Debates of the Senate

1st SESSION • 36th PARLIAMENT • VOLUME 137 • NUMBER 113

OFFICIAL REPORT
(HANSARD)

Thursday, February 18, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 995-5805

Published by the Senate
Available from Canada Communication Group — Publishing, Public Works and Government Services Canada, Ottawa K1A 0S9,
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Thursday, February 18, 1999

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

Prayers.

SENATORS' STATEMENTS

LITERACY ACTION DAY

Hon. Joyce Fairbairn: Honourable senators, today literacy advocates and learners are moving through our corridors, taking their message to over 80 parliamentarians on this our annual Literacy Action Day. I want to thank those senators who are setting aside time to meet with them and to listen to what they have to say.

At a time when we are exhorting Canadians to get cracking and prepare themselves for the demands of the new century, we should think carefully about the message we are hearing today. Millions of Canadians, over 40 per cent of our adult citizens, have varying degrees of difficulty with reading, writing and life skill tasks that everyone in this chamber takes for granted. Many of them have learned to cope in other ways, to the point that they do not believe they have a literacy problem. Others are afraid to come forward to seek help in case they may lose any of the gains they have made in life.

Behind these statistics, honourable senators, are real people. They are children growing up without an early motivating force to learn. They are teenagers falling through the cracks because they cannot read and communicate well enough to stay in school, finish school, or get a job. They are parents who put themselves and their families at risk because they cannot read instructions on medication or on dangerous substances. They cannot read to their children. They are workers who need to learn new skills in a highly technological society. They are seniors, many of them women, often single, unable to ease their loneliness and their pain with the comfort of a book as a friend.

The literacy community and its army of volunteers have worked hard to bring programs to those most in need across the country, on the ground, where people live and learn. We have done this in church basements, on factory floors, in buses transporting workers to farms, and on urban streets, through high-tech distance learning and in hidden rooms where no one else can see or hear.

•(1410)

This is a huge issue, honourable senators, and no one sector or group can tackle it alone. That is why we have put together a strong network of partners, including federal and provincial governments, business, labour, educators, and the national organizations and their coalitions who are here today — ABC Canada, La fédération canadienne pour l'alphabétisation en français, Frontier College, Laubach Literacy of Canada, the Movement for Canadian Literacy, and the National Adult Literacy Database. I should also mention my own precious affiliation, the National Literacy Secretariat of Canada, which works on behalf of the federal government.

Honourable senators, these people are talking to us about health care, about justice, about corrections, about employment and about aboriginal people. Overall, they are talking about life-long learning. If we do not use our literacy skills, we will lose them. Any adult learner will tell you of the pain and frustration, and very often the fear involved in trying to learn again.

If you think of it, honourable senators, literacy is a foundation for most of what we do in life as individuals and as a country. Parliamentarians should not have to be dragged into this issue. It is the substance of so many of the lives in their constituencies and their provinces.

Honourable senators, in the Senate we have been supportive over the years but I think we need to use our position to show leadership. One of the toughest challenges for literacy is awareness and understanding.

You have all received invitations to attend the Literacy Action Day reception at five o'clock this afternoon in the Aboriginal Peoples' Room. Please come and meet the advocates who care so much, and the learners who have become our best teachers. You will hear stories that will make you cheer, and even shed a few tears. I can guarantee you will be inspired, and I hope you will leave willing to help.

Hon. Mabel M. DeWare: Honourable senators, I rise with pleasure today to speak about an issue that is critical to the health and well-being, both social and economic, of Canadians. It is also a subject very close to my heart, and that is literacy.

Today is Literacy Action Day. It has been sponsored every year since 1993 by six national organizations active in the field. The programs provided by these groups are a lifeline to many adult Canadians who do not have the reading and writing skills they need to fully benefit from all that Canada has to offer. I should like to take this opportunity to thank them for their hard work and their dedication.

