will not stand for the eroding of the acquired rights of the poor people – rights they have acquired since 1941."

I can honestly tell honourable senators that if I had had my way on this committee we would not at this moment be debating the amendments, because my recommendation would have been to kill that bill. And I believe that that is what we should have done. That is what we were told we should do.

Page 1227

Right now I am getting calls from people who appeared before our committee telling me that they are very disappointed in us. And I say to the Government of Canada, for my part, at least – and I am not speaking for any of my colleagues – beware, because if you do not do something to lessen the harm that YOU are imposing on my people in New Brunswick, you may not get any part of your bill at all.

Honourable senators know that when we were in Canso and when we were in St. John's. Newfoundland, my colleagues from the government side were there. We heard from people who were concerned, from people who were afraid. It is possible that Senator Beaudoin and Senator Tremblay do not know what it means, as my leader has said, to be without a job and possibly not to qualify for unemployment insurance benefits. These people may have to go directly to the welfare office. This is what Bill C-21 will do to hundreds of thousands of people in

the Atlantic provinces and in other parts of Canada if it is allowed to go through.

We were told in Canso that if we allowed Bill C-21 to go through, it would mean the end of 450 years of fishing, the end of fishermen's livelihoods in that area. Maybe Senator Tremblay does not know that. Maybe Senator Beaudoin does not know that. I am sure that Senator Simard and Senator Robertson know that but for the unemployment insurance program that has been in place since 1941 there would not be even 10 per cent of the fishermen engaged in that industry in Atlantic Canada who would still be there. And I do not pretend for a moment that Bill C-21 abolishes unemployment insurance; it does not. What it does, as was pointed out by Senator Stewart, is to privatize the unemployment insurance program. That is what it does. Only the employer and the employee will contribute to the program if Bill C-21 is allowed to go through.

Honourable senators, I beg my colleagues from the Atlantic provinces to take a look at this legislation. I beg them at least to support the amendments we are proposing, and I ask them to tell the Minister of Employment and Immigration, the Honourable Barbara McDougall, what this will do to the people in Atlantic Canada.

It is time the Conservative government realized that it is a falsehood to say that there are jobs available for everybody in Canada. I have spent 30 years in public life, 20 years in the New Brunswick legislature and 10 years here, and I know because of my past responsibilities that when jobs are available people will work. Why is it that over the last couple of years we have had just 3 per cent and 4 per cent unemployment in Toronto? Is that not proof to the government of the day that people will work when jobs are available? How many thousands of people have had to leave Newfoundland, Nova Scotia, New Brunswick and P.E.I. over the last four or five

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

years to go to Toronto to work for six or eight months at a time in order to earn some money and earn the right to collect unemployment insurance benefits so that they can return home and live with their families for nine or ten months out of eighteen months? Is that such an awful situation that the government wants to destroy it?

Is it any wonder that this government is at 20 per cent in the polls? I do not begrudge the government the right to increase or to levy taxes, but they should do so honestly. If the GST has to be 10 per cent, then they must tell the people it has to be 10 per cent. They should not destroy a fundamental program that has been in existence for the betterment of life of the poor people in this country.

Honourable senators, I notice many terrible things in this bill. I cannot understand how the Leader of the Government in the Senate, whom I have watched work in New Brunswick and who appeared to be a compassionate person, can support this bill. I cannot understand how my colleague, Senator Simard, whom I have watched work with the government of New Brunswick and whom I believe to be a compassionate person, can support this bill. How can they, simply because they are told to do so by someone, acquiesce to the wishes of the government a government that does not understand the problems of the people in Atlantic Canada?

If the deficit is a problem and I am not denying that it is – I would point out that since 1984 we in this country have experienced our most important economic boom since the Second World War. It is my understanding that governments usually have to increase deficits and spending when the economy is bad, but that when the economy is good they collect more revenue and decrease the deficit. What has gone wrong?

Eighty per cent of the people of this country believe, rightly or wrongly, that this government has been too busy with generous subsidies to their friends in big corporations and that they have forgotten about the poor. That is what the people of Canada believe, and it is time the government woke up, because, if they do not, the people will wake them up.

Honourable senators, I am also very concerned about the penalty clause contained in Bill C-21. Why should people be labelled as criminals because they leave a job? Who knows what a person in any particular job has had to put up with and why he or she has had to leave that particular job? Those are personal decisions and decisions that would only be made with good reason. The truth of the matter is that when jobs are available the unemployment rate goes down to 3 per cent or 4 per cent. I am not suggesting that every single person who leaves a job does so with good reason, but I am saying that since 1945 we have learned that people will work when jobs are available.

What does Bill C-21 do to a person who leaves a job?

Immediately, he or she is found guilty. We all know that under the justice system in this country a person is innocent until proven guilty, but under this legislation a person would be deemed to be guilty of having left the job without reason. That person is penalized for a minimum of seven weeks and up to twelve weeks. As if that were not bad enough, that person is then penalized down the road for six more years in order to pay back that debt to society. Who could ever imagine a government having such a cold – blooded vision that it would tell people that if they leave their job they are going to be penalized not only for six or twelve weeks but for six years down the road? Honourable senators, I am sure you are aware that people convicted of manslaughter can be

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

released after two or three years. That is not the case for poor people who leave their job.

Page 1228

Does the government understand what kind of menacing weapon this puts in the hands of employers, and what uses may be made of that menace? It can hang over the heads of workers if they do not do exactly what they are told. If they are five minutes late, or unable to come to work because of sickness, they may be deemed to be guilty and penalized for up to six years.

I would again ask my friends on this side to think about the gravity of this kind of legislation. I hear our Prime Minister saying that we are a tolerant society, and I believe Canadians are tolerant – we have shown over the years that we are prepared to help the poor in our society. Why don't my colleagues wake up? I appeal to their better human nature and ask them to tell Mrs. McDougall that in 1990, after six years of economic boom, we are now heading towards a slowdown in the economy, when everyone agrees that there could well be more unemployed next year. Where has the Government of Canada been for six years? If they wanted to be so radical, why did they not introduce this kind of legislation in 1984 or in 1985, when the economy was on the upswing? Don't they realize what they are doing to the people of Canada who cannot defend themselves? They say they will train these people. In Canso I talked to a 53 – year – old woman who worked in the fish plant. She asked us, "What are they going to train me for – singing and dancing? I'm kind of old for that." I agree that training is needed.

This afternoon someone mentioned Walter Gordon and the suggestion he made about moving people from Atlantic Canada. As you know, the Liberal government and the Liberal Party certainly paid the price for listening to that suggestion in 1957. My friends, if you think that this government is not going to pay the price, you have another think coming.

The government is saying it will give \$15,000 to people to move. To move where? To do what? As bad as it is in the Atlantic provinces, a family – a husband and a wife and three or four children – is better off without a job in Atlantic Canada than getting \$15,000 to move to Toronto and then not being able to find a job there. This is one of the things the government says it is going to do under Bill C-21.

I am pleased that we are at least amending the penalty clause, if the bill is not to be killed, because the Leader of the Opposition in the Senate felt that it might be too much to ask the Minister of Finance to absorb what he might have planned with respect to Bill C-21. No one will ever make me believe that Bill C-21 is a product of the Minister of Employment and Immigration. It is a product of the Minister of Finance.

I do not know how many people have figured this one out. I do not know what the budget says, but people are saying that the Minister of Finance should cut \$3 billion or \$4 billion out of the deficit. Do you know that Bill C-21 is a \$4 billion item?

It is a \$4 billion item, \$2.8 billion of which the Government of Canada contributed in 1988 to help finance the unemployment insurance program in areas of high unemployment. It is at least as much this year, \$2.8 billion or \$3 billion, plus \$1.2 billion that the government is going to get from the employers and employees of Canada, starting in 1990. It has already started collecting higher premiums, which would provide it with another \$1.2 billion.

If the budget contains a reduction in the deficit of \$4 billion today, it will mean the Minister of Finance and the Minister of Employment and Immigration have gone into the pockets of the employers and employees of Canada to plug that \$4 billion hole. Honourable senators, we are suggesting that we return the penalty clause to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

what it was before. There are stories to be told. If I repeated some of the things I heard from the employees and some of the employers, not a single person in Canada would support Bill C-21 if they really knew what it was aiming to do.

Honourable senators, like my leader, I respect the decision of His Honour the Speaker, because I agree with the theory that the Senate should not levy taxation or increase expenditures. I accept that, but I will not be satisfied with the accuracy of the figures supplied to the Speaker until two years have elapsed. There is a fundamental difference between what the government says will happen as a result of Bill C-21 and what four or five other reliable organizations have told us will happen.

According to the government, my province of New Brunswick could lose \$70 million; but three other organizations, with all of their facts and figures, have said we could lose up to \$165 million. Can you imagine what that could do to the economy of my province, especially when that \$165 million would come from the poorest people?

MOTION IN AMENDMENT

Hon. Norbert L. Theriault: Honourable senators, I would not have accepted all of the amendments proposed by the Leader of the Opposition if I had not been assured that I could move another amendment. I am about to do that.

Honourable senators, I move, seconded by – Senator Kirby is not here, so maybe Senator Simard.

An Hon. Senator: Don't hold your breath!

Senator Denis: He will never do it!

Senator Theriault: Honourable senators, I move:

That the Report be not now adopted but that it be amended

(a) by deleting, on the third page of Appendix A, the first three lines of amendment number 8 and substituting the following:

"8. Page 33, clause 53: Strike out clause 53 and substitute the following new clause:

53. (1) All that portion of subsection 130(1) of the said Act"

(b) by adding, on the fourth page of Appendix A, immediately after amendment number 8, the following:

8.1 Page 33, clause 56: Strike out subclauses 56(3) and (4) and renumber the remaining subclause accordingly."

Page 1229

Honourable senators, I know that amending such a bill is not simple, and I am sure that everyone has grasped the meaning of my proposed amendments. If not, I will try to explain. Amendment as contained in the appendix of the committee's report, does two things: one, It provides protection for existing fishermen's regulations –

The Hon. the Speaker *pro tempore*: Honourable senators, you are moving the motion. Do I understand correctly that the seconded is the Honourable Senator Simard?

Senator Simard: No!

Senator Frith: You can think it over.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Theriault, seconded by the Honourable Senator Stewart,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

That the Report be not now adopted but that it be amended

(a) by deleting, on the third page of Appendix A, the first three lines of amendment number 8 and substituting the following: –

Senator Frith: Dispense!

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

An Hon. Senator: Explain!

Senator Theriault: Honourable senators. I repeat, amendment, as contained in the appendix of the committee's report, does two things: one, it provides protection for existing fishermen's regulations. Proposed changes in regulations could be vetoed by Parliament under amendment No.8. Two, the committee's amendment also strikes out subsection 130(4) of the UI Act. This subsection allows the government to terminate the entire fishermen's program by simple proclamation.

These are the two things that amendment 8 does. However, what it does not do is maintain government contributions for fishermen's benefits. Clause 53 of Bill C-21 says:

Subsection 130(3) of the said Act is repealed.

This subsection, 130(3), provides that the government must make up the difference between premiums paid by self-employed fishermen and the benefits paid to these fishermen. Clause 53 of Bill C-21 would end the government's contribution. The UI fund alone would be responsible for all benefits, by amendment, by striking out clause 53, would prevent the government from withdrawing its contribution. It would leave in place subsection 130(3) of the act.

I believe that answers your second question, Senator Tremblay.

The second part of my motion can be described as a consequential amendment. It would strike out subclauses 56(3) and (4) of Bill C-21.

Subclause 56(4) describes what will happen to fishermen's benefits and premiums once clause 53 comes into force and the government no longer contributes. Since my motion will not allow proposed clause 53 to come into force – since it will not allow the government to end its contributions – there is no necessity for subclause 56(4). In fact, this subclause would be inconsistent with how the bill would read should my motion be accepted.

Subclause 56(3), which I also propose to have removed from Bill C-21, is very similar to subclause 56(4), except that instead of dealing with fishermen's benefits it is conditional on the government's clause 52, which deals with government contributions for matters other than fishermen's benefits. Since the committee has recommended that the government continues making contributions to the UI fund, subclause 56(3) of the bill should be removed. This is another consequential amendment.

Honourable senators, thank you for your attention. I heartily recommend to all my colleagues, especially my colleagues on this side of the house, to support my amendments.

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Theriault, seconded by the Honourable Senator Stewart, that the report be not now adopted but that it be amended – Do you wish to dispense?

Senator Frith: Yes.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Those in favour please say yea.

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Those opposed please say nay.

Some Hon. Senators: Nay

The Hon. the Speaker *pro tempore*: In my opinion, the yeas have it.

Motion in amendment adopted, on division.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, now that we have reverted to the main motion, and considering Senator Theriault's speech which we have just heard, I would like to make the following comments. First of all, as far as I am concerned, Bill C-21 proposes an unemployment insurance system that will be fairer, more effective and less expensive. I think it remains close to regional circumstances.

Page 1230

However, before considering the bill itself, I would like to make a few comments on the speech we have just heard. Of course, after nearly 20 years, Senator Theriault's comments are always a source of great interest and sometimes of amusement.

Hon. Joseph-Philippe Guay: You weren't smiling a while ago.

Senator Simard: Honourable senators, we appreciate his sincerity and his talents as a good speaker. We admire the passion he puts into his comments. However, he 'does not always draw the logical conclusions of his premises.

He told us earlier that many Canadians were calling to let him know that Bill C-21 was a disaster and that it would have a disastrous impact on the economy of the Atlantic Provinces and on private citizens.

He added that all these people asked him to "kill" the bill.

We heard the same message from witnesses who were chosen, I must say, rather selectively, by the committee chairman, Senator Hebert and often by him alone or by his Liberal colleagues, often without any consultation with conservative senators, and I will get back to that later on. Out of the 100 or so witnesses who came, I would say, at the invitation of Liberal senators who almost without fail, in the course of their testimony or in concluding their testimony, when asked by the Liberal senators whether the Senate should kill the bill, I would say that 90 per cent of these witnesses who, I repeat, were carefully selected by the Liberal senators, said yes, that is the best solution, that is what we want you to do.

Hon. Azellus Denis: What about the unions, Senator Simard?

Senator Simard: Throughout his speech, Senator Theriault told us he had the pulse of Canadians, unlike the Conservative senators who merely followed the path indicated by Mrs. McDougall and the Prime Minister. He told us that even if all these people asked the Liberal senators to kill the bill, he would not do it. Where is the logic in all this?

I was disappointed in Senator Theriault's speech for a number of reasons. He did not make sense. I think we all had a right to expect him to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

say he would not support the Opposition's amendments, following the report by Senator Hebert. But no, it would seem that he decided to give us another example of blind partisanship. He did not practice what he preached. He ignored all the pleas and requests he received, he said, and he would be satisfied with amendments. I will not say any more about Senator Theriault's logic.

Senator Joseph-Philippe Guay: That doesn't mean a thing, Senator Simard.

Senator Simard: No, it is significant. Senator Theriault explained why the Conservatives have a 20 per cent support among Canadians and he tells us that it must be because of the public's perception that the government only listens to big corporations and is only interested in giving money to big corporations. We know, honourable senators, that Liberal senators and probably the entire Liberal Party like to play on perceptions and skew our perceptions of reality.

I would rather believe that the public knows what it is doing.

It probably thinks it is hard to accept and hard to understand why the government must take several measures aimed at raising more money to reduce the deficit. I prefer this interpretation. It continues to wait for alternative solutions from the opposition. I am confident that the Liberals, even if they go up in the polls during the next three years, when they see no serious alternative proposals coming from the opposition, will take a good look at their record and say, yes, three years ago, we thought it was hard, but maybe this is the only group that can manage, realistically, effectively and in a businesslike manner, the destiny and the finances of this country.

[*English*]

Honourable senators, there is no quick fix. The Liberals would have us believe that since 1984 they have discovered that there are quick fixes; that they have all the answers. However, apart from scrapping the free trade deal and threatening to scrap the proposed GST legislation, they have nothing else to offer. They seem to think that, while continuing to print and dish out money, somehow interest rates will go down. They seem to think that by cutting taxes they will somehow get more money. That, too, is a quick fix. It is rhetoric. I do not think there are any quick fixes.

Since we were talking of Atlantic Canada and the effect that Bill C-21 might have on that region, thinking of quick fixes reminds me of another quick fix that is proposed by Vince McLean, the Leader of the Opposition in the Nova Scotia legislature. His quick fix is this: "Let's get three Nova Scotia Tory MLAs and have them cross the floor to our side. I will then be Premier of Nova Scotia. That will then quick-fix the depleted fish stock." That, honourable senators, is his version of the quick fix.

Senator Theriault: That is what Mr. Hatfield did!

Senator Simard: Honourable senators, it is as if making Mr. McLean the Leader of the Government of Nova Scotia could resolve the problem of the fish shortage in that area. I am using that example to show that these types of arguments and quick fixes will not work in relation to the public. They might work for a couple of years, but unless there is a proper alternative to this government they will not work.

However, if this government continues to manage this country to the best of its ability, keeping in mind the limited resources that we have and the fact that the deficit must go down and interest rates decrease, then that means we

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

must tighten things up, including the unemployment insurance fund.

Honourable senators, Senator Theriault tells me I have been on my feet too long. He also tells me that when we were in Canso I should have known better than to play to the crowd and seek the headlines. I say to Senator Theriault that he should know that I was in the newspaper business for three months in 1988, before I left that job. However, while in that business I was never able to tell the newspapers which headlines to print. I must hasten to add that it was never my intention to do so, and I never tried.

Page 1231

Senator Theriault: They were hopeful.

Senator Simard: If there is one person who sought and got his headlines in Canso, it was Senator Stewart. Whatever I said in Nova Scotia was exactly what I said at the first meeting, at the second meeting and, indeed, in between the meetings of the special committee studying Bill C-21. What I said was that I, and the government of the day, will always listen to people; that the government has listened during the work of the House of Commons committee, and that we will continue to listen to the people. What I said in Ottawa I happened to repeat in Nova Scotia and in Canso. That, to me, is not earth-shattering, and it is certainly not a ploy for a headline.

However, Senator Stewart, using an old-fashioned trick, said: "Simard has not travelled on the road to Damascus." Let me assume honourable senators that I travelled no different road in Canso than I do in Ottawa. Therefore, Senator Stewart called for that headline, and he is welcome to try again, because it works.

Hon. John B. Stewart: Senator Simard, I have been sitting here quietly listening to your rhetoric. I am sure that the people in the other place are very depressed right now; they are listening to Mr. Wilson's budget presentation.

Why are you depressing us here in this chamber? You led us to believe – indeed, you led many people in Canso to believe – that there was something to be hoped for by reason of what you said when you were there. Certainly that was my understanding of what you said. I believe that hundreds of people interpreted your sympathetic hearing of their presentation and what you said exactly as I did.

Now you are saying that we were all wrong. Now that you are back in Ottawa you no longer see the light.

Senator Simard: No, that is not what I am saying.

Senator Stewart: The light has gone out; darkness has descended once more upon your mind.

Senator Simard: No, Senator Stewart, you misunderstood. I am not blaming the newspapers for wrongly reporting this matter. They reported it correctly –

Senator Stewart: You are on record in the committee – Senator Simard: Yes, I am on record, and I repeat that what I said in Canso I had said at various committee meetings; namely, that I would continue, with my colleagues, to listen and to try to see if something new would emerge, something that had not come out during the hearings in the House of Commons committee.

Senator Stewart: But you said that –

Senator Simard: Please let me finish, senator. I know it is hard for you and some of your colleagues, but there is nothing that I can do about that.

I am not criticizing or chastising the press for what they put in that newspaper. We too are compassionate; we are reasonable people. Mrs.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

McDougall is reasonable. That is the point we are trying to make. However, if it cannot be shown to us that there is anything terribly wrong or bad in this bill, then, of course, there would be no need to make amendments to that bill.

In previous legislation this government has shown that it can be convinced to change its mind when something is shown to be perverse or wrong.

[*Translation*]

Honourable senators, I would like to come back to the bill itself I know that it is customary in this chamber not to name colleagues who are absent or criticize them for being away. With your permission, I must make an exception to this honourable tradition since today in this House we are considering the report of a committee chaired by one of our colleagues, Senator Hebert. We know that it is a result of the personal initiative of a senator who no longer chairs that committee but who directed it for two months. We would have liked him to start earlier, for one thing. I would have liked Senator Hebert to be here with us today.

I think that his absence shows an arrogance, an indifference, a certain desire to crusade, as Senator Tremblay described it. I wonder whether Senator Hebert is serving the institution of the Senate by his absence today. We know that with his iron fist in a velvet glove, he guided, controlled, arranged and decided everything for the members on both sides of the committee. That is in stark contrast to the spirit of conciliation or cooperation which might have led to the negotiations Senator MacEachen spoke of earlier between the House of Commons and the Senate to reach a fair and equitable compromise.

I wish the same desire to cooperate had been present within the Senate Committee which dealt with this bill. It was not, something I find rather regrettable.

Upon his return, Senator Hebert may wish to indicate to us whether he feels it is still possible and desirable, in view of the Committee's experience and if he agrees with Senator MacEachen, if there exists a true desire to negotiate and cooperate.

Honourable Senators, Senator Hebert suggested also that the recommendations contained in his report are of such moderation that they should be acceptable and that the witnesses who were heard were the profound conscience of the country.

He referred – I will return to that later – to the witnesses who were heard and the way they were selected. When Senator Hebert mentioned in his report that one of the reasons why the Committee should have heard again some 40 or 50 witnesses which the other Committee had already heard was that they had not had sufficient opportunity to prepare before appearing before the House of Commons' Committee.

In my opinion, the Committee proceedings and the testimony will bear witness to the fact that 80 per cent of what was heard during this exercise was identical to what the House of Commons' Committee had heard. Senator Hebert suggested that they had not had the time to prepare last Summer. Often those who testified did not even take the trouble of changing the date appearing on the text of this brief to the Commons Committee. They simply provided us with a copy of their presentation to the House of Commons' Committee. This says a lot about the need for the Senate to hear all these witnesses again.

Page 1232

But let us deal now...

Hon. Philippe Deane Gigantes: Would Senator Simard entertain a question'?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Simard: Probably later on. Senator Gigantes. I have no problem with your doing it now, provided you do not take too much of my time!

Senator Gigantes: I was simply wondering if you were suggesting that the Senate should not carry out its own investigation but accept all which goes on in the House of Commons'?

Senator Simard: I was planning to deal with this aspect and, as a matter of fact, I was coming to that.

To continue, therefore, and at the same time answer your question, Senator Gigantes, Senator Hebert suggested that.

[English]

The bad Tories – oh, the bad Tories!

Senator Frith: That's a redundancy!

Senator Simard: The Prime Minister never said that he did not really want the Senate to do its job and that they were an unnecessary evil, or whatever, and that they should not study the legislation. The Prime Minister never said any such thing. We never said such a thing. The Senate has its place in this Canadian system and the Prime Minister knows that.

Senator Frith: At least he has learned that much.

Senator Simard: He never said, "Do not study the legislation." What he said, and what we say, is that we should start by prestudying the bill or, if not, get to the study when the legislation is tabled here, and not wait two or three weeks, as was the case with Bill C-21, when we dragged our feet through November and December and pretended to be very active suddenly in January,

Senator Frith: Pretended to be active'?

Senator Simard: Yes.

Senator Frith: I thought you were pretty active in January.

Senator Simard: We were active, yes.

Senator Frith: You; you were.

Senator Simard: Being active and being constructive at the same time are two different things.

Senator Frith: That depends on the point of view.

Senator Simard: I just referred to those 40 or 50 witnesses that had been heard. To answer Senator Gigantes, yes, we should hear them.

[Translation]

Yes. Senator Gigantes, we should listen to them, look at this seriously. But I submit the committee should have gone to work earlier, hearing as many witnesses as possible, listening to the full range of Canadian views rather than only to those who almost make it a trade – some groups from the left especially – who almost make it a trade to peddle their submissions from committee to committee, from one House to the other, if not – one province to another.

I recognize the need for the Senate to work properly, but in a constructive way, to give everyone his or her chance. It must also do this in a timely fashion so as not to deprive of benefits people in my province and my Atlantic area, as is now the case.

Senator Gigantes: If I understand correctly, you have doubts about the intellectual honesty of our witnesses'?

Senator Simard: No, I have been critical and I have wondered for some time and still wonder

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

about the strategy used by the majority of the Opposition members in this House.

Senator Gigantes: We did not question the honesty of witnesses.

Senator Simard: You had a very clear strategy, it was orchestrated, planned. Premeditated.

Indeed, we are hearing the same threats against coming legislation.

Senator Gigantes: Who is making threats'?

Senator Simard: The Opposition. You want to show you are really at work, you are the only champions of the poor and the defenceless, as if this Conservative Government was being hard and wanted to parish everybody.

Senator Gigantes: All you have to do is join us.

Senator Simard: Honourable senators, as I said, bill C-21 enhances fairness and efficiency while reducing the costs to all Canadians.

It is my view that few Canadians, despite the wishes of Senator Theriault, supported by the Canada Labour Council study – Senator Theriault referred to perception. He does nothing to improve people's perceptions and telling them the whole truth. He keeps referring to that \$165 million figure, an estimate by the Canada Labour Council of the impact of Bill C-21 on New Brunswick.

I believe he neglected to mention that the Unemployment Insurance Commission suggested a figure of \$47 million.

Hon. L. Norbert Theriault: \$165 million.

Senator Simard: You referred to 165 million. I heard you say so earlier, and you said it in

committee hearings. For the benefit of the people in the visitors' gallery or those listening to the CBC in Moncton, he keeps referring to 165 million, while in committee, he said that a more accurate figure would probably be between the two,

Senator Theriault: That's what I just said.

Page 1233

Senator Simard: You didn't say that before. I heard \$165 million.

Senator Theriault: You must have missed it.

Senator Simard: Very well, I'll take his word for it. I have no problem with that.

So you say it's not \$165 million but probably between the two.

Senator Theriault: It could be \$164 million!

Senator Simard: We're getting there!

There was one section of the bill I was concerned about, and in fact it was the subject of Senator Theriault's amendment. It was the fact the government might decide to adopt regulation, at the suggestion of employers and employees who would be the only ones to contribute to the Unemployment Insurance Fund. This could be a threat to fishermen, I am referring to the possibility that \$150 million in benefits would be lost to the fishermen, I asked about that. It was one thing I had a problem with when we sent to Canso. I made inquiries. It is true that according to Bill C-21, a simple regulation could prevent payment of this benefit to fishermen.

The government goes on, and irrespective of what Senator MacEachen and Senator Theriault were saying earlier, although indirectly, but Senator MacEachen told us that once the government had withdrawn its contribution, it no longer had any moral authority over employers

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

and employees to make them pay benefits to fishermen. I don't think that is the case. First of all, the government explained that the plan, the unemployment insurance plan, had been examined in terms of the needs of all people in the Maritimes, all the unemployed, including fishermen, and that employer and employee contributions would be sufficient, except in the case of a catastrophe or an economy that was so poor that the government might be asked to lend 1 or 3 billion in 1992.

Senator Theriault: 3 billion.

Senator Simard: That is a possibility. I don't think that as long as we have senators and members of Parliament from the Maritimes, and especially as long as the process of regulation, or deregulation or approval of the new regulations continues, the government would pressure employers and employees who would refuse to pay for Maritime fishermen. I don't think there is any danger of that happening.

First I was told that the regulatory process involved briefings and media coverage. It is a long process. It is not something that can be done in the middle of the night as the Mulroney Lake foes would say.

Senator Theriault: They struck the Meech Lake Accord in the middle of the night! Could we do the same?

Senator Simard: No. I think the process is sufficiently structured to allow for alerting the public as well as elected and non-elected officials particularly senators who have the responsibility of representing the regions. This should be enough to prevent even bad Tories, as our friends opposite, especially Senator Gigantes, frequently call us –

Senator Gigantes: I never said that.

Senator Simard: – from thinking about without following up on this.

I think I would have perhaps been more comfortable but I do not see what's so bad about it.

I even asked a witness from Ontario who appeared before the Committee and seemed to tell us, with the encouragement of some Liberal senators, whether it was normal ... The question was asked by a Liberal senator whose name I forgot, perhaps it was Senator Theriault. He asked the witness: "How, as an Ontario resident, do you see the taxpayers of that province paying for Atlantic fishermen's benefits?" Honourable senators, I did not have any problems with that: it is what I said. And that witness told us he did not have any problems with it either. Either the program is national or it is not. We are talking about a national program.

In spite of Liberal senators' predictions on this Bill, as far as I know, this is not what the government can or wants to do. Bill C-11 will not and should not lead to 10 provincial unemployment insurance systems. It remains a national program. Liberal senators are telling us that the Mulroney government is so obsessed with the free trade agreement and with pleasing the Americans that it wants to harmonize our system with that of the United States. We know there are practically 50 different unemployment insurance systems in that country. We may be bad, but we must be a little logical.

[English]

It stands to reason that you cannot harmonize a Canadian system with 50 different U.S. systems. Even we Tories understand that.

Senator Theriault: The philosophy is the same.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Simard: We may be bad, but we are not that bad.

We might be strong, but we are not so strong that we can harmonize something with 50 different systems.

[*Translation*]

In conclusion, honourable senators, I welcome the initiative to have a further \$350 million reallocated to develop the technical and technological skills of unemployed Canadians who will go on receiving UI benefits.

It is my hope that as soon as possible we can also look at the plan under which \$800 million from the L'employment Insurance Fund can be invested into co-operative training. This is 50 per cent of the current \$1.7 billion contribution.

I hope we can look at the plan to be submitted by the government, the plan under which labour, the provincial governments, the Canadian government and corporations can spend that money.

For people in our area, even though jobs are getting scarcer although there are jobs, the Canadian government will have to change its ways and encourage, if not decentralization, at least the establishment in our area of government agencies among others to refer to the jurisdiction of the Canadian government and Parliament, and stop accumulate in Ottawa all those new with all those jobs here that could very well go to the Maritimes.

Page 1234

Speaking of New Brunswick, Senator Hebert informed us that unemployment had risen throughout Canada except New Brunswick. He found it amusing that I was surprised because, not knowing he would do so, I referred to the fact that in New Brunswick indeed unemployment decreased in January. I knew

that. He referred to that but forgot to tell us why. I will not dwell on that except to say that in my view, New Brunswick is now starting to enjoy the benefits of federal policies and the of the Free Trade Agreement that encourage mining and forestry.

It is fair to say in my view that Mr. McKenna also will recognize the provincial government also is enjoying significant increased windfalls and transfers from the Canadian government. Admittedly, some credit is due to Mr. McKenna's good administration, but the Canadian government contribution through the two initiatives I mentioned earlier – Free Trade and the other – should not be totally ignored.

I would have appreciated for instance that Senator Hebert had stated that the New Brunswick government, through its minister Mrs. Landry, supported Bill C-21 and asked that the Senate pass it. Although Mrs. Landry recognized the bill had some weaknesses, flaws and imperfections, she stated these could be offset through administrative means or regulations. Senator Hebert, being as selective on this as he had been in the choice of witnesses among other things, chose to ignore this.

He referred to Mr. Valois, he referred to all the people from the left he could muster. But this he forgot. No, I am not questioning Senator Hebert's intellectual sincerity. I am simply blaming an oversight.

To support my case, I may remind you that the Government of New Brunswick, for which I have the greatest respect, has the right to speak for more than 700,000 people. I think its position is just as valid as that of a number of associations from New Brunswick who came to ask that the bill be rejected.

I know it bothers Senator Theriault when I mention this. I was one of the people who, with the support of Senator Theriault, I may add,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

asked the Government of New Brunswick to make a presentation, since it had been denied this opportunity by the House committee. I was pleased when it was given this opportunity. I was also pleased, and it came as no great surprise that Mrs. Landry, who was probably more realistic and more aware of the limits of power, concluded that it would be in the interests of the people of her province to adopt this bill. I just wanted to make that clear.

In concluding, I want to say that fishermen's benefits remain unchanged in the present bill.

The so-called safety net for people who become unemployed remains. This applied not only to New Brunswick but to other provinces as well, where people are trying to break the vicious circle of a few weeks employment followed by 39 or 40 weeks on unemployment insurance.

I think Canadians agree that an effort should be made in this respect. A little like what was done in 1971 or 1981, the last time the Liberals changed the Unemployment Insurance Act. I think it was in 1971, when the number of weeks was changed or increased.

Senator Theriault: In 1977, when you supported my motion.

Senator Simard: Honourable senators, it was in 1977, and look at what they say today! As in 1977, people will get used to the fact and people's attitudes will change. With the help of the provincial governments and existing agencies, people may be forced to look around or knock on doors to get one or two weeks like 93 per cent of the people in New Brunswick had to do in 1977. They say peoples' attitudes can change and will be such that no one will be disqualified or lose the safety net I mentioned earlier.

I am of course delighted with the government's decision to make people 65 years old and over

and people on maternity leave eligible for unemployment insurance benefits.

That was decided as a result of court rulings. I am glad the government included this in the bill. And that is why I must say I deplore the attitude of the Liberal majority in the Senator which has deprived these people of these benefits for a month or a month and a half.

Senator Theriault: That stays.

Senator Simard: This could have been in place since January, for people who had to go and look for three or four weeks more because the Liberal majority refused to adopt the bill.

Even there, peoples' attitudes have changed. Unemployment Insurance offices were full at the beginning of January so people could qualify. There were not too many problems.

But people aged 65 and over and people who might have been able to benefit under the new legislation on maternity leave were not able to do so. I will conclude my speech on this note. Senator Theriault tells us:

[English]

Wake up colleagues! Be passionate –

Senator Theriault: How about compassionate'?

Senator Simard: – and listen to people. I have listened to people. Senator Theriault listened to people, too, and followed his mind, judging by his many questions to witnesses. I recall other questions to witnesses by other Liberal senators, asking, for example, why there was not chaos in the streets. Is it only a couple of left wing groups like the honourable senator and some other senators who are worried and concerned'? The answer to this question is very simple: Public opinion wants the government to tighten things.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

up and to ask employers and employees to do a better job. The indication is that, although only 1 or 2 per cent may be abusing the system, the costs are high, \$450 million, and sufficient to cause concern.

Those are the things that I believe have led to public opinion being in support of this bill. I am asking my colleagues to weigh all of this. If the Liberals are so sincere, let them kill the bill. I challenge them to kill the bill. I for one will not accept those amendments. I am quite comfortable with Bill C-21. I am ready and willing, as I have been on many occasions during the last two months, to go to my province and explain the nature and the wisdom of this legislation.

Page 1235

Some Hon. Senators: Hear, hear!

Hon. Joyce Fairbairn: Honourable senators, I want to take part in this debate today to indicate my strongest support for the amendment to Bill C-21 that would ensure that unemployed Canadian workers may collect unemployment insurance benefits while taking basic skills and literacy courses as a bridge to qualifying for job training. This may be an amendment that has been overshadowed by others, so I would simply draw to senators' attention that it is on page 21 of the final report and is also listed as No. 1 of Appendix A.

At the start, even at this late hour, I would like to thank all of the members of the special committee who studied this controversial piece of legislation for the thorough work that they have done. They have followed a course which, in my view, is a fine example of what is expected of today's Senate. They heard an enormous number of witnesses in a very short time, and, more important, I think the speeches today have indicated that they listened to what those witnesses had to say.

The senators on the committee also showed a special sensitivity in responding to disturbing events in Atlantic Canada by travelling to areas where workers will be most directly affected by reduced fishing quotas and severe cutbacks and closures in fish plants, particularly in Nova Scotia and Newfoundland. For the rest of Canadians, the visits of these senators have helped to put a human face on a complex and difficult piece of legislation. Through what I believe to be very carefully considered amendments, senators on the committee have provided this house and the government with reasonable and positive options for change. Whatever the climate was some nine months ago, when this bill was first introduced in the House of Commons, it is now one of great uncertainty, stress and even disaster for workers in various parts of Canada.

In the past year we have seen a steadily proliferating spate of plant closures, of mine shutdowns, of layoffs, and of restructuring throughout the business and industrial sectors. The numbers have piled up, whether because of the general economic change or pressure or, in some cases, as a result of the Free Trade Agreement with the United States. One could, perhaps, dismiss these statistics with some regret and work out a set of balancing figures to show that, while some plants and businesses went down, others started up and new jobs were created. However, thanks to our colleagues on the special committee, in St. John's, Newfoundland, and in the town of Canso, Cape Breton, those statistics became people – men and women with families who depend on them, men and women who have worked in a hard life with skills especially developed for their jobs. For many it is a type of life followed generation by generation in their families. It is what they know how to do and they do it well. Now many of them are facing not just the prospect of losing their jobs but also the prospect of having none to replace them.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

This is not just a question of the Atlantic fishery. There are other examples, such as mine shutdowns in northern Ontario and in British Columbia, farmers leaving the land across the Prairies – it is happening in many parts of this country where people simply cannot go down the street or over to the next town to find a new job. You cannot simply be trained and retrained for work that does not exist and then be expected to move someplace else where you may not be able to afford to take your family or to live a decent life.

Honourable senators, there are other workers who face a more dismal prospect than that, and it is to them that this particular amendment is directed. They cannot be trained or retrained. They do not qualify for training. They cannot do it. They cannot learn it – not yet. They are among the five million Canadians who are functionally illiterate – some one – quarter of our adult population from the age of 18 upwards. They are among the one in six workers who cannot read and write sufficiently to be able to accomplish what we consider to be everyday routine activities. They are people who have been quite capable of doing their jobs and providing for their families, because they do have special skills. But they do not have sufficient basic skills to give them the flexibility to move around, to shift employment, to learn computers, or to find another path on which to rebuild their lives in this age of technological communications. For instance, the government has often presented entrepreneurship as the star – spangled alternative to looking for a job with somebody else. But how can individuals without basic reading or writing or math skills hope to start successful businesses, particularly in parts of the country where no business base exists to begin with? It is not much of an alternative.

Therefore, we are back to the training option. Not only do these Canadians of which I am speaking lack the basics to be retrained, they also lack the number of grades completed in our

school system even to qualify for training programs. It was put most graphically a few weeks ago by a fisherman in Newfoundland, when the true dimension of the fishery crisis became known. He was a man with a young family. He stared into the television camera, which took his image across the nation, and he said: "I cannot read." He never needed to know how to read. He needed to know how to fish. He had no hope of taking advantage of the training which has been talked about so freely. And he is not alone. Many of the most productive workers in Newfoundland have never needed to know how to read. The functionally illiterate rate in that province is 44 per cent – the highest in Canada.

What do they do? The first hurdle is to have the courage to acknowledge publicly that they lack these particular skills which are in such fundamental demand for most other forms of employment all across Canada. That is not an easy thing to do.

Earlier Senator MacEachen was trying to get us, in our comfortable positions, to feel what it would be like to walk into an employment centre and say, "I need a job. I want to work." Imagine, honourable senators, if you not only had to walk into an unemployment centre and say, "I need a job. I want to work," but you also had to say, "I cannot read or write."

Page 1236

The next step for these people is to find a program or a project in which they can receive help to learn literacy skills and, perhaps, to upgrade those which were once learned but which have since been forgotten or have fallen into disuse. But – and here it is – at the moment, according to the policy of the land, there is a snag. By enrolling in literacy or basic education programs these workers run the risk of losing unemployment insurance benefits. This was pointed out to the committee by Tracy Westell of

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the Ontario Literacy Coalition when she gave the following example:

There is also the case where a worker is laid off from a plant because his job has become computerized and he cannot read the screen fast enough to do his job efficiently. He wants to read and write better but cannot attend a literacy upgrading program because he is on UI.

Daryl Bean, President of the Public Service Alliance of Canada, also told the committee the following:

We are not getting cooperation to have training for literacy because they say that that is not real training. If it is not training, I do not know what it is.

Honourable senators, this simply defies common sense, and yet our system has tolerated this gross inequity for the better part of a decade. In the early 1980s the federal government changed its policy regarding training support by redirecting the focus of its dollars to higher skilled training geared to specific labour market needs. As part of that policy change, funding for basic training was redirected on the rationale that such training was really just education and, therefore, was the responsibility of the provinces.

The same policy was applied to the benefits available under the Unemployment Insurance Act, thereby creating this gap for unemployed workers in need of skills and literacy training as a route to higher skills training and better jobs. That is wrong. It was wrong then and it is wrong now. In fact, it is worse than wrong. It is unconscionable!

Until illiteracy began to be recognized in Canada in the last four years as the national shame that it is, few public people – that is, people in public life, politicians – really noticed the gap. There was no pressure from those who

were its victims, because illiteracy is hidden. Those who suffer from it do so in silence, using all of their energy and considerable skill to conceal it and to develop methods of compensating for it.

Honourable senators, 1990 is the International Year of Literacy. I believe that, in our privileged positions, each one of us must do whatever is possible to put a focus on this issue so that Canadians can understand it and those who suffer from it can get help. We do not want Canadian workers to have no alternative but dependence on welfare. We want Canadian workers to see enough evidence of support and good will in our society that they will have the confidence to come forward and become adult learners.

I know that the Minister of Employment and Immigration, the Honourable Barbara McDougall, cares about this issue. I know she cares about this gap in the unemployment insurance system. The Prime Minister has spoken eloquently about his government's commitment to fight and eradicate illiteracy. I hope that announcements will be forthcoming to guarantee funding to ensure that programs will be available to those workers who require basic education and literacy -skills training in order to stay in the workforce or to reenter it at a higher level. At the very least, they must be able to learn and to collect unemployment insurance benefits at the same time.

This proposed amendment is a simple one, and I really do not see how anyone in this house, or in the House of Commons or in government, could object to it. It ensures that references in the bill to a "course or program of instruction or training" include training in basic skills and literacy. Some would argue that this kind of interpretation does not require a reference in the legislation. Well, I believe it is essential to have this guarantee nailed down and specified in the legislation.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The Hon. the Speaker *pro tempore*: Senator Fairbairn, if I may interrupt you, I would point out that it is now six o'clock. What is the wish of the Senate?

Senator Frith: Ignore the clock.

Senator Doody: Do not see the clock.

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

Hon. Senators: Agreed.

Senator Fairbairn: Thank you, honourable senators. I will conclude by saying that I should like to think that this omission was merely an unfortunate oversight in the course of drafting Bill C-21. It is a mistake which is easily corrected. It is also more than that. It is an act of faith towards those whom we have permitted to exist without options. As legislators, we can do no less than redress that error.

Hon. Senators: Hear, hear!

On motion of Senator Gigantes, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1250

On the Order:

Resuming the debate on the motion of the Honourable Senator Hebert, seconded by the Honourable Senator Theriault, for the adoption of the Third and Final Report (as amended) of the Special Committee of the Senate on Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act (with eight amendments). — (*Honourable Senator Gigantes*).

Hon. Philippe Deane Gigantes: Honourable senators, yesterday there seemed to be considerable confusion — which goes back in history, because Socrates tried to solve it — when Senator Simard did not seem to be able to distinguish between the verb "to listen", in the sense of being there and having sound arrive at one's ear, and the verb "to listen", in the sense of actually paying attention and accepting what somebody is saying. Certainly, Tories have had to listen to the people who are being savaged by Bill C-21 in the sense that their complaints have reached Tory ears; but have they listened in the sense of realizing that there was some merit in the complaints of these people? I am afraid the answer to that question is no. I am not talking now about bad Tories, because I like bad Tories; the Tories I find difficult are good Tories, just as I find bad Liberals difficult and good Liberals all right. A bad Liberal is a good Tory, more or less, and a bad Tory may be a crypto — Liberal. Moreover, if you do not like that kind of interpretation and you want to take a more ordinary view of the words, then "bad Tory" is a tautology and should not be used.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, would Senator Gigantes allow me to ask a question?

Senator Gigantes: This is not the time for questions. I am making a speech.

Senator Simard: May I ask you a question?
Senator Gigantes: Absolutely.

Senator Simard: Yesterday, I allowed you to ask me one.

[*English*]

My honourable friend uses the phrases "bad Tories" and "good Tories", but I suppose there could be different interpretations for Liberals.

Senator Frith: One is a redundancy and the other is a contradiction in terms.

Senator Simard: I wonder if the gentleman had the same problem of comprehension in understanding "yes" and "no" at the last referendum. We know that "yes" meant something different to Liberals from what it meant to the rest of Canada, including Quebecers. Perhaps the honourable gentleman could expand on that.

Senator Gigantes: Honourable senators, I will launch an inquiry and try to explain the situation to Senator Simard. People out West say that they need Mr. Vander Zalm to help explain things to Mr. Getty; so perhaps I will acquire a new role here in the Senate.

Honourable senators, I was a little puzzled by some of the remarks made by Senator Tremblay, who seemed to be thinking that the absolute veto the Senate has is less than the power of amendment which this bill seems to be suggesting. To block a bill appears to be, from some of his remarks, a lesser injury to indict on a bill than to make some reasonable and kindly suggestions to the government so that the government can be content with a few slices less than a loaf of bread.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1251

That is not the main topic of my discourse. What I want to talk about is the proposed amendment, the contracting out. The purpose of that amendment is to ensure that money paid to Tory compradores who organize courses for profit is not charged to the administrative costs of the unemployment insurance fund and is thereby deducted from the money available to pay the poor, but is charged to that 15 per cent which the government has taken out of the funds available to pay the poor in order to organize so – called "developmental activities." We do not want that on top of the 15 per cent which will be taken away from income available to fishermen and other unemployed people who live in places where they do not have the hope of a job, no matter how well trained they are to do another job. There are no other job opportunities. We do not want the amount of money available to help them to keep food on their tables, to clothe their children, and to maintain a roof over their heads to be further reduced by paying Tories to act as go – betweens in creating courses.

Now, in studying the subject of training and employment I had the opportunity of travelling around the country and meeting provincial officials and ministers, and they were all strictly opposed to this contracting out of training, because they said it was simply jobs for the boys, Tory boys, good Tories. Go ahead and play those games, but not on the backs of the poor. That is too brutal.

Now, are there jobs? I want to be brief, so I have passed on to the next subject. We hear the minister saying that there are jobs out there but that people will not fill them; they will not go and work when there are available jobs. However, there are not even any minimum – wage jobs. There is a Labour Productivity Centre here in Ottawa, set up by the government, representing labour and management, which studies these conditions. They have been doing a continuing study of job vacancies. In places like

Nova Scotia, Prince Edward Island, Newfoundland, certain parts of the Prairies, northern British Columbia, and northern Ontario, if you stretch it, there is one known job vacancy for every 1 I unemployed.

There are jobs, says the minister, lots of jobs. It is just that the undeserving poor – she did not say that; I am interpreting her now, speaking like a good Tory! – do not want to go and fill these jobs because they would rather stay on the "pogey." Well, there are no jobs. These people do suffer. They would like to work. They are not lazy. They are not the undeserving poor of the Spencerian attitude, of the good Tories, although they will become that by Bill C-21, we believe, and they will become much more than the government admits.

The government tells us that our fears are unfounded, that the fears of the labour unions are unfounded, that the fears of the chambers of commerce of small communities are unfounded, as are those of provincial ministers. The government then turns around and says, "But we alone have the facts and we will not show them to anybody. You have to take us at our word." I am simply saying that on an issue like this, which deals with the welfare of people, with bread on the table, with children going hungry and ill clad, with people not having enough resources in order to have the energy to better themselves or to train themselves for something better, you cannot play games and pretend that the facts are a perfume formula that somebody will steal from you.

What are these facts? One of the officials said, at first, that they could not give us these facts because it would be illegal. Why would it be illegal? Well, if they gave the facts to Senator Frith, who had asked for them, he might be able to find out which of these unemployed people were actually undeserving poor. Let us take one of their sets of figures, northern Quebec, 92,000 people. I have this image of Senator Frith

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

sleuthing around in northern Quebec, going from village to village to find which of the undeserving poor produced in the government's calculations is actually one of the many Tremblays and then is which particular one of the many Roger Tremblays in the region. Perhaps Senator Fairbairn and I could go together and do similar research.

Senator Guay: Be careful!

Senator Gigantes: I would love it! Perhaps we could do similar research in other parts of Atlantic Canada. We could go and discover personally who these shameful people are who do not want to work. What absurdity!

What are these facts that the government will not show us?

They are statistical facts about Canadian citizens, gathered with tax money from Canadian citizens, studied in econometric models paid for by Canadian citizens and operated by public servants. What does the term "public servant" mean? It means a servant of the public. These people are manipulating data with assumptions they have put in, and they say that one of their assumptions is that the cuts that they are going to make will affect the behaviour of people. What are the other assumptions? What numerical relation do the assumptions bear to the figures in question? What are the figures? We cannot know any of this. This is secret. This is the minister's perfume formula, and she cannot show it to anybody.

An Hon. Senator: It stinks!

Senator Gigantes: I am saying that the time has come in this country, as in other civilized countries – more civilized in this respect – to agree on the data. There are countries where, before such policies are discussed and evaluated, labour, management and the government sit down and agree on what the facts are, work on

the models together and check the data together. Then they say, "Now that we all agree that these are the facts, let us see what policies we can apply to these facts to ameliorate the situation." Instead, we have an adversarial situation, perpetuated by a government that says, "Only we know. The rest of you are ignorant and you are going to stay ignorant. We will not give you the facts. You simply have to take us on faith and you have to believe us when we tell you that you have no jobs because you are lazy, not because there are no jobs." This is unconscionable! This is totally unacceptable and arrogant! There should be a prise de conscience by this government, to say to itself, "If we want to have credibility with the working class," whose privileges and few rights they are squeezing, "then we had better level with them, we had better open the books, and we had better let them look at what it is we are using as the basis for our calculations when we tell them they must make sacrifices." I think it would make for a healthier social climate. It would even benefit the government.

Page 1252

This is free advice I give you. You might even get a few votes if you stop being duplicitous – *cachottier*, as they say in French – and stop holding your cards close to your chest and telling the poor, "You are undeserving poor and we can prove it, but you cannot see the proof." That is unacceptable, cruel and disgusting!

Some Hon. Senators: Hear, hear!

Senator Guay: You'll have to watch it, Joyce!

Hon. Michael Kirby: Honourable senators, it is with considerable pride, and not a small amount of emotion, that I rise to speak on Bill C-21 in general, and in particular on Senator Theriault's amendment with respect to restoring the government's contribution to fishermen's unemployment insurance benefits. I say that not only because I am a Nova Scotian, and I think,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

frankly, that any Nova Scotian members of this chamber, regardless of what side of the house they are on, will be very pleased to speak on this issue, and not only because I spent two years of my life in the early 1980s restructuring the fishing industry on the east coast of Canada, but also because my grandfather, my great – grandfather and, indeed, two generations before that were inshore fishermen in Newfoundland. Therefore, I feel that I have more than a small amount of understanding of the problems faced by fishermen in 'this country and of the importance and significance that unemployment insurance has to the people in that industry.

When you look at Bill C-21 and at the fishermen's unemployment insurance issue, and you ask yourself what position you ought to take on it, it seems to me that the fundamental place to begin is by saying to yourself: What is my view of the role of the federal government on major issues in Canadian public policy?

I have always begun from the premise that perhaps the most important role of the national government is the role of redistributing income from all Canadians to people and, indeed, to regions that are most in need of it. Therefore, if you look at the proposed changes to the Unemployment Insurance Act as embodied in Bill C-21, and what that bill does to fishermen's unemployment insurance benefits in the light of that redistributive role of the federal government, what you find is a bill that is extremely tough and extremely callous not only on those Canadians that can least afford it or on those Canadians who cannot protect themselves but, in particular, on the people of the Atlantic regions and on one segment of that population, namely, the people engaged in the fishing industry.

In order to explain that point of view, let me give you a couple of examples. Under Bill C-21 we find that the benefits

that have traditionally gone to fishermen, which totalled over \$250 million last year, will no longer come out of the federal treasury but, in fact, will come from other contributors to the unemployment insurance fund. Also, under Bill C-21 it is obvious that a significant number of people who were claimants last year and in the years before will have their benefits either reduced or eliminated. Essentially, a million people who previously have been entitled to UI benefits will either lose those benefits or will have them reduced. Also, a very disproportionate percentage of those people is in the Atlantic provinces.

If you again look at Bill C-21 and say to yourself: How does this bill stack up against the test of the role of the federal government in terms of redistributing income to the people in regions?, you must conclude that, indeed, the bill is sorely lacking. The second point I should like to make with respect to the bill relates specifically to what it does to fishermen. Senator MacEachen, in his remarks yesterday, made the point that, historically, fishermen's unemployment insurance has been an income support program for which the UI system was the delivery mechanism. Those of us who have long supported fishermen's unemployment insurance have never argued that it was a traditional unemployment insurance program; that it was an insurance program in the normal use of that word. We have been perfectly prepared to concede up front that in fact it is an income support program for a group of Canadians who, by virtue of where they live and by virtue of the kind of work they do, are restricted in terms of the number of weeks in which they can be employed in any given year. That, honourable senators, was the rationale behind the program, and yet it is precisely that rationale which this government has chosen to abandon with this bill.

We are often inclined to think that unemployment insurance for fishermen is a fairly recent phenomenon. However, when you look at

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the history of the Unemployment Insurance Act and the history of fishermen in respect of unemployment insurance, it is interesting to discover that it goes back 30 years. In fact, it was the government of Louis St. Laurent which, in 1958, first introduced UI benefits for fishermen, to the extent that it brought fishermen in under the UI Act. There was a subsequent change in the format so that we now call it fishermen's unemployment insurance, but the fact is that April 1958 was the first time that payments under the UI Act were made to fishermen.

Senator MacEachen referred yesterday to Mr. Mackasey, who as the Minister of Labour in 1970 tabled his white paper in the other place. In that paper there was a clear provision by which, while it excluded self-employed Canadians from having access to UI funds, fishermen were explicitly included. In other words, even 20 years ago the government of the day recognized that fishermen were to be treated differently from other self-employed Canadians and that their contribution would be recognized and treated separately under the UI Act.

Then, in 1976, the Unemployment Insurance Act was further changed, once again to broaden its appeal and its ability to help those people in the Atlantic provinces who most needed it, when we had a lengthening of the season governing unemployment insurance. The dates on which fishermen were allowed to apply for insurance were extended from December 1 backwards to November 1, and forward to May 15. Therefore, at that time the fishermen's UI period was substantially lengthened.

Page 1253

Other changes were made to the UI Act in 1980 to reflect the fact that by that time in a great many fishing communities around the Atlantic provinces, particularly in those communities which had small fish plants, both fishermen and their wives were working in the industry. The fishermen were working at sea, going out in

traditional small boats, harvesting and catching the fish: their wives were working in the fish plants, doing the work that is required to process the fish from the time it is caught and sent on to market. Those changes that were made in 1980 were designed to recognize that, in fact, no longer would fishermen and their wives be looked at as a single family unit for purposes of UI but would, as are working spouses everywhere else in the country, be regarded as two separate employees, each entitled to his or her own benefits.

Honourable senators, with that background stretching back, as I have said, to the late 1950s, one looks again at the amendments put forward in Bill C-21 to the Unemployment Insurance Act as amendments designed, essentially, as the first step of a two-step process to remove the special benefits that fishermen get under unemployment insurance. And make no mistake about it: this is a deliberate, conscious act of this government. Let me tell you why I say that. If you look at the history of the internal debate in Ottawa with respect to fishermen's unemployment benefits and if you look at the representations which have historically been made to federal government after federal government for the last ten to fifteen years by the business world, what you find is an interesting theme. Inside Ottawa there is the bureaucracy, led largely by Treasury Board and the Department of Finance, arguing very strongly that fishermen's unemployment insurance benefits should be eliminated; that they are not unemployment insurance, and that they are an income support program and therefore should be eliminated. In fact, up until now the only reason why those benefits have continued, and why, as I have pointed out, in 1970, 1976 and 1980, those benefits were not only maintained but expanded, was that there was a significant amount of political will on the part of the ministers in power at that time, and on the part of their caucus and of the House of Commons.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Make no mistake about it, honourable senators: The business community, on the one hand, through all kinds of representations over the last 15 years, and the bureaucracy in its own way, on the other, have repeatedly made representations to the government of the day to stop giving special benefits to fishermen; they want the government to withdraw that support; to recognize that these are seasonal workers who should not be entitled to any more special benefits than any other worker, whether he is working in an auto plant in southern Ontario or in a mine in northern Ontario. The only thing that has stood between the abandonment of that program, the complete collapse of it, has been the political will of ministers.

That is a very important point to understand when we consider the remarks made by Senator Simard yesterday. I must say I was rather surprised to hear him make this statement, and I quote from page 1233 of yesterday's Debates a/the Senate:

I don't think that as long as we have senators and members of Parliament from the Maritimes ... the government would pressure employers and employees who would refuse to pay for Maritime fishermen. I don't think there is any danger of that happening.

I think, in all fairness, that Senator Simard was expressing a view that would be strongly supported by members of his party in this chamber and elsewhere. Essentially, his view seems to be that we should say to the fishermen of the east coast, and, indeed, the fishermen of Quebec and the west coast, "Trust me, the cheque is in the mail." The difficulty I have with that view, in light of the way this government has repeatedly folded time after time under business pressure, is that it will not take very long before, once again, the government folds under pressure from the business community and, once again, we find ourselves in a situation

where fishermen's benefits are not just in jeopardy but are being removed completely.

That, it seems to me, is the fundamental issue at stake with respect, in particular, to Senator Theriault's amendments and, in general, with respect to the unemployment insurance bill. It is simply one more step in this government's general policy of systematically, slowly, step by step, dismantling key portions of the social safety net of this country. The so-called claw-back provisions of Bill C-28 are another example of this government's attempt to systematically change the social safety net of the country, but I shall not go into that at the moment.

If as a Nova Scotian I have one responsibility in this chamber, it is to represent the people who can least fend for themselves. Surely there is no group in society in Canada at the present moment that is less able to look after itself than the fishermen of the Atlantic coast. One only needs to read the newspapers day after day to understand that there is massive disruption in the industry. For those of you who have not been down to the Atlantic coast, that disruption is not limited to three or four plants, such as those in Canso or St. John's that are getting all the press coverage. The fact of the matter is – and I know that senators from all parts of the Atlantic region will verify what I am about to say – that as you travel from one end of the Atlantic region to the other you will find small plants in which pockets of 5, 10, 15 and 20 people are being laid off because they are closing, because quotas are used up and the fishermen cannot fish.

For the government to take this point in time, when there is such enormous social pain in the region, to say to the people of the region – the fishermen, their wives and plant workers – "We are abandoning you. We will not support you. We will leave you to the mercy of business – and we know you trust business. We will leave you to the mercy of people who are not just taxpayers of Canada but are employers and employees for

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the government to do that is a classic example of how incredibly uncaring and unfeeling this government has become.

Page 1254

I ask honourable senators to look at Senator Simard's position and the positions put forward by others on his side, which is essentially that we really ought to go back to Nova Scotia and the Atlantic provinces and say to the fishermen, "Don't worry; you can trust the Prime Minister." The last poll showed that 79 per cent of Canadians do not trust the Prime Minister. I suspect the percentage for the Atlantic provinces runs somewhere over 90 per cent. So it seems to me a ridiculous proposition to expect senators on our side of the house and senators from our region of the country to allow this bill to go through the way it is on the basis that we should trust the government.

In closing, let me make one other comment in reference to something said yesterday by Senator Simard at the end of his remarks.

Senator Guay: He said a lot of things.

Senator Kirby: He said:

I challenge them –

meaning the Liberals –

to kill the bill. I for one will not accept those amendments. I am quite comfortable with Bill C-21. .