Literacy Action Day is an opportunity for each and every one of us to think about all that literacy means and what we can do at the federal level to help promote it. Those of us who are fortunate enough to be able to read and write our way through modern society with ease often take our literacy skills for granted. However, we must not forget that for many Canadians these skills are not there or they are not developed enough. The problems associated with their lack of literacy range from poor health to underemployment and joblessness.

There are other quality-of-life issues that are not as apparent but just as painful. Think of the mother who cannot read her child a bedtime story, the senior who cannot understand the directions on a medicine bottle, or the teenager who cannot fill out an application for a driver's licence.

The 1994 International Adult Literacy Survey found that an alarming 22 per cent of Canadians 16 years and over have serious difficulty reading printed materials. Another 24 per cent to 26 per cent can only deal with material that is simply and clearly laid out, and material in which the tasks involved are not too complex. It is indeed a cause for alarm that close to half of adult Canadians lack proper literacy skills.

Honourable senators, we must continue to build on the momentum created by the former Progressive Conservative government to improve the literacy of Canadians. It was the first federal government to recognize that literacy is an issue of national importance and requires cooperative national action. The creation of the National Literacy Secretariat in 1988 confirmed Ottawa's leadership potential in this crucial area, and I urge the current government to continue to provide that body with the support it so richly deserves.

At this point, honourable senators, I should like to compliment the former leader of the government in the Senate, the Honourable Joyce Fairbairn, as she continues her role on this committee.

Honourable senators, in my previous life as minister of community colleges and minister of advanced education in New Brunswick, I was privileged to be able to play a small role in improving literacy for my fellow New Brunswickers. I remember in particular one woman who asked me if she could get a position in a program being offered in a New Brunswick community college called NBCC, and I managed to do that for her. When she proudly received her certificate in 1984, she presented me with a poem that she had written herself. I have it hung in my office today, and I should like to read it to you. It is entitled "The Graduate," and it reads:

When I leave this place tomorrow,
Though I'll feel a little sorrow
I look forward to a life
Wherein I'm not just someone's wife.
An individual at last,
Not thinking that all time has passed
And left me high and dry and old
And withering and feeling cold.
I've learned some pretty nifty things,
And once again my feet have wings.
I'm racing on to greater things
With the confidence that knowledge brings
And though my house is looking worse,
It doesn't make me want to curse
For if at times I feel I must
Perhaps I'll rearrange the dust
Or make the beds or do some cooking,
Or maybe I'll just stand there looking.
I wonder, is this really me?
Oh! Thank you, thank you, N.B.C.C.

Hon. Ethel Cochrane: Honourable senators, today across Canada is Literacy Action Day. Since 1993, we have designated this day to recognize the work of national and local literacy organizations and to promote awareness of the need for continued support for literacy.

It is estimated that between 7 million and 10 million Canadians cannot work well with words and numbers. For those with low literacy levels, that affects every aspect of their life, personal, social and economic. We speak glowingly, as the Minister of Finance did in his budget speech on Tuesday, of our movement towards a knowledge-based society and economy. However, participation in that society and economy is increasingly barred to those many Canadians who lack the necessary basic skills.

In our country, honourable senators, literacy levels decrease as we move from west to east. The lowest level is found in my province of Newfoundland and Labrador. There are very dedicated people in that province, as there are throughout Canada, who work to provide others with those badly needed basic skills. Yet many of their centres are suffering from lack of adequate funding support.

Last June, a literacy centre in Griquet, which is near St. Anthony on the Northern Peninsula, closed down. Two weeks ago, an adult literacy centre in Deer Lake closed due to lack of funding. Lo and behold, this coming June, another centre in Corner Brook is due to close. Honourable senators, it is against this background that literacy organizations today are appealing for your support. The Literacy Development Council of Newfoundland and Labrador has set up information displays in shopping malls right across the province. The council is encouraging schools to participate in Newfoundland and Labrador Read-In 1999. There are many similar activities sponsored by literacy organizations everywhere in Canada.