It seems to me that since 1984 the senators on our side of the house have used their majority very judiciously. We have not attempted to abuse the powers that go with the majority in a bicameral legislature. We have attempted to use our power wisely. However, when we are faced with a bill which does what Bill C-21 does to fishermen at a time when they are in desperate straights, it seems to me, in response to Senator

Simard's challenge, that it is time for the people on our side of the house and, indeed, for all Atlantic Canada senators in this chamber to say, "Enough is enough." At some point, somewhere along the line, one must recognize that one has responsibility in this chamber to stand up for those people who are unable to stand up for themselves or defend themselves. So, honourable senators, in response to Senator Simard's challenge, it is my personal view – and I emphasize that it is my personal view, a view about which I feel strongly – it is my personal view that, unless fishermen's unemployment insurance benefits are restored under unemployment insurance, unless the amendments that Senator Theriault has introduced, and unless the corresponding linkages required in the report of the committee are met, this bill should not pass this house, and it is my intention to vote against it.

Hon. Heath Macquarrie: Honourable senators, if he will permit, I should like to ask the distinguished senator a question before he resumes his seat.

Senator Kirby: Yes.

Senator Macquarrie: Considering that the honourable senator mentioned that great things were done under the St. Laurent government in 1958, would he not, upon reflection, agree that the Prime Minister of Canada at that time was that great champion of the Maritimes and of the average Canadian, the Right Honourable John Diefenbaker?

Senator Kirby: I thank the honourable senator for his comment. I should have been absolutely precise, because, in fact, it was not Prime Minister Diefenbaker who made the change. The changes were introduced and passed prior to the 1957 election. There was a one-year delay, beginning in April 1957, during which fishermen were allowed to contribute to unemployment insurance. It was in April 1958 that fishermen's

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

unemployment insurance benefits began. I am sorry if I attempted to give credit to Prime Minister Diefenbaker for something for which he clearly was not responsible.

Senator Macquarrie: I encourage you to go on to say how well they were extended under the Diefenbaker administration.

Hon. George van Roggen: As a British Columbian, I should say that it was that great British Columbian Liberal politician, the Honourable James Sinclair, the then Minister of Fisheries in the St. Laurent Government, who introduced that legislation.

Senator Doody: I hope Jack Pickersgill is not listening!

[*Translation*]

Senator Simard: Honourable senators, I have a question for Senator Kirby, if he allows me.

I do not know if we can speak of the same context as Senator MacEachen spoke of yesterday. I do not know if it is in the same spirit of negotiation referred to yesterday by Senator MacEachen. I wonder if it is in that same spirit that you agree to take up the challenge, Senator Kirby, and to kill this bill. So when you say that you care so much about Senator Theriault's amendment that you are even prepared to accept the challenge of killing Bill C-21, am I to take that part of your statement to mean, Senator Kirby, that you would be prepared to drop the other amendments and recommendations contained in the Hebert report now being debated and to keep only the one presented by Senator Theriault on fishermen's benefits?

[*English*]

Senator Kirby: Honourable senators, lest there be any confusion whatsoever, I not only support completely the report of the committee and the

amendments contained therein, I also strongly support Senator Theriault's amendment.

The point I was trying to make – and I think it is an important one – is that since 1984 there have been many occasions in this chamber on which the majority of members have decided, after putting considerable pressure on the government and after having gotten some changes from the government, to back down. The point I was trying to make is that – and I emphasize I am speaking personally and not on behalf of all of my colleagues – we would be making a grievous error for the people of our region if we were to back down on Bill C-21 if fishermen's unemployment insurance benefits are not restored to where they are under the existing legislation.

Page 1255

I have said absolutely nothing about the other amendments.

I simply want to repeat that I support the report of the committee and Senator Theriault's amendment, but, from a personal point of view, it seems to me that fishermen's unemployment insurance benefits are sufficiently crucial and are a sufficient test of principle that I think they absolutely must be put back in.

Senator Simard: But you might be prepared to negotiate on the other amendments in order to have the government accept Senator Theriault's amendment, which is of considerable interest to me as well?

Senator Kirby: I do not think I need to be in a position to comment on what changes might or might not be made. The point I am trying to stress – and I repeat it again – is that a very significant point of principle is at stake with fishermen's UI benefits. Frankly, I believe this is the most callous act I have seen introduced by a government, especially at a time when there are

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

literally thousands and thousands of fishermen becoming unemployed!

When one realizes that the UI fund, based on forecasts by the bureaucrats themselves, will be in a deficit position of some \$2 billion to \$3 billion in two to three years time, it does not take much wisdom to realize that what will happen then is that the business community will start screaming that they cannot possibly compete with the United States effectively under free trade if those premiums are raised. Therefore, they will argue that UI costs to both employees and employers be reduced.

The first thing that will be cut – and I can tell you that I am saying this based on seeing 20 years of lobbying in this city, internally by bureaucrats and externally by the business community – the first thing to be cut when the UI fund gets into a deficit position, will be fishermen's unemployment insurance benefits. That is precisely why fishermen's UI should be paid for by all taxpayers. It is not an unemployment insurance program: it is an income support program. That program must be paid for by all taxpayers, and not left, frankly, to a situation in which the business community can lobby the government by saying, "We cannot be competitive. You cannot raise the UI premiums. You have to jettison fishermen's unemployment insurance benefits."

We simply cannot leave fishermen from the Atlantic provinces in that position. I for one will do everything I can in this chamber to prevent that from happening.

Some Hon. Senators: Hear, hear!

[*Translation*]

Hon. Arthur Tremblay: Honourable senators, may I ask a question on something that has been bothering me since yesterday? I would like to know what happened yesterday at the Committee

report stage and what Senator Theriault's amendment meant.

Is it true that the Committee report tabled by Senator Hebert did not contain any amendment repealing Section 53 of Bill C-21, which Senator Theriault's amendment would actually repeal?

Senator Guay: That's right.

Senator Tremblay: I would like to know why, after all the efforts to propose amendments at the Committee report stage, this amendment considered significant by Senator Kirby, as demonstrated by his intervention, was not included in the Committee report. I would like to understand the procedure that was followed.

[*English*]

Senator Frith: A classic example of a rhetorical question.

Let's have the question! There is no answer. He was not looking for information. This is all explained in the transcript.

[*Translation*]

Senator Tremblay: Honourable senators, I am not sure I understand what the English word "rhetorical" means in French. Does it mean a gratuitous question or one we do not wish to answer?

Senator Theriault: Honourable senators, it is a very important matter and I did manage to convince my colleagues on the Committee to introduce an amendment.

[*English*]

Senator Kirby: Honourable senators, there is one comment worth making and that is that I think the brilliance of Senator Theriault's amendment is that it gives senators from the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Atlantic region on both sides of this house an opportunity to vote separately on fishermen's unemployment insurance benefits: I would have thought that every member of this house, particularly every member from the Atlantic provinces, would, in fact, want to join in supporting the restoration of fishermen's unemployment insurance benefits. The amendment Senator Theriault has introduced gives senators from the Atlantic provinces that opportunity, which I am sure they were all looking forward to.

Hon. Allan J. MacEachen (Leader of the Opposition): I think this is an important point, because the implication of Senator Tremblay's question is that the amendment put by Senator Theriault was an afterthought. It was not an afterthought. That amendment was always an important possibility.

We received the data that we had requested from the deputy minister on fishermen's benefits in the final moments of the committee. It was not possible to do any real analysis to understand the impact of the amendment at that point. It was easy enough to postpone the amendment until the report stage or, indeed, third reading.

So it was not an afterthought, which I think is the implication Senator Tremblay inadvertently made.

[*Translation*]

Page 1256

Senator Tremblay: Honourable senators, I would like to thank senator MacEachen for his answer. I take it to mean the thought process of some of the members of the Committee was not as fast as the preparation of the report.

Senator Simard: Senator Hebert was in a hurry to go to Western Canada.

[*English*]

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the report, as amended?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

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

And two honourable senators having risen.

The Hon. the Speaker pro tempore: Please call in the senators.

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

Report as amended, adopted on the following division:

YEAS

THE HONOURABLE SENATORS

Adams, Anderson, Argue, Bonnell, Bosa, Buckwold, Cools, Corbin, Davey, Denis, Fairbairn, Frith, Gigantes, Grafstein, Guay, Hastings, Hays, Hicks, Kenny, Kirby, Leblanc (*Saurel*), LeBlanc (*Beausejour*), Lefebvre, Lewis, MacEachen, Marchand, Marsden, McElman, Neiman, Olson, Perrault, Petten, Riel, Rizzuto, Stanbury, Stewart (*Antigonish - Guysborough*), Stollery, Theriault, Turner, van Roggen, Watt - 41.

NAYS

THE HONOURABLE SENATORS

Asselin, Barootes, Beaudoin, Belisle, Bielish, Bolduc, Chaput-Rolland, Cochrane, Cogger, David, Doody, MacDonald (*Halifax*), Macquarrie, Murray, Nurgitz, Ottenheimer, Phillips, Robertson, Roblin, Rossiter, Simard, Tremblay - 22.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The Hon. the Speaker *pro tempore*: Let the doors be opened.

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1) (b), I move that the bill be read the third time now.

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

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal – Provincial Relations): Honourable senators, senators on this side who support the government find themselves in a situation not dissimilar from that which has faced us on several other occasions since 1984. The majority of the Senate is of a political party other than that which is democratically elected in the other place.

Honourable senators will be under no illusions as to our view on this side of the amendments that have been made to the bill. I believe we made that clear in the vote on the committee's report which has just taken place. Nevertheless, it seems to us that the next move in this matter is up to the government – the elected House of Commons. Therefore, we are quite willing and anxious to see this bill, as amended, sent to the House of Commons so that the government and the democratically elected members may pronounce on it.

Page 1257

Therefore, in order to expedite that we would not vote against third reading but, rather, if a vote were held, would abstain on the third reading vote.

Motion agreed to and bill, as amended, read third time and passed, on division.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

MESSAGE FROM COMMONS

Page 1277

The Hon. the Speaker *pro tempore*:
Honourable senators, I have the honour to inform the Senate that the following message has been received from the House of Commons:

HOUSE OF COMMONS
CANADA

Tuesday, March 13, 1990

AMENDMENTS made by the House of Commons to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, as amended in the Senate and further amended by the House of Commons.

1. Page 13. "Strike out line 40 on page 13 and substitute the following:

appeal under section 79 or 80.

(9) For greater certainty, the courses or programs referred to in subsection (I) include courses or programs in basic skills and literacy."

2. Page 16, "Strike out line 4 on page 16 and substitute the following:

made under sections 24 to 26.1, and

(iii) showing the estimated or, where available, the actual expenditures made under this Act in each province for each of the three years preceding the year to which the plan applies, and"

3. Page 16. "Add, immediately after line 6 on page 16, the following:

(2.1) In the estimates of the expenditures referred to in subparagraphs 2(a)(i) and (ii), the

plan may include the estimated expenditures to be made in each province."

4. Page 16. "Strike out line 18 on page 16 and substitute the following:

day.

(4) Notwithstanding any other provision of this section, the plan for 1990 shall be laid before Parliament not later than three months after the coming into force of this section."

5. Page 3. "Strike out line 1 on page 33 and substitute the following:

53. Subsections 130(3) and (4) of the said Act are"

Robert Marleau
Clerk of the House

The Hon. the Speaker *pro tempore*:
Honourable senators, when shall this message be taken into consideration?

[*Translation*]

Hon. Arthur Tremblay: Honourable senators, I have the honour to move, seconded by the Honourable Senator Doody:

That the Senate concur in the amendments made by the House of Commons to its amendments I, 4(b), (c) and (d) and 8 to the Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a) and (b), 6, 7, and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

[English]

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Tremblay, seconded by the Honourable Senator Doody, that the Senate concur in the amendments made by the House of Commons to its amendments I, 4(b), (c) and (d) and 8 to the Bill C-21, an act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act.

That the Senate do not insist on its amendments 2(a) (b) and (c), 3(a) and (b), 5(a) and (b), 6, 7 and 9, to which the Commons have disagreed; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Is it your pleasure, honourable senators, to adopt the motion')

Some Hon. Senators: No.

[Translation]

Senator Tremblay: Honourable senators, with leave of the Senate I would like to comment very briefly on the reasons given by the House of Commons for refusing to accept a number of amendments proposed by the Senate.

Page 1278

Generally speaking, those reasons are in line with the positions we took in this Chamber in the course of the debate. The amendments with which the House of Commons disagreed are a contradiction of the fundamental principles contained in Bill C-21. Basically, they are a clear rejection of the basic thrust of this bill.

I don't think this is the right time to get involved in details.

For the time being, I am satisfied with this description of what I see as the fundamental reason for the response transmitted to us by the House of Commons today to the proposed amendments to Bill C-21 sent by the Senate to the House of Commons.

[English]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I, like Senator Tremblay, will be very brief. This is not the time, at least not for me, to enter into a major discussion of the message from the House of Commons. It is necessary for us to give the House of Commons at least the courtesy of reading the speeches by the ministers and members of the House of Commons before we make a statement. I do know that a number of amendments to which we attach importance were turned down by the House of Commons for which no explanation was given, to my knowledge. Certainly, they would not fit into the category referred to by Senator Tremblay.

However, I should like to move:

That the question, together with the message from the House of Commons on the same subject, dated March 13, 1990, be referred to the Special Committee of the Senate on Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, for consideration and report; and

That the said Special Committee for such purposes be revived.

Honourable senators, we have followed this practice on a number of previous occasions. It is not breaking new ground to have the message sent to the committee that studied the bill and formulated the amendments. It is certainly not my expectation that the committee, apart from considering its view on the amendments, would

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

conduct new hearings or travel, or anything like that. It is my expectation that the committee will do its work promptly and report quickly to the Senate, and that that we will have an opportunity at that time to speak in greater detail on the substance of the matter before us and to decide what attitude the Senate will take on this particular motion.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator MacEachen, seconded by the Honourable Senator Hebert:

That the question, together with the message from the House of Commons on the same subject, dated March 13, 1990, be referred to the Special Committee of the Senate on Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, for consideration and report; and

That the said Special Committee for such purposes be revived.

Honourable senators, is it your pleasure to adopt the motion?

Hon. L. Norbert Theriault: Honourable senators, very briefly I want to point out that I support the motion of the Leader of the Opposition in the Senate, but I should like to make one point. I have not read everything that was said in the other place yesterday but I listened to most of it and it is very simple to me: the government did not give one good reason why it should not accept our amendments. The only reason for the amendments being bad was that they came from the Liberal majority in the Senate. In my view, that is a very weak reason.

Senator Flynn: It is a good enough reason!

The Hon. the Speaker *pro tempore*: Honourable senators, is it your pleasure to adopt the motion?

Some Hon. Senators: Agreed.

Hon. C. William Doody (Deputy Leader of the Government): On division!

Motion agreed to, on division.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

REPORT OF SPECIAL COMMITTEE

Page 1313

Hon. Jacques Hebert: Honourable senators, I have the honour to present the Fourth Report of the Special Committee of the Senate on Bill C-21, to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act concerning the motion of Senator Tremblay dated March 14, 1990, and the messages from the House of Commons dated March 14, 1990, with respect to certain amendments to Bill C-21.

I ask that the report be printed as an appendix to the Debates of the Senate and the Minutes of the Proceedings of the Senate of this day and form part of the permanent records of this house.

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

Hon. Senators: Agreed.

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

Senator Hebert: Honourable senators, with leave of the Senate and notwithstanding rule 44(1) (e), I move that this report be considered now.

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

Hon. Senators: Agreed.

Senator Hebert: Honourable senators...

Some Hon. Members: Hear, hear.

Senator Hebert: Determined to do everything it possibly can to prevent Canadians from understanding the real nature of Bill C-21, the

government has once again gagged the House of Commons by proposing closure, limiting debate to 12 hours. It applied the same abusive tactics after first and second reading of the bill, and also cut short the proceedings of the Commons committee. Last week, C-21 was going through its fourth closure!

The reason for this relentless hammering is that the government realizes that as Canadians become better informed of the devastating impact of C-21, they start to share the views of those who are opposed to the Bill and appreciate what the Senate has been able to do to limit the damage.

The government's other Machiavellian strategy was to ensure that any delay in considering this infamous legislation would cause considerable inconvenience for a number of people. That is why last December, it refused to adopt a routine bill providing for variable entrance requirements. By tabling Bill S-12, the Senate made an ultimate attempt to get around these drawbacks. Well, we know what the government did to S-12. Of course, it hoped the uniform entrance requirement of 14 weeks would put strong pressure on the Senate, coming from those few regions where C-21, in its great generosity, would require less than 14 insurable weeks for unemployed workers to become eligible for employment insurance.

However, this strategy did not produce the desired results.

The unemployed suffered, without protests for the common good. Their unions assured your committee they were on to the government's little game, and they even urged the Senate not to give in to this kind of blackmail and to keep up the fight against C-21.

Another sneaky tactic by the government was to include in the bill measures that arose from court decisions, which it would have to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

implement in any case. I am referring, for instance to parental benefits and the right of persons over 65 to receive unemployment insurance benefits.

In this respect, I may recall the facts as described in the third report of the special committee of the Senate:

[English]

Some of the amendments that Bill C-21 would make to the Unemployment Insurance Act were made necessary by court challenges alleging that provisions of the existing act are not consistent with the Canadian Charter of Rights and Freedoms. Rulings handed down in three cases in 1988 by the Federal Court of Canada forced the government to introduce amendments aimed chiefly at making the act conform to the Charter. In each of these cases discrimination was the basis of the suit and the unfairness of the existing provisions obvious.

On June 6, 1988 – and I repeat, 1988 – the Federal Court of Canada handed down the Schachter decision, which concluded that the discrepancy in the treatment of claimants entitled to parental benefits constitutes unfair discrimination and is contrary to the Charter.

On August 15, 1988 – and I repeat, 1988 – in the Druken case, the Federal Court of Appeal found that the provisions which exclude from entitlement to insurable employment a person working in the enterprise owned by his or her spouse contravened the Charter.

Finally, on September 23, 1988 – and I repeat, 1988 – the same court handed down the Tetreault-Gadoury decision, which decided that the provisions in the current act which exclude persons aged 65 and over from UI benefits are contrary to section 15 of the Charter.

As many witnesses pointed out to us, the government has not been prompt in introducing amendments to bring the act into conformity with the Charter. Bill C-21 was introduced in Parliament on June 1, 1989. A number of groups noted that, after being in no hurry to bring the amendments before Parliament, the government had introduced them as "sugar-coating" to measures proposing cuts and new orientations in the UI programs.

In your committee's view, all the amendments to make the act conform with the Charter could have been introduced soon after the decisions were rendered. Introduced together or alone, the amendments would probably have been passed quickly by both houses of Parliament. Although we support these proposals, we agree with the witnesses who blamed the government for linking the fate of those amendments to the fate of the harsh measures in the bill.

[Translation]

Why did the government wait as much as a year before complying with the court orders, since obviously, these changes in the Unemployment Insurance Act would have been quickly approved by both Chambers?

The answer is simple: By linking the fate of these amendments – which we endorse – to the fate of C-21, the government knew that the people affected by the delay would put pressure on the Senate. I assume most senators have received a few letters or telephone calls from pregnant women who wanted to know when they would be able to get their new parental benefits on the basis of the rights recognized by the Federal Court in the summer of 1988. Personally, I just explained the government's strategy and immediately won the sympathy of my callers – about 4 or 5 – who clearly did not belong to that 19 per cent of the Canadian population that still trusts the Mulroney government.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. Jean-Maurice Simard: As partisan as ever!

Senator Hebert: Even more so, with bills like these –

Senator Simard: So you think you are making it easy for us to support you –

Senator Hebert: Certainly, Senator Simard.

This was another kind of blackmail, a strategy they hoped would turn part of public opinion against the Senate and which is now coming back to haunt the government. Canadians saw through this little game, and they will not stand for the government depriving often needy people of the very modest incomes they have been entitled to by law since over a year, just so it can get things done as soon as possible.

The special committee of the Senate simply went on doing its job. Less than a week after receiving the message from the House of Commons, committee members met, and the majority voted in favour of the decision mentioned in the report I have just tabled: With the support of millions of Canadians – the union coalition alone, which we met last week and which Minister McDougall refused to meet represented four million unionized workers – our committee recommends that the Senate insist – Especially since the government's response constitutes an affront to all Canadian workers. On their behalf, the Senate insists that its compromise amendments be accepted by the government.

Perhaps we were wrong to submit reasonable amendments which merely attenuate some of the more pernicious effects of C-21. In any case, the situation has not changed since we submitted our third report, which means the Senate has not changed his position.

[*English*]

When the Honourable Barbara McDougall appeared before our committee she said that we had not "identified any new issues of substance." She went on to say, "I think Canadians will want to know why."

Has the committee learned anything new through its public hearings and its study of the bill? I believe that it has. It has learned from the officials of the department themselves that, even though the UI account now has a surplus, in less than three years it will have a \$3 billion deficit. It will have this \$3 billion dollar deficit because of Bill C-21.

This bill will increase premiums from \$1.95 to \$2.25 for workers, but because the government is withdrawing its contribution the fund will face a \$3 billion deficit. Who will pay down this deficit? The workers and their employers, of course.

Canadians will also want to know why no one, apart from the government and one or two witnesses, would appear before our committee to support this legislation. Day after day witnesses from every part of Canada appeared before us and urged us either to amend this bill or to defeat it. Surely there must be groups in this country who support this bill. I think that Canadians want to know why these groups did not want to appear before the Senate committee to support Bill C-21.

After closely examining the government's proposed changes to the UI system and hearing from 105 witnesses, many of whom called for the outright death of the bill, we proposed more modest but, nevertheless, important changes to Bill C-21.

What does this government propose? It proposes to withdraw completely from the funding of UI and related programs, even though the government has assumed this responsibility since 1940. In 1989 it contributed almost \$3

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

billion to the fund. The government, after having raised its revenues from \$70 billion to \$120 billion since 1984, now wishes to contribute nothing. It can suddenly no longer afford one of the most basic of Canada's social programs. We find that deplorable and unacceptable. We therefore have asked that the government recognize that it has a fundamental responsibility for Canadian workers and that it continue to be a participant.

The government's contribution to the fund will be based on the cost of regionally extended benefits as they have been since 1971. Our proposal calls for the government to pay now only 50 per cent of these costs. So we recognize what the government is attempting to do and are not, therefore, recommending that the government be forced to continue its present level of contribution. However, we believe it is crucial that the government continue to contribute, and we believe that this contribution must be substantial. Simply to maintain the principle is not enough.

Page 1315

The second amendment I wish to highlight is the one dealing with fishermen's benefits. The government has directly assured these benefits since 1956 through a special program which operates within its own rules, and which cost about \$250 million in 1988. The Mulroney government has once again demonstrated its impeccable sense of timing in wanting to withdraw the income support it has provided for 34 years, just when the fisheries is in the worst crisis it has seen in 400 years. We believe that the government's decision is mean and unjustified. They are letting the fishermen of Canada hang in the wind. We therefore have recommended the continuation of government responsibility in this area by re-establishing the legal obligations it has shunned. Other, more technical amendments in this area would prevent the commission, with the approval of the Governor in Council, from altering or

eliminating this vital program without the approval of Parliament.

Other amendments rectify clauses that are ludicrous, such as providing money for claimants to move to areas of lower unemployment, even if there are no jobs in those areas. "Let's close Newfoundland and ship Newfoundlanders to Toronto." That is what it means.

Senator Buckwold: What a fake!

Senator Hebert: Another amendment would reduce the proposed penalties for workers who leave their jobs for reasons they consider valid. The government's changes in this area are harsh, unfair and could be construed as a presumption of guilt.

[Translation]

Honourable senators, you are already familiar with the amendments proposed by your committee. We must insist on them, especially since the message from the House of Commons rejects almost all of them without really justifying this rejection.

Other people, not I, will perhaps have the courage to analyse this message that shows above all deep contempt for the will not of the Senate but of millions of Canadians. Personally, I will just say that the government rejected out of hand completely acceptable amendments, leaving only a few crumbs for the sake of appearances. It is rather amusing to read, for example, that it recognizes the principle of eligibility for literacy courses in its training program for the unemployed. This minor concession is just plain common sense. I am amused when I recall the fierce opposition of the Conservative senators who were on the committee. They had no doubt been instructed to oppose even the most basic common sense. Today this must be quite a blow for them!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The Senate does not often insist on its amendments to legislation, no doubt because senators never forget that they were not elected, but appointed by the elected representatives, as the government will never stop reminding us until the Senate is reformed. But rarely has the Senate received such an abominable bill.

This time I feel that we have every reason to stand firm.

First, because it has been made abundantly clear in this House and the other place that this government has no mandate to attack in such brutal fashion, one of our most fundamental social programs. On the contrary, before the election, it promised not to touch them. A few months later, the government dared to introduce Bill C-21 in the House of Commons!

Moreover, the Senate has not killed the bill as many seriously witnesses vigorously demanded. On the contrary, we limited ourselves to proposing nine minimum amendments which even the labour coalition called "superficial". We thus wanted to avoid confrontation and allow the government to accept compromise amendments without losing face and improve however slightly a bill that would still be bad. The government's answer shows that our effort at conciliation was in vain.

Another reason, which I already mentioned, justifies our firmness: your committee is not defending a partisan position, the point of view of a majority of senators, but is reflecting the opinion of millions of workers and their families, of many provincial governments that will be hard hit by the impact of C-21 on their fragile economy, of churches and all the organizations in Canada that are in daily contact with the reality of unemployment. That is a lot of people! The Senate has often defended the most disadvantaged in our society, the poor, the old, the young, refugees, but if I am not mistaken,

this is the first time that it has enjoyed such massive support in all regions of Canada.

Finally, I think this is clearly a case where every senator must forget his political allegiance and listen to his conscience, indeed, whatever the consequences may be. Of course, the government will continue to use the old tactic of avoiding debate on the substance of the bill by condemning the Senate, which it has been doing for some time now both in and outside the House. It must be quite upset to see its tactic fail this time because public opinion openly supports the Senate position.

Hon. Jean-Maurice Simard: Not true.

Senator Hebert: That being said, our determination to act in the public interest must not be swayed by the mood of the public nor by the government's threatening speeches. Our only master must be our own conscience. Since I had the honour to sit in this chamber, it is Bill – 21 that has launched the most brutal assault on my conscience. It doesn't leave, me any choice: I will therefore vote in favour of the Special Senate Committee's recommendation and I call on all senators to listen to their conscience and do the same.

Hon. Gerald A. Beaudoin: Honourable senators, I would like to go back to a point of law I raised the other day in this chamber, that the Senate Speaker ruled on.

Page 1316

A few days ago we read the Senate Committee on National Finance's report on the royal recommendation provided for in Section 54 of the 1867 Constitution Act.

I attended some Committee sittings where experts were heard. The work done by this Committee is very interesting. Of course, I am happy that one of its recommendations calls for a more in – depth review, which will be done by

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the Senate Committee on Legal and Constitutional Affairs.

The issue is now back before us. It is just as important today, as we can see from the report of the Special Committee on Bill C-21.

I will leave to my colleagues who are more expert than I am in these matters to comment on the basics of the problem. Personally, I believe that it is essential that the legal question be looked into at this time. I would not want to be an alarmist, it would not be like me, but I think that since we might be at the beginning of a parliamentary crisis. At last there will be a serious debate between the Senate and the House of Commons.

Of course, every time we have such a debate in this place, the issue of the powers of the Senate versus the powers of the other place invariably becomes the main subject of discussion.

Let me say at the outset that I am myself in favour of Senate reform. I already made a speech on the subject. I believe that it is important that we examine all the options available, be it an elected Senate, an appointed Senate or something else. I am ready to discuss all the alternatives. Why wouldn't we, as senators, be the first to discuss the issue? I always say that I don't like to see things done indirectly when they can be done directly.

I would like to take the opportunity given to us by the committee report on Bill C-21 to review all the basic principles. I know perfectly well that there are two theories. I had the opportunity to discuss the question with Senator Frith and several other senators.

I am also aware that there might be a majority of senators who think that the theory we have been following for some time is the best one. That is to say that the Senate can do anything provided that it doesn't increase public spending.

That is a theory which is shared by many senators and I have a lot of respect for it.

There is however another theory which says that in our system of responsible government, the House of Commons must have the final say. Within that House, the Government, when it has the confidence of the House, has the final say. I think all this confirms the appropriateness of sections 53 and 54 of our Constitution.

This is of the utmost importance in my view in financial matters, in a democracy such as ours; because after all the government is answerable to the House of Commons and the House of Commons itself is the only elected legislative body of the Canadian Parliament; we here are only the second Chamber. Where a basic disagreement arises on a piece of legislation that implies the spending of public monies, at some point in my view, once the Senate has had an opportunity to take a stand on a couple of occasions, and perhaps more, the elected Chamber must have the final say.

Senator Frith: Senator Beaudoin, is that principle enshrined in the Constitution?

Senator Beaudoin: This may not be black on white in section 53 and section 54 of the written Constitution, but it is in my view a rule that may be inferred from our constitutional history.

Mr. Driedger, the former Deputy Minister of Justice, has said so in his very well written article entitled, "Money Bills and the Senate", Ottawa Law Review, 1968, pages 25 and following. He was a great constitutional expert. He was an excellent legal mind in my view. He said: Yes, there are two theories. One theory has it that the senators can do anything except increase expenditures of public monies. But there is another theory.

Senator Frith: Senator Beaudoin, this is a constitutional principle, not a theory.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Beaudoin: This is not written in sections 53 and 54 of the Constitution. Simply, this is his argument, and I am quoting two excerpts that from article. As we know, in additions to the sections of the Constitution itself there is a whole set of usages, conventions, and traditions that play a part. Mr. Driedger had this to say:

[English]

The language of section 53 was first written into our constitutional documents in 1840, and at that time the Lords in England had for several centuries submitted to the privilege asserted by the Commons, with all its implications.

[Translation]

They went on to recall the history of the United Kingdom, from which our parliamentary traditions are derived.

[English]

Through the centuries, the principle was maintained that taxation required representation and consent. The only body in Canada that meets this test is the Commons. The elected representatives of the people sit in the Commons, and not in the Senate, and, consistently with history and tradition, they may well insist that they alone have the right to decide to the last cent what money is to be granted and what taxes are to be imposed.

I agree with Senator Frith that if, for one reason or another, the bill is amended the spending of money is increased. You say it may be increased unless it goes over the parental bill; if it does not go over the parental bill it is all right, it is in accordance with our traditions; but even that is debatable.

Senator Frith: It was not just I who said that. Remember, too, the Speaker of the Senate said that.

Senator Beaudoin: Oh, yes. That is clear. This is the theory that is applied here, and perhaps in many legislatures in this country, but the fact is that, legally speaking, if it is done that way, the tribunals are not going to declare the law invalid. I agree with you on that.

Page 1317

However, the argument of Driedger – and I think it is sound according to the usages, traditions and conventions of the Constitution is that the last word should be with the elected representatives and the government, which is responsible to the House of Commons.

This bill has already been before us once. It was amended in the Senate. We, the minority in this place, would like the bill to be accepted as it is, but until the Constitution is amended so as to reform the Senate I suggest that we go along with the principle that we do not insist in such a particular case.

[Translation]

In other words, I would choose the second of those two theories, which is that if the Commons, the elected Chamber in our political system, really has its mind set on reverting to its original policy regarding such expenditures as those for the unemployment Insurance Act, the duty of this Chamber is not to insist. I would personally comply with this view until such time as a change in the constitution of the Upper Chamber is made or brought about by an amendment to the Constitution, I would go along with the theory Mr. Driedger developed in his article.

Regarding legality, of course, amendments agreed to are valid. All lawyers and jurists agree on this, with respect to Sections 53 and 54.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

[English]

Hon. Anne C. Cools: Honourable senators, I rise today as a member of the Special Senate Committee on Bill C-21, which has studied this matter extensively and has arrived at two sets of conclusions. I have also served with Senator Beaudoin and other members of this body on the National Finance Committee, which has studied quite extensively some of the subject matter before us and has arrived at a different set of conclusions from the ones Senator Beaudoin has just articulated.

As we embarked on this study of Bill C-21 several months ago we were under a terrific cloud as to whether we should or should not. Senator Simard and I have had many exchanges, and he said that a lot of our work in the committee was a wild expedition. When the committee travelled to some of the poorer regions of this country, namely, the Atlantic, he said that we were on a wild expedition. As a matter of fact, I asked Senator Simard if he imagined that the weather could be so bad that we would be snowed in together for several days!

In addition to that, the committee laboured under a few negative statements from the minister. who essentially condemned our work under the guise that it was silly and frivolous. Perhaps, honourable senators, we could begin on that particular point: There are many of us who have laboured for years in this chamber, and I must tell you that it has frequently occurred to me that the constant bullying and the vulgar and often coarse language used by the members in the other place to describe the very reason why we are here in this chamber was undignified, unparliamentarily, un-Canadian and uncharitable.

I would like to respond and I do so cautiously, because I understand there are people in this chamber who are very proficient on these

procedural questions to Minister Andre's responses to the Senate's amendments, I would like to call attention to the fact that Minister Andre relied heavily on the House or Commons Standing Order 80(1). That Standing Order has been invoked against us time and time again. Senator Beaudoin referred to it and it is one that our research, literature and past reports such as the Ross committee report of 1918 and 1949 tell us has no true application in the constitutional history of Canada. As I said before, there are people in this chamber who could argue the fine points and who have studied these matters for many years, but from what I have learned and studied Minister Andre's reliance on Standing Order 80(1), as far as I am concerned, is a reliance on quicksand.

I would like to respond to Senator Beaudoin's citations of sections 53 and 54 of the BNA Act. The evidence before us shows definitively that it was the express intention of sections 53 and 54 of the BNA Act not to confer upon the House of Commons that which the House took unto itself by Standing Order 80(1).

Perhaps we should put that standing order on the record. I am sure other senators will address it. It says:

All aids and supplies granted to the Sovereign by the Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such aids and supplies ought to begin with the House, as it is the undoubted right of the House to direct, limit, and appoint in all such bills, the ends, purposes, considerations; conditions, limitations and qualifications of such grants, which are not alterable by the Senate.

The controversial words there are "which are not alterable by the Senate". Senator Beaudoin talks about a theory. We are not talking about a theory; we are talking about concepts and principles of governance and government, which

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the Fathers of Confederation articulated very clearly. All the evidence suggests that, essentially, the Fathers of Confederation intended that that type of standing order not be applicable, I am sure other senators who are much more proficient in that area than I am will elucidate on that point.

I would like to comment on Minister Andre's response and Minister McDougall's response to us with respect to the so-called as Senator MacEachen would say Senator Cools would say full data set. In particular, I am referring to the econometric simulation model that the department inadequately described for us and the Senate committee's response to that, along with some of its questions. I will read from the committee's report on Bill C-21, It concludes at page 1170 of the Debates of the Senate for February 14, 1990:

Your Committee requested access to the Department's data set and the assumptions underlying its econometric analysis. This was not provided, The Committee authorizes the Chairman to request this information from the Minister. When a reply is received, the Committee will meet on this matter.

Page 1318

I note for the record that in both Minister Andre's statements and Minister McDougall's statements there has been no response to that particular issue, as articulated in our report.

I would like to continue on this topic, because that phenomenon of the department's impact study was something which was most unsettling for a lot of us on the committee. At the outset we were told that there were four distinct impact studies and that, furthermore, all of these studies were at some variance with each other. I also observed throughout the testimony that a standard behavioural practice seemed to be that each set of modelers threw stones at the others by insisting that their results were the best. But

among these sets of modelers, the department was the one that insisted more strenuously that only their information could be true and accurate. I think Senator MacEachen said last week that they laboured in the light and everyone else laboured in the dark.

For the record, I would like to set a few things straight. At the committee stage we asked very extensive questions. Initially, the deputy minister was very forthcoming on the question of behavioural assumptions. In fact, there was a lot of talk about behavioural assumptions, and I remind honourable senators that the committee – I in particular – put many questions on this point. I would like the record to show that, despite all the questions that were asked, in my opinion, the department, CEIC, did not bring forward clear and ordered responses. Instead, it brought forward scattered comments and scattered numbers, without much connection between the two.

Officials of the department claimed that they had used a good model, but in committee testimony they were not able to provide any proper description of that model. Again, any attempt at trying to describe it included isolated details but no comprehensive description.

The assistant deputy minister, Mr. Barry Carin, who, according to the deputy minister, was the architect of this legislation and the proficient person on the subject matter, was, to my mind, unfamiliar with the details of the model. Honourable senators, it was very interesting that the deputy minister, Mr. Arthur Kroeger, told us that, in fact, his own knowledge of the model was wanting. I believe that in one of the committee meetings he made a joke to the effect that he barely got through high school arithmetic. It was a joke and I took it as such.

The question that was left in my mind, and in the minds of several of the committee members, was this: If the deputy minister and the assistant

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

deputy minister are unfamiliar with this model, then who is familiar with it?

Hon, Romeo LeBlanc: Not the minister!

Senator Cools: I am sure. Honourable senators, I repeat that the question that remains is: Who is familiar with this model?

I have concluded that the Senate has had no evaluation of these assumptions. We have seen no tabulations of what those assumptions actually are. In addition, we heard evidence in support of the legislation that has not been shown to be an objective evaluation – and I repeat, an objective evaluation – of the impact of this legislation on the citizens of the most hard pressed regions of this country.

The assistant deputy minister and other officials from the department told us that they support their minister. This is not surprising. However, in my opinion, it would have been better to see the minister drawing support from the impact study rather than the study drawing support from the minister. I just wanted senators to be cognizant that in the minds of many of us the CEIC's impact study is still very much an unsettled question in an unsettled area. It seems to me that in bringing forward such pervasive and complex legislation as this we should have the assurance of the government that this sort of policy initiative is based upon a solid data base.

Honourable senators, I should like to continue by doing something a little unusual; that is, I would like to refer to my Liberal past. Before doing so I would like to say that, as many senators know, I have laboured under a condition of chronic back pain for quite some time. All honourable senators have been extremely considerate and kind to me. I would like to thank them for that. I would also add that I felt duty bound to add my support to the committee chairman and my leader, Senator MacEachen, but I must admit that during the hearings of the

committee I felt a little like a wounded person. I conjured up in my mind the image of a pageant that took place when I was a little girl going to a very special, private school. On the occasion of the Coronation of Queen Elizabeth II our girls relived an episode that preceded the attempted invasion of England by the Spanish Armada in 1588, when Queen Elizabeth I, perched on her horse, walked out at Tilbury and said those famous words: "I know I have the body of a weak and feeble woman but I have the heart and stomach of a king, and of a king of England, too ..."

I would like to say that I have the "heart and stomach" of a member of the Senate of Canada and a member of the Liberal caucus of Canada and that I speak very much as a Liberal senator.

Honourable senators, as I come down the home stretch of my remarks, I am not crying foul upon the government, but I would like to remind senators of a few things and perhaps to emphasize what I strongly feel we must insist upon with respect to our amendments. I thought it unnecessary to reiterate the testimony given before us in committee. I think by this time much of it has been repeated in the chamber. I shall attempt to articulate why what this government is proposing to do is unacceptable to me. I found myself reaching into my roots, so to speak. I found myself doing a little reading, or, rather, rereading a few things I had not looked at for some time, and I found myself gravitating to the work of a particular man. He was an interesting man. He was a bright man. He was a man that many described as a "dowdy, unimpressive bachelor with a curious inner life".

Page 1319

In 1900, when Sir Wilfrid Laurier created the first Department of Labour and named Sir William Mulock the first Minister of Labour, he appointed this man Deputy Minister of Labour – obviously, I am speaking of Mackenzie King. This man was a very young fellow at the time,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

only 26 years of age. Mackenzie King was persuaded by Sir Wilfrid Laurier to present himself for election. He ran and won. Shortly thereafter Sir Wilfrid Laurier appointed him Minister of Labour.

I am anchoring myself, so to speak, in the soil of my own ancestors, because there is a part of me that sincerely believes that Canadians are accustomed to prime ministers and governments who act and behave in a certain way and who, regardless of party, serve the public interest.

I came across a resolution that was moved by Mackenzie King at a convention of the Liberal Party of Canada in 1919. Remember, this was a man who was very adept and knowledgeable in labour relations, human relations and industrial relations. I would like to place this resolution on the record. I quote from "The Liberal Party" by Jack Pickersgill, at page 21:

That in so far as may be practicable, having regard for Canada's financial position, an adequate system of insurance against unemployment, sickness, dependence in old age, and other disability, which would include old age pensions, widows' pensions, and maternity benefits, should be instituted by the Federal Government in conjunction with the Governments of the several provinces; and that on matters pertaining to industrial and social legislation an effort should be made to overcome any question of jurisdiction between the Dominion and the provinces by effective co-operation between the several Governments.

I should also like to share with honourable senators what the Honourable Jack Pickersgill had to say about Mackenzie King's action in 1919. I quote from page 20 of the same publication:

Much the most radical of the resolutions was the one on labour and industry, which had been drafted and moved by the new leader of the

party. Mackenzie King had been the pioneer of labour and social legislation when Laurier was in office; yet the resolution of 1919 went far beyond anything contemplated by any public man in Laurier's time, and a good distance beyond the ideas of most rank – and – file Liberals in 1919. The resolution was radical in its aims but, like its author, prudent in its approach, recognizing clearly that there were many obstacles in the path of the social progress which was its ultimate goal. Still, there was no doubt about the direction in which this resolution pointed.

I took the time on the weekend to reread Mackenzie King's book entitled "Industry and Humanity". It articulates four pillars to which industry should aspire, namely, capital, labour, management, and the community or the society. I find it very interesting that King's contention at all times throughout his book is that government is most successful and effective when it balances and harmonizes these four constituent parts.

One of the most fascinating and exciting things about sitting on this committee is that we have seen those four constituent parts raise opposition daily and repeatedly against this bill. We had an array of opposition to this bill from the Canadian Bankers' Association, the trade unions, the Canadian Conference of Catholic Bishops and on and on.

Mackenzie King in his book "Industry and Humanity" talks about the need for government to balance what one could call the primal instincts of human beings – avarice and greed – with the other things which he calls principles of social justice. He talks about the fear of unemployment, fear of loss of income, fear of not being able to provide a proper livelihood for one's family, fear of workers agitating against management, and fear of management being hard and tough on workers. I would like to say to honourable senators that for a long time Canadians have been accustomed to leadership

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

by governments of the ilk of which I have previously spoken. Canadians are not accustomed to the hard-hearted, rugged individualism which this bill is advocating.

In conclusion, I do believe that I am quite cognizant of the history of this country and the history of the traditional governments of this country. I strongly support the Senate's initiative to insist on these amendments. I do that because I believe that Bill C-21 is not consistent with the principles of social justice. I believe that it is hard-hearted legislation aimed at hurting the poorest regions of the country. It is also provocative legislation, intended to provoke human fear and perhaps even a few sparks here and there between this house and the other House.

Finally, insisting on the amendments to this bill shows our traditional party's position of conciliation, in that we are essentially saying to the government, "Here, ladies and gentlemen of the other place, you have every opportunity to reconsider your position. Here, ladies and gentlemen of the other place, you have every opportunity to balance that tension – in what Mackenzie King, in "Industry and Humanity", would call a humane response – between fear and faith."

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I want to congratulate Senator Cools on her contribution to the debate and tell her how much I appreciated her personal testimony as to the origins of her values as she approaches this bill. I also want to congratulate the chairman of the committee and other members of the committee for returning a report to the Senate which we on this side of the house can certainly support.

Senator Beaudoin has raised once again the constitutional question with respect to the role and powers of the Senate. I have traversed that ground in the past. Today I refrain from doing so

again because I know that my colleague, Senator Stewart, is ready to deal with that question.

I have only one comment to make, and that is how surprised I am that senators from time to time join the fray which is constantly attempting to define and redefine the powers of the Senate out of existence and redefine them in a way that bears no resemblance to the Constitution of Canada.

Page 1320

I read the debate in the House of Commons, and more particularly the speeches by members supporting the government who constantly attempted to redefine what an appropriate role for the Senate was, from their point of view. I thought, "What a mistake it would be for senators to be sucked in and to accept the definition of 'role' that would be put forward by a competing House."

We are different houses. We have separate functions. We are equal, with certain specific exceptions. However, when I was in the House of Commons I shared that attitude. If I had had my way, I would also have defined the role of the Senate out of existence. But why senators should cooperate with members of the House of Commons and the press in doing so is beyond my understanding.

There used to be an old maxim in the House of Commons, which certainly Senator Macquarrie will recollect. It applied to ministers who dealt with their departmental estimates in Committee of the Whole. The rule was: Do not filibuster your estimates.

While the rule was specific, it had a general application.

The rule said to ministers, "When you must get estimates through the Committee of the Whole, and when you must get a bill through Parliament,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

adopt an accommodating and cooperative approach in order to facilitate your legislation. Provocation should be avoided like the plague, particularly until your bill is safely tucked away and has received Royal Assent."

That maxim has been turned on its head by ministers who have been dealing with Bill C-21 and with the Senate on Bill C-21. One would almost reach the conclusion that their intention was to get their own bill defeated because of the provocative attitude they have adopted towards the work of the Senate. Maybe they do. Maybe they sense its unpopularity and would like to get off the hook.

When she came to the special committee the Minister of Employment and Immigration ticked us off with nothing short of a brusque lecture as to how deficient and derelict we were in performing our duties. The leisurely pace we adopted, the witnesses we called, and the new thoughts we uttered were all inadequate and unnecessary, said the minister.

The minister told us that in 1978 Bill C-14, amending the Unemployment Insurance Act, was passed with great speed by the Senate of the day. She asked why it was that we were so recalcitrant, uncooperative, theatrical and filled with games. She then proceeded to review the similarities between the bills. Of course there were similarities, but there were also tremendous differences.

In 1978 the government did not move to remove entirely its support for the payment of regionally extended benefits: that is a new principle in this bill, or a new policy. Nor did the 1978 bill remove entirely the income support given by the government to fishermen; that is new in this bill. Furthermore, it certainly did not introduce a principle that would have the effect of asking the unemployed to reduce their benefits under the bill in order to finance training programs. Those are entirely new and different

proposals. I would have hoped that if those proposals had been contained in that bill at that time, the Senate would have looked at the bill equally carefully.

I was disappointed that in her speech in the House of Commons the minister accused us of political theatrics and of playing games. She said that because of our political games it was difficult to believe that our amendments were a sincere attempt to improve this bill. I hope that we can convince the minister that, indeed, we are serious and sincere in this effort to improve the bill, and that we do not want simply to defeat it, as we have been requested to do on many occasions, and as recently as one week ago Monday, by representatives of trade unions who represent four million workers in Canada.

Any of you who want to understand the approach the government has taken to the Senate ought to read Mr. Andre's speech in the House of Commons. I wonder whether Senator Beaudoin was pleased with his role as it was described by the minister in the House. I certainly did not feel very refreshed when I read about what we were expected to do. That is why I wonder why it is that our work is not accepted as honest and sincere, and why the Senate is pilloried every time after it has laboured, as this committee has, in order to improve a bill. We have brought forward serious amendments and they have been, in the main, turned down. We were given the back of the hand by the government and its majority in the House of Commons. One or two changes were accepted, but, in the main, the amendments were turned down flatly and not even explanations were offered.

Senator Simard: You still want to set policy as if you were still in government!

Senator MacEachen: No explanations were offered on why the amendments were turned down.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Bill C-21 contains a provision, put there by the government, that there be prepared and tabled every year a plan containing estimates of the total expenditures to be made under the Unemployment Insurance Act and of expenditures under sections 24 to subsection 26(1). The bill provides for that plan to be prepared and laid before Parliament. We amended that provision and asked that we be given the information concerning preceding years. The government accepted that amendment. We made it obligatory that the government provide in the plan the future expenditures to be made in the provinces and the regions, but the government turned it down flat. We suggested that if a number of members or senators want to deal with, or are concerned about, the plan when it is put before Parliament, they be given an opportunity to debate it and to have a decision made on it. That, too, was turned down flat.

The reasons are quite puzzling. The only reference made to this proposal by the Minister of Employment and Immigration can be found in one paragraph of the *House of Commons Debates*, which reads as follows:

Page 1321

The Liberal senators want the power to impose changes in regulations and plans on the elected government. The Liberal senators sent us a series of recommendations that in effect would allow them to turn down the proposed amendments to the regulations on fishermen's benefits.

I will return to that point later, but we did provide an amendment to the sections dealing with fishermen's benefits. All we did was follow a standard practice that has been used in certain cases by both governments, Liberal and Conservative, to give Parliament an opportunity to debate and decide upon certain important matters. The plan was asked for and put in the bill by the government. We simply asked for certain detail and that it be debated. The minister

describes this as a power grab by Liberal senators.

In 1987, I believe it was, the Honourable Ray Hnatyshyn introduced amendments to the Official Languages Act which required certain regulations to be made. These regulations were to be put before both houses, and a group of members in either house could raise the question and have it decided upon. The same authority was given to the Senate and the House of Commons. I could go on and recite other illustrations, including the Western Grain Transportation Act of 1983, in which similar provisions were made. These resolutions are never identical, but the principles are the same.

Another such provision is contained in the International Development Financial Institutions Assistance Act of 1983. I believe it refers to documents similar to the ones that are provided for in the plan. Of course, in 1985, I believe, a similar proposal was put forward for the Electoral Boundaries Readjustment Act, but in that case it only referred to the House of Commons. There was reason for that. So we employed in our amendments to the plan practices that have been followed in the past and that have been applied to both the House of Commons and the Senate, but Liberal senators are accused of making a power grab. I think that is paranoia. It leads me to believe that the minister and her officials, or at least the minister and the political people in the House of Commons, have not understood the amendments.

I shall return to this theme as I go along, but, as a further example, the parliamentary secretary to the minister, Bill Kempling, said:

It comes to this: We cannot agree to a proposal that would set plans in stone a year ahead and which in any case would be speculative. We are prepared to meet the concerns expressed in the Senate amendment by elaborating the yearly plan to incorporate

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

more detail but not beyond the limits of what is practical. That means an estimate, not a plan covering the 10 provinces and the 2 territories.

We did not propose plans to be set in stone a year ahead. We simply accepted the government proposal, asked for more detail, and provided that it be dealt with by Parliament if the requisite number of members in either house wanted a debate.

The theme of asking for detail went through our comments. We said, "You must provide the details of future expenditures for each province in your plan." We inserted the word "shall." The "shall" was taken out and "may" was put in, so that the government can give the back of its hand again if it wishes.

As some honourable senators will recall, that was not the attitude taken by the deputy minister in committee, who, in talking about the plan, said that they could probably provide it on a provincial basis. He said that there would be widespread interest in this and that certainly, if they were going to use the process for a consultative period with provincial governments, they would need to have data on a provincial basis. Then, because we put the question to him about providing data by U I regions, he said that he was not focused on whether or not they would do it on a U I district basis.

I find it puzzling that those amendments should be so misunderstood and that they should be rejected by the minister on the ground that the Liberals were making a power grab. If she found reference to the the Senate so offensive, she could have deleted it and allowed the plan to go to the House of Commons for review. That, no doubt, would please Senator Beaudoin. It would displease me, but I might swallow it in the interests of getting that plan debated and decided by members of Parliament who are deeply concerned as to whether training funds will be available to replace benefit funds, which are

withdrawn under this bill. That is all. That does not seem to offend even the late Mr. Driedger. It does not affect taxes or appropriations. It is just a workmanlike, sensible amendment.

My puzzlement grows when I look at the way the government turned down our amendments with respect to developmental uses. It is provided in the bill that there be funds for developmental uses. We took out a number of items on which these funds would be spent. The minister said that she rejected our amendment because it "rejected the decision made by the House to invest UI funds in developmental uses for people."

The parliamentary secretary, a man for whom I have considerable regard because of our association in the House of Commons, said that the Senate amendment "closes the door on the so – called 'developmental uses'." That is simply not true. We did not close the door. We did not reject the decision to invest funds on developmental uses. We limited them, but we did not close any door. It is true that we removed some of the developmental uses provisions, but we did not strike out the entire clause or reject the proposal outright. In fact, had our amendments been accepted, the developmental uses section of Bill C-21 would have been quite substantial and quite extensive.

I will not bore my colleagues by reading the whole page relating to developmental uses that still remains in the bill. The minister says we rejected all of that and the parliamentary secretary said that we closed the door. That is not true. I think it is about time that we started to talk directly to our colleagues to remove what appear to be misunderstandings with respect to our amendments.

Page 1322

I should now like to refer for a moment to fishermen. Here again I am quite surprised. We all understand that under the present

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Unemployment Insurance Act fishermen's benefits are provided for by regulation. The Governor in Council has the full authority to alter the regulations. I went over this ground before. It also provides that the whole system for fishermen's benefits can be removed by proclamation. Bill C-21 also provides for the removal entirely of the approximately \$270 million which the government pays each year for fishermen's benefits. We introduced amendments affecting all three items.

I was heartened when I read the minister as having said that they agree to provide "more explicit protection" for fishermen's benefits and, therefore, they had accepted one of the amendments. What the minister did accept was striking out the provision in the UI Act providing for the elimination of fishermen's benefits by proclamation. In accepting that amendment she slipped in a provision striking out our amendment concerning government contributions.

Of course, the power of the government to reduce the benefits to nothing by regulation is still in place. Both went together. If you intend to provide more explicit protection, you must have an end to the proclamation provision and some control over the regulation – making power of the ministry. We said, "If you intend to change the fishermen's regulations, please come to Parliament, put it on the table and let members of Parliament and senators debate it if there is deep concern." That was all turned down.

Nevertheless, the minister, her parliamentary secretary, and the member for South Shore all said they would accept an amendment to give more protection to the fishermen. There is no such protection, because funding by the government is gone and the regulatory power is still in the hands of the government. Nothing has changed. I find that quite disappointing and I cannot understand why it is now stated that there

is more explicit protection for fishermen's benefits.

I want to say a word about amendments 7 and 9, namely, the amendments that relate to government contributions to the fund. Under the present system the government pays the cost of unemployment insurance benefits that arise when the unemployment rate is above 4 per cent. We introduced an amendment in response to the virtually unanimous testimony we received that the government should remain within the system. We proposed an amendment that 50 per cent of the costs associated with unemployment greater than 6 per cent should still be put in by the government. Of course, that was rejected.

I find the varying costs which were attributed to these amendments by the officials and the ministers interesting. We asked Mr. Kroeger what the cost would be of benefits associated with an entitlement accruing to claimants as a result of unemployment rates in excess of 6 per cent. He replied that in 1990 the full amount would cost \$3.5 billion. We cut that in half, so it would appear to us that amendment 7 would cost the government \$1.75 billion. However, the Honourable Harvie Andre said in his speech that both amendments 7 and 9 would cost \$1.75 billion. How did the departmental estimate get reduced to include the \$270 million that have to be paid out for fishermen's benefits? We have that puzzle.

Then we have the next puzzle, that the Minister of Employment and Immigration tells us, on page 9141, that the cost of amendments 7 and 9 will be at least \$1.5 billion, a quarter of a billion different from the estimate given by Mr. Harvie Andre. Can anyone on the other side tell me which number is right? I do not know. We have had these conflicting estimates of the cost of our amendments.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Then, of course, the minister, in her statement about how unacceptable it is that we should put forward an amendment affecting expenditures, even though they were reducing expenditures considerably from existing levels, asked: What right do these senators have to force us to increase the deficit? Honourable senators, it is a bit of a game. We are told that by transferring the burden of old premiums to employers and employees, relieving the government of that burden, the bill will reduce the fiscal deficit. However, we were also told by Mr. Kroeger in the committee that at the end of three years there will be a \$3 billion deficit in the UI account. There will be a deficit of \$3 billion at the end of the three – year period. So the deficit, by this artful, transparent device, is transferred from the minister's fiscal deficit to the UI account, where a new deficit will be created.

Honourable senators, when we moved these amendments we understood that we were affecting the fiscal position of the minister. That is why, with the knowledge we had, we said, "We want you to continue to pay for the self-employed fishermen." We still want that. That is a reasonable request to make in light of the crisis in the Atlantic fisheries. Do not pull the foundations out from under the income support system of the self-employed fishermen at the present time. That ought not to be done.

With respect to the cost of amendment 7, we had hoped that the government would have some alternative suggestions that would still recognize the necessity, in accordance with the wishes of all the witnesses, to maintain a government presence in funding, but there was no response whatsoever. It is presented to us – and it was presented today by Senator Beaudoin – that this is a conflict or a disagreement between the House of Commons and the Senate. Well, it may be that, but it is more than that. It is a conflict between the House of Commons and the government and all the major social groupings in Canada: the churches, the women's councils, the

trade unions – a labour coalition. It is the first time ever that the unions have formed a labour coalition, including the CNTU, the Teamsters, the CLC, Mr. McCambly's union, the nurses, the teachers.

Senator Simard: The NDP!

Senator MacEachen: They all came together and said, "This is the first time we have ever had a coalition, and we represent four million workers." They asked the Senate to kill the bill. We have not reached that decision.

Senator Simard: Why don't you do that?

Page 1323

Senator MacEachen: The conflict is with the people. What we are doing in the Senate is giving some representation to these social groupings in Canada. The spokesmen for those four million workers told us that day that they had asked to have a meeting with the Minister of Employment and Immigration. She refused.

The government is not listening. It is not listening in the House of Commons. It is clear that it does not want the House of Commons to be an influential body, particularly the opposition in the House of Commons, which used to have a role. Closure has become a routine practice in the House of Commons. What would Mr. Diefenbaker think if he saw the Tories bringing in closure almost on a daily basis? A message is brought in on Monday at twelve o'clock and at six o'clock the minister announces closure. The guillotine comes in the next day and the opposition, which ought to be representing the dissident voices in the country, is stifled by the government majority. That is the reality, Senator Beaudoin, when you are talking about theory. Why do we not talk about practice and ask where the freedom of expression existed for those elected in opposition to the government on the message and the amendments sent by the Senate to the House of Commons?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Then we had that famous Henry VIII clause. Well, they were too damned embarrassed even to explain why they wanted it. They say we are denying them flexibility. They can have all the flexibility in the world, but why do they need a provision which gives them authority to introduce programs which are different from those provided for in the bill? Why do they need that? Senator Forsey thought it was a tremendously extraordinary clause. We moved to strike it out, and the government says, "No. We need that flexibility."

Senator Beaudoin talked about a looming parliamentary crisis. I do not share that apprehension. The Senate of Canada is operating within the practice which has been employed in the past by the Senate of Canada; that is, to insist upon its amendments. That has happened in the past.

Senator Barootes: Only under Liberal opposition in the Senate!

Senator MacEachen: It has happened under Liberal opposition in the Senate and under Liberal governments in the Senate. It has happened in both cases, if Senator Barootes wants to reflect upon the many instances when conferences have been held.

It is very important to understand that we are insisting on our amendments, and that the House of Commons has a parliamentary device available to it in order to help resolve the disagreement, and that is to call a conference with the Senate.

Senator Barootes: U.S.A.!

Senator MacEachen: I would like to deal with whether it is a question of U.S.A. or not. Is it? I do not know. That should not offend the Tory party. If it comes from the U.S.A., they ought to be jumping up and down and saying, "Let's have

it." But I assure Senator Barootes that this is a Canadian institution.

Approximately 17 conferences have been held in this century, the last in 1947, and there could have been one held in 1961. It is open to the government now to attempt to resolve this particular disagreement. If the House of Commons wishes to engage in a dialogue with the Senate, then, of course, we are prepared to do so under the system that has prevailed in Canada. This is covered in *Beauchesne*, in the Rules of the Senate, and in the rules of the House of Commons. This is covered in all of the procedures.

Senator Barootes: Yes, every 29 years!

Senator MacEachen: It is not often that we have a government like this one!

As I said, the conference is recognized in the rules of both houses, in *Beauchesne* and in *Bourinot*.

Professory Mallory in his book, *The Structure of Canadian Government*, published in 1984, suggests that the conference is an appropriate way of resolving disputes between the House of Commons and the Senate. He states:

the now rarely – used practice of conferences between the two Houses as a way of dealing with differences should be revived.

What is wrong with it? If honourable senators had the intestinal fortitude, as I did, to read Harvie Andre's speech, they would find that he quoted extensively from Professor Kunz. He was his main authority. So I ask what Professor Kunz says about the conference. Maybe this will impress Mr. Andre. Professor Kunz states:

The free conference system ... is based on the same idea as the Conference Committee in Congress, or the highly effective [system] in

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the Federal Republic of Germany ... the "managers" of the two houses are free "to urge arguments, to offer and combat objections, and, in short, to attempt by personal persuasion and argument to effect an agreement between the two Houses."

Senator MacDonald: Who said that?

Senator MacEachen: Professor Kunz. I am using the same authority Harvie Andre placed great reliance on in the House of Commons, "The Modern Senate of Canada" by F.A. Kunz.

So let us not be overcome by alarm, Senator Beaudoin. This is a parliamentary practice that is available to us. If Senator Beaudoin wants to look into it a bit more, may I ask him to take a look at the incident respecting Bill C-364, the Criminal Code, 1947?

Senator Barootes: 1947!

Senator MacEachen: A conference was held then. I ask him also to take a look at Bill C-72, the Customs Tariff Bill. That came up in 1961. A conference was not held then, notwithstanding that the Senate insisted on its amendments. The Prime Minister of the day chose not to hold a conference. However, there have been such conferences held.

Honourable senators, I believe that if senators are to have any sense of worth, any effectiveness, they have to express their convictions. Our convictions are expressed in these amendments. We sent them forward after a lot of work. We do not think they were carefully considered. We do not think we received a satisfactory reason for turning them down, and we are insisting on them. If the House of Commons wishes to have a dialogue with the Senate in an effort to overcome the disagreement, then certainly we on this side of the house would be happy to participate.

Page 1324

Some Hon. Senators: Hear, hear!

Hon. John B. Stewart: Honourable senators, what we are debating this afternoon is a response to a message, which came to the Senate from the House of Commons, rejecting amendments made by the Senate to Bill C-21. If we look at the debate that took place in the House of Commons we will see that the spokesman for the government, the Honourable Harvie Andre, justified the message sent to the Senate by an analysis of the procedural and constitutional validity of the Senate's amendments. We ought to look at the reasons he stated for rejecting most of our amendments.

He began his speech by quoting sections 53 and 54 of the Constitution Act, 1867 and four Standing Orders of the House of Commons. From these he concluded that most of the Senate's amendments – all those rejected by the government – were out of order. He stated:

Nothing could be clearer than that in terms of the constitutional authorities of this House, and solely this House, to deal with tax and spending.

I think the Hansard record is inaccurate. I assume that what he actually said was:

Nothing could be clearer than that in terms of the constitutional authorities, it is for this House, and solely this House, to deal with tax and spending.

He goes on to say:

Notwithstanding that, these rights and powers of the Commons vis – à – vis the Senate with respect to legislation and amendments to bills have been seriously and substantially breached by the Senate amendments before us now.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Having said that, he changed his mind. He said, and I quote now from page 9094 of the Debate of the House of Commons:

Yes, the Senate can legally, perhaps, defeat, delay or amend downward a supply appropriation bill.

So he is rejecting his initial argument.

Having refuted his own initial argument, he tries another one. He says we must remember section 53 of the Constitution Act, which says:

Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Please notice that word "originate". That word means, says Mr. Andre, that the Senate amendments are out of order. Every word, every comma of a bill that appropriates money or imposes a tax, according to Mr. Andre, under section 53 of the Constitution Act, must originate in the House of Commons. He says that explicitly. I quote now his own words at page 9096:

Section 53 prohibits the Senate from amending money bills.

That is his position. If section 53 prohibits the Senate from amending money bills, how can he say, as he just did, that "the Senate can legally, perhaps, defeat, delay or amend downward a supply appropriation bill"? Surely, if there is uncertainty or puzzlement over the implications of Bill C-21, as Senator MacEachen has said, there is even greater puzzlement over Mr. Andre's arguments for refusing to consider seriously the Senate's amendments.

We all know why the word "originate" is used in section 53.

It is there for the special reason that bills that appropriate money and bills that impose taxes are not introduced in the House of Commons.

Senator Frith: In the Senate. Senator Cools: In the Senate.

Senator Stewart: No, they are not introduced in the House of Commons. First, there is a resolution. The House of Commons originates a bill founded upon votes, in the case of supply, and upon a taxation resolution, the famous Ways and Means motion, in the case of taxation. That is why the word "originate" is in section 53. It is not there to prohibit amendments by the Senate. It is there because these bills are not introduced in the House of Commons; rather, they originate in that House.

Having failed on his second argument, Mr. Andre grasps at the Royal Recommendation argument. He says that the amendments sent to the House of Commons by the Senate authorize appropriation. He says that they are unconstitutional because they were not supported by a Royal Recommendation, as required by section 54 of the Constitution. Mr. Andre forgets that Bill C-21 is a bill to amend an existing law. The amendments sent to the House of Commons by the Senate do not authorize expenditure; rather, they reduce an existing authorization. It would have been wise for Mr. Andre to have looked at the ruling made by the Speaker of the Senate. On February 20, 1990, the Speaker said:

With respect to matters that do not require the Royal Recommendation, Erskine May states the following:

No special form of procedure applies to proposals to reduce existing charges, and they may be moved in the House of Commons or in Committee without the Royal Recommendation.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

A proposed reduction of a charge may consist in reducing its amount, or restricting its objects or inserting limiting conditions, or shortening the period of its operation...

And so on. Mr. Speaker Charbonneau went on to say:

You will find that on page 805 of Erskine May.

He concludes:

Based on the above citations in Erskine May, and after careful review of the proposed amendments, I find amendments 5 and 7 to be in order.

Page 1325

Mr. Andre has failed to find solid ground for his motion on that particular approach or tack.

Having failed once again, he falls back to yet another position, and it is interesting to note that, notwithstanding the various arguments to which I already have referred, arguments which he makes at great length, with much Senate bashing, this is the position he puts forward in his motion. The motion put before the House of Commons on March 12 states that certain of the Senate's amendments are to be rejected for the following reasons:

All of them are in contradiction of the fundamental principles contained in Bill C-21.

He then states certain fundamental principles which he says are contained in Bill C-21. When we come to the bottom line, there is no mention of any of his procedural and constitutional arguments about aids and supply, about Royal Recommendations, or about bills originating in the House of Commons. He had not impressed even himself. When he comes to frame his message, he relies on the assertion that all the Senate amendments are in contradiction to the

fundamental principles contained in Bill C-21, and that, consequently, they are out of order.

Honourable senators, it is easy to see what Mr. Andre is doing here. He is confusing the government's intentions, its purposes, as set forth in Bill C-21, with the principle of the bill. He is saying that because the Senate has dared to deviate from the government's intentions, the Senate has violated the principle of the bill. If he had looked at Beauchesne's, Fifth Edition, at page 231 he would have found some helpful words. Paragraph 764 says:

(1) A committee is bound by the decision of the House, given on second reading, in favour of the principle of the bill, and should not, therefore, amend the bill in a manner destructive of this principle.

Senator Guay: He never read it!

Senator Cools: That is cruel!

Senator Stewart:

(2) The committee may so change the provisions of the bill that when it is reported to the House it is in substance a bill other than that which was referred. A committee may negative every clause and substitute new clauses, if relevant to the bill as read a second time.

Now listen to the next paragraph:

The objects (also referred to as the principle or scope) of a bill are stated in its long title, which should cover everything contained in the bill as it was introduced...

Let us look at the long title of Bill C-21. It is:

An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

That is the principle of the bill. That is the principle which the Senate in its amendments had to respect.

The Senate is not obliged to inquire: "Just what did the minister sponsoring the bill have in her mind? What was her intention? What was her purpose? What did the bureaucracy really intend to do when it wrote these clauses?" We do not have to ask those kinds of questions. What we have to do is respect the principle of the bill, and the principle, as Beaudoin says, is enunciated in the long title of the bill. Nevertheless, the argument, on which the message from the House of Commons is based, is based on the assertion that our amendments are contrary to the government's intentions. It is on that misunderstanding that the message from the House of Commons is founded.

Again and again Mr. Andre tells the House of Commons that the Senate is not an elected body and that, therefore, the Senate's amendments are unacceptable. The implication is that if the Senate were an elected body the amendments would be in order and acceptable, notwithstanding everything that he had already said about procedure and the Constitution. It is here, honourable senators, that we come to the pith and substance of Mr. Andre's case. He concedes that our Senate amendments are in order. He concedes that they are constitutional. Finally, having retreated from one barricade to another barricade, he comes to his last stand: the Senate is not elected. Think of it, honourable senators – back in 1867 they didn't know what they were doing! They created an appointed Senate; they made a mistake! There he digs in. Many of us on this side of the chamber, and, I believe, some on the other side, advocate an elected Senate.

Senator Guay: Right on!

Senator van Roggen: Then they will get amendments! Senator Frith: They think they are in trouble now!

Senator Stanbury: Wait until the provinces get at them! Senator Stewart: Why? Well, because an elected Senate would be more effective in representing the people outside central Canada. But today we do not have an elected Senate: we have to operate under the existing Constitution.

Senator Beaudoin earlier today said that he would in the future govern himself by the "Beaudoin constitutional amendment." What is that? He will conduct himself on the basis of the principle that, since the Senate is not an elected body, he is free to use his own judgment in redefining the powers of the Senate.

Senator Guay: That's about as good as Andre's!

Senator Stewart: That is what he is saying. He cites Elmer Driedger –

Senator Beaudoin: I did not cite myself. I quoted Driedger. Senator Stewart: That is what I just said. Senator Beaudoin said that there are two views with regard to the powers of the Senate. There was Elmer Driedger, and those who went before him, who said, "Well, the Senate should conduct itself as if it were a body comparable to the British House of Lords. It should conduct itself as if it were the second chamber in a unitary system of government." I wonder what the Premier of Nova Scotia, the Premier of Quebec and the Premier of Alberta would say to that doctrine.

Page 1326

Then there is the second view: that the Senate is not really a kind of colonial version of the House of Lords, but that it is indeed the second chamber in the legislature of a country with a federal system. Senator Beaudoin himself said

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

that he prefers the first view. He said that he thinks the Driedger view is right.

Well, I disagree with him. Canada is a federation. We do not have a unitary system, as in the United Kingdom. I think we betray our regions, we distort the Constitution, when we forget that Canada does not have a unitary system of government.

Senator Beaudoin: I never said that.

Senator Stewart: Senator Beaudoin says that he never said that it was a unitary system of government. What he said is that he prefers a particular interpretation of sections 53 and 54, an interpretation based on the unitary view an interpretation which reduces the power of the Senate, a body established to restrain the power of one or two provinces. That is what he said. That is the view that he endorsed here this afternoon. Well, I think he is wrong.

I disagree with Senator Beaudoin not only because of the view he takes of sections 53 and 54, which he thinks is correct, but I also disagree with him on our right to reinterpret the Constitution. I have said that I favour an elected Senate. We do not have an elected Senate. That does not give me the right to retire, simply to withdraw from the obligations that I have as a member of the Senate as it is now constituted. There may be good reason to get out and work for an elected Senate, but, as long as we have the Senate we have now, senators from Newfoundland, from Nova Scotia and from Quebec have the duty to operate under the existing rules, under the existing Constitution.

We have to look at the substance of the Senate's amendments to Bill C-21. I ask senators from Nova Scotia, from Newfoundland, from New Brunswick, from northern Ontario and from Quebec~I ask them to consider the substance of the matter now before us. I ask them not to be

misled by procedural arguments, which even Mr. Andre himself does not believe.

Is it right that the Government of Canada should withdraw financially from the unemployment insurance program'? That is the question to ask. Can you vote for that'? If you vote against the Senate's amendments, that is what you will be saying. For half a century Canada has had unemployment insurance financed by employers, by employees and by the Government of Canada. Now we are being asked in Bill C-21 to turn to a new scheme in which the government will not make a financial contribution to the unemployment insurance program. Is that what you want ?

If you are from Newfoundland or Prince Edward Island or Nova Scotia or British Columbia, do you want to withdraw the financial support of the Government of Canada from the program of benefits for fishermen'? Is that what you intend to vote for'?

We cannot hide behind points of order or the Driedger theory of the Constitution. We are confronted with real questions. The people whom we represent expect us to be conscious not of party loyalties but of our duty to them when we vote here this afternoon.

Hon. Charles McElman: Honourable senators, I have been maintaining a file for some years with respect to the powers and duties of the Senate. If I am ever to put something on the record I had better stop accumulating a file and make some comments today.

Following upon what Senator John Stewart has said, we have been exhorted on so many occasions to consider the Senate its powers and the propriety of using those powers~ on the basis of what might be or what will be rather than what is. Senator Stewart has put forward very well what is. It is only on that basis that we

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

should be considering questions such as we face here today.

I am not one of those who is inclined to wait for Senate reform. I have been here for 24 years. Senate reform has been on the lips of senators from both sides of the house; it has been constantly a subject of discussion in the other House; it has been the source of many resolutions by both the Liberal and Conservative Parties who talk of reform. The socialists would go for a unicameral system, which, in my view, would destroy Canada. However, the two major parties talk of reform.

Recently one of my daughters presented me with this volume, which is entitled, in gold, Dominion Liberal Convention, 1893, held in Ottawa June 20 and 21. At page 134 there is a resolution that was passed unanimously by that great convention of Liberal reformers, with very little debate. The mover was the Honourable R.W. Scott of Ottawa. I do not know his background. It was seconded by the Honourable Andrew G. Blair, who was then premier of my province and a vice-chairman of the convention. Another vice-chairman of the convention and chairman of the committee on resolutions was the Honourable W.S. Fielding of Nova Scotia, and another vice-chairman of the convention was the Honourable Fred Peters, then premier of Prince Edward Island. All those people had very strong credentials.

What did they come up with? I will read the resolution:

The present constitution of the Senate is inconsistent with a federal principle in our system of government and is in other respects defective, as it makes the Senate independent of the people and uncontrolled by the public opinion of the country; and should be so amended as to bring it into harmony with the principles of popular government.

So there is really not much new in the world with respect to the Senate. I find it interesting that we are exhorted to act in the Senate as though we were now being revised.

The provinces, the government of the day and the Liberal Party of Canada are talking about a Triple-E Senate. I suggest that in the current context, and in view of the history of the reform of the Senate and the proposals for it, the Triple-E, so-called, is misleading and it is playing a fraud upon the Canadian people. The western provinces are being encouraged to believe that this is about to happen. As you all know, a Triple-E Senate proposes that there be equal numbers of senators from each of the provinces. The Government of Canada, in my view, is encouraging the provinces to believe that this might be the case –

Page 1327

Senator Flynn: I have never heard anything like that.

Senator McElman: – by continually referring to the fact that once Meech Lake is out of the way, then a Triple – E Senate will be considered. The prairie provinces believe that they are being encouraged in their proposition for a Triple-E Senate.

Senator Flynn: That is only one province.

Senator McElman: I suggest to you that this is a fraud; that there will be no Triple-E Senate.

Therefore, we have to deal with the Senate as it is, and as it was in 1893 when that resolution I spoke of was passed. It could very well be that there will be Senate reform. Unfortunately, however, the reform that many of the provincial premiers are being led to believe will take place will, in my view, not take place. They will not see the type of reform they are being encouraged to believe.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The minister, who spoke quite recently in the House of Commons and made some very cutting references towards the Senate, I believe has gone further than acceptable. However, we just have to consider where the comments came from. My colleague suggests that one should forgive the Honourable Harvie Andre because he knows not what he does.

Senator Guay: Right on! He cannot help it if he does not know.

Senator McElman: What we are dealing with is the Senate that is, not the Senate that will be and not what some might wish it to be. We deal with it as it is.

It is my belief that if the current legislation, the Meech Lake deal, were to pass, many of the encouragements that have been given the provinces would disappear quite rapidly. I do not believe that the Province of Quebec or the Province of Ontario would agree to the proposals that are being put forward by some of the other provinces, particularly the western provinces.

This whole question has caused me to put together a file, which I have been building for a number of years. This is probably my last chance to deal with that file. In that file I have material that I have had assembled over the years by the Library of Parliament. I will not go through it all, but some of it is useful at this stage. It deals with propositions over the years and the Senate proposing amendments to government legislation.

It is suggested by Mr. Andre that we have no rights in certain respects. I believe that this was the wrong minister to make such propositions.

In this research that I have obtained, I should like to quote Senator Flynn.

Senator Buckwold: A fine source!

An Hon. Senator: Oh, oh!

Senator Flynn: As an authority?

Senator Frith: It could be right in spite of that.

Senator Petten: A temporary one!

An Hon. Senator: Now we are in business!

Senator McElman: This dealt with Bill C-262. It concerned the 1972 session of Parliament and involved a bill sponsored by the Honourable Jean-Luc Pepin, Minister of Industry, Trade and Commerce. The Senate was proposing amendments to that bill. Senator Flynn said:

Honourable senators, speaking to the amendment of section 21, which was suggested by the minister himself –

and the minister was Jean-Luc Pepin –

it may be interesting to put on the record that the minister agreed it was a good thing to have a Senate in order to give him the opportunity to correct legislation which was passed too quickly in the other place. I do not mean that the general debate went too quickly, but this section did not get the attention it should have. We were quite happy to comply with his wishes. It is an argument in favour of a second chamber.

Senator Flynn: That is a good quote.

Senator McElman: The amendments were made, and in the House of Commons the Honourable Allan J. MacEachen, house leader, moved the second reading without comment.

Senator Flynn: What does that prove?

Senator McElman: Just be patient.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Buckwold: We are coming to the Flynn formula!

Senator McElman: That amendment was rejected as proposed at that time. A compromise course was suggested and, after objections Mr. Olson, who was then a minister in the other House, was pleased to accept the modifications "without protesting too much."

I have a lot of material here, but I will try to shorten it tremendously from where I began.

I have some information on another bill, Bill C-4. Mr. Basford took 25 amendments from the Senate.

First of all, the amendments made in the other place ... improve upon the bill as originally drafted and as originally presented and passed by this House. I trust that this afternoon those amendments made in the other place will be acceptable to the members of this House.

There was the usual NDP attack on the Senate at that time, but many amendments were made on that basis.

We now come to remarks made by Senator Choquette.

Senator Choquette was the Deputy Leader of the Opposition. His comment was:

Page 1328

Honourable senators, the first thing I want to say with regard to what happened in the other place yesterday is that it is a good argument in favour of having a second chamber, an appointed legislative body. The behaviour of the other place yesterday was that of juvenile irresponsibility. We have already heard that they did not go into the merits of the bill at all.

This concerns the Protection of Privacy Act.

An Hon. Senator: What year, please'?

Senator McElman: It was 1974. We have already heard that they did not go into the merits at all. He went on:

That is unfortunate, but it serves admirably to point out the value of an appointed body such as the Senate that can consider legislation coolly and calmly, without being forever subject to intense political pressures.

We have every right to review legislation. We have every right to amend legislation. Any attempt on the part of any group to diminish those rights is an affront to the Senate and to Parliament.

To adopt the attitude enunciated by Senator Goldenberg –

who was the then chairman of the Legal and Constitutional Affairs Committee –

that we should automatically capitulate because we were not elected, is fundamentally to alter the role of the Senate. This reduces the Senate to being a mere consultative body, and I will have no part of that.

Then Senator Martial Asselin spoke, and he said:

If we want to see the Senate abolished, we just have to continue to accept motions such as the one before us tonight. We are going to create a precedent because whenever the House of Commons returns a bill which we have amended, for fear of preventing a confrontation or an argument with the House of Commons, we shall say: 'Well, it is just too bad, we may have made a mistake, but here is your bill, do what you want with it, and we are not going to insist on our amendment.' But honourable senators, what would be the use of the Senate'? Are we not going to ask this very question:

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Should the Senate continue to exist? In my opinion, the question cannot be clearer.

I have many references here. In all, I have 60 pages of material on research involving amendments to bills while one of the major parties was in office. That is why I find it so strange that today the proposition is being put forward that the Senate really has no right to amend bills of this nature. That attitude is totally unacceptable to me.

Two papers prepared by the Library of Parliament in 1987 bring this practice up to date. They list the many amendments that were made by the Senate to House of Commons legislation. One of the references brought forward by the library is from "Sir John A. MacDonald", who said:

There would be no use of an Upper House if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body, but it will never set itself in opposition against the deliberate and understood wishes of the people.

What we are dealing with here is not the deliberate and understood wishes of the people.

Honourable senators, I have pages and pages of examples here that I had proposed to introduce, but, to save your time and my boring you, I shall try to make a rather long intervention a very short one. I should recall to honourable senators – and Senator Murray is not here or I am sure he would intervene –

Senator Doody: I will tell him.

Senator McElman: – the amendments that were made by the Senate to the Maritime Code Act. I believe they were in the order of 100. The Senate changed totally the policy being put forward by the then Liberal government.

Senator Flynn: That bill was dealt with here first.

Senator McElman: The Minister of Transport of the day was the Honourable Otto Lang, who was not the most receptive fellow in the world. The Senate Transport Committee worked five weeks through the summer recess and presented to the House of Commons a totally revised bill. The Minister of Transport, being the kind of chap he was, did not present the bill. He let the bill die and then presented it to the House of Commons as his bill, with little credit to the Senate. That is a prime example of the Senate doing superb work that is accepted by the government.

There is one other example I will mention. I am sorry that the Honourable Senator Perrault is not in his seat, although I spoke with him earlier to get his agreement to refer to the matter. The bill in question dealt with the Air Canada Act, and the year was 1978. It had passed the House of Commons and reached the Senate. At that time the late Honourable Ike Smith was with us, and I must say immediately that he was a first – class parliamentarian, particularly in committee work. I was the sponsor of that bill, and Senator Smith had drawn attention to a number of weaknesses in it – actually, they were improprieties. He and I worked very closely together in committee and came up with a number of critical amendments. The minister was unreachable. As the sponsor of the bill, I endeavoured on repeated occasions to speak with him, but I always ended up with an executive assistant who obviously had as little respect or use for the Senate as did his minister. Eventually I went to Senator Perrault, who was

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the Leader of the Government in the Senate at the time, and I said to him, "I must tell you as Leader of the Government in the Senate that I will hold the bill in committee until the minister accepts his responsibility and comes to discuss it with us and with me as the sponsor. I have been held off by that minister, through his executive assistant, for some three weeks."

Page 1329

A meeting was arranged in Senator Perrault's office. At that time I told him what amendments were necessary and that if he did not agree to them he would not get his bill. He was in high dudgeon and said to Senator Perrault, "Who does he think he is speaking for?" Senator Perrault said, "In this case he is speaking for the Senate." The man became quite cooperative at that point, but he was not inclined to give credit to the Senate on any occasion. After we had sent an amended bill back to the House of Commons, at page 2358 of the *Commons Debates* of January 30, 1978, he is reported as having said:

Mr. Speaker, I should like to say a few words concerning the amendments adopted by the Senate and indicate our support for them.

That is about the few words he had to say with respect to the Senate. He did go on to congratulate the management and employees of Air Canada for the fine job they were doing. They were dealing with the Air Canada Act.

The opposition critic at that time for transportation was the now Deputy Prime Minister. Mr. Don Mazankowski, who does not seem to have as favourable a view of the Senate today as he did then. We had made several substantive amendments to the Air Canada Act. The Honourable Mr. Mazankowski said:

I think the Senate has done a very commendable job in this instance.

My colleagues and I welcome the amendments proposed by the other place. We have no difficulty accepting the general thrust of the three substantive amendments, and certainly no problem with the others which are primarily consequential on those three.

That bill, as it came to us, had a clause 6(2), which said:

The Governor in Council may, by order, authorize the corporation –

that is, Air Canada – –

to engage in or carry on any activities not otherwise authorized by this Act.

Mr. Mazankowski also said, "The Minister stood very firmly and said it was right with might."

Senator MacEachen: That was the Henry VIII clause.

Senator McElman: Indeed, it was.

Still reading from that same volume of Hansard, Mr. Mazankowski said:

... there is, of course, a "grandfather" clause which provides the governor in council may authorize the corporation to carry on or engage in any activities not otherwise authorized by the act. Clearly this establishes a very dangerous precedent and one which could be applied to other legislation. I certainly welcome the minister's change of heart in connection with that provision.

He went on to say some very kind things, such as:

We applaud the sentiments expressed by Senator McElman that there is a growing feeling in parliament that parliament should be

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

more jealous of the powers that it extends by law to ministers to enable them to make regulations. I could not agree more. It would be well for us to bear statements like that in mind when considering other pieces of legislation and the granting of extra-ordinary powers to corporations such as Air Canada.

We welcome and support the other changes which had been made as a result of the Senate study of this bill. We are pleased with the support the Senate 'has given to our proposals ...

This is a situation very similar to what we are dealing with today.

Senator Flynn: Oh, no!

Senator McElman: Honourable senators, I am trying to spare you all of the further comments I have: here in my notes. Please allow me one moment.

I should now like to deal with a statement made in the House of Commons on December 15, 1989, by the Right Honourable Prime Minister, Mr. Mulroney said:

I think it is disgraceful that the Liberal leader —

that was then the Right Honourable John Turner —

allows the Liberal Senate to hold up the unemployment insurance bill that would give more money to the poor fishermen in Atlantic Canada,

Some Hon. Senators: Ha!

Senator McElman: He went on to say:

I think he should give instructions today to Allan MacEachen to call off his troops and pass

that unemployment insurance bill now because it is designed to benefit the people of Atlantic Canada.

Senator Frith: The great stand-up comic.

Senator MacEachen: They called us "troops." Usually we are "bagmen."

Senator Doody: The first line.

Senator Frith: Hacks.

Senator McElman: He went on to say:

I have also indicated our plans to assist the Atlantic fishing industry in a very major way.

Then, in speaking on this occasion to the member for South West Nova, he said:

If the member really is concerned about the well-being of the people in Atlantic Canada, then give instructions to those non-elected Senators to pass that bill now because it benefits the poorer people.

Honourable senators, I am sorry to have been so disjointed in my remarks. I had my material together, but I did try to keep my comments to a minimum in dealing with this matter.

I should simply like to say that in the situation we are faced with today, the Senate has an opportunity to make a stand that has to be given proper attention by the other place. It is something we should have done more often. It is something we have done on many occasions.

Page 1330

Senator Flynn: Never in confrontation, as far as you are concerned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator McElman: There have been confrontations and Senator Flynn has been party to them.

Senator Flynn: Not by you.

Senator McElman: The major part of the time that I have been fortunate enough to spend in this place has been when the government in office represented my party. In those circumstances most of the opposition to government legislation by Liberal senators was properly dealt with within the Liberal caucus or in direct representations with the minister involved.

Senator Flynn: That is what I was trying to explain to you.

Senator McElman: On so many occasions the Senate has effected major changes to approaches by government to legislation. Bills have been withdrawn in my time here because senators have said, "No, this should not go forward." I can imagine that today some honourable senators on that side of the house also make representations. The difference today, from what it was in the past, is that senators now have no access to ministers. Surely that is very clear. They have little influence with ministers.

Senator Flynn: How do you know?

Senator McElman: So it has grown up in public opinion that the Senate is now acting in a very inappropriate way with the current government. One cannot deal, in a Liberal caucus, with a Conservative government, so there is only one place to deal with it, and that is here on the floor of the house. I think that the Liberal opposition in the Senate has shown marked responsibility in dealing with legislation, but there comes a time – and I think this is one of those times – when the Liberals of the Senate have to take a stand. We are prepared to take a stand on this, return it to the House of Commons and ask that they consider it as representations

from responsible Canadians of a different party but on beliefs that are very firmly held and for reasons that are in the interests of the Canadian people. In this instance, a lot of those Canadian people are in the Atlantic provinces. Many of the representatives on this side of the house are from the Atlantic provinces.

So I would hope that the government, instead of some of the high – handed approaches that are taken by the minister in his public comments, will give the most serious reconsideration to the proposals that go forward from the Senate, and that they will not continue this confrontation.

For my own part, I believe that the representations that have been made on this side are not merely to cause problems but very simply to improve upon a dreadful situation which now exists in parts of Canada, most particularly in the Atlantic provinces. I hope that the representations of honourable senators will be heard and will be listened to, and that the government will be prepared, at the least, to sit down in conference and perhaps come to reasonable solutions to the problems that face us.

I am sorry to have been so disjointed today. My material was prepared for a much longer intervention.

Hon. Finlay MacDonald: Honourable senators, there have been a number of very interesting speeches this afternoon. I should like to respond very briefly to several of them. It was 1984 when I came here, not too long after Senator MacEachen. I have always served as a government member in the Senate. I do not think that the other side should be under any illusions about the responsibilities that we have as Conservative senators. Until this place is reformed, we know what we must do. I also do not think that you should be under any illusions that you should brittle any more with respect to the attitude of ministers of the Crown, who treat –

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Frith: What was the verb, that we what any more?

Senator MacDonald: Brittle: be annoyed, resent.

Senator Frith: Brittle? You use it as a verb?

Senator MacDonald: Well, I use it as a verb. It is also an adjective.

Senator Frith: Bristle; that can be a verb. Carry on.

Senator Doody: Thank you, Mr. Editor!

Senator MacDonald: I always find that people who resort to Fowler's Modern English Usage lose the thread of their thought.

I read Mr. Andre's remarks and I found that parts of them were totally unacceptable, and I want to be disassociated from them.

Senator Frith: Hear, hear!

Senator MacDonald: Senator MacEachen, my old friend, was particularly candid when he said, referring to his days as a minister in many portfolios and as house leader in the House of Commons, that he would not give a fig about the Senate and would do anything to minimize its influence and so on. His conversion came when he became Leader of the Government in the Senate.

Senator Doody: Opposition!

Senator MacDonald: Leader of the Opposition in the Senate.

Senator Simard: When the Liberal government was defeated!

Senator MacEachen: It has become increasingly clear as to what has happened during that period of time.

Senator Guay: He hasn't changed at all! It's the same old thing.

Senator Simard: That's the problem!

Senator MacDonald: I think he is doing a first-rate job as Leader of the Opposition. We have seen the changes that have been made. We have seen the opposition to free trade, to Meech Lake, and to the famous Patent Medicine Bill, Bill C-22. We have seen a number of things of that type. We have seen the changes in the manner in which bills are now treated consecutively. We have seen the abolition of prestudy. This place has been turned into a legislative chamber.

Page 1331

Now, you have to understand and forgive Mr. Andre for just waking up to the realization that things have changed.

Senator Guay: It's about time!

Senator MacDonald: That is his only sin.

Senator Frith: Consider him forgiven, if that is all there is to it.

Senator MacDonald: I once incautiously said some things to Flora MacDonald during our study of the Copyright Bill. She took them the wrong way and the next day she was advocating the abolition of the Senate. It is not very difficult to push a minister of the Crown over the brink.

Senator Doody: To make him bristle!

Senator Guay: Bridge!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Frith: No, brink is good.

An Hon. Senator: Just a little push will do it.

Senator MacDonald: I have seen only two minor defections in this chamber in six years.

Senator Frith: Defections?

Senator MacDonald: Let us say defections, just small ones.

One was Senator van Roggen and the other was Senator DeBane. I forget what Senator van Roggen's was about.

Senator Bonnell: Free trade.

Senator MacDonald: And Senator De Bane's defection was about the drug bill. Twice – just twice! Now, what the hell –

Senator Guay: Watch your language!

Senator MacDonald: Are we so whip-driven?

Senator MacEachen: That is two more than your side.

Senator Frith: Two hundred per cent more than your side.

That is a big statistic.

Senator MacDonald: Yes. We are so whip-driven! It is one thing to support a government that is finance-driven. It is quite another thing to realize how whip-driven we have become.

Honourable senators, I will not use the word "partisan" because I have had no problems. I have gone to members of the other side for advice and invariably received it, particularly from Senator MacEachen, who knows of what I speak, and from Senator Frith.

I was very interested in Senator McElman's remarks, because they seemed to conflict slightly with something Senator Frith appeared to agree with. Arguably, this Parliament has worked better when both houses were dominated by the same party.

Senator Doody: The public was worse off, though.

Senator MacDonald: There have been examples put forward today respecting conferences that took place when both houses were dominated by the Liberal Party.

Senator Barootes: Forty-three years ago!

Senator MacDonald: Then Senator McElman made reference to the fact that if they did not like something Otto Lang was doing –

Senator Doody: They would fire him!

Senator MacDonald: – they had an upstairs room and Otto Lang was made to cooperate, but that was done behind the curtains.

Senator Perrault: Yes, it was.

Senator MacDonald: That was a pseudo-generous situation. No one has shown me an example in Parliament's history where we have had a situation comparable to the one we have had for the past six years.

Honourable senators opposite can be complimented for doing their job and operating, as somebody said, as a government in exile, or as the Loyal Opposition, but they should not assume that their colleagues on this side, because we support government measures, are without some degree of understanding of what the problems are or what they might be. This would be a chaotic place if we jumped all over the road.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Don't lecture us on our consciences, Senator Stewart.

Senator Stewart: I would never do that!

[*Translation*]

Hon. Stanley Haidasz: Honourable senators, I would like to make a few comments on this motion by the chairman of the special committee that studied Bill C-21.

It is a special opportunity for me today to go over a little history and to say that it was a Liberal government that had the Unemployment Insurance Act adopted.

[*English*]

It was on August 7, 1940, in this very chamber that Royal Assent was given to the Unemployment Insurance Act, which was introduced in the House of Commons by the then Liberal government of Mackenzie King. Since that time many improvements have been made, mostly by Liberal Ministers of Labour.

As a practising physician in a working man's and working woman's area for 39 years, I am happy to say that sickness insurance under the Unemployment Insurance Act, and also maternity leave and child-care leave benefits, bring a great deal of relief to the sick or pregnant working mothers of young families struggling to eke out an existence, especially during these times of high interest rates and taxes and other difficulties facing families wishing to payoff mortgages on houses where they want to begin a family nest.

I do not have to dwell too much on the fact that in this age many women have to work, perhaps not our wives but, nevertheless, many women do work. Also, many women who work become pregnant, especially those in the highest age bracket of women who become pregnant,

namely, those in the age bracket 25 to 29. Despite a continuing decline in the overall fertility rate in Canada during the 1980s – which was brought to our attention last year by Senator David – the incidence of maternity absences from work has risen. In 1987 there were four pregnancy-related absences for every 100 women aged 15 to 49 who were paid for their work.

Page 1332

I do not want to prolong this debate. I simply state that we are at a serious impasse. That is why we are debating today Bill C-21 as amended by the Senate.

Honourable senators, the provisions for the working mother and for the pregnant woman in this bill, although improved over the past, are deficient. We only insure 60 per cent of a working mother's earnings. However, 22 countries in the world that have unemployment insurance and maternity benefits insure from 90 to 100 per cent of the woman's earnings. Furthermore, all countries that have maternity leave benefits allow those moneys to be tax free, except Canada and Sweden. Can you imagine, honourable senators!

I ask why the Minister of Employment and Immigration has missed a great opportunity to bring the standards of our maternity leave benefits and child-care benefits at least into line with those in other countries in Europe. We are far behind.

The Canadian Task Force on Child Care ranked Canada poorly compared to 22 industrialized countries in eastern and western Europe. In Poland, for example – a poor country – the mother is given maternity leave benefits and child care benefits for two years, yet we are limiting maternity leave benefits and child-care benefits to a maximum of 24 weeks.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I also find sad and frustrating the attitude of the Conservative house leader in being so arrogant and obstructive. So there are two ministers to be blamed. The special Senate committee, under the chairmanship of Senator Hebert, brought in many good amendments. Of course, as senators, we cannot increase spending. No honourable senator can move an amendment to increase maternity benefits and child care benefits. I presume that the failure to increase benefits is the fault of the Minister of Employment and Immigration, who, as you will recall, was at one time the Minister Responsible for the Status of Women.

So the government has missed a great opportunity, and is missing an even greater opportunity now by having stalled this bill and sending it back to the Senate. I think the government should accept the Senate's amendments and bring the benefits of Bill C-21, as amended, to the people of Canada who are sick and unemployed. Also, in the future the government should improve upon this bill. Honourable senators, I give notice this afternoon that if the government fails to save this bill and fails to bring it to Royal Assent because of its stubbornness and arrogance, then I will introduce, at the earliest possible opportunity, a bill better than this one in the hope that working mothers will receive adequate benefits.

The way things stand now, it looks as if this bill is about to die. I hope, however, that we can find some way – for example, a conference of both houses – to come to an agreement to overcome this present impasse. This is very important. All we need is genuine concern for the unemployed and good will to bring the best heads in both houses together in order to find a solution to this impasse.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: With leave of the Senate and notwithstanding rule

44(1)(e), it was moved by the Honourable Senator Hebert, seconded by the Honourable Senator Cools, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

An Hon. Senator: On division.

The Hon. the Speaker *pro tempore*: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "yeas" have it.

And two honourable senators having risen.

The Hon. the Speaker *pro tempore*: Please call in the senators.

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

Report adopted on the following division:

YEAS

THE HONOURABLE SENATORS

Anderson, Argue, Bonnell, Bosa, Buckwold, Cools, Corbin, Croll, Davey, Denis, Fairbairn, Frith, Gigantes, Guay, Haidasz, Hastings, Hays, Hebert, Kirby, LeBlanc (*Beausejour*), Lewis, Lucier, MacEachen, Marchand, Marsden, McElman, Neiman, Perrault, Petten, Stanbury, Stewart (*Antigonish – Guysborough*), Theriault, Turner, van Roggen, Watt – 35.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1333

NAYS

THE HONOURABLE SENATORS

Barootes, Beaudoin, Belisle, Bolduc, Cochrane, Cogger, David, Doody, Flynn, Macdonald (*Cape Breton*), Murray, Nurgitz, Robertson, Rossiter, Simard, Tremblay – 16.

ABSTENTIONS

THE HONOURABLE SENATORS

MacDonald (*Halifax*) – 1

The Hon. the Speaker *pro tempore*: Let the doors be opened.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

MESSAGE FROM COMMONS

Page 1598

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons, which reads as follows:

ORDERED, –

That a message –

Hon. Royce Frith (Deputy Leader of the Opposition): Dispense. Honourable senators, we will have a chance to look at this document later today. Therefore, we could dispense with the reading of the details, if that is agreed.

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

Hon. Senators: Agreed.

ORDERED, –

Wednesday, May 9, 1990

That a message be sent to the Senate to acquaint Their Honours that this House agrees with amendment 5(b) made by the Senate to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act, but continues to disagree with amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, because this House believes that they contradict the principles of the bill and undermine the objectives of the policy;

And that this House considers that some of the before-mentioned amendments, by altering the nature of the financial scheme proposed for the Unemployment Insurance system, do infringe the financial initiative of the Crown in a manner at variance with parliamentary practice respecting the Royal Recommendation as it is recognized in

citation 596 of Beauchesne's Sixth Edition and citation 540 of Beauchesne's Fifth Edition.

And considers, moreover, amendments 7 and 9, which would cause an increase to budgetary deficit in the order of \$1.75 billion annually and thus confound the balance of Ways and Means as approved by this House, to be for that reason in violation of the principle embodied in Sections 53 and 54 of the Constitution Act, 1867, and constitutional practice,

And, therefore, conscious in this of fellowship with its predecessors, reaffirms its sole and undoubted democratic right, which will not in this matter be waived, not only to grant aids and supplies to the Sovereign but to direct, limit, and appoint for all such grants their ends, purposes, considerations, conditions, limitations and qualifications, none of which are alterable by the Senate;

And that this House agrees with the principles set out in parts of amendments 4(c) and (d) and 8, but would propose the following amendments:

Amendment 4(c) be amended to read as follows:

"Add, immediately after line 6 on page 16, the following:

(2.1) In the estimates of the expenditures referred to in subparagraphs 2(a) (i) and (ii), the plan shall include the estimated expenditures to be made in each province".

Amendment 4(d) be amended to read as follows:

"Strike out line 18 on page 16 and substitute the following:

day.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1599

(4) Notwithstanding any other provision of this section, the plan for 1990 shall be laid before Parliament not later than three months after the coming into force of this section."

Amendment 8 be amended to read as follows:

"Strike out lines 1 and 2 on page 33 and substitute the following:

53. Subsections 130(3) and (4) of the said Act are repealed and the following substituted therefor:

"(3) The Minister shall table any regulation made under subsection (1) in the House of Commons within three sitting days after the day on which it is made.

(4) A regulation referred to in subsection (3) shall come into force on the tenth sitting day after the day on which it is tabled, or on any later day that is specified in the regulation, unless a motion to revoke it, signed by not fewer than thirty members of the House of Commons, is filed with the Speaker of the House of Commons before the tenth sitting day.

(5) Where a motion to revoke a regulation is filed with the Speaker of the House of Commons pursuant to subsection (4), it shall be taken up and considered by the House of Commons within five sitting days after the day on which it is filed.

(6) A motion taken up and considered in accordance with subsection (5) shall be taken up after the ordinary hour of daily adjournment, for a period not exceeding four hours and at the end of the debate the Speaker of the House of Commons shall, forthwith, without further debate or amendment, put every question necessary for the disposition of the motion.

(7) Where a motion to revoke a regulation is adopted, the regulation is revoked and where the motion is defeated, the regulation shall come into force on the day after the day on which the motion is defeated or on any later day that is specified in the regulation.

(8) Where Parliament is prorogued or dissolved before a motion to revoke a regulation is disposed of or, if no such motion has been filed, before the end of the period referred to in subsection (4), the regulation is deemed to be revoked.

(9) For the purpose of this section, "sitting day" means a day on which the House of Commons is sitting."

ATTEST

Robert Marleau

The Clerk of the House of Commons

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

Hon. C. William Doody (Deputy Leader of the Government): Later this day.

Motion agreed to.

OFFICIAL REPORT CORRECTIONS

Hon. Keith Davey: Honourable senators, there were two minor inaccuracies in yesterday's Senate Hansard relating to the speech I made.

My reference to the phrase, "The Americans were our best friends whether we liked it or not," should have been attributed to Robert Thomson and not Roy Thomson; and Cossette Advertising was the Quebec advertising agency which grew to Canadian national dimensions.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

PETITION

Hon. Jacques Hebert: Honourable Senators, I have the honour to present a petition signed by a 134 citizens of Ste. Anne's Conception Harbour, Newfoundland, who are against Bill C-21, an Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act.

They support the recommendations made by the Special Senate Committee on Bill C-21.

MESSAGE FROM COMMONS

Page 1604

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a) (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a) (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Doody informed me before we began today that no one from his side would be speaking in support of the motion at this stage. Therefore, I move the adjournment of the debate on the motion; when the debate is resumed, I reserve the right to raise the question of whether this is constitutionally and otherwise in order as a message and as a motion.

On motion of Senator Frith, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1638

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

Page 1639

That a Message be sent to the House of Commons to acquaint that House accordingly.
– (*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I yield to Senator Hebert.

[*Translation*]

Hon. Jacques Hebert: Honourable senators, since I last rose in this chamber to speak to Bill C-21, the other place has been treated to lengthy speeches, including those of the honourable Harvie Andre and the honourable Barbara McDougall, not to mention the diatribe of the Speaker of the House himself. so annoyed to have to agree with the Senate that he took that opportunity to lecture the senators and give them a democracy lesson which would have been more convincing had he himself shown respect for parliamentary principles by refraining from making superfluous comments whose partisan cast is so obvious.

As to the honourable Harvie Andre, his bad mood could be felt both inside and outside the House of Commons. It prompted him to confess that the government, bent on defending the shaky case of Bill C-21 against all comers, was considering putting the Senate in its place by filling all vacancies with new Conservative senators who, perforce, would have promised the Prime Minister to vote with both eyes closed in support of the most despicable pieces of legislation, namely the unemployment insurance and the GST bills, not to mention even worse measures which the government might spring on us between now and the next election call.

Learned constitutional expert that he is, the honourable Harvie Andre uncovered a little-known section under which the government could appoint eight additional senators, should that become necessary, to give the Conservatives a Senate majority. We already live under the tyranny of the majority in the House of Commons where never since Confederation has any government so systematically gagged elected members by resorting to closure 19 times since it took office. For its part the Trudeau government chose to limit Commons debates on only three occasions in 16 years. The governments of Messrs. Diefenbaker and Clark never did impose closure. Conservatives are no longer like they used to be.

Rather than using the democratic means available to resolve a conflict between the two houses – holding a conference which would undoubtedly pave the way for a reasonable compromise, as was done on several occasions since 1867 Mr. Andre would rather innovate by resorting to strong-arm tactics.

His approach attests to utter disdain for parliamentary traditions and for the provinces which have been advocating in-depth Senate reform. How can the government dare say it is in favour of such a reform, even including the so-called Triple-E option, when it is toying with the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

idea of inundating the Senate with non-elected partisan appointees?

Needless to say that the honourable Harvie Andre's threat has been warmly greeted in the western provinces, particularly in Alberta which he is supposed to represent in Parliament.

For example, here is how The Edmonton Journal put it in a May 3 editorial:

[English]

The government House leader still doesn't hear what Albertans want in Senate reform: or if he does he chooses to ignore it in the most provocative fashion possible ... But Andre doesn't give the Triple-E Senate a second thought. His way around the Senate's obduracy?

I am still quoting, of course.

Threatened to stack the upper house with enough appointed Tories to make sure the bills get through.

Could anything be more dismaying for Albertans who want Senate reform? And this from an Alberta M.P., yet.

I am still quoting from The Edmonton Journal.

There could be nothing worse than to appoint new members to the Senate through tried and true patronage means. It would mean that the federal Tories weren't serious at all about Senate reform. It would mean that there's absolutely no chance of getting a Triple-E Senate.

Does Harvie Andre really intend to send all these messages with his ill – advised threat?

I suggest The Edmonton Journal ask him the question again.

[Translation]

Because of the government's hesitation and its refusal to seek a compromise solution through a conference of representatives of both Houses, as provided for in the Constitution, C-21 is still in limbo, which creates some problems for people who have become the victims of the government's bad faith in this affair. The government has shown its bad faith from the beginning by including in Bill C-21 itself some measures that should have been in different pieces of legislation that both Houses would have approved unanimously a long time ago. For example, linking C-21 to the beneficial measures the government had no choice in proposing and could not delay, because they were ordered by the court, is an outright political maneuver. Take for example parental benefits and the obligation to comply with the requirements of the Charter of Rights and Freedoms by giving unemployment insurance benefits to unemployed individuals over 65.

Similarly, why tie a long-awaited measure to give young mothers six months of maternity benefits instead of four to the fate of a bad bill?

Finally, why did the government insist on not passing the routine legislation to restore, even temporarily, the variable entrance requirements? The government knew very well that the Senate could not rush through a bill as controversial as C-21.

It was all part of a political calculation to make some categories of citizens suffer, to deprive them of benefits that in some cases had already been recognized by the courts, in the hope that people would put pressure on the senators and urge them to hurry along C-21.

Page 1640

But this scheming was opposed by the civic-mindedness of most working people in the country. Even those who were directly affected

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

by the government's manoeuvre stood fast with the others and I do not remember having received more than two or three letters from people asking us to speed up the process. However, I have received hundreds of letters and petitions signed by thousands of citizens demanding that the Senate block the bill or at the very least continue to insist on the very reasonable amendments that it had proposed to improve, if only a little, a bill that would still be bad legislation. I continue to receive such letters every day and those who doubt it can obtain copies, as well as copies of my replies, by asking the clerk of the former Special Senate Committee on Bill C-21.

The Minister, the Hon. Barbara McDougall dared to say in the House that her bill enjoys the support of a large number of Canadians...

I feel like asking her: "Name them". I doubt there would be any workers on her list, since all the major labour confederations, representing over four million unionized workers, supported the Senate's action and, in fact, went even further since they wanted to get rid of C-21 altogether.

Mrs. McDougall's list would have no representatives from Canada's churches, since most of them, including the Canadian Conference of Catholic Bishops, also wanted to see this bill defeated.

We could not expect to find many provincial representatives on the Minister's list, since the provincial governments are now aware of the disastrous consequences of C-21. At least three provinces have asked the Special Committee of the Senate to stop the bill.

Three months ago, in February 1990, the Government of New Brunswick published a study on the economic impact of C-21, a study ordered by the province's labour minister and prepared by the independent firm, GMI Consultants, Inc.

Senator Simard: Wasn't that Global Economics?

Senator Hebert: No, Senator Simard, this was another firm, chosen by your government.

Senator Simard: The other one wasn't good enough.

Senator Hebert: I think it would be useful to quote the summary of the study's conclusions, since it gives a clear indication of the disastrous economic impact that C-21 would have, not just in the poorest provinces but, to varying degrees, in all provinces. And I quote the report:

[English]

The proposed UI changes under Bill C-21 comprise the most sweeping revisions to the program in decades, particularly in terms of major cutbacks in benefits.

New Brunswick's labour force has been very heavily dependent on UI benefits, and this dependency has not shown signs of decreasing.

In 1988, over 97,000 workers in New Brunswick drew UI claims totaling over \$600 million in benefits that year.

The role of UI in the provincial economy is major, and the program rivals even the largest provincial budgets and far exceeds all other income support and development programs.

Any substantial cutbacks in UI in New Brunswick would have significant implications for provincial fiscal policies.

The proposed cutbacks to the UI program concerning increased qualifying weeks and reductions in benefit durations alone would have a major impact on New Brunswick's labour force and economy, despite federal projections to the contrary.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Proposed increases in qualifying weeks could cut off as many as 22,000 workers from access to the UI program, and result in a loss of \$150 million in income benefits.

Proposed reductions in the duration of UI benefit weeks could affect as many as 7,700 workers, resulting in a loss of an additional \$16 million or more.

The total financial loss, therefore, could be over \$166 million from these two proposed revisions alone.

The major concentrations of these losses would be in the regions of Madawaska – Restigouche and Moncton, through significant impacts would also be experienced in the Fredericton and Saint John regions.

Workers in seasonal industries account for 40 per cent of all UI claims and are the most vulnerable to the proposed cutbacks. The next most vulnerable category would be workers in service occupations.

The impact on provincial support programs could be substantial, requiring over \$9 million in job creation initiatives to assist affected workers in getting extra qualifying weeks. Social assistance programs would also be heavily affected, though benefits would be far less than UI.

The proposed UI changes should also be viewed in the wider context of overall federal deficit reduction policies and their combined impact on New Brunswick, because it is doubtful that the cutbacks in UI would be offset by other sources of federal revenues.

[*Translation*]

Yes, honourable senators, you heard correctly: little New Brunswick will lose \$166 million annually if C-21 is passed. Other studies show

that Newfoundland will lose \$51 million; tiny Prince Edward Island, \$32 million; Nova Scotia, \$29 million; and Quebec – yes, Prime Minister your own province – will lose \$224 million, not to mention the other provinces.

So who is on Mrs. McDougall's list? Who are all those citizens who support C-21? Certainly none who represent social services and volunteer organizations that are in daily contact with the unemployed ... which I doubt is the minister's case! These organizations unanimously condemned C-21 before the Commons committee, while other organizations, which had been denied access to the committee, testified with great vigour before the Special Committee of the Senate.

Page 1641

Among the hundred or so witnesses heard by our committee, by your committee, we counted, and we were generous, one and a half out of 105 in favour of Bill C-21. Contrary to what happened in the other place, our committee did not turn down a single witness. In fact, it made a point of inviting all witnesses proposed by the committee's deputy chairman, the Hon. Senator Arthur Tremblay and other Conservatives on the committee. Interestingly, even the witnesses that had been carefully chosen by our colleagues spoke out against C-21 except, as I said earlier, for the one and a half witness clearly in favour of the bill.

However, I want to be helpful and give the minister at least one name for her precious list. I think I can guarantee this one supports C-21. You guessed it, honourable senators yes, I am talking about that pillar of Canadian social conscience, the defender of widows, orphans and the unemployed, our Canadian Mother Teresa: the Canadian Chamber of Commerce.

In fact, I must admit I received a letter signed by Chairman of the Board Rolf Hougen and President Timothy Reed just a few days ago,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

which so far brings the total number of letters I have received in favour of C-21 during the past six months up to three or four.

I hope the minister is pleased!

I am afraid I do not feel up to a point by point response to the incredible speech made on May 7 in the other place by the Hon. Barbara McDougall, Minister of Employment and Immigration. I will merely mention a few glaring inaccuracies and outrageous exaggerations.

Right from the start, the minister stressed that once again, the senators, and I quote:

"Once again, a bill ... has been needlessly delayed."

Once again, it would seem in order to remind the minister of the sequence of events since November 7 last year, when Bill C-21 arrived in the Senate for first reading.

[English]

The rules of the Senate require two days' notice before second reading may begin. That rule was waived by unanimous consent and the second reading debate began that same day, November 7. Bill C-21 was given second reading and referred to a special Senate committee two days later, on November 9. In the House of Commons, the same stage took 20 days to reach, from June 1 to June 21.

The members of the special committee of the Senate were named on November 9. An organizational meeting was not called by the government on their bill until November 28, almost three weeks later. The government whip in the Senate has responsibility for setting up the organizational meeting of a new committee.

The Senate committee began hearing witnesses on November 30, only two days after the

organizational meeting. In contrast, the House of Commons legislative committee, which received the bill on June 21, did not hear from witnesses until two months later, on September 5.

Some Hon. Senators: Shame, shame!

Senator Hebert: Before repeating ad nauseam that the senators have been dragging their feet on this matter, the minister should ask her officials to use a simple gadget called an adding machine and she would find out, at last, that it took the House of Commons 96 days after first reading before it heard its first witnesses, and in order to achieve this closure was twice invoked to limit the debates. In contrast, the Senate committee began hearing from witnesses within 23 days of receiving the legislation. The hearings went on, almost without interruption, until the Christmas recess on December 20. Without hesitation, the members of the committee decided to forgo their vacations and the committee resumed its public hearings as early as January 3.

A little more than a month later, on February 14, the chairman of the Special Senate Committee on Bill C-21 tabled in this house a 58-page report containing a minimum of amendments, very reasonable amendments, that the members of the two opposition parties in the House of Commons and many groups opposing C-21 felt were too reasonable. The report was adopted by the Senate a week later.

The government took 21 days to react. At that point it did not pretend that our amendments were unconstitutional, and it even accepted one and bits and pieces of others. The Senate received a message telling us the good news on March 14.

Six days later, on March 20, the Senate decided to insist on all its amendments to Bill C-21. In doing this the Senate was following the recommendations of its special committee, which had studied carefully the government's

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

message. In the view of the Senate, the amendments were minimum, corrective measures that seemed essential to guarantee the integrity of the unemployment insurance program and allow better control of new programs.

What happened in the other place since March 20? Having afterthoughts, the government decided that our amendments were unconstitutional, and it asked the Speaker of the House to rule on the matter. It would have saved time if the government had simply consulted any expert on constitutional matters, who would have given it the same answer their Speaker had to give, but most likely without the sermon on the Senate that the Speaker thought appropriate to ornate his ruling in our favour.

Which house is dragging its feet? Exactly 51 days were lost – more than seven weeks – before a new message from the other place arrived in the Senate on May 10. Who exactly are the ones dragging their feet, honourable senators?

[Translation]

In her speech of May 7 last, the honourable Barbara McDougall says, without any supporting evidence whatsoever, that Canadians are in favour of her bill. Being unable to prove her statement by giving the names of citizens or groups that would be enthusiastic supporters of Bill C-21, the minister makes do with the results of recent polls. No, I am not referring to polls which indicate that her government has the support of only 15 per cent of the people, nor to polls showing that a majority of Canadians endorse Bill C-21, because that is not true. Without giving us the text of the question, the minister is honest enough to be specific, and I quote:

... a strong majority of Canadians support the idea of using UI funds to train unemployed

people so that they can find and keep better jobs.

Page 1642

This does not look to me as an endorsement of Bill C-21 but the simple answer to a question – whose exact text I do not have – on the merits of training to which, I am prepared to believe, "a strong majority of Canadians" would of course be inclined to answer yes.

An Hon. Senator: Including ourselves.

Senator Hebert: Yes, including ourselves, we all agree.

But I wonder how these same Canadians would have responded had the question been more specific and more honest, something like this one, for example:

Do you agree with a government which, having slashed \$700 million off its annual contribution to training programs for unemployed workers, announces in Bill C-21 that it intends to withdraw entirely from unemployment insurance financing and, in the same breath, proudly states that each year it will withdraw from this fund, to which it no longer contributes anything, an amount of \$800 million for its training programs?

Had the question been so worded I would be willing to bet that, having been told about the true nature of Bill C-21, the "strong majority of Canadians" to which the minister is referring would have been cut down to something like 15 per cent.

The percentage would have been lower still if the pollsters had indicated in their question that one of the results of Bill C-21 will be a considerable reduction in benefits paid to more than 775,000 unemployed Canadians and no benefits at all for 155,000 other Canadians without jobs.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Allow me to single out another pearl of wisdom in the speech of the honourable Barbara McDougall. I quote:

Our government has a mandate to act.

I agree,

Bill C-21 flows directly from that mandate. This bill is part of our commitment specifically to provide Canadians with the best training and adjustment programs possible and more generally with our policies for economic renewal.

Since the basic principle of her bill is indefensible, the minister only discusses her training programs. However, if her government believes so strongly in the virtues of training, why did it cut funding for these programs by 32 per cent in four years, to the tune of \$700 million annually? And why, instead of reinstating this budget, is the government now considering taking \$800 million from a fund that would consist exclusively of employer and employee contributions and which, in all fairness, ought to be used to pay unemployment Insurance benefits to the unemployed ?

As the Hon. Warren Allmand said before the House of Commons on May 7 – – 1 recommend that honourable senators read the rest of his excellent speech – and I will quote just a few paragraphs:

The minister and the government members attempt to pretend that we must make a choice in this country between unemployment insurance and training. In other words, if you want to have training, you must cut back on unemployment insurance. If you want higher unemployment insurance, you will have less training. I just heard her a few minutes ago saying that if this bill is not passed, there will not be this kind of training or that kind of training. That is false dilemma. That is not the

choice that should be put to Canadians. We have always had in this country a strong program of training, but we have also continued to improve our unemployment insurance program.

Mr. Allmand went on to say:

When the minister stands up in this House and argues passionately for training,' that is a phoney and false argument. None of us are opposed to training.

Not in the Senate either.

What we are opposed to is taking money out of a fund that is supposed to support people when they are unemployed.

Mr. Allmand reached a conclusion with which I agree wholeheartedly, and this is my last quote.

The purpose of this bill is not to help the unemployed. It is not to reform the unemployment insurance system. It is not really to deal with training because, if the government really believed in training, it would not have cut the training program by 32 per cent between 1984 and 1988. The real purpose is to deal with the deficit and to harmonize our social programs with those of the United States.

So why does the minister keep talking about these terrific training programs she wants others to pay for?

Obviously. to give the impression that the Senate's amendments would upset her plans in this area, although none of our amendments does any such thing. In fact, the Senate shares the minister's enthusiasm about the importance of providing training for the unemployed and helping them in every possible way to re – enter the labour market. In fact, the first Senate amendment the government accepted concerned training programs. It asked the government to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

include basic skills and literacy training in these programs. How can we even consider training and re – training unemployed workers who can't read, write, or do arithmetic?

Of course the Senate is in favour of training programs, but it insists that training alone will not solve the unemployment problem. Job creation is at least as important as training, because it is useless to train unemployed workers for jobs that do not exist.

[English]

Page 1643

The minister referred to programs established to improve workers' training and to support the economic development of communities across the country. Whatever the program – the Canadian jobs strategy, the stay-in-school program, the Employment and Immigration industrial adjustment service, or the community futures program – neither the Senate nor its Special Committee on Bill C-21 questions the need for it or for similar programs. The minister deliberately highlighted these programs in order to obscure the harsh measures of the bill and to avoid confronting the reality brought out by the Senate and the many witnesses who appeared before its committee.