On Literacy Action Day, I urge honourable senators to give some thought to how literacy affects all our lives and to support the efforts of local, provincial and national literacy organizations.

ROUTINE PROCEEDINGS

NUNAVUT ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, February 18, 1999

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-FIRST REPORT

Your committee, to which was referred Bill C-57, to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence, has, in obedience to the Order of Reference of Thursday, December 10, 1998, examined the said bill and now reports the same without amendment.

Your committee does, however, feel it is important to underscore certain issues concerning the context in which the Nunavut Court of Justice is to operate. Your committee is of the view that the fair administration and implementation of justice in the new territory of Nunavut requires great vigilance. Your committee considers this to be particularly the case in respect of the appointment and training of justices of the peace, who will play a pivotal role in the Nunavut justice system. It is equally essential that minority rights be protected in all other areas of justice delivery.

Respectfully submitted,

LORNA MILNE
Chair

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

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

ROYAL CANADIAN MINT ACT
CURRENCY ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Terry Stratton, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, February 18, 1999

The Standing Senate Committee on National Finance has the honour to present its

EIGHTH REPORT

Your committee, to which was referred Bill C-41, to amend the Royal Canadian Mint Act and the Currency Act, has, in obedience to the Order of Reference of Wednesday, December 9, 1998, examined the said bill and now reports the same without amendment.

Respectfully submitted,

TERRANCE R. STRATTON
Chairman

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

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

THE BUDGET 1999

STATEMENT OF MINISTER OF FINANCE—INQUIRY

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I give notice that on Tuesday, March 2, 1999, I will call the attention of the Senate to the budget presented by the Minister of Finance on February 16, 1999.

QUESTION PERIOD

THE SENATE

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION COMMITTEE—ALLEGATIONS OF FAILURE TO EMPLOY DEFICIT-CUTTING MEASURES—POSITION OF CHAIRMAN

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, my question is directed to the Chairman of the Standing Committee on Internal Economy, Budgets and Administration.

I read in a newspaper article this morning that Mr. Gallaway, a member of the other place, is reported to have said that the Senate did not cut back like the House of Commons did when the government was eliminating the deficit. Could the Chairman of our Internal Economy Committee speak to that matter, as well as some of the other glaring errors that are reported from that source?

Hon. Bill Rompkey: Honourable senators, I appreciate the question of the honourable senator. It is unfortunate that we cannot get some honest reporting about the Senate in this town. What appeared in the press this morning is diametrically opposed to what I said yesterday in this chamber, although the reporter actually listened to the audio recording of what transpired here.

I said yesterday, and I repeat again today, we have exercised restraint. If honourable senators look at the figures for 1991-92, they will see that we had a decrease in our budget of 9 per cent, while the House of Commons had an increase in its budget of 1.1 per cent. We have cut to the bone since 1991-92. In fact, this year we are just getting back to 1991-92 expenditures in real dollars.

Honourable senators must remember that the House of Commons has been televising committees for years. We are just putting an infrastructure in place now. It costs money. The House of Commons has had a housing allowance for years. We are just starting to build that in. It, too, costs money.

We have some catch-up to do in terms of the ability of our staff and the tools they need to do the work they have to do. We need more people. We have a lot more work to do and we have to put the people in place to do it. Clearly, we are starting to build the process of catch-up responsibly.

In terms of our restraint program, we started that process before the House of Commons and we have matched them dollar for dollar in restraint. Our record in that regard is nothing to be ashamed of.

Hon. Norman K. Atkins: Honourable senators, I, too, should like to ask a question of the Chairman of the Standing Committee on Internal Economy, Budgets and Administration.

Has the member of Parliament mentioned been instructed in your caucus about this kind of information so that he can be straightened out on some of the things that he is saying in public?