The government's interest in training programs is fairly new, by the way. It follows from the recommendations of the de Grandpre Commission, which studied the possible effects of the Free Trade Agreement. The minister herself recognized that, although "investment in training is a key to increased productivity," in recent years "the productivity of Canadian workers has grown much more slowly than that of workers in Japan, Germany and the United Kingdom." The reason for this slower growth can certainly be explained in part by the severe cuts in training programs since 1984. Between 1984 and 1988 the government in power cut the money used to finance training programs by 32

per cent. If training is key to improving the productivity of Canadian workers, what was the rationale for these cuts? In those four years the government cut \$700 million in training programs. Now it proposes to increase the funds by \$800 million.

We note that with such an increase Canada would not be far ahead of its situation just before this government came to power in 1984. However, what is most objectionable about the government's proposal is that it would finance the whole scheme on the backs of the unemployed. That is what the Senate opposes.

The government wants to cut \$1.3 billion from the unemployment insurance fund. This would mean less money for benefits – in simple words, less cash for the basic needs of families affected by unemployment. The minister tried to cover up this proposal and its consequences by enlarging on the possibilities of the new training programs, but Canadian workers were not fooled by this bluff. None of the witnesses who opposed Bill C-21 before the special committee said they were against increasing the amount of money for training programs. The issue at stake here is not training but the unemployment insurance program. Bill C-21 would jeopardize that program by removing funds available for it and investing them in things unrelated to unemployment. The main purpose of the unemployment insurance program is to provide income support. Income support means money in lieu of salary lost because of unemployment; that is, money families need to be able to eat, to pay for their rent and clothes.

The Special Senate Committee on Bill C-21 was astonished to learn from officials from the Department of Employment and Immigration that the unemployment insurance fund had a surplus in 1988 of over \$2.8 billion. The committee was also surprised to see the substantial cuts proposed in the bill nearly a year after the fund had had this surplus. The

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

committee was even more amazed to hear that these cuts would serve to finance training. Suddenly, the government has to take \$1.3 billion away from the main objective of the unemployment insurance program in order to finance training. No mention is made of the surplus. While the government plays around with the numbers, we know that it is the unemployed people who will suffer and lose as a result of the proposed measures.

The government seems to have a lot of faith in training programs, but is this the answer everywhere in this country? Is this what the people in Canso, Nova Scotia, or in St. John's, Newfoundland, have been telling us? Is this what they need most? What if the government trains them and they are still unemployed – will they be trained again in something else? We in Canada run the risk of having the most knowledgeable unemployed workers in the industrialized world. The government suggests that the unemployment insurance program be cut down now in order to provide training programs later. In places like Canso and St. John's – and they are only examples among many – they do not have the time to wait; they desperately need money now. People in those areas do not have any financial surplus to cover their immediate needs. The special committee heard the testimony of people there who said they want jobs because they like to work. They said they are already trained, and that what they need is jobs. Remember the slogan of six years ago: "Jobs! Jobs! Jobs!" Until the government finds a way to create more jobs, what these people need is money to cover the basic cost of living. The Senate is opposed to taking benefits away from these people. To offer training as a replacement for benefits is not a satisfactory response.

It is true that training is important in today's world. I repeat: Training and general education are the foundations of a good life with a fulfilling career and better job opportunities.

Senator Simard: That is the best part of your speech.

Senator Hebert: The best part is coming! Since training is very closely related to education, it would normally be financed through general revenues. Some of the programs cited by the Minister of Employment and Immigration are financed in that way. It would certainly have been possible to extend them without touching the unemployment insurance program. But maybe this would have been too simple.

The Senate is not rejecting all of the government's proposals for training programs. The Senate is merely trying to limit some of them in order to protect the integrity of the unemployment insurance program as we have known it since 1940. The proposed measures would be allowed to go through the legislative process if the government were to agree to some simple changes. The Senate is not asking the government to rethink the proposals; the Senate is only asking for some aspects of the training programs to be restricted in order to ensure that they will not harm the main benefits program. In limiting the purposes for which unemployment insurance funds may be used, in restricting the regulatory power which would permit the establishment of new programs, in specifying the limit of the amount that can be used for the new programs, and in requiring that these expenditures be scrutinized by Parliament, the Senate is still in agreement with almost every aspect of the government's proposals and is asking for only minor changes.

Page 1644

In her speech on Bill C-21 the minister confined herself to what she described as the good aspects of the proposed measures: the training programs. The Senate cannot agree that the proposals would only bring good to the unemployed. As compensation for the other measures, such as increased requirements, harsher penalties and

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

fewer benefits, the training programs are simply not enough to help the unemployed.

[*Translation*]

To repeat what Mrs. McDougall said lest we forget – and I quote:

"Our government has a mandate to act and Bill C-21 flows directly from that mandate. This bill is part of our commitment ..."

[*English*]

I had to read these lines many times to make sure I understood what the minister was saying, to make sure there were no typographical errors that were causing her to say exactly the opposite of what is an historical fact. The fact is that before the last election in 1988 the Conservatives said they would not change the unemployment insurance system. Over and over again in public hearings, in speeches, in the press, from Victoria to Saint John's, the Prime Minister was quoted, and one of his important ministers, the Honourable John Crosbie, was also quoted – and I will quote him for the hundredth time. He said, "We will be looking at UI in a couple of years, presumably to see what improvement can be made or whatever. But there are no changes planned for UI." Mr. Crosbie also said the Prime Minister had assured him personally that "absolutely no changes would be made."

How can the Minister of Employment and Immigration dare repeat again that her government has a mandate to do exactly the opposite of the solemn promises made publicly before the election of 1988?

The truth is, honourable senators, that this government has no mandate whatsoever to dramatically change our unemployment insurance system in the way Bill C-21 is attempting to do. It would have no mandate even if the Conservatives were at 85 per cent in the

polls instead of 15 per cent. The arrogance of a government pretending to have a mandate to impose a regressive and unpopular measure on the vast majority of Canadians who do not trust them any more is a clear example of the tyranny of the majority, a majority of only 48 per cent in 1988, already more than two years old, crumbling from day to day to a point never yet registered in our history.

[*Translation*]

And those people want to teach senators about democracy!

In fact, they are furious that the popular support they used to enjoy has now clearly shifted to the non – elected members of Parliament. Oh, the shame!

According to our best experts on constitutional law, probably those consulted by the Speaker of the Senate and the Speaker of the House, the Senate's action with respect to C-21 is in every way respectful of the democratic process, as it respects the letter and the intent of the Constitution.

Hon. Jean-Maurice Simard: But not our tradition!

Senator Hebert: In fact, we would have had the right to block the bill altogether, as we were urged to do by representatives of major citizens groups.

Senator Simard: Isn't that what you are doing now? Senator Hebert: We didn't do that.

Senator Simard: You did.

Hon. Joseph-Philippe Guay: It seems to bother you. Senator Hebert: Your government did. We didn't.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Instead, we decided to brave the criticism of the groups that were asking us to block the bill and propose several amendments which, we felt, reflected the main concerns of the witnesses we had heard. Although it continued its harsh criticism of the Senate and its senators, the government has nevertheless accepted a number of our amendments, not necessarily the most important ones, although the amendment dealing with the security of fishermen is certainly not negligible. If we had listened to the government, we would have hammered Bill C-21 through the Senate last December. That is what it wanted. The government did not want any amendments, and this arrogant position was made clear by the Tory members on the Special Committee of the Senate. Tell me about it! They fought bitterly against the tiniest little amendment, even one that would provide literacy training for the unemployed, on the training fund budget. Today, our beloved colleagues must not feel very proud of their running battles against several amendments their own government finally accepted!

If the Special Committee had not done its job, these amendments would never have been included in Bill C-21. It is not enough, but it proves that the Senate has played a useful role.

However, it must play that role to the very end, by insisting on amendments the government has yet to accept. The only way to guarantee the future of our unemployment insurance program is to maintain government contributions to the unemployment insurance fund. Considering the government's budget problems and in a spirit of compromise, the Senate proposed reducing by about 50 per cent the contribution provided for in the present Act. Instead of welcoming this reasonable proposal, the government rants and raves and would have us believe that we are exceeding our authority by imposing additional expenditures on the government. That is a clever distortion of the facts because in truth, if the

government accepted our amendment, it would save \$1.5 billion a year! That is the truth.

To speak of a "constitutional crisis" in the present circumstances shows a disregard for the truth or a deep ignorance of the Constitution. One may speak of conflict between the two Houses, which is normal and has happened many times since 1867. Instead of raising the spectre of a non-existent crisis, the government should rather reread the Constitution; it would see a mechanism provided to resolve this kind of conflict, namely a conference. But the government intends to treat the Senate the same way it treats Canadians with respect to Bill C-21 and the GST with the sublime arrogance of weak governments.

Page 1645

Honourable senators, that is why it is our moral duty not to be impressed by this arrogance. Not only because this government has absolutely no mandate to reduce its deficit on the backs of the poor by cutting the most basic of our social programs, which must be part of the "sacred trust" dear to the Prime Minister, not only must we insist on our amendments as the Constitution gives us an unquestionable right to do, not only must we resist until the government agrees to negotiate fairly with the Senate to reach an honourable compromise. but if we did not, we would betray the millions of Canadians who have supported us so far, we would betray the most vulnerable among them, the poorest and most disadvantaged, the unemployed in this country.

Perhaps it was not the main intention of the Fathers of Confederation, but because of the present government's insensitivity, the Senate is no longer on the side of the wealthy, high finance and the multinationals. By a curious reversal of roles, the Upper House has become the voice of the voiceless.

Honourable senators, let us not betray them!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

[*English*]

Hon. Edward M. Lawson: Honourable senators, I should just like to add a word to the outstanding presentation Senator Hebert has made. I accept his statement that part of the government's program is to cut the deficit, but when they speak of all the increased spending for training they overlook a very important matter that has been raised with me, and I am sure with other senators; that is, the double penalty that they apply to building tradesmen, electricians, plumbers and so on. These tradesmen tell me – and I know this from my own experience – that for many years they have had their own training programs, financed by themselves and their employers. They have an outstanding apprenticeship program to improve their skills and to create what we have in this country: the best-skilled tradesmen anywhere in North America. They have already paid for that through their joint programs.

My own organization, which includes the basic trades, engineers, labourers and truck drivers, established years ago a jointly-funded program. We asked our members, the employees, to pay from their pay cheques cents per hour, along with their employers, to buy equipment, to set up a school, and to train themselves not only to improve their skills but to prolong their job lives so that they would not have to collect unemployment insurance; so that they could continue to work.

Now they are told that the government intends to take \$800 million from the UI funds and direct it into training. They will receive no benefit from this. They are asked to make a double sacrifice, to work longer for fewer benefits, because they will be receiving this additional training. They say to me, "But we are already paying for this training, so what benefit do we receive from that?"

Honourable senators, this is an attempt to deceive these skilled tradesmen. For what will they be trained? There are no jobs for electricians and plumbers and so on. The answer is not to give them this kind of specialized training. Will they be trained to be hamburger servers at McDonald's, or service workers working at a third or a quarter of their normal rate? What is being proposed is a fraud.

What they and I suspect is that the government has a second part to its secret agenda, which is to Americanize our unemployment insurance program. I am sure many senators know that under the U.S. system there is no contribution by the federal government; they have already taken this step being proposed here. They also farmed the program out to the states. Last year 31.5 per cent of unemployed American workers qualified for benefits. Contrast that to the situation in Canada to date. A nation of 250 million people paid about \$1.5 billion in unemployment insurance benefits, whereas in this country, with a population one-tenth that of the U.S., we have been paying out \$12 billion.

I suspect that the secret agenda of this government is to Americanize this system, unload the responsibility on to the provinces, and opt out. It is a federal government responsibility to be part of this very important social program that binds the whole nation together. It is their responsibility to continue to be committed to contributing to unemployment insurance, which could act as an incentive for the government to face its most important task – to create jobs; not to create chaos and to put double penalties and burdens on the workers of Canada.

I congratulate Senator Hebert on an outstanding presentation.

Some Hon. Senators: Hear, hear!

[*Translation*]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. Pierre De Bane: First of all, I wish to say a few words about what I see as the respective roles of the House of Commons and the Senate. There is no doubt in my mind that in the normal course of events, the will of the members elected by the Canadian people must prevail. Of course, this does not mean that in all circumstances, this House must submit unconditionally to the wishes of the other place. Our Parliament does not work that way. Our Parliament is so designed that this House also represents the interests of the people, but in a less partisan way, respecting the opinion of the elected members and using its veto power extremely sparingly. That is how our Parliament should operate.

For example, since 1984 when the present government was elected, this House has passed hundreds of laws and used this power very, very sparingly – only two or three times in five years.

Personally, I voted with the government on the amendments to the the length of time pharmaceutical patents were protected. In so doing, I felt that I was more faithfully reflecting the aspirations of the region I represented.

Page 1646

In the case that concerns us, Mr. Speaker, I would like to remind you of some principles that I think have been overlooked. In our country's history, every time the Upper House, the Senate, came to a different conclusion than the House of Commons, representatives of both Houses conferred to resolve the dispute.

I wonder why the Leader of the Government in the House of Commons, despite all the precedents in over a hundred years, refuses to have a conference of both Houses.

It seems to me that any crisis is due to the contempt which the Leader of the Government in the House of Commons shows for both the Conservative and the Liberal senators. There is no doubt in my mind that if he agreed to a

conference or had agreed to a conference at the end of last year, we would have saved the government at least a billion dollars in this calendar year alone.

So refusing to hold a conference is unprecedented in the history of Parliament. I frankly wonder, honourable senators, whether Harvie Andre is really the great diplomat we need in the circumstances, because I see no reason for this deadlock.

Senator Hebert himself said that the elected government's priorities must be considered. I am sure that most of the billion dollars spent in the four months that it has refused to hold a conference could have been saved if it had shown some respect for both the Conservative and the Liberal senators.

Precedents of the Canadian Parliament are being broken. I think that the government must realize this and choose someone a little more diplomatic and a little more respectful of the Parliament of Canada than the present Leader of the Government in the House of Commons.

Thank you, honourable senators.

[English]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, although I intend to speak on this matter, I do not intend to speak now. I yield to any other senator who wishes to speak now. I intend to adjourn the debate today.

I should explain that it is not our intention to delay but to come to a decision on this matter quickly. I will attempt to speak on this matter tomorrow, if possible.

Bear in mind, as was pointed out by Senator Hebert, that the message was sent to the House of Commons on March 20 and remained there

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

until we received a message from the House of Commons six days ago. I understand that there were difficult procedural problems which the House of Commons had to grapple with. That was demonstrated in the procedural arguments and in the ruling by the Speaker and the subsequent debate.

Similar procedural problems confront the Senate. We are dealing with them. As soon as we have resolved them, we will proceed to reach a decision on this motion. If possible, I will bring this matter to a head tomorrow, and if not, early next week.

Hon. Duff Roblin: My friend said, "if not, early next week."

I should like to press him to find out exactly what day he intends to speak on this, if he will allow me to do so.

Hon. Royce Frith (Deputy Leader of the Opposition): You would like to, but you are not going to.

Senator Roblin: I am going to! I want my honourable friend to tell us whether he intends to speak on Thursday or Tuesday of next week.

Senator MacEachen: I said, "if not, early next week." I certainly do not intend to wait until next Thursday.

Senator Roblin: Does my honourable friend intend to speak on this matter tomorrow or on Tuesday next?

Senator MacEachen: I hope to speak on this matter tomorrow, but, if I cannot, I will let the honourable senator know as soon as possible tomorrow morning.

On motion of Senator MacEachen, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1682

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21. An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a) (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.
– (*Honourable Senator MacEachen. P.C.*).

Hon. Jean-Maurice Simard: Honourable senators, I think that the debate on this order was adjourned by Senator MacEachen.

[*English*]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, as I indicated yesterday, I intend to proceed on Tuesday; if any other senator wishes to speak today, I will certainly cooperate.

[*Translation*]

Senator Simard: Since Senator MacEachen intends to proceed next Tuesday and has expressed his willingness to yield to any Senator who wishes to speak to this issue today, honourable senators, I might deal briefly with this bill, taking into account the urgent need to support it.

Page 1683

It is an urgent need which several senators can certainly appreciate and vouch for because of their conversations with many unemployed men and women, people very much interested in training. Personally – I shall touch on this later – I contacted Mrs. Ella Laureen Jarrett, the Minister responsible for income assistance, following a request from the Provincial Government of New Brunswick.

For all these reasons and in view of the reports which appeared in the newspapers over the past week or two, it seems that Senator MacEachen, the Leader of the Opposition in the Senate, has a choice to make. He can either allow the bill to pass or set up a conference between the Senate and the House of Commons.

It seems now that we will have to wait until next week to obtain from Senator MacEachen further information concerning this conference issue. I strongly urge him to do so in his speech next Tuesday, or at least to give us an idea later today of what such a conference would be like, so that over the weekend, both sides could prepare for his speech on Tuesday. This might enlighten the Government and help it make a decision concerning such a conference, taking into account the urgent need to adopt Bill C-21.

I hope Senator MacEachen will tell us what type of conference he has in mind, either a private or public one? I am told that although there are precedents, these conferences have not always been held the same way or that the lineup has not always been the same.

I wish to tell him that not too many people in Canada are interested in such a conference – and some people who were not Tory supporters told me that if it is an invitation to a Cabinet meeting that Senator MacEachen expects, the Government should refuse such a conference. Senator MacEachen, you already know that, you have raised some question in the public mind and

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

it might be of some interest to you to shed some light on this.

Meanwhile, I am pleased to support the motion moved by Senator Doody, all the more because the Government has held fast according to the reply which appears in the second message from the House of Commons and which has prompted the said motion. While demonstrating considerable courage and consistency, the Government focused on the basic points of the bill, showing that it was flexible enough to recognize some of the Senate's amendments as useful, worthwhile and suggested by several witnesses. I shall deal with some of these amendments a little later.

I will let colleagues who are better prepared than I am debate the constitutional aspects of the entire question arising from Speaker Fraser's ruling. However, I do think the Senate should not again delay passage of a bill that provides new unemployment insurance benefits and additional resources for training, a bill which meets the real needs of Canadian workers.

Personally, I feel the Senate has done everything it is morally and traditionally allowed to do under the Canadian Constitution and according to our Canadian political experience.

I think it would be unreasonable, on moral grounds, and undemocratic and also unacceptable from the legislative point of view for the Senate to set a priority on partisan parliamentary tactics with no concern for the real needs of Canadians.

Without wishing to repeat Speaker Fraser's ruling, I think we should remember that basically, Mr. Fraser stressed the traditional primacy of the House of Commons in matters respecting taxation and the country's fiscal plan.

I am one of those who believe the House of Commons must defend its prerogative, which it

has always had, to introduce the elected government's financial plan and administer that plan. What is at stake is not just a theoretical principle but one of the principal elements of responsible government.

Generally speaking, governments do not take lightly their responsibility for managing public funds. In any case, like all governments that are democratically elected, they are accountable to the Canadian people in this respect.

And as Mrs. McDougall said in her recent speech in the House of Commons, and I quote:

Liberal senators claim that they have public support for their actions and their threats. We understand better than most that some people and groups do not support some elements in this bill.

Other groups and other individuals who are not necessarily and totally in agreement with Bill C-21 are just the same taking a serious look at the consequences of the kind of prolonged delays we have experienced recently, which, unless the impasse is resolved, may go on for weeks to come. Like Mrs. Jarrett, they hope the impasse will be resolved and that in the end, those who are accountable to the electorate will have the last word.

[English]

Last week I was in touch with the Honourable Ella Jarrett, Minister of Income Assistance for New Brunswick. Senator Theriault could probably tell you he was in touch with her as well, and perhaps others. She told me that, while she could not agree with everything that Bill C-21 contained, she certainly insisted that training was important for New Brunswickers. I can quote her almost word for word when she said that we must keep in mind those who will be hurt by the holding up of Bill C-21. We know that New Brunswickers are being hurt now, and will

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

continue to be hurt due to the delay in Bill C-21. Some people still have to work 14 weeks to qualify, but if Bill C-21 were passed people in many areas, such as fishermen, would only need ten weeks.

Senator Theriault: Fishermen only need ten weeks now.

Senator Simard: No, no.

Senator Theriault: Don't you know that?

Page 1684

Senator Simard: I am sorry, no. I thought they needed to have 14 weeks without the passage of the other bill.

Senator Theriault: No, no.

Senator Simard: That is not what people are telling me. **Senator Theriault:** That is what the act says.

Senator Simard: Well, other people too. We are not all fishermen in Madawaska. There are people there who do need the 14 weeks.

[Translation]

Senator Simard: Honourable senators, for all these good reasons, I think we can say that all serious analysts recognize there is a big difference between expressing reservations on a bill and supporting non-elected Liberal senators attacking the rights of the elected Chamber. In fact, without mentioning every editorial and article recently published in the newspapers, I think we can say that several columnists have expressed this opinion.

I could mention The Calgary Herald, The Globe and Mail, and others closer to home in the Maritimes. These people are asking the Senate, on behalf of their readers and local people, to

recognize it is no longer playing a legitimate role in the debate on Bill C-21.

At the risk of repeating myself, the Senate has done its job.

We must recognize that, after four or five months, we have made our point and that the time has come to take action. This is what columnists have been asking on behalf of their readers. They are asking Liberal senators to stop their fight and their tactics right now.

I hope Senator MacEachen will tell us next week what his bottom line is. Time is short.

Honourable senators, the House of Commons passed the budget on April 27, 1989. Bill C-21 was an integral part of this decision. Amendments made by Liberal senators would increase expenditures by some \$1.75 billion a year. As Speaker Fraser pointed out, the English House of Lords, the mother of parliaments, ceded in 1911 its power to reject or amend money bills such as Bill C-21.

As Ms. MacDougall stated, unfortunately, we have not yet witnessed in Canada, at least not officially, such a concession to the responsible government of this country. However, honourable senators, an examination of the behaviour the members of the other House have displayed and the decisions they have taken during nearly fifty years of Liberal rule shows that the Liberals who sat in the House of Commons before 1984, some of whom now sit among us, have scupulously honoured the British tradition. They are being asked to abide by that tradition today.

The government was given the mandate to govern, and Bill C-21 was introduced to achieve just that as well as to fulfill the commitment to give the Canadian people the very best training and adjustment programs in particular, and in a more general way, economic renewal programs.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I can hear the honorable Senator Hebert. Maybe he has not told us yesterday everything he had to say. I will gladly give him the floor for a few more minutes if he has clarifications or comments to add. That is no problem, I will be happy to do that for him.

Hon. Jacques Hebert: If it can be of any help to you. Senator Simard: But I reserve the right to finish my speech. Senator Hebert: For what it is worth, I believe you have unwittingly made a mistake when you said that your government had the mandate to do what he did with Bill C-21. Certainly, part of my speech has eluded you yesterday, because I demonstrated once again that, if there ever was a clear case of the government acting without a mandate, Bill C-21 was it. Indeed, the government had very clearly promised, through John Crosbie, who is not the least important or influential minister in this government, that the government would not touch C-21. The Prime Minister had personally promised that he would absolutely not touch social programs. The mandate was not to mess up Bill C-21. On the contrary. So, I think it is a mistake to be talking about a mandate in that context.

Senator Simard: Of course Senator Hebert refuses to accept newspaper articles and reports. This issue was specifically raised during the last election campaign. The Prime Minister made a statement or a commitment. I quoted him in committee. Unfortunately I do not have the text here.

Senator Hebert: Quote him.

Senator Simard: I did in committee, fortunately. Prime Minister Mulroney may not have been echoing the statements made by Mr. Crosbie at the time, namely that nothing excluded the possibility of modifying the Unemployment Insurance Act. You can look it up in the proceedings of the committee over which you so aptly presided.

It goes without saying that, because of the sections on training, Bill C-21 is part and parcel of the economic renewal or of the preparation for a more intensive economic renewal which began in 1984 and continued uninterrupted through the 1988 elections.

One mayor may not agree with Bill C-21. That is your privilege, Senator Hebert. You can say that Bill C-21 is bad, good or not so good. I think you will agree that this is part of the economic renewal program under which – and Senator Murray will confirm this – close to 1.5 million jobs have been created thanks to the assistance of the government of this country since 1984.

Perhaps this is not good enough for Senator Hebert and his colleagues, perhaps things are moving too fast. There may be some aspects of the bill about which Senator Hebert is not overly enthusiastic, but the results are there. We are asked to let elected representatives continue their work.

Senator Hebert: The result is that we are looking at one million unemployed Canadians.

Senator Simard: We could spend the whole afternoon arguing about absolute figures.

Senator Hebert: Let us do just that!

Page 1685

Senator Simard: I will conclude, then perhaps you can talk about it later on.

Senator Hebert: Yes, very well.

Senator Simard: All things considered, even though the Liberal Senators refer to interest groups to state without supporting evidence that Canadians agree with their undemocratic tactics. I think Canadians realize that it is not so.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Indeed opinion polls – I mentioned this earlier and I have more to say about this – reveal that most Canadians see nothing wrong with using UIC funds to offer unemployed workers the kind of training they need to apply for and keep better jobs.

As a matter of fact, three recent polls published recently, including one conducted by Decima, show that two thirds of Canadians support government projects designed to re-allocate UIC funds to labour training programs.

The results of the most recent Decima opinion poll confirmed once again the support of Canadians. They also want to be sure the unemployment insurance system is adequately used and efficiently managed.

The government realized there was a problem and did what had to be done. The Jobs Strategy was therefore put into place and addressed the needs of a modern labour market.

Senator Hebert told us yesterday training was provided before Bill C-11. We agree.

Senator Hebert: Yes, Senator Simard, before 1984.

Senator Simard: Canadians agreed. They still agree. That shows the new emphasis, if you like. That is put on training. That was what Mrs. Jarrett was talking to me about last week.

Senator Hebert: Did she tell you about the 32 per cent cuts the government has made to training programs since 1984?

Senator Simard: We could talk about that, Senator Hebert. We could set up a debate on CBC like the one there was on that issue 15 days ago. No problem. Provided there were no interference on the line. You know what I mean.

Honourable senators, I think it is important to repeat and stress that the Jobs Strategy put an end to ad hoc job-creation schemes that characterized previous programs. The endeavours of people all over the country were successful because Jobs Strategy programs responded more adequately to the real training and retraining needs of workers.

Honourable senators, we all know that worker productivity is one of the essential conditions for maintaining our competitive position on world markets. That is why all senators in this chamber should be worried about the fact that the productivity of Canadian workers has progressed at a far slower rate than that of workers in Japan, Germany and the United Kingdom. I repeat, the bill before us today is an integral part of the labour force development strategy that will promote the increased productivity we need. I would invite our Liberal senators to give this some thought.

The unemployment insurance system has been in existence for 50 years. Giving money to the unemployed is no longer enough. They need more than promises to break through the barriers of unemployment. .

I shall digress, if I may. Journalists, Liberal senators, NDP members and union leaders told us, before a recent visit by the Prime Minister to Shippegan, Inkerman and Edmundston in New Brunswick, and to Prince Edward Island, two weeks ago, that the Prime Minister had better be prepared. They even suggested he should postpone the trip, according to them, the crisis in the fisheries, Bill C-21 and the GST were sufficient reason to keep the Prime Minister as far away from "Jew Brunswick as possible. The Prime Minister went just the same. I was unable to accompany him to Shippegan and Inkerman, but I was in Edmundston.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Reports in the papers on his visit to Shippegan and Inkerman and the kind of reception he and his fisheries minister received indicate that Canadian like to be told the truth, and I think that is what the Prime Minister told them in Shippegan and Inkerman, and what he told them in Edmondson. He talked about Bill C-21, the GST and free trade. And he was not talking exclusively to members of the Chamber of Commerce, Senator Hebert.

I was a little disappointed yesterday when Senator Hebert, who has indulged in this kind of exercise before, seemed to be very contemptuous of the Chamber of Commerce, as though its members were purely out for gain and full of ulterior motives. Senator Hebert was a bit ridiculous yesterday. He gleefully pointed out that according to him, only members of the Chamber of Commerce had supported Bill C-21, although we know perfectly well that is not quite the case. I may recall that the Government of New Brunswick asked our committee to support Bill C-21, be it with certain reservations.

Senator Hebert: Yes, Senator Simard.

Senator Simard: So, we agree, Senator Hebert. Let us return to Edmunston and Shippegan where there were also members of the Chamber of Commerce. There were 500 people altogether, people from all walks of life, students –

Senator Hebert: Some poor too'?

Senator Simard: Yes, indeed. For them It IS Important to find a job in order to prepare for their children's future. The Prime Minister was received not only with dignity, but with warmth. It was clear that the people, while faced with temporary problems and the difficulty to live on such tight budgets, or rather budgets which did not increase at the same rate as under a Liberal administration, graciously accepted to live on budgets and programs in anticipation of a better

tomorrow. Contrary to the predictions of the CBC and others, there were no demonstrations.

People in New Brunswick are willing to make sacrifices in anticipation of better days. They do not really expect the Liberals in the Senate to hold-up Bill C-21. I do not think that they demand that from us. I therefore ask you to proceed without further delay.

Page 1686

Although I might have a great many other things to tell you, honourable senators, I will conclude. Personally, I feel that the Senate has already assumed its duties. Canadians expect the government to be able to achieve its fiscal and economic development plans without any interference from the Liberal majority in the Senate. I support this proposal and I urge all senators to do likewise.

I urge again Senator MacEachen to let us know what, in his opinion a conference, like the one he has suggested, would be like. There were reports about that last week and again this morning in the newspapers. I urge him to tell us whether this conference should be public or private. What will be the line-up of the two delegations? Does he expect the delegation representing the House of Commons to include N DP and Liberal party members or only government members? That might be something interesting to know before the end of the week.

Thank you, honourable senators, and have a nice weekend.

Hon, Azellus Denis: Honourable senators, may I ask Senator Simard a question?

Senator Simard: Certainly, Senator Denis.

Senator Denis: The honourable senator claims that the government had a mandate with regard to Bill C-21. Could he tell me, I jotted down a few points, whether it was one of its election

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

promises that employees would have to work longer to collect unemployment insurance benefits?

Secondly, I would like to know if the government promised lower unemployment benefits for shorter periods. Did the government promise to raise employees' contributions? Did it promise that the government would stop contributing to the UI fund? I could come up with three or four more questions. Honourable senator, I would like to know if the government promised everything that is in Bill C-21.

Senator Simard: Honourable senators, I think that Senator Denis is experienced. He knows very well that is not the kind of thing discussed in detail in an election campaign.

Senator Hebert: You promise the opposite. It's simpler!

Senator Simard: In 1984 and 1988, the government told us about it – and in 1988, it had evidence of the results of some policies that were in effect from 1984 to 1988. In 1988, it promised the electorate to continue economic development by encouraging everything that would produce better trained employees who were better able, along with their employers, to face international competition, for example. I think that the people expected that. They still expect it. They understood what the government promised them in 1988.

Of course, the Liberals chose to campaign only on free trade. We know that. The election campaign was mainly on that issue, with the results we know.

When the GST Bill comes up, some tell us that the government has no mandate for the GST. However, the white paper, the green paper and the budgets preceding the 1988 election mention the GST. Of course, they did not go into it in such detail. It might have been dealt with further

if the Liberals, as I recall, had not fought their campaign solely on free trade.

To answer Senator Denis's question and to end with that, I know that you are not always satisfied with the answers, Senator Hebert. They are rather long, but to finish with Senator Denis's question, yes, the government was understood in 1988. The government was happy with the result of the election campaign. The government understood that people voted for a team that wanted to continue with economic development, which requires changes to the Unemployment Insurance Act, income tax or any other new or old legislation.

Senator Denis, you know the answer to your question. We should not get bogged down in the details of some sections of Bill C-21 which had not even been written at that time.

Senator Denis: Honourable senators, I must congratulate Senator Simard for being an expert in avoiding the issue and for using the famous refrain of the Conservative government and its leader about the candidates and elected members. Just because someone is elected does not mean that he must do every stupid thing that comes along.

As far as elected members go, some senators here were elected too and often re-elected. I for one was elected to the House of Commons nine times and dozens of senators here were elected once, twice, three or more times. They did not make the mistake of passing bills like C-21.

Senator De Bane: Hear, hear.

On motion of Senator Frith, for Senator MacEachen, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1708

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.
— (*Honourable Senator MacEachen, P.C.*)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, one benefit that may flow from the delay in beginning this debate is that I have been able to shorten considerably the speech I might have given last week. I want to begin by doing something that one ought not to do; to quote one's self from a preceding debate. I do so because it seems to be relevant to what I will say shortly.

On March 20, 1990, in debating the report of the Special Committee on Bill C-21, I made the following comment:

I read the debate in the House of Commons, and more particularly the speeches by members supporting the government who constantly attempted to redefine what an appropriate role for the Senate was, from their point of view. I thought, "What a mistake it would be for senators to be sucked in and to accept the definition of 'role' that would be put forward by a competing House".

We are different houses. We have separate functions.

We are equal, with certain specific exceptions. However, when I was in the House of Commons I shared that attitude. If I had had my way, I would also have defined the role of the Senate out of existence.

That is the end of my quote. I believe that is the customary attitude of the House of Commons. It has and will continue to attempt to erode the constitutional powers of the Senate by debate, standing orders and proclamations as contained in the message which we received from the House of Commons.

It would be a mistake for senators to rely on the judgment of the House of Commons as to their proper role. I must say that the proceedings in the House of Commons on April 3, April 5, April 26 and May 7 and 8 on the message we sent to the House of Commons demonstrated and confirmed the validity of the comments I made in the Senate on March 20, because these proceedings demonstrated that if government members were given their way, the process of erosion of the constitutional powers of the Senate would continue without limit. That process was evident on April 3, April 5, April 26, May 7 and 8 when we were told by supporters of the government that the Senate really had no business sending forward amendments; that they were out of order, unconstitutional, and infringed upon the financial prerogatives of the House of Commons.

Let us remember what was actually asked of the Speaker of the House of Commons with respect to this particular Senate message. The Leader of the Government in the House of Commons asked that the Speaker rule out of order amendments made in the Senate to Bill C-21. The Speaker did make a statement, and he refused to rule the amendments made to Bill C-21 in the Senate out of order. In that statement

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the Speaker did not purport to definitively pronounce upon the constitutional powers of the Senate. If one were to draw any inferences from the statement made by the Speaker, it would be that the constitutional powers of the Senate were confirmed by the Speaker. I draw attention to his statement as follows:

It is not within my power to rule on whether the Canadian Senate should have the constitutional right to restore charges when the Commons has decided otherwise.

In that statement the Speaker did not question whether the Senate did have the constitutional right; he questioned whether it should have that right.

I draw the attention of honourable senators again to a quotation that the Speaker, Mr. Fraser, used, which was drawn from an article written by Mr. E. Russell Hopkins, a former law clerk and parliamentary counsel to the Senate. Presumably, Mr. Hopkins was quoted as an authority and his words were intended to have some weight. Mr. Hopkins wrote in the article as follows:

The question whether the Senate should or should not amend a money bill in such a way as to disturb the balance of ways and means in any fiscal year is one of policy rather than of law: that is, it is a question for the Senate itself to determine in all the circumstances. The Senate may, of course, reject a money bill absolutely, and, in its view, may reduce a tax or appropriation.

It was at that point that the Speaker, Mr. Fraser, observed that many Canadians have no idea whatsoever of the awesome powers which the Senate claims to itself over the elected lower house.

I draw the conclusion that in that statement no adverse ruling was made on the Senate amendments and no adverse pronouncement was

made with respect to the constitutional powers of the Senate. However, while the statement of the Speaker did not have either a procedural or a constitutional effect, it had at least two other important effects to which I would like to draw the attention of honourable senators.

Page 1709

The first effect of the statement was to provide ready material to critics who wish to enter the controversy on the side of the government against the Senate and the amendments it made to Bill C-21. The fact of the matter is that following that statement there was a flood of editorials and articles which drew extensively on the words of the Speaker in criticism of the Senate and in criticism of the particular amendments that we moved. I do not intend to quote extensively, but one or two quotations might give the flavour as to the effect of that statement.

In The Ottawa Citizen of April 27, 1990, the headline was:

"Senate powers need trimming, Fraser tells Parliament", and the article reads:

House of Commons Speaker John Fraser in a major statement Thursday strongly suggested the "awesome powers" being claimed by the Senate be restricted.

On the same date, April 27, 1990, The Toronto Star, under the byline of Mr. William Walker, stated:

Although Fraser appeared at times angry and critical of the Senate, he admitted he's powerless to address "the Canadian constitutional dilemma."

I simply point that out, and in that connection I draw the attention of the house to a comment made by Mr. Harvie Andre, the Leader of the Government in the House of Commons,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

following the statement by the Speaker. He said: "The Speaker made a number of points we were hoping for." Certainly, the effect of the points which the Speaker made was to greatly assist Mr. Harvie Andre in his battle against the Senate. That was the effect. However, a second effect was to open the door for the House of Commons to send a message to the Senate, following the Senate's insistence on its amendments, and to allow the House of Commons to disregard the unbroken practice followed in Canada in the same circumstances since Confederation, provided for explicitly in the rules of the Senate and supported by the ordinarily used edition of the standard authority Beauchesne.

It is interesting that in reaching this conclusion in the House of Commons reliance was made upon citation 282 of Beauchesne's, Fourth Edition. That citation reads as follows:

When the Senate returns the Bill with a message that they insist on an amendment to which the House of Commons has disagreed, the House may either agree, with or without amendment to the amendment to which it had previously disagreed, and make, if necessary, a consequential amendment to the Bill ...

That is the only authority used in the House of Commons to support the notion that a message in these circumstances could be returned to the Senate. It is interesting that in the House of Commons the Fifth Edition of Beauchesne was totally ignored. Presumably, the editors of the Fifth Edition had considered the previous citation, had found it not to be in accordance with Canadian practice, and had deleted it entirely and replaced it with the following citation:

If the Senators persist in their amendments, they send a message informing the House of this fact. Upon this, the House either accepts the amendments or adopts a motion requesting

a conference to which each House appoints Members; and a date is fixed for their meeting. Should they again disagree, the House may accept the amendments or the Senate may withdraw them, but when neither of these courses is followed, no further action is taken on the bill.

That citation is an accurate reflection of unbroken parliamentary practice up to 1990.

I simply want to say, honourable senators, that the process of exchanging messages, up to the present time terminated when the Senate insisted on its amendments, can now continue, conceivably, as an indefinite game of ping pong, allowing each house the expensive luxury of declining to come to terms with existing differences and leaving Parliament without any procedure whatsoever for settling differences between the two houses. Such an unjustified change, based as it is entirely on an outdated and deleted reference in Beauchesne's, Fourth Edition, and totally contrary to Canadian practice, involving far – reaching implications, cannot be accepted as an expedient convenience to a government and a minister who find negotiation and compromise distasteful.

We reiterate on this side of the house, and will continue to do so, that when the Senate, in a message to the House of Commons not containing fresh amendments, insists on all its previously – submitted and not – accepted amendments, the only way of prolonging the legislative process is by an effort between the two houses to settle their differences.

Honourable senators, examine the history for yourselves.

We have made a diligent effort to find out whether, in Canadian practice, there is a case where the Senate, after sending a message confined solely to the insistence on its amendments, receives a further message from the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

House of Commons. We searched diligently to find out if such a precedent existed in Canadian history and we cannot find any precedent. Perhaps the House of Commons has dredged up a precedent. If so, it was not referred to in those four or five days of debate. The Speaker certainly did not refer to any, and I believe that today we are on solid ground in saying that it is time to insist upon the time-honoured practice of resolving disputes between the two houses in such circumstances, not by an indefinite game of ping-pong but by a resolute effort to reconcile or resolve existing differences through what seems to be the normal practice of negotiation and discussion.

The prolongation of this dispute between the Senate and House of Commons, even if it does not create an additional burden for Canadian citizens, either as taxpayers or as contributors to the unemployment insurance fund, does have the effect of adding to the deficit. If we accept the calculations of the Minister of Finance, this effect could have been mitigated, if not avoided, if the government had chosen to deal intelligently with the concerns expressed in the special committee through discussions with the Senate.

Page 1710

Honourable senators, at the end of last year the surplus in the unemployment insurance fund was \$1 billion. At the end of 1992, according to the projections provided by government officials, the unemployment insurance account will be \$3 billion in deficit. If this bill is adopted, the Minister of Finance expects to reduce his deficit by \$1.9 billion. That achievement of deficit reduction will not occur as a result of any particular skills. It is simply a transference of the burden of the deficit from the fiscal accounts to the unemployment insurance account.

Under the provisions of this bill not yet enacted, the government sought to be relieved of its burden of making contributions to the

unemployment insurance fund. The bill has not yet passed and therefore the contributions still continue. What is the cost to the government? On May 3 Senator Hebert asked the Library of Parliament to ascertain the federal contributions to the unemployment insurance account since January 1990. In January 1990 they were \$263 million; in February 1990 they were \$258 million; in March 1990 they were \$281 million, for a total of \$803 million. There is April 1990, which would add probably another \$200 million or \$300 million. We are now at May 22, which would add perhaps another \$200 million or \$300 million. Those are the contributions that the government has continued to make, so we are advised, in the absence of the passage of this bill.

Presumably, the government will have to take its share of responsibility for that outcome. We take our share, but they must take their share. I assure you that if the government had come to terms with this bill, as it ought to have done, this outcome could have been mitigated. Every day we are delayed in reaching a solution to this impasse this situation will continue.

Honourable senators, I have referred to some of the procedural and financial aspects, which are quite important. As was pointed out so eloquently by Senator Hebert, at the root of the dispute between the House of Commons and the Senate is a dispute about the bill – what the Senate perceives to be the shortcomings of the bill and what the government and the House of Commons perceive to be the benefits of the bill. We believe it is wrong for the government to withdraw totally its financial support from the unemployment insurance system. We believe it is wrong for the government to undertake, through legislative changes, further and increased harassment of the working population of Canada. We believe it is wrong that the use of funds for training should now be withdrawn from benefits formerly paid to workers without any assurance that the benefits withdrawn will be

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

returned to the regions of Canada in the form of training funds.

These are the basic objections we have taken to the bill. We were serious about them, and we have insisted on our amendments, for the first time in my tenure as Leader of the Opposition in the Senate. It has not been a routine event. It has been an exceptional event because of the difficulties we have had with this bill. We have said that we insist on the amendments. That should have led to a conference or, as Mr. Diefenbaker did in similar circumstances when he was Prime Minister, the bill should be forgotten. That is not ancient history. Mr. Diefenbaker followed the accepted pattern, which was either to confer or forget about it.

Let us not talk about a constitutional crisis when and if the House of Commons and the Senate disagree. We have matured enough during our history to have devised a method of resolving differences between the House of Commons and the Senate, and that is through a conference. A lot of nonsense has been expressed about conferences and references have been made to the British practice of holding conferences, which was abandoned before the Canadian practice was launched. We have had a number of conferences in our history. At times this practice has fallen into disuse. People say it ought not to be used.

However, the government did not apply that reasoning to the practice of closure, which was rarely used until this government took office. I believe that in this Parliament it was rarely used. It was not used at all in the seventies; it was used two or three times in the eighties by the Liberal government; for over 22 years in Canadian history it was not used at all, if I recall the facts accurately. We will find that that practice fell into disuse and then was revived, because it is part of the Standing Orders of the House of Commons and the Senate, presumably. However, in this Parliament I believe that closure has been

used by the present government 16 or 18 times over the past two years.

An Hon. Senator: Shame!

Senator MacEachen: Procedures that lie dormant can be revived, and this government has shown us how to do it.

Senator Guay: Shame!

Senator MacEachen: I say that not to antagonize members opposite but to remind them –

Senator Simard: Unreasonable opposition over there.

Senator MacEachen: – that the conference procedure is available to us and could be resorted to in the present circumstances, instead of talking about a manufactured constitutional crisis.

Honourable senators, I should like to move an amendment, if I may, to this motion. It is rather long, and I am sorry –

Senator Frith: Take your time. There is no closure in the Senate.

Senator Doody: Except on Mondays and Fridays!

Senator Perrault: Senator Flynn, listen carefully.

Senator Asselin: Will you have copies distributed?

Senator MacEachen: Yes; I hope to have copies –

Senator Asselin: Before?

Senator MacEachen: – in both languages distributed. **Senator Asselin:** When?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: Immediately.

Senator Guay: As soon as you keep quiet!

Page 1711

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, in amendment, I move:

THAT, all the words after the word "That" be struck out and replaced by the following:

Whereas

On March 20, 1990, the Senate informed the House of Commons by message that it insisted upon its amendments to Bill C-21; .

And Whereas

Beauchesne, 5th edition, citation 814, –

Senator Simard: It is supposed to be the Sixth Edition!

Senator MacEachen: You asked about the Sixth Edition?

Senator Simard: Why do you not go to the Sixth Edition?

Senator MacEachen: I will tell you why. It is because the Sixth Edition is not recognized in either house as an authority –

Senator Simard: Oh!

Senator MacEachen: – because it has not been translated into French.

Senator Guay: Right on!

Senator MacEachen: And if you did refer to the Sixth Edition you would find that it does not alter any argumentation that I have made, contrary to the letter which appeared in the press

from the Minister of Employment and Immigration.

Senator Perrault: Hear, hear!

Some Hon. Senators: Hear, hear!

Senator MacEachen: The Sixth Edition is not available for use, as a matter of policy in either house, because it is unilingual.

Senator Perrault: Shame!

Senator MacEachen: It has not been translated and we are not entitled to use it. It is not even available at the Table. The Clerk at the Table obtained one for me from the Library because it was unavailable here. I shall continue with the motion:

And Whereas

Beauchesne, 5th edition, citation 814, p. 241, provides that in such circumstances, where the Senate insists upon their amendments, "the House (of Commons) either accepts the amendments or adopts a motion requesting a conference to which each House appoints Members";

And Whereas

When the Senate insisted upon its amendments to *An Act to authorize the government to acquire by lease lines of railway connecting with the government railways in 1910;*

and to *An Act to confirm the Order in Council of the twenty – fourth day of February, 1919, prohibiting the importation, manufacture and transportation of intoxicating liquors and the Order in Council of the twelfth day of April, 1919, in amendment thereof in 1919;*

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

and to *An Act to amend the Judges Act* in 1921;

and to *An Act to amend the Canada Temperance Act* in 1922;

and to *An Act to amend the Industrial Disputes Investigation Act* in 1924;

and to *An Act for the relief of the Depositors of the Home Bank of Canada* in 1925;

and to *An Act to amend the Criminal Code in 1933; and to An Act to amend and consolidate the Excise Act* in 1934;

and to *An Act to amend the Farmers' Creditors Arrangement Act, 1934* in 1938;

and to *An Act to amend the Criminal Code* in 1947, the House of Commons requested that a conference be held;

And Whereas

When the Senate insisted upon its amendments to *An Act to amend the Combines Investigation Act* in 1936; and to *An Act to amend the Customs Tariff Act* in 1961, the House of Commons chose not to proceed further with the legislation;

And Whereas

When the Senate has by message insisted upon its amendments without offering any alternative proposal, it has never received a subsequent message from the House of Commons repeating that it disagreed with the said amendments;

And Whereas

The message received from the House of Commons on May 10, 1990, is without precedent, and does not conform to the

convention and practice, unbroken since Confederation, of settling disagreements between the House of Commons and Senate by a conference.

The motion be referred to a conference between the two Houses of Parliament.

The Hon. the Speaker: Honourable senators, in amendment, it is moved by the Honourable Senator MacEachen, P.c., seconded by the Honourable Senator Frith:

THAT, all the words after the word "That" –

Senator Roblin: Dispense!

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

Hon. Duff Roblin: Honourable senators, I have to share with you the fact that my confidence in the proposition put forward by my honourable friend opposite has been shaken by his cavalier reference to Beauchesne, Sixth Edition. Surely he being the parliamentarian that he is must know that that volume of Beauchesne has been in use in the House of Commons.

Page 1712

Senator MacEachen: No!

Senator Frith: No!

Senator Roblin: It has. I have the dates on which it was used and the people who used it.

An Hon. Senator: Who?

Senator Roblin: It can be found in Hansard at page 8 – 1 will not go into the details, but I have them here. The Honourable Harvie Andre, leader of the house, representatives of every party and the Speaker have referred to it.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

An Hon. Senator: Who?

Some Hon. Senators: Shame!

Senator Perrault: Oh, yes, that fountain of knowledge, Harvie Andre!

Senator Roblin: You may not like what Mr. Andre says from time to time –

Senator Perrault: That constitutional heavyweight, Harvie Andre!

Senator Roblin: – but you are entitled to know on which authority he relied on one occasion, and it was Volume 6 of *Beauchesne*, as indeed was the case with Mr. Speaker, Mr. Reis, Mr. Jean Robert Gauthier and others. That is a "by the way," because it does not have much to do, I confess, with the gravamens of the issue that is before us now.

While I have no constitutional disinclination to go for a conference, I point out to my honourable friend that it would be better if he used the proper term, namely, "a free conference," because there is a substantial difference between "a conference" as known in *Beauchesne* and "a free conference," which is not referred to in the resolution before us. If my honourable friend wants to amend it to show a "free" conference, then that would be all right with me.

I ask myself: To what end is this free conference, apart from being another stage of the tactics of my friends opposite to keep this issue before the public, as they are doing now? If the conference is to consider whether they should insist on their financial amendment, it is not likely that they will get an affirmative response from the other side, particularly when I expose the constitutional concerns that bother me with respect to this issue. If my honourable friend tells me that he is prepared to not insist on his financial amendment, then I would tell him that he does not need a conference to do that. He can

do it right now in this house. However, I suspect that that is not what he intends to do. He intends to go to this conference and hold his ground. He has given us the reasons this afternoon why he thinks he is entitled to hold his ground. The effect of that, of course, is a nullity. The effect of that is another standoff. The effect of that is that it gets us nowhere, but it gets my honourable friend on what he considers to be more comfortable grounds than the ones he is on right now.

I want to deal with what he calls the "artificial" constitutional issue that has been raised, and in particular with respect to the role of the Senate. I am not one of those who downgrade the role of the Senate, and I do not think it can be fairly argued by anyone that a person who thinks the Senate is trespassing its constitutional bounds in a particular issue is therefore seeking to downgrade the Senate. We are merely seeking to have the Senate act as it should in the parliamentary representative system we now have. I have no objection to the Senate making amendments – any kind of amendments it likes. Where I have an objection is when the amendment is a matter of financial concern, as is the case in this issue. It seems to me that for the Senate to insist on having its own way, under those circumstances, is wrong.

My friend has told me today that he does not like the government policy. I have known that for quite some time, but I did not think he was going so far as to say, "Not only do I not like government policy, I am going to ignore one of the fundamental issues of our democratic system in order to get my own way in this issue." I do not think that will work.

Senator Frith: What is your point?

Senator Roblin: If my honourable friend will contain himself, I will get to the points I want to make. I do not expect my friend to agree with them; but I know he is interested in listening to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

me, because he always gives me the courtesy of paying attention to what I say.

Senator Frith: You have such a silver tongue, I just cannot wait!

Senator Roblin: The difference of opinion between the two houses, on this financial matter in particular, seems to me to raise a matter of constitutional significance with respect to the operation of the responsible and representative system of parliamentary democracy that we understand in this country. The nature of the issue, in spite of what my honourable friend says, is well set out in the statement by the Honourable the Speaker in the House. On April 26 he said:

If the Senate amendments were adopted ... That would run contrary to the approved budgetary policy of the government and contrary to the principle of the bill as adopted by the House of Commons.

Senator Frith: Our own Speaker ruled these very amendments to be in order.

Senator Roblin: My friend will have an opportunity to contradict me as soon as I have taken my seat. Perhaps my honourable friend would listen to what I have to say, and contain himself until I am finished. He may be a little wiser then, although that may be debatable.

Senator Flynn: I doubt that very much.

Senator Roblin: Speaker Fraser also included in his statement a historical review of the crisis in the United Kingdom in 1909. He made a comment on the report of Senator Ross, which was reported to the Senate in 1918 on the financial powers of the Canadian Senate. He concluded, and I think properly, that he had no power to instruct the Senate as to what it should do, but he did have the capacity to layout the consequences of Senate obduracy, and that he

did. This makes me wonder why my honourable friend, the Leader of the Opposition in the Senate, holds the view that the Speaker in the other place had no adverse comment to make or no comment that we should take to heart. He certainly said the following:

Page 1713

Should the Senate choose to further insist on its amendments, the two Houses may well be unable to resolve their differences and be faced with a serious constitutional crisis.

I do not think that could be considered to be a comment that does not adversely reflect upon what we are doing here.

I agree with Speaker Fraser that it will be a constitutional crisis. The legalists and the lawyers can argue until they are blue in the face and cite Beauchesne until we are tired of it~ and I am sometimes guilty of doing that myself – but I would argue that the conventions of the Constitution are at issue here.

Let us examine the position of those who say that the Senate has the power not only to amend but to insist on their amendments on a financial matter of the type before us now. It seems to me that that assumption of the powers of the Senate goes back to the report made to the Senate in 1918 by Senator Ross, entitled "The Rights of the Senate in Matters of Financial Legislation." It is extraordinary, it seems to me, that this report of Senator Ross could be written in complete disregard of the conventions of the Constitution with respect to the power of the purse. It seems to me that it was entirely too facile of him to skip over that particular issue of constitutional government and to act as if the quarrel of Parliament with the monarch and later with the unelected House of Lords were not factors in the equation. He wound up by insisting on the legal right of the Canadian Senate to amend money bills. He presented this view to the House because he felt that it was part of the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Confederation pact, the Senate being "specially empowered to safeguard the rights of provincial organizations."

My honourable colleagues know very well that that report was reviewed by two senior legal officers of the day, Messrs. Lafleur and Geoffrion, and they agreed that the Senate was there to represent the provinces, although I am not sure which provinces would recognize that description today.

John S. Ewart, who also was quoted in the Ross Report, was closer to the mark when he said:

There can be no doubt that the difference between the British House of Lords and the Canadian Senate referred to in the memorandum are of substantial character but, after all, the two Houses, with reference to the subject under consideration occupy the same position. For the members of neither House are elected by the people, and the privilege of the assembly with regard to money bills has always been based upon the fact that the House was composed of popularly elected members.

So even in the days of Senator Ross there was some *arriere – pensee* on the part of those who considered his *obiter dicta*. But significantly, while the Ross Report, for example, spent a good deal of time recounting the way in which the House of Lords was disciplined in 1911 or the so-called "swamping" situation where the lords had the legal right to do what they were doing in 1909 – few, I think, disputed that they certainly found out that they did not have the conventional right to do it, because they were disciplined by the threat to create enough peers sufficient to carry the budget presented by the House of Commons in those days.

While going into all of that he failed to make clear the fact that we have a somewhat similar situation in our own Constitution, because there is the power to create eight additional senators

for just the same purpose. Obviously, the power to add in Canada falls far short of the unlimited power in the United Kingdom, but its deadlock-breaking purposes are clear, and we may find today that – although I am not making any forecasts in this direction – it is no empty provision. If the "swamping" principle had been incorporated in our Constitution from the start, then what becomes of Senator Ross' assertions of unlimited power? However, the world moves on, and other senators have spoken. Some of them, it appears, did not regard Senator Ross as the last word.

In the 1920s Senators Dandurand, Willoughby and Robertson put forward the principle that the Senate's financial powers did not extend to amendment; that they were limited to approval or rejection. Sometimes Senator Dandurand did not make his point, but he had his point of view just the same. Even Arthur Meighen, who was a lion in the Senate in those days, and who thought it was all right to amend money bills, did not think that it was right to press and insist on having his own way.

The Honourable Ross Macdonald, the Liberal Leader of the Senate in 1960, made the point that the balance of ways and means should always be respected by the Senate. My honourable friend opposite referred to ways and means, and I shall deal in more detail with that particular concept later. Senator Macdonald said that the Senate should not upset the balance of ways and means, because he had respect for the sanction of the Crown with respect either to grants or to taxation.

Hon. John B. Stewart: Honourable senators, would the Honourable Senator Roblin would permit a question, which is appropriate at this time?

Senator Roblin: I am sorry; I will not permit a question. I intend to complete what I have to say. Then, if my honourable friend still wishes to

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

question me, I would be glad to listen to what he has to say.

The "balance of ways and means" is no academic turn of phrase. It has to do with one of the basic principles and conventions of our Constitution. It lies at the root of parliamentary democracy. It refers to the power of the purse and resides in the House of Commons. If honourable senators want an eloquent explanation as to that situation, I suggest they look up the words of Sir Wilfred Laurier in 1919 or, indeed, the words of the Honourable Lester Pearson when he was Leader of the Opposition in 1959. On that occasion the Senate had amended a tax bill. Mr. Pearson's view was that, even though he liked the amendment, it should not have been done in the Senate but in the House of Commons; otherwise it intruded upon the ancient privileges of that House, which is an expression that is sometimes taken lightly in this chamber but which is indeed significant.

Page 1714

I think honourable senators will find that our actions with respect to Bill C-21 do indeed affect the balance of ways and means. My honourable friend has agreed, I believe, that as the amendment stood in the beginning it would add \$1.750 billion to the cost of carrying on the government of the country. As proposed by the executive, there is a difference between \$1.750 billion and the position that is outlined in our amendments to the bill.

It is malarkey to say that all this has not happened because the bill has not taken effect. It is the law and the statutes that we are talking about here. It is not happenstance that relies for its effectiveness on the stubbornness of this body. That has nothing to do with it. The fact is that the government recommendations in the budget are being upset to the tune of \$1.750 billion. Our action does upset the balance of ways and means. It is not a trifling matter. It is the sort of thing that has been condemned by

people whose opinions both sides of this house respect with regard to the principles of responsible government.

Consider the consequences. If our amendments stand; if we go to this committee and we have our way, and I very much doubt that we will, what are the consequences? The executive must either increase taxes, reduce outlays in other departments of government, or add to the deficit. Those are powers of money and taxation. They are powers that this house has no right to exercise. Taxation and spending require representation and consent, and under our system of government only the House of Commons meets that test. The Senate does not meet that test. However well intentioned the views of some may be, and, indeed, however strong their arguments may be – which I leave to one side completely – the fact is that in upsetting the balance of ways and means they are upsetting the balance of the Canadian Constitution.

In the period that I have surveyed – and I include the instances that my honourable friend has adduced in his resolution today – in no instance has there been so gross an infringement on the balance of ways and means and on financial policy as our financial amendments to this bill will involve – and we are being told that we should insist upon them. There is no instance that I know of where moderation and balance on the part of the Senate has been so decisively repudiated, and no instance where the actions of the Senate are so potentially harmful to the Parliament and to the principles of representative and responsible government. I suggest that honourable senators put aside the appeals to legalism and the obiter dicta and the disputes on the unemployment insurance policy. The real issue presented by the Senate in its course of policy has to do with the question of the balance of ways and means.

Further, our insistence on the rights of the Senate, that it must have its own way on the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

financial motion that involves \$1.750 billion, upsetting the balance of ways and means, goes to the very heart of representative and responsible government.

It deforms our system, and I object to it. The power of the purse is at issue here, and parliamentary responsible government is another one that goes with it. It has never been held in Canada that the executive of this country was ever responsible to an unelected Senate. The executive is not responsible to the two houses; it is responsible only to the House of Commons.

As some wise men have said, there cannot be two kings in Israel, but that is what my honourable friend wants. He wants two kings in Israel. He wants to be able to tell the executive branch that if they are formulating a budget they are going to have to do it his way. I suggest that that is a new claim for the Senate of Canada. That claim does not stop with this bill. What do you suppose the senators opposite have in mind in connection with Bill C-28? You can guess, but I suggest that it will be a junior model of the same kind of thing. What will happen when they get to the goods and services bill? I suggest that honourable senators not hold their breath; that they can well imagine what will happen.

My honourable friends may think they have the public on their side in all three issues – and for all I know maybe they have – but I can tell them that the House of Commons should take the rap for any bills, good or bad. That is where the responsibility lies, not in this chamber.

Some Hon. Senators: Hear, hear!

Senator Roblin: I am sorry that Senator Gigantes is not here, because the other day, in an intervention with the Leader of the Government, he put his finger on this very point: What would happen to responsible government with an elected Senate and with the executive being responsible to two Houses of Parliament? It has

never been our policy that that should be the case, but if the Senate persists in its policy in respect to this financial matter, it is challenging the great conventions of our constitutional system. If the House of Commons, for example, were to act as the Senate proposes and change the budget to the extent of \$1.750 billion, upsetting the balance of ways and means, what would happen? The government would fall; that is what would happen. The government is responsible to the House of Commons for financial matters.

Senator MacEachen: The balance has been upset already. **Senator Roblin:** Yet the Senate, an unelected body, proposes to do that very thing – upset the balance of ways and means. with impunity to itself. Senators do not even have to face the electorate to prove that they were right. They are here until God removes them or until they reach 75 years of age. That, to me, is the issue.

Senator MacEachen: What are we doing here then – drawing our cheques with no work, no impact, nothing?

Senator Roblin: You are here to use your brain; to be sensible. You are here to protect –

Some Hon. Senators: Hear, hear!

Senator MacEachen: Why don't you quit?

Senator Roblin: You are not here to challenge the conventions of responsible government.

Page 1715

Senator MacEachen: Why don't you resign and go home?

Senator Roblin: You should resign! You know the proper role of the House of Commons.

Senator MacEachen: You are not doing anything here! You have no role!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Roblin: Your role is to destroy the conventions of our Constitution! If you had moderation; if you had balance; if you had commonsense, you would be acting in a different way than the way you are acting now!

Some Hon. Senators: Hear, hear!

Senator Frith: All this is contrary to what our Speaker has already ruled.

Senator Roblin: I thought the struggle for responsible government –

Senator MacEachen: You are out of date, Duff.

Senator Roblin: – and the authority of the purse was a matter that had been settled long ago. However, that Medusa has raised its head again in this house, and we are challenging the House of Commons for supremacy in connection with the budgetary powers of the government.

Senator MacEachen: Get off your perch!

Senator Roblin: So there you are.

Senator MacEachen: There we are.

Senator Roblin: Allow me to take a little jaunt into the future. My friend will like that. Although he lives a good deal in the past, he is interested in the future, very interested, these days.

It seems to me that no unelected parliamentary body has ever asserted and insisted upon the exercise of a power with respect to financial matters against a resisting House of Commons and gotten away with it permanently, either in Canada, the United Kingdom or anywhere else that I know of no unelected parliamentary body has ever asserted or insisted upon such a power against a resisting House of Commons, as we wish to assert and insist upon today.

Legalisms may be raised – they have been raised. What we are seeking to annul is, in fact, a central convention of our system, the question of the balance of ways and means and the question of the responsibility of the executive branch to the House of Commons, and only to that House.

I suspect that after all the fuss and fury about this Unemployment Insurance Bill has subsided – and one day I think it will – and after we have forgotten about the problems involved with Bill C-28 – that may take a little more time – and even after the GST recedes into the mists of history, no matter what this body has to say about those subjects, when Canadians have time to fully understand what powers this willful, unelected body – I will not go further than that – claims for itself, they will not thank us.

Senator Frith: But you are a member of this body, being held between representatives of the other place and the Senate on this matter.

Senator Roblin: They will seek to change us, and if they do not change us they will sweep us away.

Honourable senators, there is plenty of time for sober second thought. That is what we are supposed to consider as one of our guiding principles. This is the time for sober second thought.

The Senate expressed its view; the Senate made it abundantly clear that it does not like the government's bill: the Senate has done its constitutional best – appropriately, perhaps, in the view of some – to speak up for those who were not listened to by the other place.

The Senate has discharged all of its constitutional obligations. It is incumbent upon it to do so, but when it has done that senators must then ask themselves: Are we justified in insisting, particularly in view of this matter of financial policy – which involves with it the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

institutions of Parliament and the responsibilities of the executive of the House of Commons – as some would have us do?

Honourable senators, I think not. I think we should think again. I think we should decide that we have done our part in that we have brought this to the public's notice. We have provided a forum for those who wanted to be heard; we have suggested amendments; we have given the House of Commons their chance, if you like, but once we have done that should we insist? We certainly should not, in my opinion.

Some Hon. Senators: Hear, hear!

Senator Frith: We have already insisted.

Senator Stewart: Perhaps Senator Roblin will deal with my question now. He referred repeatedly to an expression that I have read again and again, "the balance of ways and means."

In my opinion, we flatter ourselves in thinking that we understand what those words mean. Will Senator Roblin tell us what they mean, since so much of his argument depends upon the precise meaning of that expression?

Senator Roblin: If I were to go back several years ago – 1960, I think – and quote Senator Ross Macdonald, I believe he said that the balance of ways and means should mean that the Senate not upset the arrangements that have been made in the House of Commons for financing the country. He referred to taxation, grants and so forth.

It seems to me that when we have an issue that involves a large amount of money, as we have here – \$1.750 billion – it does upset the budgetary calculations of the government as laid down and accepted by the Commons. That being the case, we are on thin ice indeed, because if we insist on our measure and if it goes through, it will effectively dictate to the House of Commons

and the executive what their taxation policy is to be; what their expenditure policy is to be, and what their financing policy is to be. More taxes, less expenditures, increased deficits, or all three.

That is not the role of the Senate, and that is what I mean when I say "upsetting the balance of ways and means."

Hon. Stanley Haidasz: Honourable senators, I should like to ask Senator Roblin whether he is totally against a conference being held between representatives of the other place and the Senate on this matter.

Page 1716

Senator Roblin: A conference was last held in 1947. That is a long time ago. I think that in circumstances, where there is a disposition on the part of one party or the other to seek an accommodation, a conference would be a good idea; I do not rule one out.

I do not intend to vote for this conference because I am convinced that the two parties have taken up fixed positions and are not likely to move. If my honourable friends opposite tell me that they are willing to concede, that they are willing to make some adjustments, then perhaps I will take a different view.

However, if they intend merely to go to such a conference and say that the Senate has the right to insist on these amendments, as they have done twice now when asked about this matter by the House of Commons, then I think a conference would not likely be productive.

On motion of Senator Beaudoin, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1729

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

And on the motion in amendment of the Honourable Senator MacEachen, P.c., seconded by the Honourable Senator Frith, that, all the words after the word "That" be struck out and replaced by the following:

Whereas

On March 20, 1990, the Senate informed the House of Commons by message that it insisted upon its amendments to Bill C-21;

And Whereas

Beauchesne, 5th edition, citation 814, p. 241, provides that in such circumstances, where the Senate insists upon their amendments, "the House (of Commons) either accepts the amendments or adopts a motion requesting a conference to which each House appoints Members":

And Whereas

When the Senate insisted upon its amendments to *An Act to authorize the government to acquire by lease lines of railway connecting with the government railways in 1910;*

and to *An Act to confirm the Order in Council of the twenty – fourth day of February, 1919, prohibiting the importation, manufacture and transportation of intoxicating liquors and the Order in Council of the twelfth day of April, 1919, in amendment thereof in 1919;*

and to *An Act to amend the Judges Act in 1921;*

and to *An Act to amend the Canada Temperance Act in 1922;*

and to *An Act to amend the Industrial Disputes Investigation Act in 1924;*

and to *An Act for the relief of the Depositors of the Home Bank of Canada in 1925;*

and to *An Act to amend the Criminal Code in 1933;* and to *An Act to amend and consolidate the Excise Act in 1934;*

and to *An Act to amend the Farmers' Creditors Arrangement Act, 1934 in 1938;*

and to *An Act to amend the Criminal Code in 1947,* the House of Commons requested that a conference be held; And Whereas

When the Senate insisted upon its amendments to *An Act to amend the Combines Investigation Act in 1936;* and to *An Act to amend the Customs Tariff Act in 1961,* the House of Commons chose not to proceed further with the legislation;

And Whereas

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

When the Senate has by message insisted upon its amendments without offering any alternative proposal, it has never received a subsequent message from the House of Commons repeating that it disagreed with the said amendments;

And Whereas

The message received from the House of Commons on May 10, 1990, is without precedent, and does not conform to the convention and practice, unbroken since Confederation, of settling disagreements between the House of Commons and Senate by a conference,

The motion be referred to a conference between the two Houses of Parliament. – (Honourable Senator Beaudoin)

Hon. Gerald A. Beaudoin: Honourable senators, I do not intend to add to the comments of Senator Duff Roblin on the question of the conference or the free conference. Other speakers, I am sure, will do that later this afternoon. Today my concerns are with the conventions of the Constitution that deal with the power of the purse and the Canadian parliamentary system which, as Senator Roblin demonstrated yesterday, are quite relevant to the debate on Bill C-21.

[*Translation*]

The purpose of Bill C-21 now before the Senate is to amend the federal Unemployment Insurance Act. It is a money bill, and it is a bill that has received the royal recommendation.

[*English*]

Page 1730

I do not want to start the debate over, as I have already talked about the two theories involved herein.

[*Translation*]

What about the amendments? There are two theories. One is that the Senate may amend the bill, provided there is no increase in spending. The second is that the Senate may not alter the bill so as to change substantially the financial policy of the elected government.

As I pointed out the last time, former Deputy Minister Driedger, in an article entitled: "Money Bills and the Senate". (1968) 3 Ottawa Law Review, pages 25 to 46, mentions the latter theory and supports it. This is what he thinks the authors of our Constitution had in mind in 1867. This theory is based on conventions. We feel it is acceptable.

[*English*]

Today, I would like to say a few words. not so much on sections 53 and 54 of the Constitution Act, 1867 –

Senator Frith: I guess not; they are not very helpful to you!

Senator Beaudoin: – as on the conventions of the Constitution referred to in Mr. Driedger's article, for it is there that we may find the solution to our problems. In effect, the convention states that in financial matters the last word should be left to the elected government responsible to the House of Commons, if the government so insists.

[*Translation*]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

According to the theory based on the 1918 Ross Report, ultimately the Senate can defeat indefinitely a number of legislative measures aimed at reducing the deficit. Is this the role of a non – elected House?

To say the opposition is right means that if a government wants to reduce public spending in an area where such spending is already authorized by law, the opposition in the Senate would be able to propose amendments of a financial nature, on the grounds that they do not increase spending beyond what is provided in the parent legislation already in effect. I am inclined to think this position ignores our parliamentary history and the conventions on responsible government that evolved more than a century ago.

Under our system, financial policy must, in the last analysis, be the responsibility of cabinet which is accountable to Parliament. That is the basis of the system of cabinet government and responsible government.

[English]

Conventions are born in the political arena: we all know that. The most important convention is probably the convention of the responsible government in force in this country since 1846 in Nova Scotia and 1847 in Upper and Lower Canada. The power of the purse is partly provided for in the written part of the Constitution, but in large part it is in the unwritten part of the Constitution. This is exactly what is at stake in the present case.

[Translation]

I believe we must object to these attempts to use various precedents to dilute or change a convention that has existed for over a hundred years and has become the basis of our system.

The theory of Deputy Minister Driedger is based not only on constitutional texts but also on the history of the British type of government that goes all the way back, in our parliamentary history, to the Bill of Rights of 1689, and to a certain extent as far back as the Magna Carta of 1215.

[English]

Even though our Constitution of 1867 contains many articles related to the Crown, to the Senate and to the House of Commons, our parliamentary system is governed by many conventions, most of them, if not all, unwritten.

The conventions of the Constitution, as the Supreme Court of Canada said in 1981 in the partition case, are not part of the constitutional law but are part of the Constitution itself.

Nowhere is it stated expressly in the written part of our constitution that the government is responsible to the Senate or to the House of Commons. However, we know that the government is responsible to the Commons and that the government is not responsible to the Senate, and never was intended to be.

[Translation]

If the Senate persists in systematically rejecting the government's money bills, including measures already outlined in the Budget, we are heading toward a parliamentary and constitutional impasse the Senate could not win in my opinion.

We often hear that, since the United Kingdom is a unitary country, our Senate cannot be compared to the House of Lords.

This debate is not on federalism but on the principle of responsible government. It is not the same thing. Therefore, what is happening in Westminster is relevant for us. Let us not forget

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

that the preamble to the Canadian Constitution says that our Constitution is similar to that of the United Kingdom. Several court decisions have established that, because of this declaration, the great constitutional documents of the United Kingdom have been in force here, as well as certain conventions, and that the common law tradition has been part of our public law since 1763.

I would like to quote the great jurist John S. Ewart, whose testimony is appended to the Ross Report of 1918.

[English]

From the very earliest time, the colonial assemblies have successfully contended for the same privilege with reference to financial bills as that enjoyed by the British House of Commons. The cases in which contention arose are very numerous, but I do not know of any in which the quarrel between the two houses has resulted in substantial victory for the council – as, in the earlier Constitutions, the second chamber was styled....

There can be no doubt that the difference between the British House of Lords and the Canadian Senate referred to in the memorandum are of substantial character, but, after all, the two houses, with reference to the subject under consideration occupy the same position. For the members of neither house are elected by the people, and the privilege of the assembly with regard to money bills has always been based upon the fact that the house was composed of popularly elected members.

[Translation]

Page 1731

As Dr. Driedger points out, courts of law can only note the existence of conventions. Everything else is up to both houses of

Parliament. That is why the debate has to be resolved in this chamber.

[English]

As stated by Driedger at page 41:

Through the centuries, the principle was maintained that taxation required representation and consent.

The only body in Canada that meets this test is the Commons. The elected representatives of the people sit in the Commons, and not in the Senate, and, consistently with history and tradition, they may well insist that they alone have the right to decide to the last cent what money is to be granted and what taxes are to be imposed.

At page 37 of that article, the learned jurist declares:

... when the Lords lost the right to originate, they did not thereby acquire a new right they never had before, namely, the right to interfere with bills of aid or supply originating in the Commons.

[Translation]

In conclusion, I do not think the Fathers of Confederation imagined in 1867 that the Senate (our Upper House) could have the authority to substantially amend the financial policy of the elected government.

The constitutional convention of the past 123 years has been that the Senate must not have the last word on the financial policy of the country, when the House of Commons clearly states its intention not to depart from its financial policy in any way and rejects Senate amendments.

[English]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Some will say that such a principle is not enshrined in the law of the Constitution. Right, I agree with that. But the Supreme Court of Canada, in the patriation of the Constitution case of 1981, has clearly said that the Constitution is composed of three elements:

- 1) the constitutional statutes or laws,
- 2) the decisions of the courts, that is the common law, and
- 3) the conventions of the Constitution.

The first two elements are part of the Canadian constitutional law and the court may rule on them in case of violation. The third element, although not part of the law is, however, part of the Constitution. This is the case at hand. When a convention is violated, the courts do not intervene: the remedy lies in the political arena.

[*Translation*]

Should we refer this issue to the Supreme Court of Canada?

For my part, I would prefer to see the two legislative Chambers work out a solution. Some other speakers will talk about the "free conference". The Supreme Court accepts to rule on conventions, but it does not go very far. The Court will not fail to point out that it belongs to the two legislative Chambers to shape the contours of Constitutional conventions.

[*English*]

But, if necessary, the Supreme Court may rule on sections 53 and 54, and even on the conventions related thereto.

In practice, a question such as the one in issue in the present debate has to be resolved in the

House and in the Senate. This is equally the opinion of that learned jurist, Dr. Driedger.

The Leader of the Opposition has said that he is always surprised when a senator says that the Senate has a limited power of the purse. Well, we interpret the conventions of the Constitution as they are. We are faithful to our constitutional conventions and heritage. We consider that the Senate is a House of sober second thought. Our idea of the Senate is the one imagined by the great architects of our Constitution in 1867.

Thank you, Honourable senators.

[*Translation*]

Hon. Gildas L. Molgat: Would Senator Beaudoin entertain a question?

Senator Beaudoin: Yes, Senator Molgat.

Senator Molgat: Senator Beaudoin mentioned conventions established by government. Would he agree the convention exist, and only where there is a conflict, a difference of opinion between both Houses, and the Senate has expressed its disagreement a second time, that it is then normal to have a conference'?

Isn't this an established convention'?

Senator Beaudoin: I would make a distinction between the two remedies.

I believe that there is a convention that the last word is up to the elected House, to the government itself, which is accountable to the House of Commons.

Our rules, the so-called standing orders, provide for a conference. Yesterday, Senator Roblin clearly explained the difference between a conference and a free conference...

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. Royce Frith (Deputy Leader of the Opposition): There are two kinds of conferences.

Senator Beaudoin: Right, there are two kinds.

The first kind is a conference where documents are exchanged. The second kind is a conference where there are discussions between representatives of the House of Commons and the Senate.

I agree, Senator Molgat. It's all there in our rules, in black and white.

Page 1732

I said at the beginning of my speech that I would limit my comments to the constitutional question because, in my view, this constitutional convention has existed for 123 years. I have taken the same line as Senator Roblin.

As for the matter of conference and free conference, I agree with Senator Frith that there are two kinds of conferences, according to the experts.

I do not wish to go beyond what Senator Roblin said yesterday on this subject. I imagine other senators will want to speak to this question later on. Yes, I agree there are two kinds. However, there is a difference between a conference as provided in the Rules of the Senate and the principle of the constitutional convention that has been in existence for 123 years, and I agree that all these things are not necessarily provided for in sections 53 and 54.

I have to admit that Canada's parliamentary history is based on conventions, and that sections 53 and 54 are rounded out by these conventions.

So I am not saying that one is opposed to the other; I am not telling Senator Molgat that – both exist. One is provided for in the Standing Orders, the other is conventional.

Senator Molgat: Do you not agree that in the past, whenever there was a difference of opinion, either there was a conference or the government decided not to go ahead with its bill, the usual way was to have a conference. Why should there not be a conference now – Why is the solution not to hold a conference?

Senator Beaudoin: I am sure that Senator Flynn will speak on this subject. All I can answer personally at this stage is that normally, for 123 years, the Senate has respected the convention that the last word belongs to the elected House. Therefore, the question of a conference did not arise.

If the question arises now, we will see. A vote will be held on it at some point. For me, those are two different things. I would not say that one replaces the other. There are two ways out. Some will want to add a few words about the question of a free conference, as Senator Flynn will surely do. That is another point.

POINT OF ORDER

Hon. Jacques Flynn: Honourable senators, I rise on a point of order now. It concerns the acceptability of Senator MacEachen's amendment.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, it is too late to raise a point of order now.

Senator Flynn: No, not at all.

Senator Frith: Certainly.

Senator Flynn: If that is your argument, you can make it at the appropriate time.

Senator Frith: The time to raise this point is now. We pointed out that it is too late. We raised a point of order on it now, that is, on the amendment motion, because the time to do so is

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

when the rule is broken. That happened when it was introduced. I asked for a ruling to that effect.

Senator Flynn: Not at all. It is out of order to intervene when a point of order has been raised. A second point of order cannot be raised when there is already one. It was not your turn to speak. You should remain seated until I have finished.

Senator Frith: It is too late to raise the point of order now. Senator Flynn: You are too early.

The Hon. the Speaker: If I understand correctly, Senator Flynn is raising a point of order.

Senator Flynn: Yes.

[English]

Senator Frith: Yes, but the point of order, Mr. Speaker, must be raised when the alleged order was breached. You cannot raise a point of order on an amendment the day after the amendment was introduced. As soon as the amendment is put, if it is out of order the point of order must be raised at that moment. There is no question about that, and I ask Your Honour to rule on that now before permitting Senator Flynn to proceed. It is very clear. It is too late to raise a point of order after debate.

Hon. Duff Roblin: Of course, it would be nice if my honourable friend was right, but he is completely wrong. All he has to do is to look at Beauchesne.

Hon. Allan J. MacEachen (Leader of the Opposition): Which edition'?

Senator Roblin: The Sixth Edition, for my honourable friend's information. He does not like the Sixth Edition because of what is in it. That is the trouble with my friend.

Senator MacEachen: The Speaker is unable to use it.

Senator Flynn: You are not serious! Don't be foolish!

Senator MacEachen: He is unable to use the Sixth Edition.

The Hon. the Speaker: Order!

Senator Roblin: The Sixth Edition has been used in the House of Commons all this year. It has been used by the Speaker in the House of Commons, it has been used by one of my friends' supporters, M. Robert, and it has been used by the representatives of the NDP as well as by the Conservative and Liberal parties. So it is useless to protest the way my friend does. I want to quote –

Senator MacEachen: I want to rise on a point of order.

Senator Roblin: I have the floor.

Senator Flynn: You cannot have a point of order when another point of order is under discussion.

Senator MacEachen: This proceeding is irregular. An amendment was put. You put the amendment to the House – you did, not me; you found it in order, you allowed debate to proceed, and now it is too late to raise a point of order. We want a ruling on that point.

Page 1733

Some Hon. Senators: Hear, hear!

Senator MacEachen: I will not permit Senator Roblin and Senator Flynn to abuse the rules of this Parliament. It is too much.

Senator Flynn: You are abusing them yourself!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Roblin: I wish my honourable friend would get his facts straight. because he is wrong.

Senator MacEachen: I am not wrong!

Senator Roblin: I want to read from rule 317 under "Points of Order", page 96 of Beauchesne, Sixth Edition.

Senator MacEachen: Forget about it!

Senator Roblin: It reads as follows:

(1) Points of order are questions raised with the view of calling attention to any departure from the Standing Orders or the customary modes of proceeding in debate or in the conduct of legislative business and may be raised at virtually any time by any Member, whether that Member has previously spoken or not.

Senator Frith: That is perfectly right.

Senator MacEachen: When the infraction is made. But any member –

Senator Roblin: My friend can talk all he likes, but that is not what this portion says. It does not say "at the time"; it says "at any time".

Senator Frith: You know that is not true.

Senator Roblin: The plain use of the word "any", and my friends like the plain use of English~

Senator Frith: You have raised this point.

Senator Roblin: Mr. Speaker, I leave it to you. My friend reminds me that you do not have to look at the Sixth Edition; it is the same in the Fifth Edition as well.

Senator MacEachen: That citation is irrelevant.

Senator Frith: It is not relevant to the point that is being raised here.

Senator Roblin: That is what you say.

Senator MacEachen: That is right, and I know. Senator Roblin: And you usually do, don't you.

Senator MacEachen: On that point I do.

Senator Roblin: You have not read your Beauchesne for some time.

Senator MacEachen: The idea that you could raise a point of order after the motion has been put and the debate commenced is outrageous.

Senator Flynn: Only when it affects you!

Hon. Gerald R. Ottenheimer: I think it is generally understood that what the words specifically mean is up to the chair to decide, and I think it is something to the effect of "at the earliest possible moment." However, I submit that the earliest possible moment is obviously what the chair must determine, and I submit that it is not merely a matter of chronology because the earliest possible moment, in my opinion, also appears to mean when the person raising the point becomes aware of it. That is the earliest possible moment for the person raising the point of order. How can anyone raise a point of order if they are not aware of it?

Senator Frith: So you just stay away then. You stay away from the debate, and then come in and raise it at any time.

Senator Ottenheimer: I am well aware that that is not a point on which it is necessary to do great research into Beauchesne Sixth Edition, Fifth Edition or any edition. It is a comment upon language, and I realize that "at the earliest possible moment" can mean guided by the clock within a few seconds, a few minutes or however

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

quickly, if chronology determines "at the earliest possible moment." But I would suggest that the "earliest possible moment" can also mean when a person becomes aware of a situation, because he or she cannot do anything unless they are aware of it, but I leave that for the chair to decide. I do not need to make any reference to the privileges of the Crown or to any learned reasoning.

Senator Frith: Honourable senators, with respect to the point that has been raised and the citation, the citation is, in my view, quite correct; but when it talks about raising the point of order at any time, it means that you do not have to wait for the Orders of the Day or any particular part of the agenda. You can always raise a question of order when the breach takes place.

Senator Flynn: The breach is still here.

Senator Frith: You cannot say that you were not aware of it.

You cannot come into the Senate six months later and raise a point saying that a breach occurred last November. It is absurd to take Senator Ottenheimer's point of view that if you were away but had read Hansard and became aware of the fact that a breach took place six months ago, that it could then be raised. The point is that you can raise it at any time in the proceedings, but~

Senator Flynn: You said it. In the proceedings!

Senator Frith: You can raise it at any time in the proceedings when the breach of order takes place.

Senator MacEachen: The moment it occurs.

Senator Frith: That is the point, and that is what is meant by the citation that was referred to. I ask Your Honour to think about the consequences of allowing a point of order to be

raised at any time. The motion was put; it was received by Your Honour, and, that was the time at which someone should have stood up. As a matter of fact, in my experience, Senator Flynn has raised many points of order and has always raised them at the time that the breach took place.

Senator Flynn: It is still before us.

Senator Frith: Your Honour has received it, and if Your Honour intends to allow the orderliness of this to be raised at any time, whether it be today, tomorrow or next week, what is the consequence?

Page 1734

An Hon. Senator: Chaos!

Senator Frith: There will be no possibility of proceeding in an orderly way unless questions of order are raised when the alleged breach takes place. I ask Your Honour to consider that. The citation on the specific point – namely, whether you can raise a point of order at any time other than when the breach takes place – is not relevant to the specific point that is being raised.

Hon. John B. Stewart: Honourable senators, could I Senator Flynn: I intend to say something at this point, because a point of order was raised after I raised my point of order, which is irregular –

Senator Frith: No, it is not. Your breach of order took place then and that is when I raised it.

Senator Flynn: The first question on which the Speaker should rule is whether you can raise a point of order before I have made my point of order. That is the question.

Senator Frith: No, it is not. That is not the question.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Flynn: I will deal with your point of order first. You said the earliest possible time –

Senator Frith: No, I did not. I said when the breach took place.

Senator Flynn: The breach continues to take place as long as the motion is before the Senate.

Senator Frith: That is crazy!

Senator Flynn: That is obvious.

Senator Frith: That is stupid!

Senator Flynn: That is not stupid – you are. You are the stupidest that I have ever seen.

The Hon. the Speaker: Order, please!

Senator Frith: What about when you look in the mirror?

Senator Flynn: Well, if I see your face in the mirror I am going to be desperate!

The question is before the Senate. As long as the question is before the Senate, any point of order can be raised. This is obvious. When you insult somebody, as he did me and I did him, the use of those words is not parliamentary.

The point of order should be raised immediately, but it was not raised so I suppose the exchange is now stale.

Senator Frith: Perhaps the implication was that you are stupid. That is not what I said. I said that the point is stupid.

Senator Flynn: We are probably both stupid – I agree with that. Anyway, what I meant was what I meant.

Senator Frith: I figured that. That is very gentlemanly of you, as usual.

Senator Perrault: It is never over until it is over!

Senator Flynn: The distinction between rising on a point of order at one given moment and rising on a point of order when something is before the Senate is the main difference between the two situations, one being that it should be raised immediately, which is what Senator Frith suggests. Are we to continue to deal with a motion that may be out of order simply because the point of order was not raised yesterday? His Honour was not invited to rule whether this motion was in order or not. The question was not raised. It is not as if the question had been raised and His Honour had ruled that the motion was in order. No decision has been made.

The question is before the Senate. Is it in order or not? It can be raised at any time until the motion is disposed of, by a vote or otherwise on the motion itself or by a ruling of the Chair. That is quite clear. Otherwise, it would mean that my good friend would cover up any irregularity and would prevent the debate from proceeding. It is obvious that he is not feeling at ease with the motion of the Opposition. If he were at ease, he would not intervene in that manner and try to win on something which is entirely ancillary – the question whether the point of order should have been raised yesterday or today.

Again I say that this point of order can be raised as long as the motion is before the Senate and that is what I am doing.

Senator Frith: Without getting into a further exchange but for His Honour's assistance on this question of raising a point of order promptly, I refer to Beauchesne Fifth Edition at page 78, citations 235 and 237. Citation 235 states:

Any Member is entitled, even bound, to bring to the Speaker's immediate notice any instance of what he considers a breach of order. He may interrupt and lay the point in question concisely

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

before the Speaker. He should do so as soon as he perceives an irregularity in the proceedings which are engaging the attention of the House.

Senator Asselin: As soon as he perceives an irregularity! **Senator Frith:** Oh – is Senator Flynn saying that he had not noticed it until now?

Senator Flynn: Yes.

Senator Frith: He is not. Are we expected to take that seriously?

Senator Asselin: You have to take his word.

Senator Frith: I take his word for the fact. He has already said that the irregularity continues right from the beginning.

Citation 237 –

Senator Doody: Finish 235!

Senator Frith: All right; it continues:

The Speaker's attention must be directed to a breach of order at the proper moment, namely the moment it occurred.

It does not say "occurs" it is not "so long as it is occurring" –

Senator Doody: Finish reading the citation.

Page 1735

Senator Frith: – but "at the moment it is occurring". Is there anything more you want read out of that citation?

Citation 237 reads:

A point of order against procedure must be raised promptly and before the question has passed to a stage at which the objection –

Senator Flynn: Ha, Ha, Ha.

Senator Frith: Just hold your laughter for a moment, – would be out of place.

Senator Flynn: It would be out of place if I rose on a point of order after a vote.

Senator Frith: I repeat that citation:

A point of order against procedure must be raised promptly and before the question has passed to a stage at which the objection would be out of place.

I ask His Honour to interpret those provisions and hold the point of order as out of time.

Senator Roblin: I think my honourable friend's citation is apt, because he indicates the rules that have to be applied in this instance. When does the breach of order occur? Well, it obviously occurs when it comes to the attention of somebody. Then he perceives the irregularity. Otherwise, it would mean that if nobody saw the breach, it is not a breach and it does not become a breach until somebody sees it.

Senator Frith: Why not?

Senator Roblin: My honourable friend sees the breach; he rises at the first opportunity to talk about it.

Senator Frith: There is no breach of order until someone sees it – I see.

Senator Roblin: Well, of course, unless someone perceives an irregularity in the words of the section, unless someone perceives an irregularity in the proceedings, then obviously there isn't an irregularity. That follows as the night the day. When my friend perceives the irregularity and he rises in his place to talk about it, it seems to me that it is perfectly in order to do so, I suggest that that clause is germane.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Then, on citation 237, my friend must stress the point of the objection. The objection must be taken before the question has passed to a stage at which the objection would be out of place. I do not think it is out of place at the present time. It is in place as soon as a member perceives the irregularity. He perceives the irregularity and rises to talk about it. That is what the rule justifies.

Senator MacEachen: Honourable senators, I should like to make a few comments. I must say I am surprised that Senator Flynn would raise a point of order at this time. It is axiomatic that, once a motion is put and the debate commences, it is inappropriate and impossible to raise a point of order –

Senator Flynn: That is not true!

Senator MacEachen: – about the admissibility of the amendment.

Senator Frith: A point of order can be raised about something happening in debate.

Senator MacEachen: That is axiomatic. I ask any honourable senator to find an instance in which a motion was put and the debate commenced when a valid point of order was permitted –

Senator Frith: On the admissibility.

Senator MacEachen: – on the admissibility of that amendment.

It is stated clearly in the citation that a point of order against procedure must be raised promptly. Well, "promptly" is "at once".

Senator Flynn: Oh, yes?

Senator MacEachen: "At once".

Senator Flynn: Oh, really?

Senator MacEachen: Not when somebody, three weeks after a debate has commenced –

Senator Flynn: Why not three months?

Senator Frith: According to you, it could be!

Senator MacEachen: – perceives a point of order and then the Speaker is asked to rule on a motion which has been debated for those three weeks. Suppose somebody were to get up and say, "This motion is out of order". Suppose that the Speaker then got up and said, "By golly, yes, this motion is out of order and I declare it out of order." Then 25 or however many members of the House of Commons or the Senate, as the case may be, would have been permitted to speak, and that opportunity would have been denied to every other member of the chamber.

If His Honour decided to rule this amendment out of order at this stage, he would have accorded Senator Roblin and Senator Beaudoin the privilege of speaking to the amendment, and would have denied every other senator an opportunity to speak.

Senator Asselin: Why?

Senator MacEachen: Because the amendment, then, is out of order. The Speaker either rules it in or out of order.

Senator Asselin: And if the Speaker rules it out of order? Senator MacEachen: If he rules it out of order, which presumably is the objective of Senator Flynn, then every other senator is denied the opportunity to speak, which has already been given to two privileged senators. That is precisely why Beauchesne states that a point of order against procedure must be raised promptly and before the question has passed to a stage at which the objection would be out of place.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Surely it is out of place now for any senator to ask that this amendment be ruled out of order. Surely it is out of place, having permitted two senators to speak, to deny everyone else an opportunity to speak on the amendment. It is so self – evident that I am surprised that Senator Flynn would object.

Page 1736

Senator Flynn: I am not surprised.

Senator MacEachen: Surely this is not in order after the motion has been put, the debate has been launched and, in particular, the debate on the amendment was commenced by Senator Roblin. Senator Roblin is not a neophyte in this chamber; he is frequently on his feet in this chamber. He delivered a long speech. A second constitutional expert then spoke. Now we are being told, "We close down the debate now."

Senator Flynn: We do not!

Senator MacEachen: Further, they are saying, "We got our side on the record, but no one else can speak because the amendment is out of order. You declare it out of order, Mr. Speaker." That is what is being asked, and that is why it is out of place.

An Hon. Senator: Shame!

Senator Frith: Exactly.

Senator Flynn: After that applause from some people who do not understand anything about the rules –

Some Hon. Senators: Shame!

Senator Flynn: – I wish to say that the silliness of the argument of the Leader of the Opposition is so obvious. For one who has been in the House of Commons for so many years, he does not remember that the Speaker has taken under consideration points of order and has

allowed the debate to continue, sometimes over several days, before making a ruling.

Senator Frith: No, not on the conceivability aspect.

Senator Flynn: He certainly has.

Senator Olson: No!

Senator Frith: Never.

Senator MacEachen: No.

Senator Flynn: Your memory is short. The debate has been continuing with the Speaker considering a point of order of this nature.

Senator Frith: No, not on the conceivability.

Senator Flynn: Yes. You say "no"; I say "yes."

Senator MacEachen: All right.

Senator Flynn: I have been in the Chair in the other place: I know all about that. I am surprised that Senator MacEachen dares to contradict me on that point.

Senator Perrault: Oh, dear!

Senator MacEachen: You produce a precedent, then!

Senator Flynn: You are able to say anything!

Senator Frith: Well, produce a precedent! Give us one –

Senator MacEachen: Produce a precedent from all your years of experience in the Chair!

Senator Frith: – where the conceivability was given.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Olson: You are a great authority.

Senator Frith: Come on; give us one! Senator MacEachen: Give us a precedent! Senator Frith: You must remember one! Senator Flynn: This is closure!

Senator Frith: You cannot give us a precedent, because one does not exist.

Senator Flynn: Let the Chair rule. We will see.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, on February 10, 1987, I gave a ruling. If I may, I will repeat that ruling.

Honourable senators, the Chair has considered the comments of Honourable Senators Murray, MacEachen, Frith and Doody as to when a point of order should properly be raised. The Chair notes that Beauchesne's citation 235 states that:

The Speaker's attention must be directed to a breach of order at the proper moment, namely the moment it occurred.

Erskine May also states that:

It is the right of any member who thinks that such a breach has been committed to rise in his place, interrupting any member who may be speaking and direct the attention of the Chair to the matter provided that he does so the moment the alleged breach of order occurs.

However, citation 235 of Beauchesne's further states:

A point of order may be taken after a debate is concluded and the Speaker is about to put the question to a vote or after the vote has been taken – in fact at any time.

Given the apparent conflicting remarks in the procedural authorities, the Chair examined briefly the precedents with regard to when a point of order has been raised. The Chair has found that in most instances points of order are raised promptly. However, the Chair has also found the following precedents.

With regard to the Senate, the Chair noted that the motion was made and debated for the adoption of the report of the Special Committee on Youth on April 16, 1986. However, it was not until April 22, 1986, that a point of order was raised by Senator Flynn with regard to the acceptability of the motion, and the Speaker was asked to make a ruling,

With regard to the House of Commons, the following example may be cited: Bill C-37, the softwood lumber products export charge bill, was introduced and the minister, the same day, moved second reading of the bill. The second reading debate on the bill took place on three successive days, and on the fourth day the house leader of the official opposition raised a point of order to the effect that the bill was imperfect because there were blanks in the text. The Speaker of the House of Commons heard arguments on the point of order and subsequently ruled thereon.

Page 1737

The Chair is also faced with the dilemma that it has yet to hear the point of order which Senator Murray wishes to raise.

Given our conflicting authorities and precedents, I would suggest that Senator Murray be allowed to raise his point of order at this time.

Whereupon my ruling was appealed and overturned.

Instead of adjourning, honourable senators, I come to the same conclusion. However, you may still wish to appeal my ruling. But we still do not

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

know what Senator Flynn's point of order is. It is up to the Senate to decide.

Hon. Royce Frith (Deputy Leader of the Opposition): But, Your Honour has already said that that ruling was overturned, which is then a decision of the Senate and that, in turn, then becomes the precedent.

Hon. Jacques Flynn: No.

Senator Frith: Yes it does.

Senator Flynn: No.

Senator Frith: The Senate makes its decisions on –

Senator Flynn: But it does not mean that you can make the same decision now.

Senator Frith: – questions of order. It asks for the interpretation of the Speaker. The Speaker gives that and if it is appealed, then the result of that appeal, because it is the decision of the Senate, becomes the precedent and the decision on the point of order.

Senator Flynn: No, no!

Senator Frith: Otherwise, what is the point of the appeal? Therefore, I think that Your Honour is bound to follow the decision of the Senate in those circumstances.

An Hon. Senator: Hear, hear!

Senator Flynn: And therefore?

Senator Frith: And therefore rule Senator Flynn out of order.

Senator Flynn: No.

Senator Frith: Yes.

Senator Flynn: That is another point. This is absolutely silly.

Senator Frith: If Senator Flynn is continuing –

Senator Flynn: Are you appealing the decision or not?

Senator Frith: If Senator Flynn is continuing on the assumption that the Chair has ruled him in order because of a decision that the Chair made earlier – which was overruled by the Senate – and is permitting Senator Flynn to continue as being in order according to the Chair's decision but out of order in accordance with the decision of the Senate, then we are appealing, certainly.

Hon. Allan J. MacEachen (Leader of the Opposition): Of course!

Senator Frith: Of course we will appeal.

Hon. Duff Roblin: Appeal! Go ahead!

Senator Flynn: Well, appeal!

Senator Frith: Stand up, then!

Senator MacEachen: Yes, of course we will stand up and have a case where the Speaker refuses to accept –

Senator Frith: What is the point of reversing the decision of the Senate?

Senator Flynn: Closure! Closure!

The Hon. the Speaker: Honourable senators, shall the ruling be upheld?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Hon. Gildas L. Molgat: Exactly what is the ruling?

Senator Flynn: That I be allowed to make my point

The Hon. the Speaker: It is the same ruling.

Hon. Martial Asselin: Senator Flynn wants to speak.

Senator Molgat: Is the ruling that the vote last time established a precedent?

Senator Asselin: No.

Senator Doody: No.

Senator Molgat: That is what I do not understand right now. Is that what we are saying'?

Senator Frith: In the case to which His Honour referred it was ruled that Senator Murray, whom we may now replace with "asterisk – Senator Flynn", should be permitted to continue. That decision was overruled by the Senate. Therefore, Senator Murray did not continue and could not continue because he was ruled out of order by the Senate. We are appealing that Senator Flynn must be ruled out of order in accordance with that earlier decision by the Senate.

Senator Flynn: That is not true.

Senator Frith: Otherwise, we are contradicting ourselves. We so appeal.

Senator Flynn: That is not true.

Senator Roblin: Call in the members.

The Hon. the Speaker: Shall the ruling be sustained?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Honourable senators, do you want me to call in the senators or do you want me to assess that vote'?

Page 1738

Hon. Senators: Call in the senators.

The Hon. the Speaker: Please call in the senators.

The Hon. the Speaker: The doors of the chamber will now be locked.

The ruling of His Honour the Speaker was negated on the following division:

YEAS

THE HONOURABLE SENATORS

Asselin, Balfour, Barootes, Beaudoin, Belisle, Bielish, Bolduc, Chaput-Rolland, David, Doody, Doyle, Flynn, Macdonald (*Cape Breton*), Marshall, Muir, Murray, Nurgitz, Ottenheimer, Phillips, Robertson, Roblin, Rossiter, Sherwood, Simard, Spivak, Tremblay – 26.

NAYS

THE HONOURABLE SENATORS

Adams, Anderson, Austin, Bonnell, Buckwold, Cools, Corbin, Davey, De Bane, Denis, Fairbairn, Frith, Gigantes, Guay, Haidasz, Hays, Hebert, Kenny, LeBlanc (*Beausejour*), Lefebvre, Lewis, Lucier, MacEachen, Marchand, Neiman, Olson, Perrault, Petten, Riel, Robichaud, Steuart (*Prince Albert Duck Lake*), Stewart (*Antigonish – Guysborough*), Stollery, Theriault – 34.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

ABSTENTIONS
THE HONOURABLE SENATORS

Nil.

The Hon. the Speaker: The ruling of the Chair is overruled. Let the doors be opened.

Hon. John B. Stewart: Honourable senators, the procedure which has just occurred was so astounding that it is hard to get back on the track of the debate,

Senator Roblin argues that Senator Murray's motion should carry unamended. It would be unwise. Improper, asserts Senator Roblin, for the Senate to insist upon its amendments to Bill C-21.

Senator Guay: Why?

Senator Stewart: Because, he says, to insist would have constitutional implications.

Senator Murray's motion proposes one response to the message of May 10, 1990, from the House of Commons. Senator MacEachen's motion in amendment proposes a different response to that message.

Let us look for a moment at the message to which we are now deciding our reaction. The message asserts that Bill C-21 is a bill of aids and supplies, and that the Senate has no right to amend such a bill. Therefore, all our amendments are contrary to the rights of the House of Commons which, in this matter the message tells us, are not waived. That seems simple and straightforward. However, the procedure used by the House of Commons in passing Bill C-21 shows that, contrary to the message, the house did not regard Bill C-21 as a supply bill.

It is difficult to understand just what the Leader of the Government in the House of Commons was doing. Let me cite two examples.

On April 3, 1990, the government house leader argued that Senate amendment 5(b) is out of order because, "it differs in one way or another with the specific conditions laid out in the royal recommendation of Bill C-21 and because it infringes upon the financial initiatives of the Crown." Nobody questions the proposition that if amendment 5(b) is contrary to a relevant royal recommendation, amendment 5(b) would be improper.

Now, however, the message which has come to the Senate from the House of Commons tells us that the House of Commons agrees with amendment 5(b). On the one hand, they tell us that they cannot agree to amendment 5(b) because it is contrary to the royal recommendation, and then they turn around and accept it. This is a contradiction. And if they were right the first time, their decision to accept amendment 5(b) is unconstitutional.

Then the message tells us that certain of the Senate amendments contradict the principles of the bill. That is surprising. We know that the second-reading vote in the House of Commons serves to define the principle of a bill, and that consequently no clause may be moved in committee relevant to or contrary to the principle of a bill.

Page 1739

Now we are told, not casually but formally in a message, that the Senate has gone astray, that certain of our amendments contradict the principles of the bill. That leads one to ask just how many principles are embodied in Bill C-21. We know that when the second-reading motion is put to the House of Commons, the members are asked to vote for or against the principle of a bill.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Now we are told that this bill has principles. That leads one to ask how many times was the second-reading motion put to the House of Commons. Presumably, if their message is accurate, they must have changed the procedure in the other place.

Despite all these confusions, honourable senators, the main burden of the message from the House of Commons is clear. We are being told that the Senate may not amend a bill that appropriates money, and that it may not amend any bill that imposes a tax. The constitutional doctrine of the message is clear. Let us look at what the message says. In the third paragraph it says that the house:

– considers, moreover, amendments 7 and 9, which would cause an increase to budgetary deficit in the order of \$1.75 billion annually and thus confound the balance of Ways and Means as approved by this House, to be for that reason in violation of the principle embodied in Sections 53 and 54 of the Constitution Act, 1867, and constitutional practice –

The constitutional doctrine set forth in that paragraph has been explained by Senators Roblin and Beaudoin. We have had the benefit of their exegesis.

What is that doctrine? It can be summed up in three propositions. The first proposition is that the Crown alone may initiate tax and expenditure measures. I, for one, have no difficulty with that proposition.

The second proposition is that, once the motion on which the Minister of Finance gives his budget statement has been carried in the House of Commons, Parliament has endorsed in a substantial way the budgetary policy of the government. That proposition, if accepted, would bring about a radical new departure in both procedure and constitutional practice.

Let me read what Mr. Andre has said so that honourable senators will realize I am not putting words in his mouth. I am reading from the House of Commons Debates of April 3, 1990, page 10141.

Our Standing Orders prescribe six days of debate and that a motion be put asking the House to support the budget. This confidence motion is important because it gives the government the authority to proceed immediately with the fiscal plans in the budget even though many of these may require legislative change. It is on the strength of the budget address, the formal procedure, the vote of confidence, that a lot of action is initiated, and indeed taxes are collected immediately with the expectation that the legislation will catch up later.

That view was confirmed by the Speaker of the House of Commons when he said on April 26 that certain of the amendments to Bill C-21 would run contrary to the approved budgetary policy of the government. What is this crucial approval of the budgetary policy of the government into which Mr. Andre and the Speaker of the House of Commons read so much?

Before December 1968, the Minister of Finance gave his budget address on what was called the budget motion. That motion was: "that the Speaker do now leave the chair." That motion would be subject to a vote at the end of the budget debate. Assuming it carried – as it generally did – the Speaker left the chair, the House went into the Committee of Ways and Means, and the Minister of Finance laid his notices of ways and means motions on the table. Those motions were considered and voted on by the committee. Subsequently, founded on those motions, tax bills were originated in the House of Commons.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The House of Commons found that procedure repetitious. A tax proposal would be debated during the budget debate, again in the Committee of Ways and Means, and then again and repetitiously during the several stages of the tax bill in the House. It was decided to eliminate the ways and means committee stage; however, in order to eliminate that stage, the budget motion, the motion that the Speaker leave the chair, had to be abandoned. A new and different motion was required. I happen to know because I was the one who proposed the new motion, the motion which now has taken on such magnificent constitutional significance. That motion is that this House approves, in general, the budgetary policy of the government. It has no more significance than the motion it replaced – that is, the motion that the Speaker leave the chair. It is simply a vehicle for the Minister of Finance to use in giving his budget address and subsequently to enable the House of Commons to vote on whether or not the government still enjoys the confidence of the House of Commons.

But now it is revealed – this shows how careful one has to be – some 22 years later that this motion is of great procedural, legal and constitutional significance. We are told by Mr. Andre and, indeed, by the Speaker of the House of Commons in his address to the House and to the nation –

Senator Haidasz: Address? He makes speeches?"

Senator Stewart: Certainly what he gave was not a ruling. In his speech from the Chair to the House and nation, he told us that by voting to support in general the budgetary policy of the government, the House of Commons to some extent committed itself and found the Senate to support the tax and expenditure proposals in the budget. Mr. Andre holds that, thereby, the House authorized the government to impose taxes upon the people. This is wrong. There is nothing in our law that is comparable to the British law

made initially in 1913 authorizing the provisional collection of taxes. An entirely new procedural, legal and constitutional doctrine has been invented.

Page 1740

Senator Frith: Fabricated.

Senator Stewart: I do not know by whom. I doubt Mr. Andre contrived this himself. Perhaps it is a gnome in the Privy Council Office. In any case, it is totally wrong and misleading, yet even the Speaker of the House of Commons has been taken in by it.

The second proposition, then, is that once the motion on which the Minister of Finance gives his budget statement has been agreed to, Parliament has given substantive approval to the budgetary policy of the government. I notice that Senator Roblin used those terms yesterday, and that Senator Beaudoin used them this afternoon. This poor, little, miserable, insignificant procedural motion, equivalent to the old procedural motion that the Speaker do now leave the chair, has taken on, in the minds of these authorities, a significance which those of us who tried to make this minor procedural change never imagined.

The third proposition is that the approved budgetary policy of the government may not be refused by the Senate. It goes beyond prohibiting Senate amendments. We are required to enact the tax bills in the form in which they come from the House of Commons. Perhaps we are being threatened with some sort of writ to assure that we give tax bills first, second and third reading. We are to be hailed in court, and a writ ordering us to pass the tax bills is to be uttered against us. That is the third proposition. Senators Roblin and Beaudoin are asking the Senate to acquiesce to their constitutional revolution. I do not exaggerate; that is what is happening.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I will provide the Senate with some authorities against this new constitutional doctrine. Not even Senator Flynn will scoff at them, because he is one of them.

Hon. Jacques Flynn: We will see. I will not prejudge that affirmation.

Senator Stewart: Senator Beaudoin, speaking to us on March 20 of this year, said that there are two theories as to the powers of the Senate. There is what I will call – it is not his term; I make that clear – the federalism theory, which argues that with regard to expenditure and taxation the House of Commons is not entirely independent. Then there is what I will call – this is again not his term – the unicameralist theory. He told us that on March 20 and he explained it again lucidly here this afternoon. He told us that there are supporters of both these theories. He told us that the Constitution is not clear and that, until such time as the Constitution is clear, he himself would follow the second of those theories, the unicameral theory.

That is his decision, and it is understandable. But he is asking us to go beyond that today. He is asking those of us who disagree with him – and he was candid enough on March 20 to admit that we have good arguments – to join him in accepting what I have called the unicameral theory. Let me quote what he said on March 20:

This bill has already been before us once. It was amended in the Senate. We, the minority in this place, would like the bill to be accepted as it is, but until the Constitution is amended so as to reform the Senate I suggest that we go along with the principle that we do not insist in such a particular case.

Notice his language, "until the Constitution is amended". Well, it has not been amended; yet today he contends that we should act as if it had been amended. He is proposing that we work what I have called a "constitutional revolution";

that we accept one of the two theories which he put forward.

Then we have what Senator Flynn said. These are not his own words but words which he borrowed from a former Clerk of the Senate. Senator Flynn will remember them. He said, quoting Mr. Hopkins, that the Senate has seldom amended tax bills. But to say that is to concede that the Senate has amended tax bills and that it has done so within the bounds of constitutional propriety.

Senator Flynn: No, not necessarily!

Senator Stewart: Well, with Senator Flynn the wind blows from the north at one hour and from the south at the next hour.

Senator Flynn: Not at all, but you draw conclusions that are not warranted. It is up to you, if you want to say that. Your imagination will carry you very far.

Senator Stewart: Let us go to an even better authority, then – namely, Senator Roblin. Senator Roblin gave a speech in the Senate on May 13, 1987. It was a carefully constructed speech. It was a memorable speech. In it he dealt with Senate reform. He proposed that we should have an elected Senate and he said that, with one exception, the powers of the Senate should remain exactly as they now are. He argued, of course, that the powers of the Senate as they now are are unsuitable for an unelected Senate. What is important, however, is his description of the powers of the Senate as they now are. His description is very different from that given to us today by Senator Beaudoin. I quote from the Debates of the Senate of May 13, 1987, at page 1041:

While representation by population is the first principle of democracy, and it is embodied in the House of Commons, representation by regional or provincial representation is the first

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

principle of federalism and is represented and embodied in the Senate.

He then went on to talk about the powers:

I recommend that the powers of the reformed Senate – with one exception, which I will come to later – be the same powers the Senate has today, which are the power to initiate legislation, except bills that require messages from the Governor General; the power to agree with, to amend or to disagree with legislation that is received from the House of Commons, just as at present; the new Senate would not be a confidence body, and the executive government would not be responsible to an elected Senate ...

I give notice of the fact that the power to deal with legislation under this description of the Senate that I am proposing is the same as it is today, that is, an absolute discretion.

Page 1741

Senator Frith: Good for Duff! He was particularly lucid that day, was he not'?

Senator Stewart: At page 1043 he states:

Can an elected Senate with a function and role and the particular power that I have described work in a federal parliamentary system like ours? In particular, what happens if the two elected federal houses disagree? Remember that the reformed Senate is subjected to no change in powers. It has the same old powers that the Senate has today.

Then he goes on to explain that the one power the Senate would not have would be the power to defeat appropriations bills. Here is what he said:

The Canadian Senate – and here is the one change that I would make to the powers of the Senate as set out in the Constitution – should not have the power to withhold supply. It seems

to me that that principle is conformable to our convention that the executive is not responsible to the Senate. By introducing this principle in limitation of the powers of a reformed Senate, we would remove the major source of possible discord, as the Australian history shows, without diminishing the appropriate powers the reformed Senate ought to enjoy.

In other words, contrary to what Senator Beaudoin argues today, Senator Roblin believes that the Senate does have the power to make the amendments which have been made and, indeed, to insist upon those amendments, because nobody will argue that this is an appropriations bill. The procedure on this bill in the House of Commons demonstrates that.

But perhaps we should go to yet another authority – namely, the Speaker of the House of Commons. In his famous speech from the Chair, his speech to the house and to the nation, delivered on April 26, 1990, the Speaker, Mr. Fraser, stated at page 10724:

I may say to hon. members and to the public that is listening, there are many Canadians across this country who may or may not have been well educated and some who think that they were well educated, who have no idea whatsoever of the awesome powers which the Senate claims to itself over the elected lower House. That is one of the reasons why it is important that hon. members listen carefully to this judgment because there is information here which many Canadians are just absolutely unaware of.

And he goes on –

Senator Flynn: He is speaking of the Liberal Senate, which is something different.

Senator MacEachen: Which you are unaware of!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Flynn: I have been aware of it since you came here.

Senator Stewart: Senator Flynn ought to listen to the quoted words. This is a history lesson –

Senator LeBlanc: Given on T. V!

Senator Stewart: I am quoting the Speaker of the House of Commons.

Senator Flynn: Then quote him entirely and do not interpret him incorrectly.

Senator Stewart: I quoted that paragraph in full. I now quote the next paragraph in full:

In attempting to shed light on this situation, I have looked at the British practice and I have found the following at pages 518 and 519 of Erskine May's twelfth edition.

If Senator Roblin were here, we would hear about antiquarian research.

I am going to quote quite a bit of it because it is time this country got a history lesson. I am quoting from Erskine May. This is in Great Britain.

Senator Corbin: Senator Bolduc does not recognize Erskine May.

Senator Stewart: Erskine May has limited relevance to the Canadian Parliament because, as I said yesterday, since the 1890s they have diverged from us in many matters.

The Speaker of the House of Commons, at page 10725, said:

It is important for every Canadian who cares about who decides how we spend our money to know that in Great Britain they settled this 80 years ago.

The Speaker, Mr. Fraser, as he makes clear, is referring to the regime implemented in Great Britain by the Parliament Act, 1911. Notice what he is saying.

Senator Flynn: What is the relevance of this?

Senator Stewart: He is saying that this has not been settled in Canada.

Senator Frith: That is the relevance.

Senator Flynn: He is right.

Senator Stewart: This is important because Senator Murray, Senator Roblin and Senator Beaudoin are asking the Senate today to make a decision which implies that it has been settled.

Senator Flynn: That is asking too much from the Liberal majority.

Senator Stewart: Mr. Fraser says that it has not been settled in Canada. His contention seems to be that there ought to be a statute in Canada comparable to the Parliament Act, 1911. The Speaker, Mr. Fraser, is correct in stating that this matter has not been settled in Canada. The federalists in Canada have not surrendered. We are not prepared to concede these crucial powers exclusively to the House of Commons.

Senator Flynn: You are not prepared to follow the Constitution.

Senator Stewart: Honourable senators, the Speaker of the Commons, Mr. Fraser, has told us that our Constitution is defective. We have not settled the matter, as they have in Great Britain. I say let us follow the Constitution which prevails in Canada – the federalist Constitution which we are not prepared to surrender despite the blandishments of Senator Murray, Senator Roblin, Senator Beaudoin, and the harangues of Senator Flynn.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1742

Senator Flynn: You may live to regret that.

Senator MacEachen: You are not threatening, are you?

Senator Flynn: No!

Senator Stewart: I shall have to go forward with that threat hanging over my head.

Senator Flynn: You have misunderstood. I said that you may live to regret that, meaning a future Liberal government.

Senator Stewart: That is an interesting observation. Notwithstanding all the sighing and the longing for this great panacea – the Parliament Act, 1911 – that we hear from the other place, we should ask ourselves what would the position of the government be insofar as Bill C-21 is concerned if the Parliament Act, 1911 were law in Canada.

Unlike some senators, I have to use an older edition of Erskine May. I apologize for that. It is the Seventeenth Edition, which is approximately 20 years old. However, with regard to the Parliament Act, 1911 it is still relevant. I am reading from page 843.

It may be stated at once that a 'money bill' is not the same as a bill of aids and supplies...

That is rather surprising.

... for included under the former term is the large and increasing class of bills which 'impose charges upon the Consolidated Fund or on moneys provided by Parliament.' A bill which is exclusively for this purpose is held to be a 'money bill.' But it is not a bill of aids and supplies. On the other hand a bill of aids and supplies, such as a Finance Bill, is not necessarily a 'money bill' ... It is, indeed, more

often than not the case that the Speaker's certificate is withheld from a Finance Bill.

Bill C-21 is not a money bill under the terms of the Parliament Act, 1911. I have here a very recent authority, a book published in 1989 by J.A.G. Griffith and Michael Ryle entitled *Parliament: Functions, Practices and Procedures* in which we are told that very few bills passed in the British Parliament qualify as money bills. I should like to quote from page 240:

Few bills are wholly concerned with taxation or expenditure in these ways...

That is, ways prescribed by the Parliament Act,

... and so qualify for the Speaker's certificate: there were 55 certified bills in the eight sessions of the 1979 – 87 Parliaments (including 28 Consolidated Fund and Appropriation Bills which are always certified). Not all Finance Bills are money bills under the Parliament Acts as they often contain some non – taxing provisions: only four out of the 10 in the period analysed.

The Parliament Act, 1911, for which we hear so much sighing in the House of Commons, would not have helped the government with regard to Bill C-21. This would not be a money bill for the purposes of the Parliament Act, 1911.

Senator Flynn: It has no application here.

Senator Stewart: Senator Flynn says that it has no application here. However, the Speaker of the House of Commons, in his history lesson to the House and the nation, talked about it for at least 10 minutes. He told the House and the nation that this was the way that this problem might be solved in Canada. That is why it is relevant here.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I should like to point out now that, insofar as Bill C-21 is concerned, it would not have helped the government at all.

The same authority from which I have quoted deals also with the situation where there is opposition between the House of Lords and the House of Commons, since that virtually unicameral system is the model held up before us.

It explains also what is done now at Westminster. That is found at page 504, where Lord Salisbury is quoted. He was the leader of the Conservative majority in the House of Lords during the period of the Labour governments. He is quoted as follows:

'our broad guiding rule (was) that what had been on the Labour Party programme at the preceding General Election should be regarded as having been approved by the British people. Therefore we passed all the nationalisation bills, although we cordially disliked them, on the second reading and did our best to improve them and make them more workable on Committee stage. When however measures were introduced which had not been in the Labour Party manifesto at the preceding election, we reserved full liberty of action.'

That is the regime that prevails in Britain, the regime for which in the House of Commons they pant and sigh. "Full liberty of action" is what would prevail in the British House of Lords with regard to Bill C-21.

Senator Murray's motion is proposing that the Senate acquiesce in the unicameralist theory. It would have us go much further than the regime which now prevails in Great Britain. Senator MacEachen's motion, on the other hand, proposes a technique which makes it unnecessary for us to resolve this constitutional dispute. We would not decide it one way or another. His motion in amendment proposes a

technique by which the government, if it wishes to get Bill C-21 passed, can have it passed without having to endure the protracted process of a constitutional debate of revolutionary proportions. That is why Senator MacEachen's motion in amendment is attractive.

Senator Flynn: And partisan!