Senator Rompkey: Honourable senators, I cannot talk about what goes on in caucus, any more than senators opposite can. What I can say is that there are many people on this side of the chamber who would like to straighten out that honourable member. I can say openly that some people have taken certain steps in that regard already. I will leave it at that.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION COMMITTEE—RESTRAINT IN SENATORS' BUDGETS—POSITION OF CHAIRMAN

Hon. Thérèse Lavoie-Roux: Honourable senators, my question is also directed to the Chairman of the Standing Committee on Internal Economy, Budgets and Administration.

Can the chairman of the committee tell me if the scale of entitlement which was approved a few years ago to restrain the expenses in senators' offices is being respected? I have just heard about a senator, who is not new to this place, and who is having his office almost entirely redone at a cost of $15,000. I cannot see how that kind of expenditure can be approved.

Hon. Bill Rompkey: Honourable senators, we are holding the line on the overall budgets of senators. In this year there will be no increase, which is another example of exercising restraint.

With regard to expenditures on actual physical equipment, there will be some. I have a list with the names of about 15 to 20 senators, which I do not have with me, who will be having repairs done to their offices. I would not call these exorbitant amounts. I do not think that $5,000 or $10,000 is an exorbitant amount to spend on repairs and needed furnishings. For example, some people had to have doors installed in their offices to connect one room to another. These things had to be done, and I do not think the costs are exorbitant.

NATIONAL DEFENCE

SEARCH AND RESCUE PROGRAM—MAINTENANCE PROGRAM FOR SEA KING HELICOPTERS—CONTINGENCY PLANS IN EVENT OF FAILURE—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I rise with some sadness and with a heavy heart. We have now had another incident where a Sea King helicopter was forced to land. That happened about 28 kilometres out at sea, when transmission or hydraulic problems developed.

This week's budget said nothing with respect to capital equipment; nothing to address the question of the replacement of the Sea Kings. I ask the minister: What contingency plans does the government have? I ask that because it is clear from the budget that the attitude of this government has now moved from risk management with respect to deployment and use of the Canadian Armed Forces to a posture of calculated risk-taking. That is quite different from risk management. One of these days we will face tragedy unless something is done, and done very quickly. I repeat: Does the government have any contingency plans?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the Sea King fleet at Shearwater has not been grounded.

Senator Forrestall: Perhaps it should be.

Senator Graham: Some of the helicopters are scheduled to deploy for exercises with the navy in the next few days. As the Honourable Senator Forrestall is aware, one of the squadron of Sea Kings stationed at Shearwater recently experienced technical problems. The commanding officer has therefore decided to stop all non-essential flights to ensure that the helicopters are ready for the exercise. However, Sea King helicopters and crews at Shearwater will continue to be available to participate in search and rescue missions.

As I have said on many occasions, honourable senators, we do not intend to fly unsafe aircraft. When a problem occurs with our helicopters, that problem is tracked down and identified. The cause of the problem is then identified and fixed. It is regrettable that there was that incident off the coast of Nova Scotia yesterday but, again, officials are attempting to identify the problem and remedy it immediately.

SEARCH AND RESCUE SERVICE—NUMBER OF EMERGENCY HELICOPTER LANDINGS—REQUEST FOR TABLING OF LIST

Hon. J. Michael Forrestall: Honourable senators, "restricted flight" is not "grounding." I am sorry that I inadvertently used that term, because that is the very next step.

It is now about two years since we began to see a rapid development in problems with the Sea Kings. Could the minister undertake to have someone in the department table for us here in the chamber a list of all of the emergency landings undertaken of necessity by Sea Kings in the period of the last two years?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, if that is appropriate and if the information is available, I am certainly prepared to do so.

I will consult with my colleague the Minister of National Defence with reference to the incident that was reported yesterday. The pilot decided to make a precautionary landing after experiencing some difficulties with the mechanical controls of the helicopter.

Senator Berntson: Yes, before it fell out of the sky.

Senator Graham: The crew landed safely, and they were in complete control. No one was injured. An investigation has been undertaken by a maintenance crew to determine the cause of the problem.

It is important to note that the forced landing was not related to engine start-up problems, which we talked about yesterday.

Senator Forrestall: Honourable senators, surely when a Sea King helicopter lands near a golf course a mile and a quarter away from the base, the pilot did not land under "full control."

Senator Lynch-Staunton: Maybe the Prime Minister was on board!

Senator Forrestall: Yes, perhaps that was the case. That landing yesterday was serious. I know the minister takes this matter very seriously. I just wish he had some clout at the cabinet table. Yesterday, that plane was not under "full control." That crew was very fortunate to land on the ground, and not in the ocean.

If the minister could obtain for us a list of occasions on which Sea Kings were forced to land in circumstances similar to this recent incident, I would appreciate it very much.

Senator Graham: Honourable senators, I would be happy to bring forward the information if it is appropriate and available. As my honourable friend would know after our many discussions, the government remains committed to ensuring that the Canadian Forces have the equipment that they need to carry out their missions at home and abroad.

Senator Forrestall: Where are the dollars and cents to buy it?

Senator Graham: The maritime helicopter project is a core project within the Department of National Defence. At this particular time, the minister and his officials are in the final stages of the development of a procurement strategy.

As we have said on many occasions, we want to move on with the replacement project for the Sea King helicopters as quickly as we can. The minister hopes to make an announcement within the year.

THE ECONOMY

LACK OF LONG-TERM DEBT REDUCTION STRATEGY— GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. This concerns the government's debt reduction strategy — or rather, the lack of one.

The government has again failed to set out any kind of meaningful, long-term debt reduction strategy. There are no targets and there is no long-term plan. Today, among the G-7 countries, only Italy has a higher level of debt relative to GDP. Approximately two years from now, according to the budget, our debt will be down to 55 per cent of GDP. Before government senators applaud too loudly, they should reflect upon the fact that Canada will still have the second-highest level of debt in the G-7.

Why does the government continue to refuse to set any kind of long-term debt reduction targets?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the Honourable Senator Oliver is totally and completely inaccurate.

Senator Oliver: What are the targets, then?

Senator Graham: The government does have a long-term plan. It is called "the debt repayment plan." I urge Senator Oliver to check the facts before he makes such assertions.

The debt repayment plan was announced in the last budget. The government is already committed to reducing the debt.

Senator Murray: What is "long term"? Is it two years?

Senator Graham: Honourable senators, there are three key elements in the plan: First, there is the two-year fiscal plan, based on prudent economic planning assumptions.

Senator Murray: That is long term!

•(1440)

Senator Graham: Second, there is the inclusion in the fiscal plan of a contingency reserve in each year, and third, the use of the contingency reserve, when not needed, to pay down the public debt. The plan has already been a success. In 1997-98, the government reduced federal public debt by $3.5 billion. I would invite the Honourable Senator Oliver and other honourable senators opposite to tell us when, during the period that they were in office, they reduced the debt.

Senator Lynch-Staunton: Tell us when that wizard Allan MacEachen did it!

Senator Graham: As a result, in 1997-98, Canada's debt-to-GDP ratio — listen carefully — recorded the largest yearly decline since 1956-57, falling from 70.3 per cent to 66.9 per cent. More important, the debt repayment plan, and I urge my honourable friend Senator Oliver to read it carefully, together with sustained economic growth, will result in a sharp, sustained decline in the debt-to-GDP ratio in the coming years.

This country is on the right track under this particular government.

THE BUDGET 1999

THE BUDGET PLAN—
ALLOCATION OF FUNDS TO INTEREST ON DEBT

Hon. Lowell Murray: Honourable senators, by way of a supplementary question, may I ask the Leader of the Government to read into the record the amounts that are forecast to be paid by the government by way of interest on the debt over the next several years? He will find them in the document entitled "The Budget Plan."

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would be happy to do that. However, if the honourable senator has his finger on the page, perhaps he could do it for me.

Senator Murray: It is going up.