Senator Stewart: I know that there are those who believe – and they are on both sides of the aisle, I assume – that the Senate should really act as a kind of old ladies' and gentlemen's reading club. Perhaps there have been times in the past when the Senate has performed in that way. But these are serious times in the history of our country.

Page 1743

Senator Flynn: Too serious for you!

Senator Corbin: Let us be charitable.

Senator Stewart: Honourable senators, I repeat: these are serious times in the history of our country.

Senator Flynn: Yes; we agree with that.

Senator Stewart: One is bound to wonder whether, if senators over the years – the Liberal majority in the Senate when there was a Liberal government; the Conservative majority in the Senate when there was a Conservative government – had taken their responsibilities seriously, the kind of dissatisfaction that we now see in places like Alberta, Nova Scotia and Quebec would be as serious as it is.

Senator Simard: You are knocking a lot of people when you say that.

Senator Flynn: For example, by doing what you did on Meech Lake you helped a lot.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Phillips: You are not being fair to Senator Olson when you make a statement like that.

Senator Flynn: You helped, indeed!

Senator Stewart: As I understand it, Senator Flynn, the unanimous report of the committee of the House of Commons on the proposed companion resolution confirmed the position that the Senate took, contrary to the position taken by the Leader of the Progressive Conservative Party, the Leader of the Liberal Party and the Leader of the New Democratic Party.

Senator Flynn: Contrary to what your partners did in the other place.

Senator Stewart: I am merely defending the Senate in the particular case you raised.

Senator Flynn: Oh!

Senator Stewart: An analysis will show that the House of Commons, in a unanimous report of a committee – I realize that it has not been adopted by the house – has now taken the position that was taken by the Senate.

Senator Flynn: It is a bit too late now, and it is your fault!

Senator Stewart: The Senate does not have to assume responsibility for the fact that the three parties in the other place saw the light so late.

Senator Flynn: For what you did two years ago?

Senator Robertson: Yes!

Senator Stewart: Frankly, honourable senators, I do not know what Senator Flynn is talking about.

An Hon. Senator: Neither does he!

Senator Flynn: I am not surprised. You need a lesson in history!

Senator Corbin: We are talking about the here and now.

Senator Stewart: Honourable senators, I suggest that a key part of our trouble in this country is that, over the years – with Liberal and Conservative governments – the Senate has proceeded as if Canada had a unicameral legislature: Liberal ministers with Liberal bureaucrats and a Liberal majority in the other place have pushed their will through, and Conservative bureaucrats, Conservative ministers and a Conservative majority in the other place has done likewise.

Whether we like it or not, we have to accept the fact that our federal system has not worked as it was designed to work. Whether it is too late now for us to try to retrieve some of our error of omission is the question. This is certainly not the time to confirm what often took place in the past. This is not the time to reaffirm the unicameralism which we allowed to prevail in this country, this federation.

Senator Murray, by his motion; Senator Roblin, by his speech today – not his speech of May, 1987; and Senator Beaudoin, by his speech today, are all asking us to accept virtually a unicameral system with a passive Senate out on the fringe, where older ladies and gentlemen may sit in peace and quiet while observing the nation from ringside seats.

That is not the route that we should take. We should put this constitutional question aside – it is not for us to answer – and adopt Senator MacEachen's motion in amendment. His motion circumvents the whole constitutional question and gives the government an opportunity to have Bill C- 21 enacted as law.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I thank you, honourable senators, for your attention.

Some Hon. Senators: Hear, hear!

Senator Flynn: Honourable senators, the conclusion of Senator Stewart's speech is very interesting. I suggest to him that if there is any reform of the Senate in the way that he suggests, it should start by not being as partisan as the Liberal Senate has been since the arrival in this chamber of his good friend, Senator MacEachen.

Some Hon. Senators: Hear, hear!

Senator Flynn: This has been a systematic obstruction for purely political and partisan motives. I will not say any' more at this time on this matter because I am sure that you are all interested, even though your number is depleted. You have refused to listen to me before, but I will tell you why I wanted to raise a point of order on the acceptability of the amendment of Senator MacEachen.

[Translation]

Honourable senators, the motion of Senator MacEachen suggests holding a conference with the House of Commons.

The conclusion of the message reads as follows. That:

The motion be referred to a conference between the two Houses of Parliament.

What kind of conference? We have no idea. However we have learned so far in this debate that there are two kinds of conferences: the conference which involves the exchange of documents and messages, and the free conference bringing together representatives of both Houses to argue over diverging opinions.

Page 1744

With respect to a non-free conference, if you will, what has happened so far is a conference. There was an exchange of messages between the two Houses, so this is indeed the conference we have in mind when referring to something other than a "free conference".

This amendment of Senator MacEachen steers us towards uncharted waters. We do not know whether it is a conference such as we are having: continue the exchange of messages, or a free conference which would have brought together Senate and Commons representatives to discuss their diverging views. I do not know exactly what Senator MacEachen is driving at. But we have to assume this would be a free conference because it cannot be a simple conference since we have already exchanged messages. So if this is to be a free conference we would have had to know the specific agenda of the meeting. This is where the motion leads us onto unknown territory, and in that respect it is out of order.

It is out of order for a number of other reasons. It replaces the entire motion of Senator Doody and includes a series of more or less relevant "whereases" leading to the statement that

The motion be referred to a conference between the two Houses of Parliament.

What motion'? It no longer exists. Senator Doody's motion has been eliminated, but not replaced. We have a whole series of "whereases", then all of a sudden we read "the motion be referred to a conference...", but there is no motion.

What is to be referred to a conference'? I ask you, honourable senators. Can anyone tell us'? Could Senator MacEachen tell us'? What motion'? There was one. It was rejected and now we have "the motion". What motion'? It no longer means anything.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Had I been allowed to raise the problem and ask whether this was out of order I would have added the other objection which flows from Senate rule 22, I will read it to avoid any confusion, I would not want anybody to be mistaken:

A motion or inquiry prefaced by a written preamble shall not be received by the Senate.

Again, this motion is to be referred to a conference of the two Houses of Parliament.

This motion is preceded by a series of preambles, of "whereases". We do not want any preamble or "whereas". All these "whereas" clauses are out of order. If they are removed, there is nothing before this House. If you take out all the "whereases", you have:

– in amendment of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that, all the words after the word "That" be struck out and replaced by the following:

So I remove all the "whereases" that are out of order and it reads:

The motion be referred to a conference between the two Houses of Parliament.

There is no more motion. There is nothing before the motion.

Does it make any sense to ask the Senate to vote on a meaningless motion which even if it were drafted according to the rules would still be nonsense? I do not know if these whereases are meant to remind the other House that conferences were held in other circumstances. Perhaps. What does it change? The issue is not whether there were conferences, but rather what will come of the conference. It makes no sense at all.

[English]

There is no bootlegging because it is relevant to discuss the silliness of the text. It is relevant to ask the Senate to vote against a text that is meaningless or nonsensical.

[Translation]

Senator Frith talks about bootlegging. He bootlegged a point of order just now, although it is completely out of order to speak when such a point has already been raised. He rushed the procedure. He succeeded in having the Senate decide on a preliminary question so as to keep the opposition from speaking, or at least to keep me from saying what I intended to.

That is the motion we have from the Leader of the Opposition. It makes no sense, whichever way you look at it. It all comes to the same thing. It is ridiculous and insulting. I say unequivocally that it insults the intelligence of the Senate.

If you send the House a message, what do you expect them to make of all this? There is nothing to understand. What is the motion? Put yourself in their place.

I realize it was difficult for the Leader of the Opposition to find an excuse for his conference plan. If that is all he managed to do during all those days he told us he needed to prepare his text, the results are neither very convincing nor very impressive.

I now want to get back to a question we already discussed which generally concerns the powers of the Senate with respect to finance. To repeat what I already said: As far as money bills covered by royal recommendation are concerned, the Senate has no more powers than the House of Commons. With its amendments to Bill C-21, the Senate has gone further than the House of Commons would have been able to go. Senator Stewart can quote any text he likes and assign

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

meanings where they do not exist, but it does not change the fundamental problem.

I am really astonished to see Senator Stewart arguing in this fashion. He mentioned the ruling by Speaker John Fraser. This is very interesting. Speaker Fraser did not say anything that was unfavourable. Senator Stewart feels that certain passages are very good, but that is not the opinion of Senator Hebert, for instance. This is extraordinary.

Senator Hebert became a constitutional expert because he took the liberty of saying that Mr. Harvie Andre should take a night course in constitutional law. I can inform my dear colleague that it would take him more than night courses. After ten years I am not sure he would know what he was talking about when he talks about constitutional matters.

Page 1745

Here is the comment by Senator Hebert, at page 1639 of the *Debates of the Senate* of May 16, 1990:

... Since I last rose in this Chamber to speak to Bill C-21, the other place has been treated to lengthy speeches, including those of the Hon. Harvie Andre and the Hon. Barbara McDougall...

This is the interesting part

.. not to mention the diatribe ...

The diatribe, what a lovely word!

... of the Speaker of the House himself, so annoyed to have to agree with the Senate that he took that opportunity to lecture the senators and give them a democracy lesson ...

"A lesson in democracy", can you imagine!

– which would have been more convincing had he himself shown respect for parliamentary principles by refraining from making superfluous comments –

"Superfluous", I don't know; the writer is clearly taking over.

– whose partisan cast is so obvious.

Such were the comments Senator Hebert made concerning a ruling by the Speaker of the House of Commons, an elected speaker who enjoys the respect of the House of the Commons and who makes decisions in an absolutely impartial fashion. As a matter of fact, he was re-elected speaker following the last general election. It is absolutely irregular and contrary to our custom to attack in such a way the Speaker of the House of Commons.

One may criticize a ruling, but to use such terms as "partisan" and "diatribe" is going a little too far!

Of course, it is an expert in constitutional law who said that and who took such liberties; he certainly went too far!

What was he talking about?

– parliamentary principles by refraining from making superfluous comments –

What did Speaker Fraser actually say? Contrary to you, Senator Stewart (Antigonish – Guysborough) gave him his approval. Speaker Fraser said: I cannot make a ruling applicable to the Senate. The Senate has its own responsibilities. I am not here to rule on the problems which may occur in the Senate. If the Senate should decide, as it is doing in the case of Bill C-21, to suggest amendments contrary to Sections 53 and 54 of the Canadian Constitution, I could not do anything.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The Court could intervene, but can you imagine the process! What Speaker Fraser did in the present case was to give notice to the House of Commons that he could not stop the Senate from going against the provisions of the Constitution, as it is doing in respect of this bill. That's what he said.

There is nothing undemocratic or partisan about this. It is not difficult to understand. It should not be difficult for Senator Hebert to understand either that the amendments which his committee suggested to Bill C-21 are of a fiscal nature and therefore unconstitutional, not being covered by the Royal Recommendation.

If the Senate cannot discipline itself, clearly the only way might be to grant the House of Commons the final decision in these matters through some legislation. Senator Stewart (Antigonish – Guysborough) mentioned that such legislation was passed in 1911 in Britain.

I am not sure that this is what should be considered here.

I wish to return to the point made by Senator Stewart (Antigonish – Guysborough). If the situation was reversed, if Senator MacEachen was Minister of Finance as he once was, instead of Mr. Wilson, and if we were a majority sitting in the Opposition in the Senate, I suggest to Senator MacEachen that he would never had spoken the way he did here and that never Senator Stewart who once was, I think, his Parliamentary Secretary, who had responsibilities – he mentioned earlier that he had personally drafted a resolution – no!

[English]

Senator Stewart: Wrong again! Wrong always!

Senator Roblin: Not always!

[Translation]

Senator Flynn: I think that you were a parliamentary secretary. I thought that your exceptional talent would have been recognized in some way or other! If it was not, I am very sorry!

I am not mistaken, though, in saying that you would never have said then what you said today. Neither would Senator MacEachen have said that.

In any event, I repeat, you will not reform the Senate with the spirit that has prevailed in this Chamber since Senator MacEachen has been Leader of the Opposition.

This conference makes no sense, it leads nowhere. It is simply a way to try to save face. It is like saying, "Give me a small concession so that I can get out of the fix I am in with the stubborn position I took in the committee chaired by Senator Hebert."

Senator Hebert, what do you want, has always defended the oppressed. He acts like a demagogue without knowing it, but it is so touching! His mission is to right all the injustices of the world. When the government does not listen to him, it oppresses the poor. He is getting emotional, for example, when he says:

Similarly, why tie a long – awaited measure to give young mothers six months of maternity benefits instead of four to the fate of a bad bill?

They are not just any mothers, they are "young mothers". All mothers will be entitled to it, but he has to make it a little more dramatic.

It is demagoguery, pure and simple. It is outright partisanship. We are proposed a conference that goes nowhere.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 1746

If you, the majority, are prepared to vote for it with your eyes closed, as you always do when Senator MacEachen asks you, well, we will not follow you.

On motion of Senator Ottenheimer, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 3129

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7, and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly,

And on the motion in amendment of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that, all the words after the word "That" be struck out and replaced by the following:

Whereas

On March 20, 1990, the Senate informed the House of Commons by message that it insisted upon its amendments to Bill C-21;

And Whereas

Beauchesne, 5th edition, citation 814, p. 241, provides that in such circumstances, where the Senate insists upon their amendments, "the House (of Commons) either accepts the amendments or adopts a motion requesting a conference to which each House appoints Members";

And Whereas

When the Senate insisted upon its amendments to *An Act to authorize the*

government to acquire by lease lines of railway connecting with the government railways in 1910;

and to An Act to confirm the Order in Council of the twenty – fourth day of February, 1919, prohibiting the importation, manufacture and transportation of intoxicating liquors and the Order in Council of the twelfth day of April, 1919, in amendment thereof in 1919;

and to An Act to amend the Judges Act in 1921;

and to An Act to amend the Canada Temperance Act in 1922;

and to An Act to amend the Industrial Disputes Investigation Act in 1924;

and to An Act for the relief of the Depositors of the Home Bank of Canada in 1925;

and to An Act to amend the Criminal Code in 1933; and to An Act to amend and consolidate the Excise Act in 1934;

and to An Act to amend the Farmer's Creditors Arrangement Act. 1934 in 1938;

and to An Act to amend the Criminal Code in 1947, the House of Commons requested that a conference be held;

And Whereas

When the Senate insisted upon its amendments to *An Act to amend the Combines Investigation Act in 1936; and to An Act to amend the Customs Tariff Act in 1961, the House of Commons chose not to proceed further with the legislation;*

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

And Whereas

When the Senate has by message insisted upon its amendments without offering any alternative proposal, it has never received a subsequent message from the House of Commons repeating that it disagreed with the said amendments;

And Whereas

The message received from the House of Commons on May 10, 1990, is without precedent, and does not conform to the convention and practice, unbroken since Confederation of settling disagreements between the House of Commons and Senate by a conference,

The motion be referred to a conference between the two Houses of Parliament. – (*Honourable Senator Ottenheimer*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Ottenheimer yields to anyone who wishes to speak at this point.

[*Translation*]

Hon. Jacques Hebert: Honourable senators, since the last time I rose in this House to speak on Bill C-21, on May 16, 1990, the government made no reasonable effort to settle our differences,

Instead of using the democratic process provided for in case of conflict between the two Houses and calling a conference to find an honourable compromise, as it happened a number of times since 1867, Prime Minister Mulroney preferred to innovate and use strong – arm methods.

The government claimed this was an outdated provision of the Constitution. It did not stop him from making use a little while later of another provision of the Constitution, section 26, which is not only outdated but was never used in the history of this country.

Thus, Mr. Mulroney graced us with eight new so-called senators pursuant to section 26 of the Constitution by calling upon our Queen for assistance, which she granted willingly. Long live democracy! ... These eight "senators" would ensure the dismal domination of the Conservatives in the Senate. We were already tyrannized by the majority in the House of Commons. Now, tyranny had reached the Upper House with the help of the "gang of eight" who, from now on, will vote blindly for Mulroney bills, appalling and backward bills like the Unemployment Insurance and GST bills, as well as any other piece of legislation, even worse ones, that Prime Minister Mulroney and his government have in store.

By appointing the eight so-called regional senators, the Prime Minister showed how much he despised our parliamentary traditions. Early in his first mandate, he was already acting more like a "President" than a Prime Minister in the British parliamentary tradition. The American influence is not only felt in the economic sector, it is also pervading our parliamentary system.

Page 3130

The same Prime Minister never misses a chance to put down the Senate and call, in his syrupy voice, for reform of the Upper House. He never mentions it in Quebec, hardly ever in Ontario, but Senate reform is somehow inspiring when he is in Western Canada or in the Atlantic provinces.

Now that he has shown his true colours by appointing eight senators, he will hopefully not even mention Senate reform.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

This brings to mind an editorial published in The Edmonton Journal on May 3, which stated, and I quote:

Nothing would be worse than resorting to the oft-decried favouritism and appointing new senators. It would be proof that the Conservatives in Ottawa never took Senate reform seriously. And that would mean the end of the Triple E Senate.

They are a rare breed but some editorialists are gifted prophets.

Truth to tell, they have little merit because in the case of Brian Mulroney you can always imagine the worst scenario and still never be far from reality.

As a result of his government's procrastination Bill C-21 is still in limbo, which is not without some impact on a good many Canadians.

Not to mention the fact that in the current economic recession context – a reality Mr. Wilson has just admitted after long hesitations – we can expect yet more plant closures and thousands of jobless people swelling the ranks of the unemployed who fell victim to the bad Free Trade Agreement with the Americans. How can the unemployed have faith in this government which kept saying that free trade would create thousands and thousands of jobs? Where are the better days we had been told to expect?

Bill C-21 points to more of the same for unemployed Canadians. Indeed the government was dishonest when it introduced this bill after formally promising that it would not tamper with the unemployment insurance program.

I have often quoted these words uttered by Mr. Crosbie during the last electoral campaign. This is one of the documents I always carried with me in a small address book because people I would talk to could not quite believe that the

government, through Mr. Crosbie, had put it quite so clearly. Then I would reach for that little piece of paper and read the remarks made with such emphasis by Mr. Crosbie during the campaign.

[English]

"We will be looking at UI in a couple of years, presumably to see what improvements can be made or whatever, but there are no changes planned for UI". The article continued that Crosbie said the Prime Minister had assured him personally that "absolutely" no change would be made.

[Translation]

Then again, why did the government decide to tie some long – awaited measures to a bad bill if not to make it easier for us to swallow the bad medicine'?

Some of these measures could have been the subject of separate bills which would have been unanimously passed by both houses a long time ago, like two years ago in some cases. –

How can we not believe that it was as a result of a simple political manoeuvre that the government packaged Bill C-21 with other benefit measures which it had to introduce and could not defer because they sometimes flow from court rulings'?

When the court tells the government 'You have to do such and such', the government should act immediately. Shrewd as ever the government chose to put these good measures in Bill C-21. In this respect I might mention, for example, parents benefits, the obligation to meet the requirements of the Canadian Charter of Rights and Freedoms by granting UI benefits to unemployed workers over 65, and maternity benefits. How come the government stubbornly refused to vote on that routine and unimportant

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

bill, which was passed twice in the Senate and rejected each time in the House of Commons, a bill that would have restored the variable entrance requirement of the unemployment insurance program?

Then again, for over a year now, as I have noted in my pocket agenda, I have met some skeptical people who were saying: What is this all about? That bill we are talking about could have spared a lot of anxiety in many disadvantaged areas of the country, well, that bill is only this big and is about the variable entrance requirement of the unemployment insurance program. Both opposition parties agreed not to debate the issue and to proceed with this bill without debate, as we would have done. In other words, it would have taken less than an hour of the House's time to prevent thousands of people from getting hurt.

But no, the government would rather have the affected workers put pressure on the senators and the Senate blamed for any inconvenience caused by the delay of Bill C-21.

But things did not turn out that way, which must have disappointed the honourable senator Simard. Canadians were not fooled by the Conservatives; they knew the Senate could not expeditiously pass such an important and controversial bill as Bill C-21. Their little plan was thwarted by the huge majority of Canadian workers who showed a sense of civic responsibility. Those who were directly affected by the government plan I just mentioned, those citizens who were deprived of benefits, which in some cases had been recognized by the courts, those people stuck together, knowing that even if they were suffering, a lot more workers would be hurt if this bill was passed.

I must have received about ten letters from citizens asking us to speed up the process. But I got thousands of letters and thousands of petitions, and God knows how many I tabled

here in this house, urging the Senate to block Bill C-21 or at least to propose some major amendments in order to improve it just a little bit, and even then it would remain a pretty bad piece of legislation.

[English]

Page 3131

As I said during my first speech on this subject, the most pernicious provision of Bill C-21 is, without doubt, the government's complete withdrawal from the Unemployment Insurance Fund. This tally repudiates the spirit of the 1940 act and the 1971 amendments. It also repudiates the Prime Minister's solemn promise, which was confirmed during the last election campaign by John Crosbie, as it was stated in my quotation of a moment ago, that the Mulroney Government would not touch social programs. The Prime Minister himself called them a "sacred trust." From there it is only a short step to conclude that the government has no mandate to tamper with the Unemployment Insurance program. According to several of the most important witnesses we heard, the lack of mandate and the broken promise would justify the Senate's blocking the bill. Nevertheless, your committee chose a more reasonable route and has proposed compromise amendments that a responsible government should welcome, recognizing that a good way to reduce the deficit is to create jobs, not to starve the jobless.

[Translation]

The few defenders of Bill C-21 were quick to suggest that the jobless were abusing the system whereas Employment and Immigration Canada admitted that fraud cases amounted to a mere 2 per cent of the claimants. The truth is Canadians want to work and where there are jobs, in southern Ontario for example, they do work. In Toronto, for example, according to the most recent statistics I just received, the unemployment rate is only 5.4 per cent, whereas

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

it is now 11.3 per cent in St. John's, Newfoundland. Would you dare suggest that people in Toronto are better citizens than people in St. John's? The truth is there are more jobs available in one city than in the other. One of the underlying ideas of Bill C-21 is that the jobless in Newfoundland should simply move to Toronto!

To allow the government to cease contributing to the Unemployment Insurance Fund is in fact supporting its laissez-faire policy in the crucial area of job creation. As one witness, Mr. Mitchell Kosny of the Social Planning Council of Metropolitan Toronto, told us, and I quote:

By ending the Government's contribution to the Unemployment Insurance Fund, Bill C-21 eliminates a major incentive for the Government, which will feel less bound by its full employment policies for the have-not regions where the unemployment rate is very high and for the workers which are caught in this catch-22 situation of poor quality low paying jobs.

Moreover, what assurance do we have that the corporations which will be called upon to contribute more to a reduced unemployment insurance fund will not demand new cuts in unemployment benefits, something we heard from business representatives during our hearings? What authority will the Government have to object to these cuts, or even to the privatization of the unemployment insurance scheme? He who pays the piper calls the tune.

To safeguard this program, it is imperative that the principle of financial participation from the Government should be maintained. The amendment proposed by your committee does not go as far as insisting that its contribution remained the same, but that it should at least be maintain in such a way as to cover half of the costs of the excess benefits necessary to compensate in part regional inequalities.

The Government would have us believe that Bill C-21 was supported by a great many Canadians. It had said the same thing about the GST. Those in favour of Bill C-21, the GST or the clawback are always the same: The big bosses, the affluent, the multinationals, all those who have everything to gain from exploiting still more the unemployed and the low income earners. For instance, the Canadian Chamber of Commerce, this highly deserving body which is always the first to come to the rescue of the poor.

Of course, the Tory Party always feels that the Canadian Chamber of Commerce is always right. It is widely represented across the floor.

This side of the Senate would rather hear the opinion of workers which was expressed loud and clear by the major trade unions which represent 4 million members, the Churches of Canada, several Provincial Governments and all the voluntary organizations which have come to understand the unemployment reality. That is a lot of people –

I should like to quote some of the testimonies which are much more expressive than speeches, so that Hon. Senators may judge for themselves, especially the new ones, including the former Liberals who suddenly saw the light following a phone call from Mr. Brian Mulroney.

First of all, here is the testimony of Mr. Fernand Daoust, the Secretary General of the Quebec Federation of Labour which, as you know, represents a great many Quebec workers.

It was in April 1989 that Minister Barbara McDougall tabled her new policy paper entitled: Success in the Works.

A very nice title, if only there had been nothing in this document.

The document presented the elements of a new labour force development strategy the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

purpose of which was to redirect \$1.3 billion from the Unemployment Insurance Fund.

To achieve its goals and finance certain measures, the document proposed to raise the minimum entrance requirements, cut the duration of benefits, and increase the penalties for voluntary quitters without just cause.

We must also mention Mr. Wilson's last budget in which he stated that the government will withdraw from direct funding of unemployment insurance beginning in 1990.

Thanks to the Senate, Mr. Wilson was one year out!

Page 3132

He predicted that the unemployment rate would rise to 8.5 percent in 1990, which means that there will be no less than 100,000 new jobless across Canada.

This was predicted by Mr. Wilson. He was going to amputate our unemployment insurance program but there would be more unemployed workers who would enjoy the benefits of this initiative.

Funding from the government was used primarily –

– to cover the cost of extended benefits when the regional unemployment rate exceeds 4 percent in one of Canada's 48 regions; the underlying principle is that the Government ought to take action after this critical threshold.

These are the origins of Bill C-21 in the government.

As the Forget report pointed out in 1985, changes in unemployment insurance are important; at that time one in four Canadians faced unemployment. In 1989 –

According to Fernand D'Aoust:

– the economic recovery still had not affected all workers in Quebec, since the unemployment rate for the last six months of the year was 9.4 percent,

i.e., 315,000 jobless.

He is of course referring to Quebec!

At the time, Mr. D'Aoust had no idea we were about to enter a new recession. A year ago he was talking about economic recovery. Obviously, that is not what he would say today – the government's provisions being equal – faced with a new and distressing economic situation because of this new recession.

Bill C-21, which will oblige UI claimants to have a greater number of weeks of insurable employment before they are eligible, and which also reduces the duration of benefits so that the savings achieved at the expense of the unemployed can be redistributed to finance objectives that are, on their own merits worthwhile, is utterly repugnant.

The Q.F.L. believes that it is outrageous to ask the unemployed to finance training, parental leave and various other improvements to the unemployment insurance system by a reduction in their benefits.

The Q.F.L. believes that the issue is not merely the switching of funds from one account to another, but a deliberate policy to reduce the meager financial resources of the unemployed.

We cannot ignore the socio-economic and political context in which Bill C-21 is presented.

The Bill attacks part-time workers, those with insecure jobs and all those with few weeks of insurable earnings i.e. –

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

You guessed it, honourable senators!

– young people, women, old people and native people.

They will suffer most under this new legislation.

This is a re-hashing of the Minister of Finance's 1984 attack against the retired.

In spite of electoral promises that the Free Trade Agreement would not threaten our social programs, –

You do remember how often we were told that our social programs were not threatened, that they were our sacred trust

This is a first step towards downgrading our system to bring it into line with American unemployment insurance schemes.

That's where we are heading, no doubt about it.

This brief description would be incomplete if we did not say that these cuts seem to be a surreptitious adjustment to the negative impact of free trade that will of necessity, according to conservative philosophy, be borne by the victims of free trade.

The government has applied one of the ideas contained in the De Grandpre report –

We all remember.

– which concluded that special programs were not necessary to adjust to free trade, and that Canada had the necessary programs to do so. Bill C-21 shows on the contrary, that the government recognizes that it must have programs, but what hurts is that it will be done at the expense of those receiving benefits, and Q.F.L. cannot tolerate this .

It is unacceptable not only for unions, but anyone who has the least compassion. I am quite certain that that applies to many senators sitting across the way.

Ironically, one of the De Grandpre report's only worthwhile recommendations has not been adopted; it was to have companies pay for training.

We cannot go as far as asking a Conservative government to call upon business to contribute to the training of their future employees! They prefer forcing the unemployed themselves to pay for their training.

Bill C-21 does not take into account the realities of the labour market: the current employment situation, changes on the international scene, nor the fact that foreign competition has clearly had a negative impact on Canada and Quebec since the easing of the recession of the 80s. There has certainly been a decrease in the number of jobless and the unemployment rate since 1985;

That was a year ago, but now the situation is going to change!

...this has resulted from a disturbing change in the employment structure.

Keep in mind that there is a lot of talk about employment creation while we seldom hear about the sort of jobs created.

The fact is, the very nature of the employment structure has changed: there is more and more part – time work and jobs are more often temporary. Workers face increased instability and insecurity in employment.

We see workers in that situation every day. Along with everybody else, I heard on the TV yesterday that the famous Canadian manufacturing business in which we take so

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

much pride, Massey-Ferguson, was moving its operations to the United States. That means a significant loss of jobs for Canada. That kind of business move is so common nowadays that it can no longer be called news.

The end of the recession is far from having eliminated unemployment.

That was what Mr. Daoust told us a year ago. What would he say now that we are entering into a new recession?

Employment creation has taken place mainly in the tertiary sector. The jobs are often part-time, which means that a greater part of the population is unable to find full-time work; this part consists primarily of women and young people.

Part-time employment is a last resort for people looking for a full-time job. But since there is none available, they accept part-time employment in order to survive. And those part-time jobs make Government's statistics look good!

In concluding, we ask the government not to proceed with this Bill C-21, since, as we showed in this submission, it will only add to the number of victims, and Canada does not need that.

Instead, we ask that the government improve the Unemployment Insurance Act in ways that reflect social and economic realities in Canada.

All Canadians must get the assurance that changes and adjustments caused to our society by the free trade agreement would not affect income security and would create real opportunities for adjustment.

Through Mr. Fernand D'Aoust, Quebec workers were not asking us to suggest

amendments to Bill C-21, but instead, to squarely block it.

I may add – and those in the committee do recall – that many of the major and most representative witnesses who appeared before the committee were not asking for amendments. They were asking us to squarely block the Bill.

As you know, your committee resigned itself to recommend some very reasonable amendments, that the government has indeed rejected, without even accepting to discuss them at a conference provided for in the Constitution and asked for in an amendment put forward by Senator MacEachen.

[English]

I should like to recall some of the testimony of Mr. John Clarke, the President of the London Union of Unemployed Workers, a man who understands the situation of the unemployed more than Minister Barbara McDougall and her whole staff. His testimony impressed me very much. He said:

I would like to stress to the committee that I am not speaking from the standpoint of an agency representative who deals with the individual problems of people on unemployment insurance but, rather, from the standpoint of the organized unemployed workers in our community as we go on about the job of trying to defend ourselves. On that basis I should like to point out that we see Bill C-21 as a retrogressive step of enormous proportions, indeed of unprecedented proportions. We would like to make clear that as we look at the UI program as it exists today we do not consider it to be some sort of gift; on the contrary, it is something that people had to struggle for very hard in order to win.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I recall in 1930 – although I was not a party to it – that a meeting took place with the Prime Minister of the day and a deputation from the National Unemployed Workers Association during which R.B. Bennett commented, with regard to the proposals for unemployment insurance, that neither he nor any government he would be part of would put a premium on idleness.

That is typically Tory.

I do not believe that unemployment insurance is a premium on idleness, but it certainly was introduced. Whatever the weaknesses of the unemployment insurance system in this country ...

and everyone admits that there are weaknesses in this legislation –

... it has played a pivotal role in lessening the depths of poverty in which unemployed people find themselves. It has, in fact, ended a situation where unemployment is automatically synonymous with poverty, if not destitution, which was the case very much before unemployment insurance was introduced.

I want to point out that after unemployment insurance, all that exists – before you are, if I may say, flushed down the sewer – is, in fact, the provincial social assistance systems which, in no way, shape or form, provide anything that might be considered an adequate income under anything that might be considered humane conditions for the unemployed workers of this country.

In our view, the program has also been extremely important in placing some significant limitations on the capacity of the most exploitive employers to dictate to the unemployed conditions of work and wage scales. That has been an extremely important function of unemployment insurance in this country.

[Translation]

This notion has always impressed me, because in fact with the unemployment insurance Act in 1940 as well as with the amendments in 1971, we were taking a step toward civilization, toward a more civilized society. Bill C-21 does the opposite. We are regressing, we are going back to the law of the jungle.

[English]

The drive to low wages is one aspect of the matter. The other is the question of forcing people on to social assistance. In our view, that move will be enormous if this bill is passed.

[Translation]

It is interesting to have some examples among us.

[English]

Page 3134

I see that the municipality of Ottawa-Carleton projects an increase in the general welfare assistance case load of approximately 55 per cent as a result of the passage of Bill C21.

People will be denied a system of maintaining their income and forced onto an alternative system that is totally inhumane, that is totally inadequate, and that constitutes, in our view, a patchwork of social retrogression from one coast of this country to the other. Things are so arbitrary and are so inconsistent with regards to social assistance in this country that three provinces hand over the provision of social assistance to their municipalities. Two of those, Nova Scotia and Manitoba, actually allow municipalities to set the rates that welfare recipients will receive. In the Province of Manitoba there are municipalities that are paying people at rates that were established in the 1960s. That is precisely the edifice of social

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

assistance on which this bill is incontrovertibly going to throw people, although possibly Barbara McDougall is not aware of that. Possibly she does not care. However, I believe that Bill C-21 constitutes an enormous, vicious and deep attack and I would urge this committee to join us in condemning it.

I also want to quote Mrs. Shirley Carr, President of the Canadian Labour Congress. That organization represents millions of Canadian workers. I think it is not only important that we listen to each other in the Senate, but that we listen to the people of Canada who have given us their views.

Mrs. Carr states:

The committee must hear how mothers and fathers who are without a job will feed, house and clothe their families with no UI or with several weeks less benefits. It is important for the committee to also hear how communities, which will lose millions of payroll dollars through plant closures, will cope with even less unemployment benefits for their jobless.

This committee should meet the thousands of seasonal workers who will not even qualify for unemployment insurance if this bill is passed. It is vital for this committee to discuss the reduced duration of benefits with workers who suffer permanent job loss because of plant closures.

More than 70,000 workers have lost their jobs because of the Free Trade Agreement –

That was a year ago. Just imagine what the figure is now. Mrs. Carr goes on to state:

– and many more plant closures are scheduled. These workers and those who will be the victims of this bill should be asked about the benefit cuts.

As you know, the Prime Minister promised workers before, during and after last year's election that workers displaced by free trade would have the finest adjustment program in the world. Far from creating the generous and innovative labour adjustment program that was promised, this bill will undermine the most essential program to help workers adjust to industrial and economic change – the unemployment insurance program.

Mrs. Carr goes on to say:

This is no ordinary bill. First, it proposes to take several thousand dollars from each of nearly a million unemployed Canadians in 1990.

Thank God that was not true in the 1970s; unfortunately, it may well be in 1991, if we do not see the light in the next few days. She continues:

Second, it proposes to use \$2 billion of UI premiums to finance programs now funded from general government revenue such as the purchase of training courses, resettlement, cash advances for business start-up, job creation projects, etcetera. Third, it removes \$3 billion of government funds which now finance extended UI benefits resulting from high local unemployment and the shortfall between fishermen premiums and fishermen UI benefits. We are opposed to many other things in the bill but it bears repeating that the Canadian Labour Congress is fundamentally opposed to these three key changes in the bill: The massive cuts in UI benefits, the use of UI premiums to finance a whole array of non-income insurance programs, and the withdrawal of the federal government's direct financial contribution to UI.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The cuts in UI regular benefits from higher entrance requirements and shorter duration are massive and much higher than the \$800 million projected by the government.

The government has done everything possible to keep Canadians in the dark about the depth and distribution of these cuts. The government has refused to provide information which would allow Canadians to examine the impact. The information they have provided has been self-serving and very misleading.

Further on, Mrs. Carr states:

We believe the government is also trying to fool Canadians with its proposal to use up to 15 per cent of UI premium revenues to finance non-insurance programs. I am referring to the so-called training programs. This bill will give authority to the government to use UI funds for business start-up, cash bonuses to accept a job quickly, travel, the purchase of training courses, accommodation away from home and resettlement. The training wrapper on this package is clearly intended to legitimize the scheme.

[Translation]

Everyone will recall that the government kept talking about this fine training program that was proposed and that we were delaying with our procrastination. Of course, the government had cut the program's budget a year earlier and is now announcing it as though it were a new scheme, except that instead of financing it with its own revenues, the government is taking the money from the UI fund.

Page 3135

Some of our colleagues were moaning and whining because we were delaying the government's training package. How can you take them seriously? If the government believes so much in training, why did they cut \$800 million before they even brought forward Bill C-21?

[English]

Finally, I would like to express our deep concern about the provision in this bill which would allow the government to pull out its \$3 billion contribution to the UI fund.

The withdrawal of the government contribution, the massive cuts in benefits and the financing of non-insurance programs from UI premiums effectively shifts, the bulk of the burden of adjustment to workers, and It IS absolutely unacceptable that so much of that burden is borne by the unemployed. Parliament must reject Bill C-21.

[Translation]

It is interesting to see that such important labour abolition of the Senate or in other cases some drastic reforms we also wish for – that those organizations would come to us, unelected senators, and tell us: "In this instance you have the moral duty to exercise your rights as provided for in the Constitution. Even though we are against the Senate, we are asking you clearly in the name of our membership, because you are our last resort and the government is not listening to us, to block this legislation." I never thought I would see anything like this in my life.

It has been argued that Quebec's response to Bill C-21, since I quoted first a union leader from Quebec, was not as strong as in other provinces. Quite the contrary. All things considered, we have received, I have received as many petitions from Quebec as I did from other provinces, as evidenced by the thousands I tabled here in this chamber.

We received the support of a large number of citizens and volunteer groups including Action Chomage, which was constantly in touch with the committee and its former chairman, and of course the QFL, as I mentioned earlier, and the Confederation of National Trade Unions. These

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

two organizations represent the vast majority of unionized workers. The Confederation of National Trade Unions has never been particularly fond of the Senate. It has never shown much sympathy for senators, but it came and asked us to block Bill C-21.

For instance, here is what the vice-president of the CNTU, Mrs. Celine Lamontagne, had to say, and I quote:

The CNTU has 235,000 members. It is obvious that some of these members are more concerned, more aware, than others, because they are in a position to receive benefits. We have had considerable debate on this matter within our democratically elected assemblies. There was unanimous disagreement with Bill C-21.

In that sense, our position is that of our members, more specifically that of the forestry workers, of construction workers, of fisheries workers, and even of some hospital workers whose jobs are precarious and seasonal, of restaurant and hotel workers who have been hit hard by this bill which will alter their working conditions and quality of life –

As you may recall, the Conservative members of the Special Committee of the Senate on Bill C-21 at first objected strenuously to the committee holding public hearings. I remember the cries of protest from Senator Tremblay, Senator Simard, Senator Robertson and many others who objected to those hearings. They said it was a waste of money and figured out how much it would cost to go and listen to Canadians.

I would say they were long on arithmetic but short on democracy, a little like Senator Castonguay, who said in a press conference, I believe, that he had figured out what it cost the Senate to sit around the clock. If defending the people of Canada means we must sit around the clock, I hardly think people are going to criticize

us for what it costs in overtime for the guards, pages, and so forth.

Then the Conservative committee members wanted to botch the public hearings, as had been done by the House of Commons committee controlled by Conservatives who had refused to listen to God knows how many important witnesses. And our Conservative colleagues were particularly vociferous in opposing the suggestion that the committee ought to travel outside of Ottawa to listen to Canadians in their own provinces. We finally convinced them that we simply had to hold public hearings. They said yes, but in Ottawa because that would prevent less affluent groups from coming here. True enough, we did pay in a few cases but some people are unaware of the hearings, whereas when we go to Edmonton to hear evidence the people there are told in advance, they know we are coming and even the smallest organizations can arrange to appear before the committee. But when the hearings are held here in Ottawa a lot of information is required which most of the volunteer groups do not have.

Still the committee did manage to organize a quick trip to the small town of Canso in Nova Scotia and to St. John's in Newfoundland. I still remember the sarcastic remarks we had to endure from the Conservative senators about these hearings which they thought were a useless and needless exercise even though we held them over a long weekend to save them some time.

[English]

Hon. Anne C. Cools: Senator Hebert, that was a wild expedition. That is what Senator Simard said we were going on when we went down east – a wild expedition.

Senator Hebert: I had forgotten that. Thank you, senator.

[Translation]

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Nevertheless, it was necessary for the committee to go and see how things really were in two municipalities among several that would be horribly affected by Bill C-21. And you know it.

We did not hear only from labour unions or from volunteer support groups for the unemployed. We heard and tried to hear from ordinary citizens in those two towns, from fishermen, workers, the unemployed and women.

Page 3136

I think I can say that we were all deeply moved by what we heard. Our resolve to improve as much as possible this bad legislation arose in Canso and Newfoundland.

I recall that even Senator Simard, who is absentmindedly listening to me, was moved too and that, in an awakening of his conscience, he even publicly promised that his government would bring amendments to Bill C-21. I hope, Senator Simard, you remember that you publicly promised during those travels that your government would bring amendments to Bill C-21. This is on the public record.

Senator Murray: He forgot, Senator Hebert.

Senator Hebert: He forgot, his memory failed him! Needless to say, we will all watch him, honourable senators, when comes the time to vote. Meanwhile, I am sure Senator Simard will appreciate that I remind him of the straightforward and strikingly true comments made by a humble parish priest in Canso. It was not a major union leader, it was the Reverend James W. Oliver, a humble parish priest in Canso. I want to quote what he said because it was one of the most moving testimonies we heard. Maybe it was the one that prompted that awakening of Senator Simard's conscience. I quote:

[*English*]

I am pastor of the Star of the Sea parish here in Canso, St. Agnes, Little Dover, and St. Vincent de Paul in Queensport. Many of my people are fishermen involved in the fishery directly, and many more depend on this industry for employment. When the fishery is in trouble, the whole economic base is in trouble and everyone in the community and surrounding communities is desperately affected. At the present time the people of Canso and area, as you have heard, are involved in a life and death struggle to save their community and their livelihood.

It is inconceivable to me that at this time of economic turmoil in Canada, and particularly in the Atlantic region, the federal government would seek to destroy the safety net we have come to know in this country as Unemployment Insurance. They do this in the guise of cutting the deficit. What they must realize is that this sort of deficit cutting is destroying the lives of the very people they were elected to protect. It is indeed small comfort to a fisherman in Canso to know that the country is deficit free when he is unemployed and unable to pay for his home, put food on his table, or clothe and care for his wife and five children because the federal government has cut Unemployment Insurance. What about the dignity of the human person '?

this humble priest asked.

As the Canadian bishops have repeatedly alluded to in their presentations to government, most people in our country want to work. People take pride, and rightly so, in being able to provide for themselves and their families the necessities of life. People take pride in building for themselves and their families and investing in a future, but sometimes, through no fault of their own, they are unable to do so because the work is simply not there. How are these people to maintain their dignity through these periods of economic turn-down '?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

We in Canada have, for the past half century, said that we believe in the dignity of the worker and have provided help in the form of Unemployment Insurance when work is not available. This is one of those sacred trusts that Prime Minister Brian Mulroney said would be protected by his government.

Now, it seems to me, in the interests of saving his famous free trade deal, and in the interests of keeping big business and the Americans happy, he seems to be ready to hang the Canadian worker and his family out to dry. This type of action is simply immoral and unjust.

"Immoral and unjust." Senator Murray, that seems to make you smile.

Senator Murray: Since my friend has dragged me into it, let me just say that what is happening

Senator Cools: Can't resist, can you?

Senator Murray: – with Bill C-21 is that the whole regime is being vastly improved. Surely, the honourable senator did not take the Prime Minister to mean that we would never change a jot or a title or a line of any legislation or policy in the field of social affairs. The advantages of Bill C-21 are obvious to most people, including the premier of my honourable friend's province.

Senator Hebert: I am sure that that remark of Senator Murray's will greatly help the debate.

Senator Murray: Well, it will put a light of realism on the crazy remarks that you are making.

Senator Hebert: Yes, it will help us, but I prefer to listen to this humble parish priest from Canso. I trust him a little more than some of the people on the other side.

An Hon. Senator: A little more?

Senator Hebert: Well, I want to be polite.

Senator Gigantes: Don't sacrifice the truth for the sake of courtesy.

Senator Hebert:

This type of action is simply immoral and unjust. Governments have a moral obligation to protect the ordinary citizen. Unemployment Insurance is one of the ways that the government fulfils this obligation.

Another disturbing feature of this bill is that the federal government is seeking to remove its financial input into the UI system.

It sounds repetitive but it should be repeated so that we can be sure of what is happening to the system. The government is pulling out not just partially but completely. Then the parish priest from Canso continues:

Page 3137

In my opinion, this will cause the death of the system as we have come to know it. The taxpayers of Canada have always prided themselves on being a generous people. They want to have their tax dollars spent securing the dignity of their fellow Canadians, helping the unemployed in their midst put a roof over their heads, clothes on their backs and food on their table. This government has a moral obligation, in justice, to continue on behalf of all taxpayers of Canada to fund UI and thus continue to provide a social safety net for workers caught in the vice of unemployment.

Mr. Chairman, if the Americans call Unemployment Insurance an unfair subsidy, then we should tear up the free trade deal, not the lives of unemployed workers who built and continue to build this country. It is time that the Canadian government paid attention to the ordinary Canadian.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

My, how we need some people like this parish priest in this house!

The Canadian bishops have stated time and time again that the government has an obligation to look after the interests of the poor and the oppressed in our midst. The poor and the oppressed do not live only in the third world. They are to be found here in our midst. The farmer who has a crop failure, the fisherman or the plant worker who is unemployed because it is economically expedient for a company to close a plant –

or to move to the U.S. –

– – deserve the right to know that the Canadian government will look after them.

The net effect of this bill ... will be to destroy people. When they need the help most in their lives just to survive, it will not be there.

Senator Bosa: Send them to the food banks!

Senator Hebert: Yes.

One of the good things about Canada is that we do not let profit get in the way of our social responsibilities. We have fed the world for years. We cannot let this government destroy our social programs and call it progress.

I ask that the Senate exercise its duty as the chamber of sober second thought and send a message to the government on behalf of the working poor, the poor and the disenfranchised in our midst. Strengthen our social programs, protect the poor and the weak in our society, use moral courage to destroy poverty and want in our midst.

I am not too sure, but I think it was just after this testimony that Senator Simard finally melted, understood that he was doing a rotten job, and stood up and publicly said, "Yes, there

will be some amendments to this bill." Do you remember that, Senator Cools?

Senator Cools: Yes, very clearly.

Senator Hebert: I will never forget it. I never thought it would happen. He got a lot of publicity on it. He was even cheered. He was cheered in Canso.

Senator Murray: There is no point in trying to provoke Senator Simard when he is not here.

Senator Hebert: That is not my fault.

Senator Frith: I am not too sure about that. I am sure he is being provoked somewhere in this building.

[*Translation*]

Hon. Eymard Corbin: May I ask a question, Senator Hebert?

Senator Hebert: Of course, Senator Corbin.

Senator Corbin: Who was the government's spokesman on this committee in Canso'?

Senator Hebert: If you mean who was speaking the most, it was certainly Senator Simard. He would talk all the time and interrupt any testimony that was not to his liking.

Senator Robertson was also there with him. Both senators will gladly recall Mr. Frank Taylor's testimony.

[*English*]

The Secretary Treasurer of the Newfoundland and Labrador Federation of Labour. Again, that was very important testimony that shook us all. Do you remember, Senator Cools'?

Senator Cools: Very clearly.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Hebert: He said:

When the Commons committee was here –

This is that famous Commons committee that was supposed to have done such a great job, according to the Conservatives, who said that we should not use taxpayers' money to listen to people in Canso or to invite them to testify in Ottawa. Let us look at the transcript to see the difference between the Commons committee and the Senate committee. Here is what Mr. Taylor told us about the Commons committee:

When the Commons committee was here, I guess the only thing that outdid their arrogance was the shortness of their visit.

As we have learned in this place as well on these mixed committees, the Conservatives take most of their time destabilizing the witnesses who do not agree with government theory. Very often, they insult and interrupt them. Not only has that been done by the Commons committee but I can testify that that has been happening increasingly in our Senate committees. You see how the people in Newfoundland reacted to that type of attitude. It may even be better not to send any committee at all than to send a committee and then to be insulting by letting people speak for only a few minutes and interrupting them all the time.

He continued:

I believe that the Senate is laking the right approach.

I believe if you had merely rubberstamped this bill, then I think you would have been looked upon by the citizens of our nation as a group of very incompetent people, and I do not believe that is the case. I am sure it is not.

Page 3138

It must be fundamental that, when there is a piece of legislation that is so major and will affect so many citizens of our land, as many people as possible be heard from all parts of society. I firmly believe that, when the Commons committee held their hearings, they did not carry out the mandate that I would suspect they should.

I find it very disturbing that, in 1990, we would have to be coming before any committee and hoping to keep intact that which has been in place for so many years. As representatives of workers, we are deeply concerned that the entire fabric of our society has been torn apart by the vagaries of unemployment, and we seek economic equality for all workers regardless of age, gender, affiliation or disability.

Senators, we have been betrayed. We have been betrayed by a group of men and women who were elected to the Parliament of Canada, and that is unfortunate. In 1984, when the Prime Minister of this country was seeking election, he stated quite unequivocally that social programs, for one thing, would not be touched. He had not yet had his shoes off on Sussex Drive, or wherever he lives, when he set out to tamper with Old Age Security. The senior citizens of this country came together like never before, and the Prime Minister got a hell of a fright. When the Conservatives were out to be re-elected, they walked across this land of ours, led by the Prime Minister, and said that, because of free trade, our social programs would not be tampered with, and they even brought out one of the most respected persons that this country has ever known, Emmett Hall, to tell Canadians of that. Lo and behold, what happened again? We were betrayed; we were lied to. What have they done now? They have tampered again with Old Age Security and Family Allowance.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The bill that we are talking about here today will bring nothing but hardship on individuals and devastation to communities. I submit to you this afternoon that they –

"they" meaning the Tories

– should never ever be trusted again. If they tell you it is raining, don't run and buy an umbrella!

Senator Simard enjoyed that one.

Now, what will happen if this bill is passed? First of all, premiums will rise by 15 per cent. The entrance requirements will be tightened. The length of time you can be on UI will be cut. Penalties will be increased up to 12 weeks, and benefits cut by 50 per cent for those who supposedly leave their jobs without just cause.

I have many quotes of so many people, but I will not succumb to the temptation to read them to you but will arrive at my conclusion.

[Translation]

All those men and women we heard during our hearings in Ottawa especially, but also in Canso and St. John's Newfoundland, and who begged us to kill Bill C-21 could not be all wrong. I am trying to remember just how many witnesses told us that the Government's Bill was valid? I remember that Senator Tremblay was constantly trying to push the names of organizations which could have testified in favour of the Government. We never refused any of the names he suggested. In all (I do not remember the figures) I do not think we heard three or four testimonies which supported the Government concerning Bill C-21. I would be quite surprised if they were more than that. On the other hand, over a 100 witnesses asked us to change it from beginning to end or, otherwise, to kill it outright.

As demonstrated by the many testimonies I have just mentioned, this Bill will hit our unemployed very hard. By adopting Bill C-21, Canada would become the first nation in the Western world where the Government does not contribute to an employment insurance fund, beside of course the United States which are well – known for their understanding for the plight of the poor and the unemployed, the United States which are an inexhaustible source of inspiration for Prime Minister Mulroney.

Moreover, in 1992, two years from now, which is not very far, the deficit in the Unemployment Insurance Fund will reach approximately \$3 billion, according to the Deputy Minister of Employment and Immigration. This is not a figure that we are getting out of the blue. If Bill C-21 becomes law, the Government will no longer contribute to the fund and, consequently, will have no longer much say about it. The major contributors of course will be the employers and the employees. How will the employers deal with this deficit? You found the right answer, Hon. Senators: They will insist that workers pay increased premiums and collect reduced benefits. They will insist on higher entrance requirements and will undoubtedly challenge the special status of fishermen. That is what we have to expect.

This will mark the beginning of the end of the Unemployment Insurance plan as we know it and which, despite its flaws, is one of the best in the world.

Of course, when the Canadian people elect, two years down the road, a more human government, that will be more concerned with helping the poor, among which the unemployed, than pleasing boards of trade – that is to say a Liberal government – the situation could be rectified. Hundreds of thousands of Canadians will have suffered because of Bill C-21. One thing is sure: it will be much easier to repeal Bill C-21 than to abolish the GST. This is no reason to allow a despicable bill to pass without at least

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

considering the minor amendments put forward and, above all, demanding that the government authorizes a conference to be held to discuss these amendments, as provided for in the Constitution and requested by the Senate through Senator MacEachen.

Page 3139

I therefore call upon the Conservative senator's common sense and sense of equity. I urge them not to let themselves be guided by partisanship, but to vote according to their conscience, to give a voice to the helpless unemployed men and women of our country.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear.

[*English*]

Hon. Richard J. Stanbury: Honourable Senators, I rise to speak in favour of the motion to ask the House of Commons to enter into a conference with us with respect to the proposed amendments to Bill C-21. I congratulate Senator Hebert for his speech and for the leadership he gave us in the committee during its difficult period of hearings.

Honourable senators, because of the hour, I am not going to speak for as long as I had intended. I will try to reduce my remarks, but I think it is important to look at the history of this legislation. In his budget speech of May 23, 1985, the Minister of Finance announced the need to conduct a major review of unemployment insurance programs. A commission of inquiry on unemployment insurance was subsequently created in 1985, and its report was tabled in 1986. The Standing Committee on Labour, Employment and Immigration examined the report and issued its own report in 1987. Up to that point, things had progressed as they usually do, except that the government obviously got cold feet. On May 15, 1987, the government responded to the committee's report by stating that in view of the general lack of consensus in

the country regarding the proposed reforms, it had decided to stick to the status quo. The government, it appears, may have learned something from the tremendous uproar it created with its very first financial initiative, the remarkable deindexing of old age pensions.

While many of us may have breathed a little easier at that time, that period of damage control was short-lived. In a rather dramatic reversal of stated policy, for which this government has now become notorious, its true mean-spiritedness was once again exposed when in April, 1989, the government released a white paper entitled "A Labour Force Development Strategy for Canada". In this document the government sowed the seeds for the bill which we are currently reviewing, by making several astounding proposals including the major announcement that the government would no longer contribute financially to the unemployment insurance program.

During the debate on the bill in the House of Commons the responsible minister actually said that the bill would help "ensure that Canada is poised to take advantage of the future of unprecedented opportunity and to meet ... the objectives of competition, confidence, strength, compassion and sovereignty".

Honourable senators, I do not think Canadians believe that for one moment. Rather than making this great nation stronger and displaying an element of compassion, this bill in fact reflects a true assault on one of the major social safety nets that helped to make this country as strong as it was before the Tories came to power and created the unprecedented "Made in Canada" Recession.

Besides completely withdrawing government contributions to the fund of approximately \$3 billion and leaving the contributions to be replaced by employer-employee premiums, the government would also like to do a number of other things.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Honourable senators, I am afraid that the government will only realize just how truly uncompassionate this legislation is after the next election when they will find themselves out of work as well.

In all honesty, never in my adult years did I believe that the basic social programs and safety nets which the Liberal party developed and implemented over the years would be so severely threatened. I am proud that the Liberal party helped create a truly caring and compassionate Canada because it put people first. It is a terrible thing not to have a job, but the Tories seem to believe that unemployment is the fault of those without work. If there is one thing that the Great Depression, the recession of 1982 and the current recession should teach us, it is that "no man is an island unto himself" and that he or she is subject to many market forces over which one has little or no control. But this does not mean that society as a whole cannot take the steps to help the unfortunate through the tough times. On the contrary, we can and we should, because civilized societies are compelled to.

The Tories' claim that they have compassion is a joke, and they should be ashamed of themselves for even suggesting that. The fact is that this government has a very clear and obvious corporate agenda which does not treat employees as the valuable resources they are, but rather as disposable assets who are not worthy of civilized treatment.

I am afraid that if the amendments proposed by the special committee of the Senate on Bill C-21 are not adopted, this bill will mark a further step in the degeneration of this country, pursuant to this government's philosophy, into one in which the poor pay the heaviest price, the rich get all kinds of benefits without paying their fair share, and the government either turns a blind eye to the social injustice or finds excuses to justify unprecedented insensitivity.

In my judgment, Earl McCurdy of the Fishermen, Food and Allied Workers Union is exactly right when he says that "Bill C-21 is an attack on the working people in this country; it is an attack on small communities; it is an attack on undeveloped areas; and it is an attack on the basic, decent foundations of our country".

Of the various components of this bill I believe that the most startling is the idea that the government would discontinue funding the unemployment insurance program. Since the inception of the program in 1940, the federal government has been a financial contributor to it. At present, the government is responsible for covering the cost of regionally extended benefits, all extended benefits paid to claimants participating in job creation and training programs, and net benefits paid to self-employed fishermen. Throughout the past decade the annual federal contributions to the program averaged 23 per cent of the total program costs. Now the government expects this to be financed entirely by employer and employee premiums alone.

Page 3140

In an ideal situation, almost everybody would be employed and little or no contribution would be necessary from the government. Certainly, I hope, like everybody else, that government contributions will not be as necessary in the future as they are today. Besides the fact that the economy should always improve, the fact is that the government is facing severe problems in managing its finances. However, the complete elimination of government financial participation could have several dire consequences for the less fortunate in this country which we should simply not tolerate.

First, the premiums of employees will increase. The fact is that Canadians are already among the most heavily taxed people in the world and at some time or other I think they have the right to expect to get their money's worth out of

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

government services. In addition, there comes a time when enough money is taken away at the source that the continued rise in the deductions will have a negative effect. The government is simultaneously proposing a new and unprecedented tax on goods and services. I think the overwhelming widespread opposition is confirmation enough that people have simply had enough of seeing the disposable income portion of their pay cheques diminished to the point where they are almost non-existent.

In case the government has not yet noticed, high interest rates are forcing people to avoid buying homes because they can no longer afford to pay the mortgage. The combined effect of all of these economic developments is not at all positive.

Secondly, there is an effect on the employer. Currently, their premiums are 1.4 per cent of those of the employee and would also have to rise. Do entrepreneurs, who constitute the driving force behind the creation of wealth in this country, not have enough problems and costs to deal with, without such a premium increase? The government should be making the creation and sustaining of businesses easier, not more costly and more difficult. During the recession, which is expected to last until the middle of next year, many companies will be on the brink of bankruptcy. Such increased costs will, in some cases, tip the balance.

The greatest threat of government surrender is the fact that it will be less able to influence the operation of the program. By relinquishing its responsibilities the government will lose its ability to control the use of the program and its administration. This is precisely the difference between the philosophy of a Tory and that of a Liberal. We believe that the government can and should do something to help those in trouble, especially if it is through no fault of their own. On the other hand, the Tories believe that the purpose of government is to help their friends.

I share the fear that many other people have of government withdrawal from the fund, and that is that there would likely follow more pressure from the business community to whittle away at the program. Pressure for further cutbacks would be advocated by employers under the guise of "economizing."

This is another example of the transition of this country into some sort of mere reflection of the United States. The reduction of government contributions will undoubtedly move this country closer to the American model, and if our unemployment Insurance program was superior in the past, we should keep it so. In addition, the current underlying philosophy is that the federal government has a responsibility, through its general revenues, to address regional disparities and to help bear the cost of increases in unemployment. With the current high rate of unemployment in some regions, and the expected rise in the immediate future, now is not the time to shy away from one's responsibilities. I agree wholeheartedly with the special committee on this issue. The government must continue to contribute to the fund. It is as simple as that.

The next thing that I disagree with concerns the government's proposals with respect to fishermen's benefits. Part VIII of the Unemployment Insurance Act provides that the government is responsible for making up the difference between premiums collected and benefits paid to self-employed fishermen. We all know just how necessary this is. In 1988, fishermen paid approximately \$18 million into the fund and received \$269 million in benefits. The difference of \$251 million was paid by the government.