PRIVY COUNCIL OFFICE

PRIME MINISTER—REQUEST FOR DETAILS
ON RECENT VACATION AT WHISTLER, BRITISH COLUMBIA

Hon. Terry Stratton: Honourable senators, my question is also for the Leader of the Government in the Senate. I would like to go back to Vancouver and Whistler, if I may, on that infamous weekend when our beloved Prime Minister failed to take the trip to the funeral of King Hussein.

What kind of aircraft was used for the trip to Whistler? Was it a government aircraft? Who was on that aircraft, to and from, and who paid for the expense of the aircraft?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not have the list of the passengers with me.

Senator Di Nino: Would you like to borrow mine?

Senator Graham: I believe that is the kind of question that should be placed on the Order Paper. However, I would be very happy to bring forward the information for the honourable senator, as he always brings forward such interesting questions.

ORDERS OF THE DAY

INSURANCE COMPANIES ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Moore, for the third reading of Bill C-59, to amend the Insurance Companies Act.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, when this bill on demutualization was being discussed before the Standing Senate Committee on Banking, Trade, and Commerce, some concern was expressed on both sides regarding the tax treatment which would be given to those eligible policyholders receiving cash or shares.

Cash, according to the federal government, will be treated as a dividend. If the shares are disposed of, a capital gains tax would be imposed, and the cost of the shares is being deemed to be zero. I will not get into the arguments of the pros or cons of that decision, but we were concerned about the possibility that many eligible policyholders would not be aware of the tax consequences, particularly those of low income and those who have income-tested benefits. The latter category may find that, because of the sale of the shares or the receipt of dividends, they may lose or have some of those income-tested benefits challenged.

The officials responsible assured us that, in the regulations, there was a provision that the information given to policyholders would include the tax consequences not only in this country but in each jurisdiction the policyholder happens to be in. However, the regulations also provide that the Superintendent of Financial Institutions can, at his own discretion, exempt a life insurance company from providing certain information, including tax consequences.

When what appeared to be a contradiction in the regulations was pointed out to the officials, we were assured that where there was a large number of policyholders, those exemptions would not be applied. Particularly in the United States, and the United Kingdom, all policyholders would be informed of the tax consequences by the life companies, and, I believe, in Canada by the Canadian government.

In the letter from the Superintendent of Financial Institutions that Senator Kroft tabled yesterday, some of the answers to the questions that were asked in the committee were given, but that assurance that the exemptions on information regarding tax consequences would not be applied to Canadian policyholders was not included.

With the knowledge of Senator Kirby and Senator Kroft, and members on the committee on our side, I got in touch with Mr. Palmer, the Superintendent. He replied in a letter which

I distributed to the members of the committee, certainly to Senator Kroft and Senator Kirby, which includes an assurance that, in effect, the information on the tax consequences for Canadian policyholders will be an obligation of the Canadian life companies.

Senator Di Nino: Well done!

Senator Lynch-Staunton: Perhaps I should read the pertinent part of the letter.

> I can assure you that this exemption authority would be used only in respect of jurisdictions in which the converting company had only a minor presence, and in which this additional disclosure would add very little value to policyholders in that jurisdiction.

With the permission of the Senate, I should like to table this letter to complement the one that Senator Kroft tabled yesterday.

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

Hon. Senators: Agreed.

Senator Lynch-Staunton: Honourable senators, as you know, this bill was sped through the House of Commons in record time, with no debate whatsoever in the House of Commons.

Senator Kinsella: How long did they spend on it?

Senator Lynch-Staunton: I did make a mistake in referring to that during the second reading debate. I said there were no committee hearings in the House. I was wrong. Looking back, I found that the Standing Committee on Finance of the House of Commons technically held a hearing. However, when you read the transcript, it was more of a love-in. There was very little debate on some of the key issues that were brought out by our Banking Committee at meetings with the minister responsible, with life insurance company executives, with officials of the Department of Finance and the Superintendent of Financial Institutions, and with some consumer groups. The House of Commons neglected to involve the key players in order to get a better understanding both of the purpose of the bill and its impact on policyholders.