Subsection 130(3) of the Unemployment Insurance Act would be repealed by Bill C-21 and would place the full cost of fishermen's benefits on to the UI fund, which is to be financed by employer – employee contributions alone. The government has declared many times

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

that it would not take away benefits from self-employed fishermen and that these benefits are safe. However, by withdrawing its contribution, the government would be placing the future viability of these benefits at great risk. This could simply be the first step toward the elimination of the application of this program to self-employed fishermen. Business groups may feel that the government is not playing fair, and argue that if the government got out of the business they might wish to as well.

At the moment the lives of those involved in the fishery are very difficult. For the past year we have heard reports from both the west and the east coast that, as a result of a number of different factors, including the Free Trade Agreement, stock overfishing by domestic and foreign fleets, as well as the terribly low prices in markets today, numerous companies have had to layoff workers and shut down operations. We know that there is a crisis in the fishery. Earlier this year Canadians found out that the closure of some plants, such as the one in Canso, Nova Scotia, can cause towns to die if they are the major employer. By taking away the subsidy and making it harder to get benefits, as well as shortening the duration of these benefits, the government is directly contributing to the death of one – industry towns in this country. The Tory vision of a healthy Canada is one where the countryside is littered with ghost towns!

Page 3141

Clearly, the government's proposal is deplorable. Support for the program, and not abdication, is needed now more than ever. The Special Committee of the Senate on Bill C-21 has made a recommendation in this area to ensure that concrete steps would be taken to protect the benefits now provided to self-employed fishermen and to provide assurance that the government is, in fact, committed to the maintenance of this vital program.

Another area where the bill needs to be amended is that of benefits and entrance

requirements. In 1977 the then Liberal Government introduced a variable entrance requirement so as to link to regional unemployment conditions the number of weeks of insurable employment required to qualify for benefits. Individuals who resided in regions with 6 per cent unemployment or less were required to work for at least 14 weeks before becoming eligible for the program. In areas where unemployment was above 9 per cent, the individual had to work a minimum of 10 weeks. This system and those figures are fair. Every year prior to 1989 the government had passed legislation to extend the variable entrance requirement prior to its lapse. This government has consistently refused to pass a one – line bill to extend it again. The Tories have manipulated things in such a way that on January 6, 1990, a uniform 14 – week entrance requirement for all regions of the country, regardless of the unemployment rate, came into effect. Once again, the Tory mean spiritedness and lack of tolerance to those not as well off showed through.

Senator Frith: Heartless!

Senator Stanbury: Bill C-21 now proposes to introduce a modified version of the variable entrance requirement. Instead of a 10 – to 14 – week scale of insurable employment, a 10 to 20 week scale will be required. Regions with unemployment rates of 6 per cent or less will require as many as 20 weeks of insurable employment, while those regions with an unemployment rate of more than 15 per cent will retain a minimum entrance requirement of 10 weeks. Under this scheme, the government proposes that there be a 62-region system, in which, it turns out, only eight regions will meet the 10 week entrance requirement. While the government may be hoping that the regions with difficulty may be currently negligible, the fact is that during the recession the numbers will obviously increase.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Concerning benefits, the maximum number of weeks of benefits a claimant may receive is currently determined by the applicant's number of weeks of insurable employment and the regional rate of unemployment; and, as we know, the benefit structure actually has three phases. The government now proposes to collapse the current three-phase benefit structure to a single phase, found in Table 2 of the bill. Although the fundamental features of the current structure would be retained, the regional benefits under the proposed benefit structure would not commence until the unemployment rate in the region was above 6 per cent, rather than the present 4 per cent. The proposed change would therefore reduce the maximum duration of benefit entitlement in most instances, save for individuals who had acquired a large number of weeks of insurable employment and resided in very high unemployment areas of the country.

I come now to the area of penalties. Another area where this bill absolutely needs to be amended is that of penalties. Currently claimants can be disqualified to up to six weeks from receiving benefits if they refuse to accept suitable employment or leave their jobs voluntarily "without just cause." The bill, on the other hand, proposes some changes which the special committee deemed too excessive. I agree with that observation and I cannot see how any reasonable person – and I know that Senator Murray believes in reasonable persons – would fail to do so either. Bill C21 proposes to increase the minimum penalty to seven weeks and to make it as long as 12 weeks – double the current maximum. Can you imagine suddenly losing your job and income and, after paying into the insurance program for years, being told that you have to wait 12 weeks before you get your first cheque? The message to Canadians here is that they had better save because the government insurance programs do not care and for three months people may have to go without a cheque.

I had intended to deal with the portion of the bill dealing with developmental uses, restrictions to developmental uses, the plan and expenditure limits and contracting out, but I know that there are other honourable senators who wish to speak. Therefore, I will not take up the time of honourable senators to develop those points.

In conclusion, I should like to make some general remarks. I spoke yesterday to try to persuade honourable senators to accept the amendments proposed by the Standing Senate Committee on Banking, Trade and Commerce on Bill C-28, the clawback bill. You rejected my advice then, as a Tory majority. Again, in line with Conservative philosophy, I suspect you will ignore my advice today.

In this case again, the committee has done an excellent job of proposing amendments that would go a long way towards humanizing this brutal legislation. The government rejected most of those amendments and we are simply asking for an opportunity to confer with the government to try to find a sensible solution. But it is against Tory policy to take a human approach to any problem. Only dollars and cents, apparently, have souls.

Senator Murray: Who is writing this stuff?

Senator Stanbury: It is against Tory policy to accept any amendments, no matter how good or how sensible, from the Senate.

Senator Cools: Senator Murray has a question for you, senator Stanbury.

Senator Murray: I wanted to know who was writing this stuff.

Senator Stanbury: Again, it is "our way or no way", according to the Mulroney government.

Senator Frith: That is typical!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 3142

Senator Stanbury: They will brook no interference from anyone in their single – minded destruction of the network of social programs that have been constructed with such loving care over the years by Liberal governments for the benefit of the people of Canada.

Senator Frith: Typical Tory patterns!

Senator Stanbury: In any event, I should like you to know that Bill C-21, the bill by which the Government of Canada abandons the unemployed of Canada, should not pass without a proper conference being held between our two Houses of Parliament to try to resolve our differences to the benefit of the people of Canada.

Some Hon Senators: Hear, hear!

On motion of Senator Frith, debate adjourned.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 3143

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly,

And on the motion in amendment of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, That, all the words after the word "That" be struck out and replaced by the following:

Whereas

On March 20, 1990, the Senate informed the House of Commons by message that it insisted upon its amendments to Bill C-21;

And Whereas

Beauchesne, 5th edition, citation 814, p. 241, provides that in such circumstances, where the Senate insists upon their amendments, "the House (of Commons) either accepts the amendments or adopts a motion requesting a conference to which each House appoints Members";

And Whereas

When the Senate insisted upon its amendments to *An Act to authorize the government to acquire by lease lines of railway connecting with the government railways* in 1910;

and to *An Act to confirm the Order in Council of the twenty-fourth day of February, 1919, prohibiting the importation, manufacture and transportation of intoxicating liquors and the Order in Council of the twelfth day of April, 1919, in amendment thereof* in 1919;

Page 3144

and to *An Act to amend the Judges Act* in 1921;

and to *An Act to amend the Canada Temperance Act* in 1922;

and to *An Act to amend the Industrial Disputes Investigation Act* in 1924;

and to *An Act for the relief of the Depositors of the Home Bank of Canada* in 1925;

and to *An Act to amend the Criminal Code* in 1933, and to *An Act to amend and consolidate the Excise Act* in 1934;

and to *An Act to amend the Farmer's Creditors Arrangement Act, 1934* in 1938;

and to *An Act to amend the Criminal Code* in 1947, the House of Commons requested that a conference be held;

And Whereas

When the Senate insisted upon its amendments to *An Act to amend the Combines Investigation Act* in 1936; and to *An Act to amend the Customs tariff Act* in 1961, the House of Commons chose not to proceed further with the legislation;

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

And Whereas

When the Senate has by message insisted upon its amendments without offering any alternative proposal, it has never received a subsequent message from the House of Commons repeating that it disagreed with the said amendments;

And Whereas

The message received from the House of Commons on May 10, 1990, is without precedent, and does not conform to the convention and practice, unbroken since Confederation of settling disagreements between the House of Commons and Senate by a conference,

The motion be referred to a conference between the two Houses of Parliament. – (*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I yield to Senator Kirby.

Hon. Michael Kirby: Honourable senators, I rise to speak on Bill C-21 and to support the position that this house ought to insist upon the amendments it has proposed to Bill C-21. I not only want to comment specifically on the issue of unemployment insurance but also to set the government's changes to unemployment insurance in the much larger context of the government's overall social agenda and of its fairly systematic attempt since 1984 to erode the social safety net in Canada step by step and piece by piece.

Before commenting specifically on unemployment insurance, let me remind honourable senators that as early as 1985 the Mulroney administration began the attack on the ability of Canadians to get adequate social services by cutting back on funding the

provinces were to receive for medical care programs and for post-secondary education under Established Programs Financing. In effect, the changes were begun in 1985 and included in Bill C-69. Things were then made substantially worse with the advent of two other disastrous budgets, which have further cut back on funding to the provinces.

The impact of the federal government's reducing its role in both health care and post-secondary education is that the overall quality of Canadian health care programs is declining. From testimony before the Senate Social Affairs Committee earlier this year, and when speaking to members of the medical profession across the country, it is clear the decline in health care has been in part due to the cutbacks in federal transfers to the provinces.

Those cutbacks began in the 1985 budget with cuts to federal transfers to provinces and continued in the budgets of 1989 and 1990. In fact, this is only one example of the way in which the government has allowed its philosophy to come to the fore; a philosophy concern for higher-income Canadians and the corporate sector, and not for lower- and middle-income Canadians.

Last week this house passed Bill C-28 over the objections of members on this side of the house. The clawback provision of Bill C-28 is one more example of erosion of our social safety net. Effectively, under Bill C-28, the universality of both family allowance and old age pensions was eliminated by virtue of the fact that Canadians with incomes beyond a certain level will have the benefits clawed back under the new Tory tax system. If that were not bad enough, as a result of Bill C-28 the threshold level at which the clawback will cut in will only be partially indexed to the rate of inflation. Over the next decade, the number of people affected by the clawback on Old Age Pensions will increase to 2 million from the current 500,000. This will

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

occur precisely because the threshold levels will not be indexed and therefore more and more people will be hurt. Under Bill C-28 we see one more example of this government's attempt to systematically undermine the social safety net which it inherited when it came into power in 1984. In the eyes of Canadians and, frankly, in the eyes of many other people in the western world, that safety net provided one of the best sets of social programs in existence.

It is precisely because of the long term implications of Bill C-28 that members on this side of the house and Liberal members of the committee chaired by Senator Hebert insisted on two types of amendments. The first of the amendments essentially states that it is important for the federal government to continue to make contributions to regional benefits under Bill C-21. Since there are a number of new members on the opposite side, most of whom are not familiar with the unemployment insurance program, and in particular regional implications, I will explain that one of the things that was done under unemployment insurance was that in areas of high unemployment, higher than the national average, there was a significant contribution made by the federal government to unemployment insurance benefits in those regions. In a sense, regional benefits were made in large measure from tax dollars and not from dollars contributed to the unemployment insurance fund by employees and employers. The rationale for that was very simple. If we return to when UI benefits with a regional flavour began, we see that the rationale was that the federal government had a responsibility to ensure that people living in those regions of the country with the highest levels of unemployment were not adversely affected by that fact, since that it is much harder to obtain 20 weeks of work in Cape Breton, Newfoundland or northern Manitoba, for example, than it is to obtain 20 weeks of work in a large city in central Canada.

Page 3145

Therefore, the government said that it would be unfair to put the additional cost of the regional benefits on to the shoulders of employees and employers who believe legitimately that what they are doing is contributing to an insurance fund. As such, that insurance fund should deal with genuine insurance type problems and situations in which an individual finds himself or herself unemployed for a short period of time. It was the view that the insurance fund should not be asked to contribute to situations in which chronic unemployment takes place on an ongoing basis because of the state of economic development in the region.

Back in the 1970s a decision was made that regional benefits over and above the national average would be contributed to and paid for by all taxpayers through the Consolidated Revenue Fund. For those of us on this side of the house, that seems to be the most reasonable and logical way for regional benefits to be paid. To do otherwise – that is, to do what this government is proposing to do under Bill C-21 – is to say this to employees and employers across the country. "You should not only be responsible for paying unemployment insurance for those situations in which you are temporarily laid off – in a sense contributing to the unemployment insurance pool – but you should also be responsible for dealing with the broader social problem caused in part by the fact that, unfortunately, certain regions of the country such as Atlantic Canada have significantly higher rates of unemployment than the national average and that the cost of those programs ought to be paid for out of the insurance fund." Clearly and effectively, they are not part of an insurance program. People from regions of the country – whether they be in the east or in northern Canada – who have benefited most from unemployment insurance regional benefits need to understand clearly what the long-term and relatively short-term impact of Bill C-21 will be.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Unemployment insurance premiums need to be raised because the U I fund will start to run a deficit. I should point out that when the minister appeared before our committee, he indicated that the U I fund would start to be in the red in 1992. So we are not talking about a long time down the road; we are talking about roughly one year, or 18 months at the outside.

The situation is such that when those premiums are raised, employer and employee groups in this country will take the position – not unreasonably, in my view – that they should not be having their premiums raised in order to pay for regional benefits, because regional benefits, by their very nature, are much more of an income redistribution program and an equalization program. They are not a legitimate insurance program. I predict that by 1992 there will be tremendous pressure placed on the government by employees and employers who say that they do not want their premiums raised in order to continue to pay for regional benefits. They will state that alternatively regional benefits should be phased out or decreased over time, thereby removing the necessity to increase UI premiums.

Next fall, because the rates for 1992 have to be set roughly one year from now, we will see a serious debate in this country. Given the position and regional philosophy of the Conservative government, we will see a situation in which, by 1992 the regional benefits that go to parts of the country suffering from high unemployment will begin to disappear.

It is for that reason that the committee chaired by Senator Hebert recommended an amendment to Bill C-21, which states that there should continue to be an element of government contribution to regionally extended benefits because we on this side of the house believe that those benefits are more of a social program and not an insurance program, are more like an equalization program and not an insurance

program, and therefore should be paid for out of tax dollars rather than insurance premiums.

When this point was put to the minister and to several spokespersons on this issue for the government, their standard reply was essentially that they could not do this because it would result in significant increases to the federal deficit. When one examines that argument in detail, it turns out to be totally, absolutely, and utterly false. I will explain why.

If we go back to the origins of unemployment insurance, it is absolutely correct to say there was a Consolidated Revenue Fund into which all tax dollars were put. There was also an unemployment insurance fund, into which unemployment insurance premiums went. When additional dollars had to be put into the unemployment insurance fund, they were originally taken out of the Consolidated Revenue Fund and put into the unemployment insurance fund. To that extent it is absolutely correct to say that under those circumstances the Consolidated Revenue Fund lost money.

Since this government came into power, it has combined the U I fund and the Consolidated Revenue Fund into a single fund. If one looks at the books of the federal government, in a sense there is consolidated accounting. The net effect is that it does not matter if an expenditure comes out of the unemployment insurance fund or the Consolidated Revenue Fund. If \$1 million is spent out of either of those two funds, the government's deficit position does not change because the government includes the UI account in the Consolidated Revenue Fund. Therefore, if the government accepts our recommendation, which would require it to put approximately \$1.7 billion into the UI fund, at the end of the year the government's fiscal position would be identical. There would be an additional \$1.7 billion left in the UI fund that would not be there under Bill C-21.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 3146

The defence that the government has used most strongly in relation to our proposed amendments to Bill C-21 has been a totally spurious argument. Our proposed changes will have absolutely no impact on the deficit for two years' time because during that period of time the UI fund, as the minister has admitted, will continue to operate with a surplus. The argument is that on this side of the house we are attempting to ruin the government's fiscal position. I must add parenthetically that the government has done an unbelievable job of ruining its own fiscal position. It certainly needs no help from us. The notion that our amendments will hurt the government's fiscal position is simply not true.

Therefore, with respect to the regional benefits under UI, it is extremely important for members opposite – particularly those who want to vote against our amendments and vote for the government's position – to realize that, down the road, they will be left with the problem of explaining to low-income regions of the country, such as the Atlantic provinces, northern Manitoba and various high-unemployment regions, why they don't have a say in how the unemployment insurance is run.

Liberals happen to believe that a major role of the national government is its role as a redistributors of income and wealth, both to individuals and regions of the country that are most in need. It is precisely for that reason that I intend to vote against the motion before the house. I deeply believe that we ought to continue to have government involvement in regional benefits.

Let me turn to the second major issue covered under our proposed amendments, which is an amendment to retain full government contributions for fishermen's unemployment insurance. Senators on this side of the house have argued quite correctly that if we look at the history of fishermen's unemployment insurance,

it was never intended to be merely an unemployment insurance program. It was always intended to be an income support program which was delivered through the unemployment insurance system.

If you look at the history of fishermen's benefits, you will see that the actual contributions to the UI fund by fishermen is only roughly 10 per cent of contributions, that the remaining 90 per cent of benefits are paid by tax dollars. The government makes a contribution that, in effect, pays the excess amount of money beyond fishermen's contributions to the fund.

The Liberal Government did that because it recognized that, as in the case of regional benefits, an unemployed fisherman is not unemployed in the normal sense in which one defines unemployment under unemployment insurance program. It is not an insurance issue. It is a seasonal and regional issue. In fact, it is a fundamentally important regional issue for some of the poorest regions of the country. Therefore, it is really – to come back to the point I raised a moment ago – the federal government using its redistributive power to run an income support program for people who need it.

During the decade of the 1970's benefits under fishermen's UI were significantly increased. In 1976 the period of time during which unemployment insurance benefits were paid was extended. Originally benefits were paid to fishermen beginning on December 1. The starting date was moved backwards to November 1, 1970, and the period of benefits was extended in the spring by several weeks to May 15. That change was made in 1976 to recognize the fact that, particularly in areas such as Newfoundland, Gaspé and other parts of Atlantic Canada, the fishing season was sufficiently short that the period during which people were legitimately unemployed, and, therefore, in need of some income support program, had to be extended.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

In 1980, shortly after the election, another change was made to the program to make it possible for both the fishermen and their wives to collect unemployment insurance. That change was made because it was recognized that it was discriminatory to treat fishermen and their wives as a single unit for purposes of unemployment insurance when no other government program anywhere else in the country treated fishermen and their spouses that way. For example, it was felt that a woman who was working in a fish plant and whose husband was a fisherman should not be discriminated against. Prior to 1980 if that woman's husband was not a fisherman she was eligible to collect unemployment insurance. However, if her husband was a fisherman she was not eligible because the unemployment insurance went to her husband. So, in 1980, for reasons of fairness, equity and to improve the redistributive role of the federal government, that change was made.

Under Bill C-21, the federal contribution to the income support program known as unemployment insurance will be eliminated. The federal government intends to say to employees and employers across Canada, "It is now your responsibility to pay benefits to fishermen, to pay the extra benefit that people involved in the fishing industry receive under UI." By this time next year, when it comes time to consider what UI premiums should be for 1992, I am sure that we will inevitably find employees and employers across the country saying, "Wait a minute. The only reason our premiums are going up is because of benefits we are paying to people in the fishing industry, and those are not really unemployment insurance benefits, they are not really insurance benefits." What people will say that next year is that they are, in fact, income support payments and they will be right. They will then say, since they are income support payments, they should be paid out of tax dollars, not out of the unemployment insurance fund.

We might then find members opposite left in the position where they may have to spend the money they are now trying to avoid spending by introducing a brand new program which, to many of us on this side of the house, will be acceptable, except that we are trying to avoid that problem now. More likely, though, given the complete lack of compassion which members opposite have shown, as I said at the beginning of my remarks, on bill after bill, budget after budget, they will say to the fishermen of Atlantic Canada, "That is tough. We know you have a problem but we are out of money so we are not prepared to help." It is precisely because people such as myself do not want to put the fate of fishermen and their families in hundreds of communities across Atlantic Canada in the hands of this government, knowing how callous and unfeeling and uncompassionate it is, that we proposed an amendment that said, in effect, the government must continue to pay the full cost of fishermen's unemployment insurance precisely the way it does now.

Page 3147

In closing my remarks on Bill C-21, I should like to go back to a point which I made with respect to Bill C-28 which underlines the difference between members on this side of the house and those opposite. It applies not only to Bill C-28, but also to Bill C-21 and, down the road, to Bill C-62. The fundamental issue is really a philosophical or ideological issue with respect to the role of government in helping those individuals or regions of the country that are most in need of help, in recognizing that there is a significant role for government in redistributing income from people in regions that have it to people in regions that are extremely poor and are in need of various kinds of assistance. We on this side have a fundamental belief – and I say this as an Atlantic Canadian, particularly with respect to the regional benefits and fishermen's benefits under unemployment insurance – and a very deep and abiding conviction that the retraction of the government

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

from the UI Fund is an abandonment of the fundamental redistributive role which has characterized Canadian governments for a very long time. The philosophy of this government instead is to redistribute wealth to higher-income Canadians and larger corporations by virtue of its adjustments to the tax system, that policy is fundamentally wrong and unfair, and has been since it was implemented in the 1984 election.

In my view, if one speaks to Canadians across the country – and particularly in Atlantic Canada, where a number of us were this this weekend – one would find that the depth of passion and the real opposition to the philosophy and policies of the current government stems from the belief that those policies are inherently unfair, inherently discriminatory, and inherently lacking in compassion for poor regions and poor people in this country. If there is any group in society for whom one should have compassion rather than lack of compassion, it is the people living in the small communities in Atlantic Canada. It is precisely those people who will be hurt over the next 24 months by the proposals in this bill, and it is precisely because I am so strongly opposed to that consequence that I intend to oppose the government's motion. I believe that the Senate ought to insist on its amendments to Bill C-21.

[Translation]

Hon. Arthur Tremblay: Honourable senators, later on in my speech I will get back to the points made by Senator Kirby which are fundamental, since they concern the entire philosophy underlying Bill C-21.

First, however, I would like to recall what Senator Hebert said in this Chamber last Friday. Since we do not have last week's Hansard, I will quote from the text he asked his staff to give me the text of the speech he made last Friday, and I want to thank him, of course, for his kindness in letting me have the text.

Here is the first quote from the beginning of his speech:

Since the last time I had a chance to speak in this Chamber on Bill C-21, on May 16 1990, no reasonable effort has been made by the government to resolve our differences.

However, on the particular occasion to which he referred, on May 16, 1990. Senator Hebert admitted that the government had accepted a number of the amendments proposed by the Senate. The following is taken from his speech as printed in Hansard, and I quote:

Although it continued its harsh criticism of the Senate and its senators, the government has nevertheless accepted a number of our amendments, not necessarily the most important ones, although the amendment dealing with the security of fishermen is certainly not negligible.

Although this was said grudgingly, the amendments accepted by the House of Commons were nevertheless significant enough for the senator to congratulate the special committee which he himself chaired for having proposed them. Here is another quote:

If the Special Committee had not done its job, these amendments would never have been included in Bill C-21. It is not enough, but it proves that the Senate has played a useful role.

I may add that the government has been equally understanding. However, Senator Hebert and his colleagues were not going to be satisfied with the amendments accepted by the Commons, even if some of those amendments, as I said before, were certainly not negligible, as Senator Hebert said. In their view, the Senate should continue to play its obstructionist role, and do so – and I quote:

– to the very end, by insisting on amendments the government has yet to accept.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Faced with the government's decision to make no further concessions, we finally had the situation reflected in the wording of the item that has been on the Orders of the Day since May 23 and which we started debating last Friday.

I refer to Senator Doody's motion:

That the Senate not insist on its amendments

—

Followed by 2(a), (b), and so forth.

— to which the Commons have disagreed;

We also have Senator MacEachen's motion in amendment:

That the motion be referred to a conference between the two Houses of Parliament.

Senator Hebert stated last Friday that nothing had been done since these two contradictory motions were placed on the agenda of this Chamber. He did not bother to ask why this was so. I think the reasons are quite obvious.

If we talk about substance, the government had already done quite a bit that was reasonable. The amendments on which the Senate continued to insist contradicted the fundamental orientation of Bill C — 21. The message received from the House of Commons on May 10 was quite clear in that respect. I quote:

Page 3148

Ordered, that a message be sent to the Senate to acquaint Their Honours that this House continues to disagree with —

the amendments listed.

— because this House believes that they contradict the principles of the bill and undermine the objectives of the policy.

In other words, there is a fundamental disagreement on substance.

As for the MacEachen proposal for a conference between the two Chambers, Senator Roblin argued, and rightly so, in his comments on May 23, that such a conference was meaningless, considering the irreconcilable nature of the positions taken on either side. This is what he said:

[English]

I ask myself: "To what end is this free conference, apart from being another stage of the tactics of my friends opposite to keep this issue before the public ...?" If the conference is to consider whether they should insist on their financial amendment, it is not likely that they will get an affirmative response from the other side ... If my honourable friend tells me that he is prepared to not insist on his financial amendment, then I would tell him that he does not need a conference to do that. He can do it right now in this house. However, I suspect that that is not what he intends to do. He intends to go to this conference and hold his ground. He has given us the reasons ... why he thinks he is entitled to hold his ground. The effect of that, of course, is a nullity, the effect of that is another standoff. The effect of that is that it gets us nowhere, but it gets my honourable friend on what he considers to be more comfortable grounds than the one he is on right now.

[Translation]

Now the time has come for us to decide the ultimate fate of Bill C-21. I feel it may be appropriate at this point in the decision making process to adopt a positive approach and to point out the main reasons for which, in my opinion, Bill C-21 should be passed.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The first aspect and the most decisive in my opinion relates to the financing of the Unemployment Insurance and the benefits of the new system. The shift is obviously major. It is also the aspect the hon. senators on the other side most radically oppose, as Senator Kirby just showed us in his speech.

As Senator Hebert is concerned, in his usual style he relishes immoderate language – he was telling us again Friday, and I quote:

[English]

The most pernicious provision of Bill C-21 is, without any doubt, the government's complete withdrawal from the Unemployment Fund.

[Translation]

To put it more precisely and more positively, the major change stemming from Bill C-21 is this: henceforth, all benefits whatsoever will be financed directly through employer – employee contributions, not by means of the Consolidated Revenue Fund.

That, however, docs not mean, as Senator Hebert claimed that the government will quite simply stop contributing to unemployment insurance funding. It means that from here on in it will do so exclusively in its capacity as employer. In other words the government will no longer collect money from Canadian taxpayers to finance the unemployment insurance program and the various benefits prescribed in the law. It will contribute as employer, period. The government as 'employer and its employees are part and parcel of the system.

The result of this new approach is that employer – employee contributions will be big enough to ensure that the system is self – sustaining.

This is where I should like to comment on the approach taken earlier by Senator Kirby.

If I understood him correctly, employers and employees in economically strong regions – or where the unemployment rate is low should not be expected to contribute to financing the benefits paid out in economically weaker regions. As I recall, standards would be based on a reference to national averages.

In other words, low-risk regions should not have to contribute to finance high-risk regions. The difference between what might be described as average conditions and marginal conditions in high-risk regions ought to be made up through the consolidated fund and general public revenues, while all along maintaining the concept of insurance.

The way I see it, however, insurance implies that lower risks compensate for higher risks.

I really do not understand on the basis of what rationale such an approach could be taken towards a wage loss replacement plan. If, for that matter the burden of the income loss is to be compensated out of the General Revenue Fund, we must wonder under these circumstances who are the people represented by the State? They arc everybody, including our senior citizens, those who have a very low taxable income under the current tax system and who must pay income tax.

This is a denial in its very principle of any wage loss replacement plan, which should not be assuming the income support role of the State for workers who have to deal with unemployment insurance in their regions, the differences between the regions being an integral part of the scheme.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Unfortunately, Senator Kirby is not here. I do not exclude the possibility that I may have missed some of the things he said but what I have retained of it is what I have just stated. If I have misrepresented what he said, I do not object to having him correcting me.

There was a time when unemployment insurance premiums were established on the basis of the risk of becoming unemployed so much so that certain groups of workers, including civil servants, were not part of the plan because their risk being quite limited, there was no reason to cover them. For that reason, they were not part of the scheme. This changed several years ago based on the principle which I have just mentioned, namely that this category of employees which represented a low risk had to contribute to the scheme to compensate for the other categories which represented a higher risk.

Page 3149

That is my first point. The second point I want to deal with is that of the entrance requirements. On what basis will legitimate claimants be identified? For a good many years, it has been recognized that the entrance requirements for unemployment benefits would be unfair if they were the same for all and did not take into account the various unemployment rates and employment opportunities from one area to the next. The government therefore decided to take into account this quite obvious and unquestionable reality.

Unfortunately, it did so before introducing Bill C-21, so that Parliament had to deal every year with a new legislation establishing new variable entrance requirements, without knowing whether the minimum number of weeks would be 14, as provided for in this bill or ten weeks as provided in the current legislation.

Hon. L. Norbert Theriault: There is a good reason for that.

Senator Tremblay: I think I have summarized quite objectively that Bill C-21 will establish permanently a situation which was only temporary and therefore uncertain in high unemployment regions. This bill states specifically that claimants will be paid allowances after ten weeks of employment if they are located in a high unemployment region.

Senator Theriault: Sixteen per cent.

Senator Tremblay: On the other hand the number of work week will be higher if the rate of unemployment is lower. The table on page 36 of the bill clearly shows that the number of weeks required varies according to the unemployment rate.

To a certain extent the third point flows from the second: it seems obvious to me that unemployment benefits ought to be paid only to people who are really or legitimately unemployed, if I can put it that way, namely men and women who, against their will, find themselves without a job.

In this respect Bill C-21 contains provisions aimed at correcting situations about which the least that can be said is that they smack of abuse. Past experiences attest to the fact that they do exist. However I am prepared to admit that from a statistician's perspective these are marginal cases. Still the fact remains that to the extent possible and in all fairness for other "legitimate" UI recipients the system ought to eliminate unjustified claimants.

The fourth point has to do with recycling and training, and in that respect Canada lags far behind the other industrialized countries against which we have to compete on world markets. One of the major characteristics of Bill C-21 is that it takes an incontestably sound approach. How many productive jobs remain vacant because the employer simply cannot find the skilled labour to fill them?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Of course the first responsibility of our school systems is to make young people and adult Canadians anxious to complete their education fully qualified to land these productive jobs so as to meet the requirements of an ever changing labour market.

However, we should realize that a satisfactory unemployment insurance system can in fact help its own target population fill such gaps by giving it an opportunity to do so.

How can this be done? This is exactly where Bill C-21 will make an outstanding contribution. It does so by providing substantial additional funding for training and retraining U I recipients.

In this way, many recipients will see better chances of re-employment when they acquire skills more in line with today's needs, thanks to the opportunities they are given under Bill C-21 with the co-operation of industry and educational institutions.

My fifth point is this: in a similar perspective. Bill C-21 also contains measures designed to encourage recipients to accelerate their return to productive employment. They will be given incentives for accepting employment quickly, either in the form of bonuses or temporary income supplements. The bill also provides assistance for recipients who create businesses or become self-employed.

In concluding, I wish to mention two other measures. The first one, and I will be brief, concerns parental and maternity benefits which have been improved. These, combined with sickness benefits, can add up to 30 weeks of benefits. Furthermore, at the present time, persons who are 65 and over and remain employed are not entitled to pay unemployment insurance premiums, so that if they become unemployed, they cannot claim benefits. Bill C-21 corrects this gap in our legislation.

Honourable senators, I realize that these few comments in support of Bill C-21 are far from exhaustive. Other aspects will, I am sure, be mentioned by other colleagues who will take part in this final debate on the bill.

Personally, I see no justification for a conference, as it says in the item on the Orders of the Day, since the chances of reconciling the views of the Senate and the House of Commons are practically nil, as was pointed out quite vigorously by Senator Roblin, whom I quoted earlier.

Furthermore, the bill before us today contains, as I hope I was able to demonstrate, enough positive aspects that make me most anxious to support the motion of Senator Doody that a message be sent to the House of Commons to acquaint that House that the Senate no longer insists on its amendments to Bill C-21.

[English]

Senator Theriault: Honourable senators, I rise to speak on Bill C-21 and I do not know whether I should start by crying or cursing. However, as it is not proper to do either in this house, I will try to explain briefly my feelings on the decision of this ruthless, neo – Conservative government determined as ever to attack the weak, the old, the poor and the unemployed and give free rein to the rich and powerful.

[Translation]

Page 3150

Having listened attentively to my learned colleague Senator Tremblay, honourable senators, I must say he succeeded very poorly in his efforts to defend this government's policy as rejected in Bill C-21.

When he was about to complete his remarks, Senator Tremblay invented somewhat some

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

items which are exempted from Bill C-21, including such motherhood items as the benefits :laid to parents, mothers and senior people over 65 years of age. Honourable senators, Senator Tremblay forgot to mention .hat it was not out of the government's generosity that these amendments were made to Bill C-21, but thank goodness for he decision of a Canadian tribunal who ruled that the people over 65 years of age could qualify for unemployment insurance benefits, and that people who adopted or had adopted children were entitled to unemployment insurance benefits as is now he case under Bill C-21.

Senator Tremblay tried to defend the philosophy rejected in Bill C-21, which is the opposite of the philosophy which inspired the Liberal Party and the New Democratic Party which, together, represent the vast majority of voters in this country. Because it appears impossible to block Bill C-21, I personally find some comfort in the expectation that within a couple of years, this neo – conservative majority which currently exists in the House of Commons will have disappeared and we will rediscover the philosophy and responsibility of a government anxious to care for the weak, the old, the poor, the unemployed.

To achieve its goal, what has this Government done since 988 with Bill C-21? It has taken advantage of fishermen, of seasonal workers, especially those working in the fishing and forest industries in the Atlantic provinces by refusing to maintain the provisions which had been passed every year since 977 and which provided coverage for these people in high unemployment regions.

[*English*]

Honourable senators, what is happening in this country'? We have a government and a Prime Minister determined to destroy the social security net which has existed in this country since the last war. They are determined to destroy and to attack the weak and to give free rein to the rich and the powerful.

I wonder today, as I did when I last addressed this house on Bill C-21, how people whom I have known all my life, people with a social conscience, can sleep at night knowing that they Jill be depriving the poorest of the poor, including the people in my area, as well as natives in northern areas. At the same me, they know that all the legislation which we have passed 1 this house since 1984 has made it easier for the wealthy who are paying fewer taxes.

I have before me a prepared text on which I worked for a long time, but I cannot find the peace of mind to refer to it. When I look up I see in front of me senators from Atlantic Canada. I ask them to ask themselves these questions before they vote on this bill. Why are you here? Did you come here simply to pass the GST, or did you come here, and do you sit here, with a free conscience to help your fellow citizens'?

Honourable senators, I ask you to ask yourselves this question. Why is it that the rich and the powerful never have anything to say against medicare? It would be easier and cheaper for the big corporations and for the people with millions of dollars in bank accounts to pay for their own medicare coverage than to contribute to it as they do now through the taxation system. Thank goodness that the government has not dared to touch that philosophy concerning medicare. It is the only thing that it has not touched. Yet, it is that type of philosophy which is responsible for unemployment insurance in Canada as well as for the universality of old age pensions. I point out that we all know that when programs are designed for poor people and for poor people alone they become poor programs.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

What we saw in England is the result of what I hope is the last of this neo-Conservative philosophy. We have seen revolution in the streets. It is amazing to think that in 1990 there still is, in our so-called civilized world, a government prepared to impose a poll tax on its people. People have to pay a tax just for the right to breathe and to live in that country. We used to have such a measure in New Brunswick until Louis Robichaud was elected premier. Thank God we did away with it then. It is incredible to think that now, some 30 years later, we see a similar type of thing happening in England. As well, we see our own Government of Canada copying that type of conservatism without regard for the needs of the poor.

Honourable senators, the province of New Brunswick will pay a dear price as a result of this legislation. The government talks about 10 weeks of employment knowing that that is the way to blackmail the fishermen and the plant workers. They know that they can qualify with 10 weeks but that there must be an unemployment rate of 16 per cent in order to qualify. Who wants 15 per cent or 16 per cent unemployment! That is the level of unemployment that we will be seeing in my province. Yes, it is true that some people will qualify in some areas. There are still areas in my province where there is 16 per cent unemployment. I had hoped that the federal government and the provincial government would put their heads together to come up with some programs to reduce unemployment. That should be the main concern of government. Not to cut and save money on unemployment insurance benefits affecting the poor.

The government has taken a great many steps in Bill C-21 to penalize people if they are deemed to leave a job. Where in the world does it happen that immediately upon being charged with a criminal offence one is found guilty? No one would want that. But in Bill C-21 that is exactly what you are doing. You are telling

people who leave their jobs – without knowing the conditions at their workplaces – that they are guilty. They are then penalized for 12 weeks and for 2 years down the road. This is happening in 1990.

Page 3151

When I came here in 1979 I never believed for a moment that I would be faced with legislation this cruel. Yes, there are two or three good things contained in the bill, such as, for example, maternal leave, parental leave, and provisions for benefits for people over the age of 65 years. I wish I could say that those things are included in the bill because of the generosity of the government; but they are included only because the courts decided, in a case heard approximately three years ago, that the law had to be changed to cover those people.

Honourable senators, over the years the people in my province will pay the price of Bill C-21. Senators opposite will get their way because they now have the numbers, but the people will pay the price.

An Hon. Senator: Shame!

Senator Theriault: Over the years you will regret it. I am convinced that every senator here from the Atlantic provinces will live to regret the vote they will take today if they vote with the government.

Senator Simard: Doom and gloom!

Senator Theriault: I recall the days when I was in the Legislature of New Brunswick and the government of the day in Ottawa tried to amend the unemployment insurance program so that it would have reduced some benefits. The Premier of New Brunswick, the Minister of Finance and the Minister of Health and Welfare stood up in unison against that type of approach. They cared for people then. What happens to people when they become senators?

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Honourable senators, the reduction of weekly benefits to which that people will be entitled is based on the unemployment rate of 1988. Can you imagine the difference now, when we are heading for a recession?

Senator Buckwold: We are in a recession!

Senator Theriault: Yes; we are in a recession. Now it is not only the people from Atlantic Canada who will be affected but also the people from Ontario – that is, the unemployed. In my province alone the number of weeks that people will lose, even if they qualify in the first year of this program, will represent over \$16 million. When you take those kinds of dollars out of the economy of New Brunswick, my friends, it is not only the poor and the unemployed who will feel it, but also every business – that is, the corner store, the garage, and every store service industry in the area. I was going to say that the only thing left in some small communities would be the post office; but, by God, with this government that will not even be there. They will take that away, too!

Senator Buckwold: They are! There will not be enough money for postage stamps!

Senator Theriault: What are we coming to? Do senators opposite not realize that there is a fundamental reason why this government is at 15 per cent in the polls? In my province it is 11 per cent and in Beausejour 4 per cent. This just should not happen. To those senators I say, you should see that it does not happen, because this country – and my province, especially – needs the Conservative Party; but not the kind of conservatives you seem to represent in this house. Not only are you destroying the poor, the sick and the old, but you are also destroying your own party. You should be ashamed of it.

Do you wonder why you are at 15 per cent in the polls in some areas, at 14 per cent in others, and 11 per cent in New Brunswick? I will tell

you one of the reasons. We have been talking about unemployment insurance. During the election campaign in 1988 John Crosbie had this to say about the unemployment insurance program.

No one is planning any changes in the unemployment insurance program. There hasn't been any change proposed to us since we dealt with the Forget commission. We're not contemplating any changes.

That statement was from John Crosbie.

Senator Buckwold: He is a reliable source.

Senator Theriault: That statement was cited in The Evening Telegram, Saint John, Newfoundland on October 14, 1988. Time after time statements like that one were made by ministers. Time after time you have gone to the extreme right wing of the old Conservative Party.

The people in this country are a generous people. It is true that in 1981 – 82 we faced a tough recession in this country, but, by God, we were able to survive because of the social safety net that had been put in place by the Liberal government, including the unemployment insurance program. But in this recession the food banks will have to multiply. Those of us who have a spare dollar in our pockets had better be ready to contribute to the food banks or there will be problems in the streets of this country as there are in England.

Senator Simard: Doom and gloom!

Senator Theriault: You have gone too far, honourable senators. Your government has gone too far to the right. I plead with you: For once stand up and vote according to your conscience.

Hon. Brenda M. Robertson: Honourable senators, I will not spend much time commenting on Senator Theriault's remarks.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

An Hon. Senator: Why not'?

Senator Robertson: They are not at all unexpected and they are exaggerated, as usual.

However, I should like to say to Senator Theriault that I take great offence in his suggesting that I and others on this side of the chamber have no concern for the poor, the sick, the unemployed and the elderly. Who does he think he is? We have shown compassion and shall continue to show compassion for the have – not people.

Senator Theriault: Prove it by your vote.

Senator Robertson: Another statement Senator Theriault made was that any Liberal legislation must not be touched, other wise it is a step backwards. That is totally ridiculous, and he knows it. Surely the honourable senator must know that unless we get this Canadian financial house in order, all of these programs will be in great jeopardy.

Senator Stanbury: All on the back of the poor.

Senator Robertson: All of them will be in jeopardy whether the conservatives or the Liberals are in power, or the NDP is in power; it will not matter.

Senator Theriault, I would recommend that you read a commentary that is in today's *Globe and Mail*. I should like to quote one paragraph.

During the Pierre Trudeau years, Ottawa believed that a big, interventionist central government was the only thing that could hold Canada together. Instead, the debts incurred to pay for the big, interventionist central government are splitting Canada apart. Threes a lesson here, if there's any time left to learn it.

However, I shall not tire you with further comments about Senator Theriault. We have been on opposite sides of debates for some time.

I should like to speak about some more important issues in Bill C-21 that I believe senators in this chamber should be reminded of. Bill C-21, which is a bill to amend the Unemployment Insurance Act, is part of a larger plan called the Labour Force Development Strategy. Honourable senators, this is a strategy designed to help unemployed Canadians get back into the workforce where they can build careers that promise better pay and better futures.

As honourable senators know, the legislation we are considering has touched off much debate. Fears have been expressed that the government is attempting to bring the unemployment insurance program in line with that of the United States. During our committee hearing I heard many senators suggest to witnesses that perhaps this was what was going on, which I found to be a strange way to hear witnesses. Other senators have stated that particular groups, including women, older workers and the poor, will suffer because of changes to the UI program. We have heard another diatribe in this regard from Senator Theriault. He has been making that speech forever.

I should like to address some of these corners, because I believe they are important concerns and we have to look at them realistically. First, let me respond to the fallacious argument that the government is attempting to harmonize our UI program with that of the United States.

Canada's social security system, including our program of assistance to the unemployed, is one of the most generous in the world, with the introduction of this legislation, the Canadian UI program continues to be one of the most

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

generous in the world. We continue to offer benefits far superior to those available to those in the United States. In most American states, people may receive benefits for as little as eight weeks and for no more than 30 weeks. Under Bill C-21, unemployed Canadians can receive benefits for up to 50 weeks.

Even where the unemployment rate is low, as it is in Toronto, for instance, the length of benefit entitlement will not be less than 17 weeks, which is more than four months of UI benefits. That seems rather generous.

The differences do not end there. In Canada, a person can receive as much as \$384 per week in UI benefits, whereas the majority of Americans are able to receive between \$150 and \$250 U.S. at the maximum.

Canada has income protection for maternity and sickness. The American programs do not include maternity and sickness benefits. We protect our seasonal workers, and not all American states do that.

Our programs make greater use of the developmental approach than do the American programs. The generosity of our program is recognized in the industrialized world. A brief comparison with similar programs in other countries will illustrate this generosity.

Under the proposed legislation, Canadians would need between 10 and 20 weeks of work to qualify for benefits. Compare that to France, for instance, where 26 weeks of work are required, or West Germany, where a person not only needs to work 30 weeks in the last year, but 52 weeks in the previous three years.

Senator Theriault: Why not deal with Canada? Forget about the Americans.

Senator Robertson: Senator Theriault, we live in a small international community. Try to get this through your head.

Honourable senators, our UI system has always concentrated – and will continue to concentrate – on income support. However, it is time to augment that safety net with another strategy that will lead to the development of an adaptable workforce. That means skills training and lots of it.

The Labour Force Development Strategy, of which Bill C-21 is a part, will help Canadians rely less on income support and more on developing and maintaining skills that lead to productive, well – paying jobs. This is an important step, because training has assumed a critical role in today's high – technology era. A skilled workforce is essential for our businesses to compete successfully in the global marketplace of the 1990's.

Countries around the world are now emphasizing training and re – employment over passive support programs. In Sweden, for example, the government has adopted an activist approach towards labour force adjustment. A full 70 per cent of Sweden's resources for labour market programming is directed to training the unemployed and re-employment assistance. Only 30 per cent is directed towards the passive income support.

In Canada, without Bill C-21, our labour market programs would continue to direct only 25 per cent of their resources towards training and re-employment policies. The greatest share of labour market expenditure will continue to be eaten up by passive income support measures.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Canada's Labour Force Development Strategy's mission is, therefore, a challenging one. However, I am confident its measures will set up a ripple effect that will benefit many different layers of the economy. For example, the program will provide more active support to unemployment insurance recipients through counselling and other employment services at an earlier stage in their unemployment. The longer someone is on UI, the harder it is to get off it. To complement this, there will be more opportunities for recipients to train and upgrade their skills. That is why an additional \$350 million has been allocated under section 26 of the act to allow claimants to gain work experience and upgrade their academic qualifications without losing their benefits.

Page 3153

In addition, the program is doing more to promote entrepreneurship by allocating an additional \$20 million under the Community Futures' Self-Employment Incentive Program. This will allow unemployed workers to draw UI benefits while they establish new enterprises. Alternatively, they can take this money in a lump sum if they wish to defray start-up costs of a new business. The province that has been using this program most efficiently and effectively is Newfoundland, as those of you from that province know, Port Aux Basque and Gander have some successful programs.

It is evident that women, older workers and the employment disadvantaged will benefit from the measures I have just described.

One of the strategy's most exciting features is the special initiatives it contains that are geared to meet each group's specific circumstances. For example, the strategy is providing a financial boost to a training program for social assistance recipients who have been unable, or have found it difficult, to get off social assistance roles. This program has a proven track record in helping such people become economically selfant.

Over the weekend I reconfirmed the statistics that I had in my mind that I had been getting from newspapers and other sources in that province. I can say that this program is very successful in New Brunswick. We have been trying to get such a program off the ground for the past eight to ten years. Finally it got off the ground and is doing very well. In the last fiscal year, over 2,000 people, who were formally on assistance, became employed. That is a significant figure for the province of New Brunswick. Of those who enrolled in the program since it began two years ago, one-third have stayed off social assistance. So the program is really breaking the back of that trend in our province, and ministers and their staffs are very enthusiastic about it.

When the committee was travelling and listening to witnesses – which is a very important exercise – and when we heard witnesses here in Ottawa, a couple of senators opposite would always laugh at the training program. They would ask such questions as, "Why train? How many hairdressers can you have in one community? How many carpenters can you have in one community?" That was a standard question. I found this type of question to be very insulting to those who were appearing before us. As the records will show, those in New Brunswick on social assistance are generally considered to be at the bottom level of the support system, below unemployment insurance. When honourable senators see what this one program can do in a small province like New Brunswick, they will find it difficult to laugh at it. So please do not laugh at the training program by saying, "Training for what?" or "Literacy for what?" When we step over that threshold between illiteracy and literacy, a bomb goes off in our minds because suddenly there is a whole world in front of us that we did not understand and know before. It is the same with other training programs.

Some Hon. Senators: Hear, hear!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Theriault: If you had not insisted, there would not be that coverage, and you know it!

Senator Robertson: Please, Norbert, sit down, be quiet and relax, please! You really exaggerate. Please listen to some of the positive things and try to understand how the human mind of a disadvantaged person works. You have to go forward.

Senator Gigantes: The power of positive thinking strikes again!

Senator Robertson: Senator Gigantes does not know anything about living in underprivileged circumstances. So I would ask that he be quiet.

Through this program, the federal government works in tandem with the provincial governments to help social assistance recipients acquire the skills and work experience they need to find work. The federal government is ready to commit an additional \$50 million under the strategy. That, combined with the \$50 million spent through the Canada Assistance Plan and matching funds from other provinces, promises an extra \$200 million to prepare an estimated 20,000 additional social assistance recipients for productive employment.

Senator Simard: That is the other side of the coin.

Senator Robertson: Yes. The strategy also addresses the needs of older workers for whom the job search is often a long and frustrating process. The strategy will inject an extra \$40 million into the continuing employment option, which provides financial support for up to three years for employers who hire and retrain displaced workers. Very often these displaced workers are 45 years of age and over. In addition, the budget of the Industrial Adjustment Service has been doubled. This service deals with the problems of obsolete skills, the

challenges of changing technologies and finding alternative employment for laid off workers. Its total budget will now be \$30 million.

As well, the number of job – finding clubs for older workers has been increased. These clubs have an outstanding record in assisting older people to find jobs. The strategy also opens the door of opportunity for more women. For example, an additional \$65 million has been allocated for promoting human resource planning programs in the private sector. These plans will include employment equity components, which will broaden employment prospects for women.

Private sector consultations under the auspices of the Canadian Labour Market and Productivity Centre have enabled the government to improve the apprenticeship government training program, and to train more women in non – traditional occupations. In conjunction with the private sector, these reforms will facilitate the development of an entry-level training program for jobs in growing industries, particularly in areas in which women already have a large stage.

Page 1544

Bill C-21 also proposes changes in special unemployment insurance benefits that will help women and make the program more relevant to today's workforce. These changes include, as Senator Tremblay has mentioned, in addition to the current 15 weeks of maternity benefits during the period surrounding the birth of a child, ten weeks of parental benefits for natural and adoptive parents, shared between the mother and father as they deem fit; and more flexibility in access to 15 weeks of sickness benefits.

I am pleased to say that Bill C-21 has also taken into account the concerns of women's groups in another matter; the question of what exactly constitutes "just cause" for quitting one's employment, which Senator Theriault seemed to find highly unsuitable. Under Bill C-21, people who quit their jobs without just cause face a

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

penalty of seven to twelve weeks benefits. In response to appeals from women's organizations, the Minister of Employment and Immigration added an amendment to Bill C-21 which provides for legislative expression of "just cause" to include sexual harassment, hazardous working conditions, and quitting to follow a spouse to another area. These provisions were not mentioned in the previous bill.

Bill C-21 provides the opportunity to put in place a series of training and adjustment programs we very much need, together with increased fairness in the UI system. That is the intent and will be the effect of Bill C-21 which will help provide Canadians with one of the best labour market adjustment programs in the world.

Honourable senators, I urge you to support Senator Doody's motion.

Senator Theriault: Would the honourable senator permit a question'?

Senator Robertson: Yes.

Senator Theriault: The Honourable senator has talked about training and has said that during the committee hearings some of my colleagues or I would ask the question, "Training for what'?" We did not say that. We were asked by people in, for example, New Brunswick and Nova Scotia the question "Training for what'?" when they were told that training would be offered. My question is: Is the honourable senator aware that in 1984, when the Conservatives took office, the federal government was spending \$2.2 billion for training and that now, in 1989 - 90, it is spending \$1.5 billion'?

Senator Robertson: You have to look at the quality of the training.

Senator Buckwold: Is it a two-for-one sale'?

Senator Robertson: You do not simply train a nine-to-five hairdresser in a small community; you diversify and look at the labour market.

Senator Gigantes: They could do one another's hair.

Senator Robertson: You might find some improvement, if you volunteered, Senator Gigantes.

Senator Gigantes: I do not have any hair.

Senator Robertson: It is surprising what they can do with a little.

Senator Gigantes: I do not want to appear young by dyeing my hair.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators -

Senator Simard: Honourable senators, I understand we are dealing with Senator MacEachen's amendments. We are all anxiously waiting to hear his speech, but I would hope that our allowing him to speak will not have the effect of closing the debate, because I intend to participate in this debate. With that understanding, the opposition leader may certainly go ahead.

Senator MacEachen: Honourable senators, I do not intend to close the debate, but what happens if I speak until 6 o'clock'?

Senator Simard: Well, we may not see the clock.

Senator Barootes: We expect it!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: Honourable senators, the time really has arrived, because of the logic of our own reasoning and because of the practical circumstances that we now face, to call an end to our battle to ameliorate, if not remove, some of the worst features of this wretched and regressive legislation. We intend to vote against this bill, but its passage will represent a failure for all of the social groups in Canada, the churches, the trade unions, the municipalities and the provinces, and a victory for the misuse of the parliamentary process –

Senator Cools: Yes!

Senator MacEachen: – as evidenced in the refusal of the government to listen to the people, to listen to the opposition in the House of Commons, and, certainly, to listen to the opposition in the Senate. It is a victory for the misuse of our constitutional system –

Senator Cools: Yes!

Senator MacEachen: – that, in order to adjudicate this most important social question, it was necessary for the Prime Minister to call to the Senate eight additional senators, not representatives of the working class who are most adversely affected by the enactment of this legislation, but representatives of the elites of our society, corporate and otherwise, all of whom presumably have a prior commitment with the government to cooperate with it in reducing the standard of living of the unemployed from whom is being removed substantial economic benefits.

In its travels throughout Canada, the committee could only find a handful of groups or citizens who would stand up in support of Bill C-21 – only a handful! – the government itself, one tourist association in Newfoundland, the Canadian Manufacturers Association, and one private economic consulting group. Every other group – all the churches, all the trade unions, all the social groups and all the provinces – came

in with one voice and said, "Please do something to change or stop the passage of Bill C-21."

Page 3155

Indeed, here in the Senate, we could find only a few senators on the other side who would identify and support the merit of this bill. I can think of only three who found in their conscience that they could get up in the Senate and say, "This is good for Canada, this is good for the working people, this is good for the unemployed." However, even though we did not find very many people throughout the country to stand up for Bill C-21, the Prime Minister found eight additional senators ready to stand up for Bill C-21 and make sure that it would become the law of Canada without any change because, in their absence, this bill would not be passing in its present form tonight.

Some Hon. Senators: Hear, hear!

Senator MacEachen: In the words of a fisherman, Earle McCurdy:

Bill C-21 is an attack on working people in this country: it is an attack on small communities; it is an attack on underdeveloped areas; and it is an attack on the basic, decent foundations of our country.

We have battled against Bill C-21 for almost a year. We decided at the beginning that we would not defeat Bill C-21. Perhaps we made a mistake; maybe it should have been defeated.

Senator Robichaud: You're right!

Senator MacEachen: However, we did not take that decision. We struggled to have it improved – and improved it ought to have been.

Just the other day the Minister of Finance acknowledged that Canada is in a recession. Today, when we vote on this legislation, and if it is passed, it will hurt the unemployed in every

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

region of Canada. The most recent statistics provided by Statistics Canada on unemployment rates for each of the UI regions paint a dismal picture for the unemployed in Atlantic Canada. The bill is coming into effect as unemployment is increasing and as the recession is taking hold. Of the 13 UI regions in Atlantic Canada, only three will have entrance requirements of ten weeks: Fortune Bay – Gander, Corner Brook and Cape Breton. If the existing legislation were in place, 12 unemployment regions in Canada would escape the draconian provisions of this bill.

Senator Buchanan, if he were in his seat, might be interested to know that if this legislation is passed today, unemployed workers in Halifax will need 17 weeks of insurable earnings to qualify for UI benefits. That is a decided increase. In Yarmouth, 15 weeks will be needed, and that is a decided increase.

If Senator Hatfield had examined and considered this particular legislation, he would have found that under the old rules UI benefits would have been available for unemployed workers after ten weeks of insurable earnings in each of New Brunswick's four UI regions. All workers in his province would have qualified with ten weeks of work. Under Bill C-21, coming into effect at the onset of a recession, ten weeks will not be enough for a single unemployed worker. The unemployed in Moncton will need 15 weeks, 16 weeks in St. John, and 16 weeks in Fredericton. In Madawaska-Restigouche, where the unemployment rate is 14.8 per cent, 11 weeks of earnings will be required. Little wonder that Bill C-21 is so despised in Atlantic Canada – little wonder!

What about Quebec?

In every single region of Quebec it will be more difficult to qualify for unemployment insurance benefits. In Quebec City, 18 weeks of insurable employment will be required instead

of 12 weeks, and three regions will require 17 weeks. Trois-Rivieres will require 15 weeks, and northern Quebec 13 weeks. The Gaspé, where unemployment is running at 13.7 per cent, will be saddled with a 12-week entrance requirement.

The entrance requirement for every region but one in Ontario will increase by six weeks, as it will for every region in Manitoba, Saskatchewan and Alberta, with the exception of the northern regions of those provinces, where the increases will be limited to two weeks.

In British Columbia, where, under the old rules, five of the six regions would have had a ten-week entrance requirement, 12 to 19 weeks will now be required.

The duration of benefits generally will be reduced by up to 13 weeks, and this in a new piece of legislation that is being put forward as we enter into a recession and after a year of struggle by every social group in the country against it.

Perhaps we ought to recall a few of the comments that were made during the hearings for those new 23 senators who now have the fate, presumably, of the unemployed in their hands, and particularly for the benefit of the eight new senators who may not be aware that the Minister of Employment and Labour in Newfoundland said:

Bill C-21, along with the decrease in the fish stocks, is probably the most devastating thing to come our way in Newfoundland and Labrador for a long time ... this bill will have an incredible impact.

She further stated:

Under the new entrance requirements, the federal government says the impact will be \$1.5 million. Our study says the impact will be \$77 million. Under reduced benefit duration,

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

the federal study says the impact will be \$20 million, whereas our study says that it will be \$30 million.

We know what New Brunswick has said. That government produced a study commissioned by the New Brunswick Department of Labour. This study is headed "UI Changes and New Brunswick, Final Version, February, 1990." I will not read all of the conclusions, but perhaps I should put on the record a few of the summary of major findings and conclusions contained in the summary. They state:

Page 3156

Proposed increases in qualifying weeks could cut off as many as 22,000 workers from access to the UI Program and result in a loss of \$150 million in income benefits.

Proposed reductions in the duration of UI benefit weeks could affect as many as 7,700 workers, resulting in a loss of an additional \$16 million or more.

The total financial loss, therefore, could be over \$166 million from these two proposed revisions alone.

Those are three of the major findings and explain why this bill is so despised in the province of New Brunswick and in Atlantic Canada.

If the former Premier of Nova Scotia were in his seat today – and I am sure he is occupied productively elsewhere he would be able to listen to the testimony that was put before the committee on behalf of his minister, the Honourable Joel Matheson. Perhaps I will put one or two appropriate paragraphs on the record now that we are summing up our debate on this bill. He stated:

The proposed changes ... to the minimum entrance requirements will mean an additional

three to six weeks of insurable employment, on average, for Nova Scotian workers to qualify for UI ... We have estimated that 5,000 to 6,000 people in Nova Scotia will be affected by the increase in entrance requirements ... This may be even higher, given the situation in the fishery ...

Based on the historical study of U I claimants who exhausted their claims, they have estimated that 20 per cent, or about 17,000 claimants, will receive fewer weeks of benefits than they were formerly entitled to receive.

I could go on and read from all of the testimony that has been given indicating that this is a bad bill; that it is now being introduced at the wrong time, and that its impact will be even more serious as the economic recession deepens.

We tried, honourable senators, to seek improvements to this bill. We did seek a number of improvements, though we did not achieve the fundamental objectives of our amendments, which were to ensure that the Government of Canada would remain fully responsible for financing the benefits to self-employed fishermen in Canada and would remain, at least partly, responsible for financing the regional extended benefits in those areas in Canada where unemployment rises above a particular level. We have failed totally in achieving either of those important objectives.

That is the seed of destruction of the UI system, particularly for the self-employed fishermen of Canada.

The government did agree to a Senate amendment that the bill make specific reference to workers entitled to UI be eligible for literacy training under section 26 of the Unemployment Insurance Act. Senator Fairbairn was responsible for putting forward that amendment.

Some Hon. Senators: Hear, hear.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: The government also accepted the Senate's amendment to include, in the annual plan dealing with developmental UI expenditures to be tabled in Parliament each year, actual or estimated expenditures on developmental uses in each province for each of the three years preceding the year to which the plan applies.

The government also accepted a modified version of the Senate amendment to include in the plan estimates of supplementary training allowances to be spent in each province. The government did not accept the part of the amendment relating to the economic regions of the country.

What we had in mind was to obligate the government to tell us, on a comparative basis, how much it now intended to spend in each province under the so – called developmental rubric in comparison with the loss the province would have suffered as a result of a reduction in benefit payments, either through the increased insurable period of required earnings or the reduction in the duration of benefits. That was the purpose of our proposal, which was only partially achieved.

In amendment 4(d) we proposed that the 1990 plan be laid before Parliament no later than June 30, 1990, and that this plan and others be debated in Parliament. But we also wanted further provisions in the amendment that would permit Parliament to have some say in whether or not that plan was acceptable. The Province of Newfoundland, having lost the tens of millions of dollars which its government estimates it will lose, will receive one-third or one-tenth of what it previously received under the developmental system. All the government will have to do is tell the world, and Parliament will have no voice in saying whether or not that ought to be accepted.

I now turn to the UI program for fishermen. Here we made some progress. Under section

130(4) of the current act the government is entitled to repeal the UI program for fishermen by proclamation. In amendment 8 the Senate proposed that changes to the UI regulations pertaining to fishermen be subject to parliamentary scrutiny. The government agreed to remove subsection 130(4) from the current act and the House of Commons can, in the future, reject – if a vote were held – a change to the fishermen's regulation, bearing in mind that the regulations could have been abolished by proclamation were it not for our amendment. That could now be put before Parliament and a vote could be held.

All of you new senators, who came here thinking that you were going to flex your legislative muscles, should note that the Senate was totally excluded from any possibility of participating in the review of fishermen's regulations. Harvie Andre decided that these Atlantic senators, who are interested in the fisheries, should not be given a chance to participate in the debate. Nevertheless, at least we gained that much on the matter of fishermen's regulations; and, in the acceptance of amendment 5(b), we gained the two – year carry forward provision for penalties rather than the much longer six-year carry forward provision which had been called for in Bill C-21.

Honourable senators, we attempted to restrict the developmental uses to which the fund could be put because we thought that the principal purpose of the fund was to provide income support. We did not succeed in removing the infamous Henry VIII clause, which is referred to at page 29 in the report of the special committee, and which is one of the most atrocious pieces of legislative draftsmanship that has ever appeared.

Page 3157

One of the witnesses, Graham Eglinton, stated as follows:

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Parliament only gave Henry VIII the power to make laws on subjects where there were no other laws, but here Parliament is saying that the commission may make regulations which are different from provisions of an act already passed by Parliament. That is a very remarkable power.

Senator Forsey, who is frequently quoted, said to the committee:

It seems to me that the Commission, with the approval of the Governor-in-Council, can do things that are contrary to the requirements generally set out in the Act.

That is provided for in the Henry VIII clause, and it still stands as evidence of the intransigence of the government and its refusal to acknowledge that it can make a mistake.

We did not completely achieve our amendments on the disqualification penalties, which remain as a particularly harsh provision of this bill, and which were vigorously fought against by Senator Theriault, who referred to them today. That provision still remains in the bill. We failed to delete the contracting out provision. The Senate proposed to include in the 15 per cent monetary limit third – party expenses associated with the referrals pursuant to section 26 of the act and the establishment and operation of a scheme under the new developmental uses proposed in the bill. The Senate amendment was intended to close a loophole that it felt would further reduce the amount of UI funds available for income support, which is the primary objective of the UI program. Of course that was rejected by the government.

Finally, I turn to the most fundamental of all of the amendments, which has to do with the government contributions. Amendments 7 and 9 attempt to ensure that the government does not abdicate its financial responsibilities in assisting unemployed individuals. In doing so, the Senate

proposed that the government continue to pay for half of the cost of benefits paid to claimants residing in high unemployment areas of the country and the net cost of benefits to self-employed fishermen. Those two amendments were totally rejected by the government. In doing so, the government persisted in its determination to remove entirely its financial support from the general revenues to the unemployed of Canada, including the self-employed fishermen. It is to that theme that I wish to turn for a moment, because it raises the alleged fiscal impact that these two amendments had on the government accounts.

On the financial side, the Senate proposed two major amendments: First, amendment 7, which would retain government contributions for regionally extended benefits at 50 per cent of current levels; and, second, amendment 9, which would retain full government contributions for net self-employed fishermen's benefits. In its most recent message from the House of Commons to the Senate the government claims that "amendments 7 and 9 ... would cause an increase in the budgetary deficit in the order of \$1.75 billion annually." The Prime Minister, in his summoning of the eight new senators, returned to this theme in his press conference and referred to a sum of \$3 billion. This assertion of an addition of \$1.75 billion to the budgetary deficit, the assertion contained in the message from the House of Commons, is entirely false. Our amendments 7 and 9 would not increase the budgetary deficit by a single dollar, let alone by \$1.75 billion. Though the Senate amendments would require the government to contribute approximately \$1.7 billion to the UI account, in comparison to the \$3 billion now being provided, these amendments would have absolutely no effect on the deficit. That is true because of the simple fact that since 1986 the UI account has been fully consolidated into the budgetary account.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

In 1989 – 90 the entire UI program of \$11.9 billion was a budgetary expenditure, not merely the \$3 billion portion that was funded by the government from general revenues. Consequently, so long as total UI expenditures do not increase, it makes no difference what proportion of the total expenditures are funded from general revenues as opposed to UI premiums.

The Senate amendments do not affect total expenditures.

Indeed, the changes proposed by the government itself do not change in any way the total expenditures to be made under this program.

The honourable senator who took her seat a few moments ago talked about putting the financial house in order. Well, these proposals do not reduce at all government expenditure. If it is her belief that they do and, as a result, that the financial house is put in order, then she is mistaken. With permission, I propose to table an extract from the 1989 budget showing that this is indeed the case. At page 42 of the Fiscal Plan there is a table entitled "Budgetary Expenditures by Type of Payment". The second line of this table reads: "Payments Under the Unemployment Insurance Program." The entire program, not merely the government's direct contribution, is a budgetary expenditure.

In contrast, I call to the Senate's attention the 1985 budget, where, at page 27 of the Fiscal Plan, is a table entitled "Budgetary Expenditure Projections". Under the entry "Unemployment Insurance Contributions" are figures in the neighbourhood of \$3 billion. This table shows that prior to the full consolidation of the unemployment insurance account, only the government's direct contribution to the account was a budgetary expenditure. In contrast, today and since 1986 the entire UI program is a budgetary expenditure.

Neither Bill C-21 nor our Senate amendments affect total budgetary expenditures on U I. The dispute centres on what proportion of these expenditures should be funded out of general revenue. At page 44 of the Fiscal Plan for 1989 is a table entitled "Budgetary Revenue Projections". Line three reads: "Unemployment Insurance Contributions". For 1989 – 90 the amount is \$10.6 billion; for 1990 – 91, it is projected at \$12.3 billion.

Page 3158

Why this sudden increase of approximately \$1.7 billion? Of course, the answer is found in Bill C-21. First, it must be remembered that UI premiums paid by workers and employers are budgetary revenues, just as are sales taxes and income taxes. Any increase in UI premiums is an increase in budgetary revenues and thus a positive development as far as the deficit is concerned.

Bill C-21 in itself does not reduce UI expenditures. It increases UI premiums and thus increases the budgetary revenues. Section 30 of Bill C-21 increases the UI premium rate from 1.95 per cent to 2.25 per cent. What Bill C-21 has principally achieved is a substantial tax increase in the form of increased premiums rather than any change in the expenditure outlays of the government. Workers and employers will pay more in UI premiums under Bill C-21. In fact, this increase in premiums will be retroactive to January 1, 1990.

At page 35 of the 1989 Fiscal Plan the government projects that in the 1989 – 90 fiscal year the increase in premiums provided for Bill C-21 will bring in an additional \$425 million. In 1990 – 91 it will bring in an additional \$1.9 billion.

Before 1986, any increase in UI premiums and UI revenues would have had no impact on the deficit because UI premiums were not part of budgetary revenue. At page 31 of the 1985 Fiscal

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Plan is a table entitled "Budgetary Revenue Projections". There is no entry for unemployment insurance. UI premiums, prior to 1916, were not budgetary revenues. Today they are.

Had the Senate proposed to reduce the premium rate provided in Bill C-21, the government could legitimately have claimed that our amendments would have had the effect of increasing the budgetary deficit. But the Senate's amendments did not touch the premium rate. Therefore, they did not affect the budgetary deficit. Therefore, the message from the House of Commons is false. The frequent statements made by the Leader of the Government in the House of Commons are false; and the statement of the Prime Minister that our amendments to Bill C-21 were adding to the budgetary deficit is also false.

Honourable senators, I have taken some pains to make this point in a rather tedious way because it is fundamental to exposing the con job that has been going on for months now on the part of the government as to the impact of the Senate's amendments.

Now, honourable senators, we are debating basically a proposal made by myself that the message and the subsequent motion moved by Senator Doody, in which the government again refused our amendments, be sent to a conference. It is a fact of parliamentary history that any time the Senate has insisted on its amendments – and it has rarely done so – the government of the day has either given up the bill or has had a conference with the Senate. The government, when we insisted upon our amendments, gave us the back of its hand and sent us a message, upon which Senator Doody moved a motion that we back off. I moved that the message and the motion be sent to a conference between the two houses to see whether we could iron out our differences.

Why did we do that? We did it because such conferences were held in 1910, 1919, 1921, 1922, 1924, 1925, 1933, 1934, 1938 and 1947. Senator Roblin said that 1947 was a long time ago. Implying, of course, that the practice had fallen into disuse. Well, it is not as far back as 1867 when section 26 was put together. Now we have a government telling us that it could not come to a conference because the last one was in 1947 and it was somewhat antique. Why is the Leader of the Opposition in the Senate bringing up these antique rules, for God's sake! No conference was possible. But it is possible not to take the most antique of antiques and bring suddenly eight new senators into our midst. It is incredible.

Senator Roblin also said. "if it were possible." He said. "it is a long time ago since we had the last conference in 1947, and I would vote against such a conference because I think the positions of both sides are fixed." Well, the positions of both sides were not fixed – at least, they were not fixed on this side. That was made clear not only to Senator Roblin privately, but also made clear elsewhere.

After I moved the motion to have a conference, Senator Ottenheimer moved the adjournment of the debate. That was on May 22, and it stood adjourned until today. October 22. Why'?

Senator Theriault: Waiting for the eight.

Senator MacEachen: I think I have to lay on the Table a few facts – –

Senator Simard: All the facts.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator MacEachen: – all the facts that pertain to this particular incident of the conference and the subsequent negotiations that took place. Shortly after Senator Ottenheimer adjourned the debate, he approached Senator Stewart on this side of the house, very quietly, asking whether it was possible to have a meeting between members of the government and myself with respect to resolving our difficulties on Bill C-21.

A short time later, on June 4, Minister MacDougall's chief of staff called my office to arrange for a meeting with the minister the following day. The meeting took place in my office on June 5, 1990. We did not publicize it because we thought it would be premature and that it might prejudice the prospects of a successful negotiation.

The minister and I had two exchanges. One brief one on the telephone, and one longer one in my office. We discussed principally the financial impact of our amendments, but certainly we did not reach a common understanding of the fiscal impact of the Senate amendments made in the area of government contributions. It was decided that the minister would return to the Department of Finance and report our exchanges; and it was also agreed that further consultation would be carried out between my office and the Deputy Minister for Employment and Immigration. Mr. Arthur Kroeger, to ensure that we proceeded from a common understanding of the financial aspects of unemployment insurance. It is a very complicated area, and it was deemed necessary to ensure that we had a common understanding; and for that reason the meeting was arranged with Mr. Kroeger.

Page 3159

I also expressed a wish and the expectation to the minister that if we built on this common understanding, I was confident that Bill C-21 could be passed before the end of June. Certainly the common understanding exploded totally the

claim of the government that the Senate amendments had a fiscal impact. At a meeting in my office in June, Mr. Kroeger confirmed that as long as Bill C-21 provisions concerning premium rates were not amended, which I underlined were not part of the Senate amendments, its other provisions and the Senate amendments were fiscally neutral and had no effect on the budget deficit. Premium collections had to be seen as a tax and Bill C-21 raised the level of that tax. Revenue from that increased tax would finance the payment of unemployment benefits through the Consolidated Revenue Fund and the unemployment insurance bookkeeping account. How the now was managed between the Consolidated Revenue Fund and the unemployment insurance account was simply a matter of accounting and had no effect on government revenue and expenditure. In fact, Mr. Kroeger made it very clear that a government contribution from the point of view of the operation of the accounts was a debit which, when paid in, was registered as a credit and each cancelled the other out. I think those were his words.

However, according to Mr. Kroeger, if Bill C-21 had been in effect at the beginning of this year the unemployment insurance account deficit at the end of 1992 would be about \$3.3 billion. If Bill C-21 were passed with our amendment, the cumulative surplus in the unemployment insurance account would be \$2.7 billion. The fact of the matter is that the principal effect of the amendment which we made to maintain 50 per cent of the government contribution was not to add to the budgetary deficit, was not to add to government expenditures, was not to decrease revenues, but it was to reduce the amount of the deficit that would occur at the end of 1992 in that bookkeeping UI account. At 50 per cent, I believe the cumulative surplus in the UI account would be \$2.7 billion.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

I thought this was an extremely valuable understanding, because it allowed us the opportunity to reach a level of government contribution, if we could agree, that would not affect the deficit or total expenditures, and would, at the end of 1992, leave to the government of the day any options as to how it would deal with the UI account. If the surplus were substantial, the government could reduce premiums or increase benefits; or, indeed, if the Conservative government then had a majority in the Senate it could go back to its original proposal. But the proposal which I made seemed to be a very workable one and could carry us through easily until 1992 and the bill would be easily passed before the end of June. With respect to the non – government contribution aspects of the amendments, I assured Mr. Kroeger that we could settle those if we could settle on the government contributions. By the way, after our meeting with Mr. Kroeger it was understood that he would check further into the facts. We expected him to get back to us on them. I will return to that point later.

I do not want to burden honourable senators with a lot of additional combinations and permutations. However, on August 27. I received a letter from Mr. Hockin, which I will table if honourable senators so wish, asking the fast passage of Bill C-21 because he needed the money for a financial package to assist the people who were affected by mine closures in Elliot Lake. I thought that this might be an opening to get the attention of the government.

I wrote back on August 28 stating:

I share with you a desire to achieve the passage of Bill C-21, and I believe such can be achieved with give and take on each side.

The debate on the bill was adjourned by the government in the Senate on May 23, last, and was not called again by the time the Senate adjourned on June 27. Had intensive consultations taken place in the interval in a

spirit of compromise between the government and the opposition in the Senate, Bill C-21 could have cleared the Senate by the end of June, a view which I communicated to the Deputy Minister of Employment and Immigration.

As you may be aware, the amendments we have proposed do not touch upon the revenue-raising objectives of the bill. Accordingly, a resolution of the difficulties could be found without effecting seriously the fiscal position of the government.

It goes without saying that we are quite prepared to resume discussions on the matter.

That letter was dated August 28. I did not receive an answer to it.

Having had the meeting with Mr. Kroeger in June, and having heard nothing from him in the interim, I instructed Mr. Dupuy of my office to inquire of Mr. Kroeger whether any progress was being made in the government's consideration of my proposals. I am pleased to table the text of Mr. Dupuy's letter of August 10, 1990, to Arthur Kroeger. Failing a reply, Mr. Dupuy inquired again of Mr. Kroeger in a telephone conversation on August 24, 1990. Mr. Kroeger said that a response would be handled at the political level. Of course, it came in the form of a recourse by the government to section 26 of the Constitution.

It is important to read this letter addressed to Mr. Kroeger because it summarizes the discussion as we understood it, that is, the common base of understanding. It states:

Dear Arthur,

You will recall our meeting of June 19, 1990 with Senator MacEachen, which served to clarify our understanding of how the UI financial systems works, including the implications of the current situation relating to Bill C-21.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

In particular, we noted your point that the effect of the Bill C-21 hold-up is fiscally neutral, which we understand to mean that continuing the Government Cost of Benefits has no effect on the budget deficit because it amounts to a bookkeeping entry on both sides of the ledger, the CRF and the UIA, which cancel out each other.

Page 3160

Furthermore, the delay is not affecting total UI expenditures, since they were not being varied under C-21 in any event. On the revenue side, the postponement of the enactment of Bill C-21 does not increase the deficit because the increased premiums are being collected at the new rate established by the legislation, retroactive to January 1, 1990, regardless of when the bill is passed. The postponement only changes the balance of the UIA at the end of three years at which time premium rates have to be set again.

You also confirmed that, failing the enactment of Bill C-21, a problem would arise at the end of 1990, since no authority would exist for the new premiums collected since January 1, 1990.

You will recall that Senator MacEachen made some suggestions for moving Bill C-21 forward. He was confident that, if we could build on our understanding of the situation, Bill C-21 could be passed by the end of June. I can assure you there has been no change in Senator MacEachen's mind. If we build on the better understanding we now have as a result of our meeting, Bill C-21 could be moved forward expeditiously.

You said that you would do some more checking on your side and be in touch with us. Have you made any progress?

We were then told it had been shifted to the political level.

Honourable senators, there are two conclusions to be drawn.

One is a financial one, and one is a political one. The financial conclusion is that it was a false assertion to say that in view of the consolidation of the UI and CRF into one account that our amendment on government contributions added to the deficit. Mr. Kroegeer made that clear. Subsequent conversations between financial officers and my office also made that clear.

There is, of course, an impact, but it is not on the deficit.

With no government contribution into the so called UI account at the end of 1992 we would have a deficit, as is projected, of approximately \$3 billion. If we did have some contributions, then that deficit would be changed into a surplus.

The second conclusion is that the government adjourned the debate on May 23 and did not enter into serious negotiations because it wanted to establish a fraudulent foundation for a recourse to section 26 of the Constitution. If the government were serious about this adjournment, then it would have conducted serious negotiations. It would have responded to those proposals which I made and it would have made some counterproposals. But I think that we were misled by that adjournment. We acted in good faith, but the government did not. I am satisfied, as I said in June and in August, that this bill could have been cleared by negotiation. It was quite unnecessary for this bill to have resorted to a never used section 26 of the Constitution. However, that is not the main point.

The main point is that this bill is bad for the workers of Canada, as well as for the unemployed, who have been entitled to believe that the government would continue to protect their insurance system through annual contributions. That protection has been removed.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The self-employed fishermen have been entitled to expect, against so many attacks, that the government would provide them with their benefits through unemployment insurance.

I know from my years in the government that that system has always been under attack, even when the government was paying the shot. When the government paid every dime for the fishermen, people said, "This is wrong. It should not even be sheltered in the UI system." Those attacks will now be reinvigorated with greater reason, because the government cannot say, "After all, we are paying for this." I believe that the unemployed are taking a soaking insofar as the future of this system is concerned. They are taking an immediate soaking in increased qualifying periods and reduced duration of benefits.

You may remember, honourable senators, that we did make a number of amendments here that would have affected the duration of benefits and the qualifying periods. These amendments were struck down by the Speaker as being out of order on the grounds that they exceeded the Royal recommendation which had preceded the initial unemployment insurance bill. We accepted the withdrawal of amendments, and the only remaining major financial amendments in contention – at least from my point of view – were those which, first, provided for 50 per cent of the contribution of the payments of regionally extended benefits; and, secondly, the payments for fishermen's benefits.

We are coming to the vote. We will vote against the bill and, presumably, we will lose.

Senator Murray: Oh!

Senator Theriault: No, some of them will vote for it!

Senator MacEachen: Because we are outnumbered greatly.

Senator Cools: Senator Simard will vote for it!

Senator MacEachen: We are outnumbered by recent recruits who have come at a last minute under false pretences because there was no deadlock.

Senator Murray: No'?

Senator MacEachen: There was no deadlock. There was a reluctance on the part of government to negotiate seriously because it wanted to establish a fraudulent basis for the regrettable action that it took very recently.

Some Hon. Senators: Hear. Hear!

QUESTION OF PRIVILEGE

Hon. Philippe Deane Gigantes: Honourable senators, I rise on a brief point of privilege. Earlier I made a tasteless remark for which I apologize. It was not addressed to you, Senator Robertson – it was not addressed to anyone in particular. It was tasteless and I apologize.

[Translation]

Page 3161

Hon. Jean-Maurice Simard: Honourable senators, it is with pleasure that I rise today to speak on Bill C21 and more particularly to urge all my colleagues – liberals and conservatives as well as the only Reform Party representative, senator Walters – to support senator Doody's motion, now that senator MacEachen's amendment was rejected.

A lot has been said about Bill C-21. I can remember speaking at least twice already in this House to try and explain some provisions of this bill and suggest possible amendments that could be acceptable to the government.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The last time I rose to speak in this House was in May.

Since then, certain political events have taken place. The Liberal Party gave itself a new leader. Its new leader sought refuge in New Brunswick and this timely move allowed us to recall certain offending words he had for the people of New Brunswick in 1978 when, carried away by partisanship no doubt, he has told us that, should Quebecers vote for independence, Quebec would become "big New Brunswick".

He is also criticized for saying something to the effect that New Brunswick was a huge outhouse. Now, I do not remember hearing those very words and I believe him when he affirms he said no such thing. Many other things happened since May. There was the Oka crisis and the death of the Meech Lake Accord, which we owe to its true gravediggers: the Chretiens, Wells and company.

Let us now come back to Bill C-21 and to comments made in this House today by senator MacEachen as well as by senators Kirby and Theriault.

So, the Liberal Party of Canada has a new leader who might get elected in New Brunswick. As a matter of fact, judging from the comments heard and the suggestions made today, Allan MacEachen is obviously the leader in the Senate, irrespective of who is at the head of the Liberal Party, be it Pierre Elliott Trudeau, John Turner or Jean Chretien.

Senator MacEachen told us earlier –

[*English*]

Senator MacEachen quoted Premier Wells. He quoted several reports. He divulged to us today, officially, in greater detail than he did last week – as Senator Gigantes stated and was reported as saying in *La Presse* last week – elements of

discussions and meetings with Barbara McDougall, Arthur Krueger and others back at the end of May. My understanding is that these meetings were unofficial and the contents thereof would not be divulged.

An Hon. Senator: Confidential.

Senator Simard: But that is all right. I make a commitment here today to tell the whole story eventually, in the next few weeks, concerning what those figures were, what the proposal was and whether, as Senator MacEachen has told us, these projected costs were fiscally neutral, because the Department of Finance tells us otherwise.

I want to remind Senator MacEachen that I am not very impressed by the tabling of letters from Arthur Krueger.

Senator MacEachen: I did not table any letters.

Senator Simard: You will, though, I am told. I thought you were to make them public'?

Senator MacEachen: I did not table any, no.

Senator Simard: Did you not say that you would make them public and that they were available'?

Senator MacEachen: No. I did not, and I will not.

Senator Simard: Fine.

Senator Barootes: But he said that he had tabled them! Senator Simard: I appreciate the fact that you are not going to table them unless you get permission from the government. However, I should like to remind Senator MacEachen that, regardless of the figures prepared and exchanged between civil servants, deputy ministers and their offices, it is the

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

political master ultimately who makes the decisions. These people account to the people of Canada.

Senator MacEachen has mentioned a system that could have been used to improve the bill and determine the costs. He is telling us that he would favour "cooking up" the books. He would have delayed the increase in the deficit. For deficit purposes, he would have delayed the cost of his amendments.

It is fine for him to accuse the Prime Minister of laying a fraudulent foundation to the recourse of section 26, but he is telling us that, according to his proposal, by some magic wand, he could spend more money in providing the same services and the same training, and yet the deficit would be lower.

Senator Frith: No, it is neutral.

Senator Simard: That does not make sense. Canadians will not be fooled by that. Senator MacEachen presided over the finances of Canada for a few years. This is the same senator who, while he had ministerial status, predicted a deficit of \$10 billion for 1982 – 83. Six months later that figure had risen to \$16 billion. We know what happened in the following months. Marc Lalonde took over and he had to recognize that the deficit had reached \$26 billion.

Senator Frith: Wrong again.

Senator MacEachen: Your history is bad.

Senator Simard: Canadians in general – and we on this side in particular – take with a grain of salt these miraculous formulae.

Senator Frith: You may be a good publisher, but you are a lousy historian. I am not sure about the publisher, either.

Senator Simard: I know it hurts, Senator MacEachen, because you want Canadians to forget these things. Canadians across the country have not forgotten those great golden Liberal years.

Let us get back to something more serious. I have Senator MacEachen at the end of my fishing rod; he has caught the bait.

Page 3162

Senator MacEachen presided over those Liberal golden years when we had double-digit inflation.

Senator MacEachen: We had better interest rates than you have now.

Senator Simard: Those were the great golden Liberal years that we should be happy about, but people will not forget those years.

Senator Kirby and Senator Theriault have told us that their party has a different philosophy than ours. Obviously they are right on that count, and I take no objection to that. At the same time –

[Translation]

I think, that the means to achieve our goals meet with the approval of all elected and non-elected parliamentarians. At the federal level as well as the provincial level, we all want a better life for our fellow citizens. I wish to echo what senator Robertson said a moment ago and tell senator MacEachen and his colleagues that compassion, the desire to improve, to insure fairness, our desire to continue providing increasingly beneficial and numerous social programs – eventually, when the deficit is out of the way, we will all agree on that – constitute the general goal.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

We obviously disagree on the means to achieve this goal. I believe that Bill C-21 shows that the means and measures advocated by this government differ substantially from those the Opposition advocated for years.

Of course we view things differently. This is a more realistic and more confident vision of the future, which results from measures that have been giving spectacular results since 1984.

Also, the early signs of a recession have indicated for a few months that the situation is worrying. In terms of job creation, increased benefits and regional development in New Brunswick and elsewhere, the government succeeded magnificently in achieving several goals and managed to control the current account deficit or surplus.

[English]

Honourable senators, regardless of the means that we choose to employ to clean up the financial mess and protect our social programs for Canadians, I should like to tell Liberal senators that compassion is not their lot. We, on this side, have compassion, but we have to have the means of our policies and our politics.

Senator Kirby told us that the role of the UI system also included that of distributing income. I agree with him. However, the government has decided to turn the system into a true unemployment system by making employers and employees pay. It feels that the time has come to relieve people who pay taxes, such as old age pensioners, students and so on, from paying on the insurance component of this program. I believe in that approach.

[Translation]

Along the same line I must add that I am not one of those who believe we should let the laws of the market look after older people, and give those laws free rein without any government interference.

I am not a doctrinaire Conservative.

Some Hon. Senators: Hear, hear.

Senator Simard: I think that over seventeen years, with my colleagues Senators Robertson, Teed and others, we have shown that a responsible government willing to keep the deficit to a minimum could find ways to enrich existing programs whenever necessary, but most of all protect them.

[English]

Senator MacEachen has told us that we were insensitive to opposition amendments. Before I come to that point, I want to say that Senator MacEachen's comments were breathtaking in their selectivity. He quoted Premier Wells –

Senator MacEachen: I did not.

Senator Simard: You referred to Premier Wells.

Senator MacEachen: I didn't.

Senator Simard: You talked about Newfoundland –

Senator MacEachen: I didn't mention his name.

Senator Simard: Maybe you did not; maybe I am getting carried away here. Essentially, the honourable senator said that this was a bad bill introduced at the worst time. Then he went on to supply figures on the Newfoundland situation. I think I am correct now.

Senator Hebert: We'll see.

Senator Simard: Premier Wells had something to say about the bill, and particularly the labour force development strategy provisions. Premier Wells in a statement he made in April 1989 –

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

which indicates that Bill C-21 has been under discussion for two years now said that he thought that the federal government was going in the right direction, and that those provisions were just what he had asked for. The Minister of Social Services, the Honourable John Efford, said on August 28, 1990 with regard to the insurance requirement provisions that he would like to see 10 weeks around the province and that he had no problem with going with the 14 weeks in an area like St. John's. There is no need to remind honourable senators that –

[*Translation*]

You will recall that when Mrs. Aldea Landry, the Minister of Intergovernmental Affairs for New Brunswick, appeared before the committee last spring, she said the bill could be improved by doing this or that but she also said that time had come to go ahead with that bill.

[*English*]

Of course, after a few months – no doubt at the urging of the Liberal Senators and, in particular, their leader in the senate, Senator MacEachen – they commissioned a study, which Senator MacEachen quoted from earlier today.

Senator MacEachen: No, sir.

Senator Simard: You quoted figures.

Page 3163

Senator MacEachen: Yes, but I certainly did not urge that it be commissioned.

Senator Simard: Maybe Senator Theriault did the job for you, but that is neither here nor there.

Senator MacEachen: That is not true at all.

Senator Simard: It is funny that the honourable senator should quote from that report, and he chose not to quote the person

responsible for the Global Economics report which was commissioned by the Liberal Party of Canada.

Senator Perrault: Get off it!

Senator Simard: Essentially, the Global Economics report and Patrick Grady, the person responsible for the study, said that Bill C-21 was a good bill and should be passed by the Senate. That is the conclusion in that report. The Liberals said that that was no good, that they would have to get another report. How can anyone put up with such hypocrisy.

Senator MacEachen: Who is Patrick Grady?

Senator Simard: He went on to say that the study was based on the belief that not one single person would get any of the additional weeks of work to qualify for UI, this despite our experience with the changes under Bill C-14 in 1978 and in spite of which people were able to find the additional weeks to qualify. That report was not good enough for Senator MacEachen. He said, "No, we now have to ask Fred McKenna", the new political organizer for Jean Chretien in Beausejour, but let us leave that for another day.

I just referred to amendments by the previous government, of which Senator MacEachen was a member, in 1977 – 78. Here is what happened then. Bill C-27 was passed by the Liberal Government in 1977, by those same people who say we are hard, against conciliation, show bad will and so on. Here is what they did in their 1977 – 78 amendments. Let us start with Bill C-27 which was presented by the Honourable Bud Cullen. First, he dealt with the steps of reform to the Unemployment Insurance Act.

In that bill, there was a change from a flat entrance requirement to variable entrance requirements. There was also a reduction in benefit duration for some claimants. There was

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

also a change to a three-phase benefit structure, which gave authorization for developmental uses of the UI funds.

Senator Stewart: May I ask a question, senator'?

Senator Simard: No, Later on, senator, I will take your questions.

Senator Phillips: Take the heat for a while!

Senator Simard: That bill, Bill C-27, was passed by the Liberal government during those great, golden, Liberal years.

Senator Cools: Great years!

Senator Perrault: You are living In the past, Senator Simard!

Senator Simard: Bill C-27 in 1977 provided authorization for developmental uses of UI funds, including using the funds as income maintenance for claimants on approved training courses, job creation projects and work – sharing arrangements. It also provided for variable entrance requirements, and that was hotly disputed at the House of Commons committee stage.

We on this side have been accused of imposing the guillotine. My colleagues in the House of Commons are also accused of the same thing,

An Hon, Senator: With good reason!

Senator Simard: We are accused of using the guillotine by way of time allocation. Well, what happened in 1977? Mr. Trudeau, Mr. MacEachen, Mr. LeBlanc, Mr. Perrault and all those people who in their previous lives, were presiding over the affairs of Canada –

Senator Perrault: This is 1990!

Senator Simard: – invoked time allocation in order to speed passage of the bill through the House of Commons.

I will now discuss what happened in the Senate. There was a Liberal majority in the Senate then. The Senate committee got Bill C-27 on August 2, 1978, and reported the bill without amendment the following day, August 3, 1978.

Senator Phillips: What, no travelling committee'?

Senator Simard: No travelling committee. No million dollar circus. No. They passed it, rubber – stamped it.

Senator Doody: And got Royal Assent the same day! Senator Simard: These are the people, Senator Theriault, Senator Robichaud, Senator Gigantes, Senator Hebert –

Senator Robertson: And Senator MacEachen.

Senator Simard: – who say that we are not democratic.

Senator Cools: You are mean and cruel!

Senator Simard: They say that we are not showing compassion.

Senator Cools: No!

Senator Simard: They say that we are not being flexible, and they are now seeking amendments.

Senator Hebert: All true!

Senator Simard: Senator Hebert, you were the one who headed up that trip to Canso.

Senator Cools: The wild expedition!

Senator Murray: Tell us more! Tell us more!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Simard: There you were, crying over the shoulders of the unemployed – and I am for that. I can cry, too.

Senator Gigantes: You did!

Senator Simard: But where were you in 1978? Where were you in 1977?

Senator Gigantes: I will check my calendar.

Senator Simard: Perhaps you were not here in those years.

Page 3164

An Hon. Senator: He was blowing a whistle somewhere.

Senator Simard: You should have been in the street, fasting.

An Hon. Senator: Or ringing bells!

Senator Simard: You should have called your future Liberal colleagues. No, I do not think that is very serious.

Senator Hebert: What you are saying is not serious.

Senator Simard: You passed it all in one day! Now, that was 1977. I hope you are not being disturbed by my reminding you of all of those great Liberal years.

Senator Perrault: Oh, yes, we are really worried about it!

Senator Cools: Great years!

Senator Simard: I now come to Bill C-14 in 1978, again presented by the same minister, Bud Cullen.

Senator Perrault: He is not here to defend himself.

Senator Simard: At the time, Prime Minister Trudeau wanted restraint measures. Higher entrance requirements for repeaters – that was part of that bill, too! That is essentially what we are trying to do with Bill C-21.

Senator Gigantes: What is he quoting?

Senator Simard: They passed that. They provided higher entrance requirements for new entrants and re-entrants. They reduced the benefit rate from two-thirds to 60 per cent of insurable earnings, and they made sure that there was recovery through the income tax system of a portion of the benefits from higher-income claimants.

Now, what happened in the Senate! Well, they had three weeks prestudy. I wish we had had prestudy of Bill C-21. We would not have kept the people of New Brunswick, among others, waiting and starving and pleading and going on the welfare rolls in New Brunswick, as we saw all summer. No. That is one thing that Senator MacEachen made sure would not happen here any more under his direction. There was to be no more prestudy. However, it was good enough during those Liberal years. What hypocrisy! They had three weeks prestudy and then rushed the bill through all stages in the Senate, with no amendments, on the same day as passage in the House of Commons. What a Christmas gift for the people on December 22, 1978! Royal Assent the same day!

I do not know where the present senators were in 1978, whether they were in this house or the House of Commons, but we do know that a number of them came from the other place. That is why you people are not going to be believed when you go back to your provinces and try to put the blame on this government and present us as being without compassion. We will tell them. We will remind them of what happened in 1977 and 1978.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

What is much more interesting for me is to talk about the bill itself, but I thought it was important that we answer Senator MacEachen.

Senator Cools: Tell us how kind you are! Tell us!

Senator Simard: Senator Robertson and Senator Tremblay in their speeches did a pretty good job in unmasking the Liberal hypocrisy that we saw today.

[*Translation*]

I therefore believe that this bill and its new approach to unemployment insurance will be beneficial to all Canadians, including the people of the Maritimes, I hope hon. members will not take offence at the fact that a substantial part of my speech will contain references to the Maritimes.

I support this bill because I feel it prepares this country for the twenty – first century by dealing with unemployment head on. The proposed legislation, honourable senators, is intended to provide occupational training for Canadian unemployed workers, welfare recipients and older workers; to help upgrade the basic skills of our young people; to allow communities across the country to benefit from adjustment measures and programs; to reduce the qualifying period in high unemployment areas in the Atlantic provinces from 14 to 10 weeks; to extend eligibility for unemployment insurance to older Canadians 65 years and over; and to increase parental benefits for families.

As we have said repeatedly, the \$350 million earmarked for occupational training for 60,000 workers and \$450 million for parental and maternity benefits are major components of the bill before us today.

A total of 150,000 Canadian men and women are being deprived of the benefits provided under

Bill C-21. Premier McKenna, no less, put pressure on Liberal senators, either on the telephone or during meetings in New Brunswick. On August 20, when I met the Premier, he told us: it is going to cost New Brunswick from twenty to twenty – five million dollars per year more because the Liberal senators refuse to adopt this bill. In addition, this puts considerable pressure on families that do not have enough weeks to qualify for benefits.

Honourable senators, as far as we are concerned, we do not intend to move the clock back and propose, as the Liberal senators in this Chamber would have us do, a system that would pay people to stay home. That is not what Canadians want and certainly not what the people in the Maritimes want.

What our people want is a chance to have a full-time worthwhile job that will not only maintain their way of life but also give them some personal satisfaction.

That is what Bill C-21 intends to do, and the government wants to maintain the UI program's income support role while getting rid of elements that might be an incentive to inactivity.

Above all, we have realized that Canada is falling behind in training its workers and that there is a nagrant imbalance between our active and passive means of intervention.

Our country is losing ground compared with other industrialized powers in the area of manpower training and re-training. In an increasingly competitive and international market, in the medium-term this could mean an economic disaster.

So far, criticism I have heard about Bill C-21 has been limited generalities and to prophecies of doom.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Page 3165

Senator Theriault, for instance, once again served up the same tired old speech he has been using since 1970, since his party lost in New Brunswick, with the same apocalyptic terms.

However, I would rather talk about the benefits this legislation brings to the people of the Maritimes.

I believe that the Maritimes and in fact all Canadians will benefit under Bill C-21 which is only one of many initiatives by this government to boost our economy.

[English]

Honourable senators, I am one of many from the Maritimes who are insulted to hear every time the unemployment insurance regime is mentioned that it is only for fishermen from the Maritimes. That is insulting, because people in the Maritimes want to work, yet the message they get in western Canada, Toronto and elsewhere is that the UI program is for the fishermen, and that somehow they have both hands in the till. I like to think there is a better way of helping the fishermen. I am glad we have taken this first step in the reform of the UI system. It is a good first step, because eventually fishermen and all other workers will not be identified with this system and be labelled "freeloaders".

I find it very insulting to be put in the same bag and be identified with a system that, according to many, only benefits the fishermen.

[Translation]

Since we are talking about government measures in addition to Bill C-21, allow me to mention the program of adjustment to the current context whose cost is expected to reach \$130 million.

The federal government will implement a new adjustment plan designed for plant workers. This program, for which the government has earmarked up to \$120 million over five years, is intended for plant workers and trawler-men who will lose their job and it will provide special assistance to older workers ineligible for alternate adjustment programs.

Senator Theriault told us a moment ago how important it is for governments to make concerted efforts. The provisions of the adjustment program I am talking about now will make it easier for us to work with the provincial governments; companies and unions will have to take part in the preparation of this program based on the use of a common resource and to make a financial contribution so that the program meets the immediate and future needs of fish plant workers.

The government will also encourage consultations with the provinces and the industry with a view to solving the problem of excess fishery and processing capacity, just as it will discuss with fishermen the issue of gradual implementation of individual quotas transferable to certain fisheries.

Honourable senators, another program has to do with economic diversification and it is expected to cost \$146 million, even though it may not go over too well with the Liberal senators who are bent on defending the unacceptable status quo rather than accept changes to the fishery sector which is trying to get a handle on problems created by the fish stocks. This program will have mid- and long-term benefits in our maritime region.

Indeed this program will enable the government to take steps to diversify the economy of communities inside and outside the fishery sector, with particular emphasis of those which depend on fishery operations which are hard hit by lower quotas and fish stock depletion.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

The government will also provide employment opportunities based on the Atlantic Provinces natural advantages for instance, the ocean, tourism and resource industries.

Honourable senators, this program which was announced a few months ago by my member of Parliament and our Minister of Fisheries, Bernard Valcourt, and whose details should be made public shortly, will encourage the marketing and development of underutilized fish stocks and give a new direction to fish plants which otherwise would have to close.

Again under this program, the federal government will launch a sectorial marketing campaign on fish products. a campaign which will emphasize the marketing possibilities of more expensive products, for underutilized stock and top quality commodities.

A pilot project is currently being implemented in New Brunswick. thanks to the efforts of Bernard Valcourt, and M. Lauzier, his New Brunswick counterpart.

Honourable senators, I should like to situate the debate on Bill C-21, and possibly explain the distant and immediate election motives behind the three-week circus which the Liberal senators conducted here recently. Since 1984, and especially since 1988, the Liberal senators have systematically fought against all the legislative and budgetary measures introduced by this government in an effort to reduce the deficit for the purpose of maintaining our social programs.

The GST, Bill C-28 which we adopted last week and the Bill amending the unemployment insurance we are dealing with today are major elements in the government's program. As Progressive Conservative senators, we sincerely believe that Canada must have the means to support its social and economic policies.

We must therefore have the courage of our convictions and the firm intention to denounce those of the Federal Liberal Party and the Reform Party of Canada.

Because the Liberal Party is running the risk of being overtaken by the New Democratic Party in an election, these Liberal senators would like Canadians to believe that our country's financial resources are unlimited, that the magnitude of our deficit is insignificant and that social programs will always be there anyway. As to the Reform Party, its remedy is also simplistic: as a government, they would reduce all social programs by 15 per cent, including family allowances to the have-nots, transfers to provinces for education, health and welfare etc. Honourable senators, I look forward to Senator Waters' return from Alberta, so that we may have an opportunity to debate the solution proposed by his Party. If we cannot do it in the Senate, we will do it elsewhere.

Page 3166

The new Liberal leader is visiting Beausejour these days, and I would ask Mr. Chretien, whom several Liberals from Quebec, the Maritimes and Western Canada already call "Yesterday's man", to take this opportunity to tell us and to tell all Canadians what a Liberal government under his leadership would have to suggest as far as UI reform is concerned.

Under his leadership, would the UI program continue to be a kind of welfare program costing dearly to all Canadian taxpayers, including our elderly, instead of a real unemployment insurance program benefiting both employers and employees who would also be the insured contributors? Now that I am on this subject, may I digress for a moment.. As Senator Kirby mentioned earlier, for years the UI account has paid benefits to fishermen. I myself, said that the fishermen from New Brunswick for instance were always thought of as abusing the system.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Rest assured, honourable Liberal senators as Michael Wilson and Ms. MacDougall said, the Mulroney government will not leave the Maritime fishermen or the Maritimes unemployed all by themselves, in their boat, without an oar.

As far as I am concerned, in difficult times, people from New Brunswick are as entitled to major assistance programs and injection of funds as arc farmers from Western Canada and other areas when they are in trouble. Mr. Michael Wilson told us that, during a lengthy crisis, money will be made available to supplement the UI account so that the premiums paid by the employers and the employees are not unduly high.

Honourable senators, I asked and still ask the new leader of the Liberal Party to take the opportunity of the by-election in Beausejour to explain the kind of reform he would present as head of a Liberal government.

Over the weekend, he refused to clarify his position on the GST. He refused to promise to eliminate the GST. Journalists and people in Beausejour asked him what a Liberal government would do. His answer was that he would set up a commission or a task force. He repeated what he had told three weeks before, that he would improve the system. When you let a Liberal government improve a system, it usually means more taxes or more reductions of the kind I mentioned concerning certain bills in 1977 and 1978.

Honourable senators, I hope he will give answers that are more precise, but I am afraid his refusal to explain his position on the GST is a good indication of his lack of courage or honesty. Canadians will have to wait a long time. I am afraid, before he gives my question a real answer.

Maybe he will want to take the advice of his Toronto Liberal senators and of his new recruit, Mrs. Chavia Hosek, a former minister and a former star in the Peterson government. She is a new member of the task force on research and policies.

Honourable senators, Maritimers like myself cannot expect much from this new Toronto – Shawinigan – Beausejour partnership for the future of their region. These people have not shown the sensitivity or the knowledge of our community that would enable them to promote long term solutions to help us become full – fledged Canadian citizens brimming with hope for the future.

Senator Kirby may want to reassure us. His colleagues, Liberal senators and others, say that Senator Kirby, along with senators Grafstein, Davey and a few more, would be part of that "fresh" Team, that "Hosek – Shawinigan – Beausejour" tea, charged with preparing policies for a future Liberal government.

As you will notice in Debates of the Senate, the word "fresh" is in quotation marks.

[English]

As far as I am concerned, I would pick Brenda Robertson. Therese Lavoie-Roux, Arthur Tremblay, Bernard Valcourt and Brian Mulroney any day of the week to be on my team to protect the Maritimes.

Senator Robichaud: And you will have 15 per cent in the polls!

Senator Perrault: You are singing for your supper!

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Simard: We will develop policies that will fit the Maritimes. I would not leave this matter in the hands of Senator Grafstein, Senator Davey or even to Senator Kirby, who at one time was an expert – and maybe he still is an expert, but he would be outnumbered on the committee. I should think about concluding my speech, unless we want to forget about the clock.

[*Translation*]

It is a shame, honourable senators, that senator Kirby did not take advantage of the opportunity afforded him today to comment on his new responsibilities and this new partnership. He will no doubt get a chance to do it later.

Coming back to Senator Hebert, he and almost all his Liberal colleagues told us repeatedly in this debate that the government took a hard line when it rejected the amendments they had proposed and some that I had hoped to have approved.

That statement, honourable senators, is totally false and gratuitous.

I suggest the comments senator MacEachen made in this House an hour ago go to prove my point. He told us:

[*English*]

There was some progress, yes, and he reminded us that the period of six years. I believe changed to two years, as far as the –

[*Translation*]

– not the cheaters, but those who received too much unemployment and also others, I would like to mention again the figures. He talked also about section 5(b). Senator MacEachen talked about the changes accepted by governments concerning the settlement of possible claims affecting fishermen's rights.

Page 3167

Of course, senator MacEachen did not have his conference!

Nor has there been a conference in 1977 and 1978, when bill C-27 and bill C-14 were passed.

Senator Hebert: Did you ask for one'?

Senator Simard: No, it was a liberal majority at the time.

Not only has there not been a conference, but there has not been a single amendment presented by the Senate. The bills were steamrolled!

Yes, progress has been made. One can argue that these amendments were brought about following court decisions. But, what really counts, in my opinion, is that they are improvements in the form of the new, higher, more generous benefits, that can be found in bill C-21.

The government did not accept all amendments. There is one in particular that government refused, and I would have been disappointed, like many Canadians, if the government had accepted the main amendment proposed by the opposition, that is –

[*English*]

Hon. John B. Stewart: Senator Simard –

Senator Simard: Later, please, Senator Stewart.

Senator Stewart: Later'? I understand all too well.

Senator Simard: I am sorry if you are on edge.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Senator Stewart: I wanted to ask you about the message of May 9 from the House of Commons. It was false.

[*Translation*]

Senator Simard: As I was saying before being interrupted, I would have been disappointed – and so would have been most Canadians, I suggest – if the government had deleted the essential point of this bill, and that is making taxpayers, employees and employers pay for the insurance component of the program.

In fact the present system which Liberal senators would have liked to perpetuate was financed from general revenues, which means by everybody, elderly Canadians, students and so on.

[*English*]

Senator Stewart: I can help Senator Simard fill up the time to 6 o'clock.

Senator Murray: No, we have another speaker.

[*Translation*]

Senator Simard: If it is on that basis that Liberal senators label us intransigent and inflexible, well I guess we are intransigent and inflexible!

We will not yield on that point. I urge you all, Liberal, Conservative and other senators, to support Senator Doody's motion.

Honourable senators, I conclude on this note. Senator Hebert ... I get back to him, he is my favorite!

Senator Hebert: I cannot say the same thing!

Senator Simard: Senator Hebert continues to rehash the old argument he put forth in Canso and elsewhere, leftovers from the theory of the paper *Vers Demain*, or the Social Credit, or the White Berets –

Senator Hebert: We listened in Canso, we did not speak!

Senator Simard: the old refrain that funds are inexhaustible and the deficit is not important...

Senator Hebert: I never said that!

Senator Simard: and that no changes were made.

I think I made myself clear. Senator Hebert, this is an invitation. We had a great trip to Canso, and now we'll go to the other provinces. We'll even go on television. If you let me speak for five minutes out of fifteen, that will be plenty. Five minutes out of fifteen, and the rest of you can have ten!

I think we will have a chance to explain that Bill C-21, like Bill C-28 and Bill C-62, is vital to economic recovery. In fact, these are essential components of a program that is aimed at putting our finances on a sound footing while protecting our social programs.

And don't tell me not a single amendment was accepted! On both occasions when this bill was sent back to the House, amendments were accepted.

The passage of Bill C-21 today is not the end of the world either. I am sure that after several months, of monitoring implementation, if any weaknesses and deficiencies show up, the Mulroney government, acting with its usual sense of realism, generosity and compassion will make the necessary changes.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

In concluding, I urge senators on both sides of this Chamber to support Senator Doody's motion and reject Senator MacEachen's amendment to Bill C-21. Thank you, honourable senators.

Some Hon. Members: Hear, hear!

[*English*]

Senator Stewart: I hope Senator Simard will deal with my question. I am holding the message from the House of Commons dated May 9, 1990. That message is referred to in Senator Doody's motion. Senator MacEachen established earlier today, as a result of conversations with the Deputy Minister, that the following statement in the message is false. It is not correct that:

...amendments 7 and 9, which would cause an increase to the budgetary deficit in the order of \$1.75 billion annually and thus confound the balance of Ways and Means as approved by this House, to be for that reason in violation of the principle embodied in Sections 53 and 54 of the Constitution Act, 1867, and constitutional practice...

In view of the fact that the assertion in the message from the House of Commons is inaccurate and misleading, and in view of the fact that Senator Buchanan will wish to vote in favour of Senator MacEachen's motion, a motion beneficial to the people of Nova Scotia, will Senator Simard, during the dinner recess, talk with Senator Buchanan to assure him that the message that underlies Senator Doody's motion is inaccurate and ought not to be relied on by Senator Buchanan?

Page 3168

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, could we agree not to see the clock? Senator Cochrane has an intervention which she assures me is very brief. I think it might be appropriate if we were

to hear it before we suspend the sitting until 8 o'clock.

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

Hon. Senators: Agreed.

Senator Simard: To answer Senator Stewart's question, I will sit with Senator Buchanan, I will also sit with Senator Stewart –

Senator Hebert: Why don't you sit down?

Senator Simard: – if that is his wish, so that we can clarify his own mind.

Senator Stewart: I know how the people of Nova Scotia want me to vote, but I think Senator Buchanan may have been misled by this message from the House of Commons, this false message.

Senator Simard: I gather this is another frivolous comment and suggestion, and I have made note of it.

Hon. Ethel Cochrane: Honourable senators, I intend to make my remarks on this issue very brief, because I certainly would not want to contribute to any further delay of this legislation.

I do feel, as a representative of the province with the highest rate of unemployment in Canada, that I should relate some of the concerns of the people back home.

The labour force statistics for August, 1990 report an unemployment rate of 15.6 per cent for Newfoundland, and as high as 21 per cent for the south coast of my province. That compares rather unfavourably to the 6.3 per cent unemployment rate in Ontario, and rates ranging from 6.5 per cent to 10.9 per cent in other provinces.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

It will not be news to honourable senators that the four provinces of Atlantic Canada have the four highest rates of unemployment.

The people in my area of Canada want this bill passed, honorable senators, just as they wanted to see it passed almost one year ago when it went through the House of Commons.

Senator Cools: No, that is not what Patricia Loewen told us.

Senator Cochrane: Last Thursday, October 18, the Globe and Mail reported an interview with the chairman of the Special Committee of the Senate on Bill C-21 in which he said that this UI bill could easily be reversed by a future Liberal government. He said to the Globe and Mail, and I quote. "We can correct UI very quickly. so we will let it through for now and fix it later.'

If that statement reenacts the view of the opposition caucus, then why has this legislation been held up for 11 months! Why have my people back home had to wait a year for training programs, for parental leave benefits, and for eligibility for senior citizens! Why have they had to face the same 14 week UI qualifying period as workers in Toronto when. for so many of them, there simply were not that many weeks of work available! The provisions of Bill C-21 will ensure a 10-week qualifying period for the workers of my province of Newfoundland and Labrador.

Speaking for my constituents, I am very pleased to see that the people of my province of Newfoundland and Labrador will finally have the benefits of the provisions that are in Bill C-21.

The Hon. the Speaker: Honourable senators, it being six o'clock, I shall now leave the Chair and return at eight o'clock. The house has ordered that I put the question to a vote at eight o'clock.

The Senate adjourned until 8 p.m.

The Hon. the Speaker: Honourable senators, it is moved by the honourable Senator Doody, seconded by the honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act:

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed: and

That a Message be sent to the House of Commons to acquaint that House accordingly,

And on the motion in amendment of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith, that, all the words after the word "That" be struck out and replaced by the following:

Whereas

On March 20, 1990, the Senate informed the House of Commons by message that it insisted upon its amendments to Bill C-21:

And Whereas

Beauchesne, 5th edition, citation 814, p. 241, provides that in such circumstances, where the Senate insists upon their amendments, "the House (of Commons) either accepts the amendments or adopts a motion requesting a conference to which each House appoints Members"

And Whereas

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

When the Senate insisted upon its amendments to *An Act to authorize the government to acquire by lease lines of railway connecting with the government rail – wars* in 1910;

and to *An Act to confirm the Order in Council of the twenty-fourth day of February, 1919, prohibiting the importation, manufacture and transportation of intoxicating liquors and the Order in Council of the twelfth day of April, 1919, in amendment thereof* in 1919;

Page 3169

and to *An Act to amend the Judges Act* in 1921;

and to *An Act to amend the Canada Temperance Act* in 1922;

and to *An Act to amend the Industrial Disputes Investigation Act* in 1924;

and to *An Act for the relief of the Depositors of the Home Bank of Canada* in 1925;

and to *An Act to amend the Criminal Code* in 1933; and to *An Act to amend and consolidate the Excise Act* in 1934;

and to *An Act to amend the Farmer's Creditors Arrangement Act, 1934* in 1938;

and to *An Act to amend the Criminal Code* in 1947, the House of Commons requested that a conference be held;

And Whereas

When the Senate insisted upon its amendments to *An Act to amend the Combines Investigation Act* in 1936; and to *An Act to amend the Customs Tariff Act* in 1961, the House of Commons chose not to proceed further with the legislation;

And Whereas

When the Senate has by message insisted upon its amendments without offering any alternative proposal, it has never received a subsequent message from the House of Commons repeating that it disagreed with the said amendments;

And Whereas

The message received from the House of Commons on May 10, 1990, is without precedent, and does not conform to the convention and practice, unbroken since Confederation of settling disagreements between the House of Commons and Senate by a conference,

The motion be referred to a conference between the two Houses of Parliament.

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

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

And two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

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

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

Motion in amendment negated on the following division:

YEAS

THE HONOURABLE SENATORS

Adams, Austin, Bosa, Buckwold, Cools, Corbin, Croll, Davey, De Bane, Denis, Fairbairn, Frith, Gigantes, Graham, Haidasz, Hastings, Hays, Hebert, Kenny, Kirby, LeBlanc (*Beausejour*), Leblanc (*Saurel*), Lefebvre, Lewis, Lucier, MacEachen, Marchand, Molgat, Perrault, Petten, Riel, Robichaud, Stanbury, Steuart (*Prince Albert – Duck Lake*), Stewart (*Antigonish – Guysborough*), Stollery, Theriault, Turner, Watt, Wood – 40

NAYS

THE HONOURABLE SENATORS

Atkins, Balfour, Barootes, Beaudoin, Beaulieu, Belisle, Berntson, Bolduc, Buchanan, Castonguay, Chaput-Rolland, Cochrane, Cogger, Comeau, David, DeWare, Di Nino, Doody, Doyle, Eyton, Forrestall, Grimard, Hatfield, Johnson Kelleher, Kelly, Keon, Kinsella, Lavoie-Roux, Lynch-Staunton, Macdonald (*Cape Breton*), MacDonald (*Halifax*), Macquarrie, Marshall, Meighen, Molson, Muir, Murray, Nurgitz, Oliver, Ottenheimer, Phillips, Poitras, Robertson, Roblin, Ross, Rossiter, Simard, Spivak, Sylvain, Teed, Tremblay, Twinn – 53

ABSTENTIONS

THE HONOURABLE SENATORS

Nil.

Page 3170

The Hon. the Speaker: I declare the motion in amendment negated.

MOTION FOR CONCURRENCE

The question is now on the main motion. It is moved by the Honourable Senator Doody, seconded by the Honourable Senator Tremblay:

That the Senate concur in the amendments made by the House of Commons to its amendments 4(c) and (d) and 8 to Bill C-21, An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act;

That the Senate do not insist on its amendments 2(a), (b) and (c), 3(a) and (b), 5(a), 6, 7 and 9, to which the Commons have disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

Main motion carried on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins, Balfour, Barootes, Beaudoin, Beaulieu, Belisle, Berntson, Boldu, Buchanan, Castonguay, Chaput-Rollan, Cochrane, Cogger, Comeau, David, DeWare, Di Nino, Doody, Doyle, Eyton, Forrestall, Grimard, Hatfield, Johnson, Kelleher, Kelly, Keon, Kinsella, Lavoie-Roux, Lynch-Staunton, Macdonald (*Cape Breton*), MacDonald (*Halifax*), Macquarrie, Marshall, Meighen, Molson, Muir, Murray, Nurgitz, Oliver, Ottenheimer, Phillips, Poitras, Robertson, Roblin, Ross, Rossiter, Simard, Spivak, Sylvain, Teed, Tremblay, Twinn – 53

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

NAYS

THE HONOURABLE SENATORS

Adams, Austin, Bosa, Buckwold, Cools, Corbin, Croll, Davey, De Bane, Denis, Fairbairn, Frith, Gigantes, Graham, Haidasz, Hastings, Hays, Hebert, Kenny, Kirby, LeBlanc (*Beausejour*), Leblanc (*Saurel*), Lefebvre, Lewis, Lucier, MacEachen, Marchand, Molgat, Perrault, Petten, Riel, Robichaud, Stanbury, Steuart (*Prince Albert – Duck Lake*), Stewart (*Antigonish – Guysborough*), Stollery, Theriault, Turner, Watt, Wood – 40

Page 3171

ABSTENTIONS

THE HONOURABLE SENATORS

Nil.

The Hon. the Speaker: I declare the motion carried. Let the doors be opened.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, on a point of order, I should like to have it noted and drawn to the attention of the Speaker that he did not follow properly the procedure that we had hoped was now thoroughly understood by him and by all honourable senators as follows from the appendix in the Rules of the Senate. My criticism relates to the main motion. The procedure was followed on the motion in amendment:

At the conclusion of a debate, the Speaker puts the question. If there is uncertainty of agreement, the Speaker asks for the "yeas" and the "nays"...

which he did not do on the main motion,

...and then expresses his opinion as to the result. If two or more senators express their disagreement by rising, the Speaker calls for a standing vote.

No two senators rose on the main motion because the Speaker had not followed the previous stage.

The division bells are rung...

which was not done,

...and when the Whips have entered the Chamber and have indicated to the Speaker that they are ready to proceed to the vote, the Speaker should say: "Let the doors of the Chamber be locked". The doors will then be locked by the pages and the Speaker will call for the vote.

I hope in the future we will follow these proceedings strictly and in accordance with the rule book.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, Senator Frith is correct. I thought mistakenly that it had been arranged beforehand that the votes would take place together and that the whips did not wish to leave the chamber. If I have made a mistake, I apologize.

The Senate adjourned until tomorrow at 2 p.m.

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE ACT, Bill C-21

ROYAL ASSENT

The Honourable Beverley Marion McLachlin, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker. the Honourable the Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Beverley Marion McLachlin, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by a Clerk at the Table.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act (*Bill C-21, Chapter 40, 1990*)

The House of Commons withdrew.

The Honourable Deputy Governor General was pleased to retire.