I will read one part of the transcript of the House committee hearings to stress their flavour. This is of particular interest to this house because the person I am quoting is the other member of that dynamic duo, Lorne Nystrom, who is the member for Regina—Qu'Appelle and who is going across the country with his friend wasting taxpayers' dollars seeking petitions to abolish all of us. Here is what he said regarding hearings on Bill C-59:

> I think it's important for us to ask questions and get them on the record. I wouldn't want the other place, as we call it, the Senate, to be the only body to have a chance to go over this thing in detail in terms of asking questions.

The purpose of their hearing was to show that they had at least pro forma gone through the exercise of examining the bill. He went on to say:

> They're the unelected house. It's important, I think, for us to do this. It's too bad we have the time constraint. I know the minister himself is concerned about this thing because we have the adjournment of the House on Thursday staring us in the face.

It is quite obvious that the House of Commons, from the beginning, had no interest in examining this bill as thoroughly as it should have been. Fortunately the Senate was there to do that. The fact that Mr. Nystrom, who does not like us, would say words to the effect, "Well, we better do something here because the Senate may find they have to do all our work," confirms the importance of the work we do here.

Hon. Senators: Hear, hear!

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed with the third reading motion. It was moved by the Honourable Senator Kroft, seconded by the Honourable Senator Moore, that this bill be read a third time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

•(1450)

COMPETITION ACT

BILL TO AMEND—MOTION TO CONCUR WITH MESSAGE FROM COMMONS—REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Cohen, for the adoption of the Twenty-first Report of the Standing Senate Committee on Banking, Trade and Commerce (motion and message relating to the amendments to Bill C-20, to amend the Competition Act and to make consequential and related amendments to other Acts), presented in the Senate on February 16, 1999.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators will recall that after this bill was amended and returned to the House of Commons without a dissenting vote, the Minister of Industry issued a press release full of errors and innuendo. I will not go into all of the details because I feel I gave you enough to realize what I am talking about at the time that this message was first before us.

I do not intend to belabour this matter. However, I do feel that colleagues should know that, despite being asked repeatedly during the committee hearings on this message to withdraw, or at least recognize, the falsehoods that were sent under his name, the minister not only continued to whine about the delays encountered in the Senate but continued to cast doubt on the purpose behind them. I find this extraordinarily strange because if this bill is such a priority for the minister, why did it languish in the House for nearly 10 months?

The bill was given first reading there on November 20, 1997, second reading only four months later and third reading over six months later. We were criticized for having delayed the bill after having had it before us here for less than three months, and thanks to Senator Oliver's amendment, following representations by the Canadian Bar Association and others which actually improved it.

While the House rejected the Senate amendment, the government used the Senate's participation to introduce another amendment, quite different from its original one, and one which goes a long way in meeting the concerns expressed in committee and in this chamber.

I was not successful at getting a straight answer from the minister. However, I wish to thank Senator Kenny for having done that very thing. I will quote from the transcript of the committee hearings. Senator Kenny says:

> Would you say, Mr. Minister, that the amendment that came back from the Senate gave you an opportunity to improve the bill?
>
> **Mr. Manley:** Without any question.

Hon. Senators: Hear, hear!

Senator Lynch-Staunton: Honourable senators, I rest my case.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed with the motion.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

TRANSPORTATION SAFETY AND SECURITY

CONSIDERATION OF INTERIM REPORT
OF SPECIAL COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the first report (Interim) of the Special Senate Committee on Transportation Safety and Security, deposited with the Clerk of the Senate on January 28, 1999.—(*Honourable Senator Forrestall*).

Hon. J. Michael Forrestall: Honourable senators, it is a great honour for me to rise today to begin the debate on the interim report of the Special Senate Committee on Transportation Safety and Security. I have been privileged to chair this special committee and, as well, I had the privilege of chairing the subcommittee of the full committee on transport and communications, its subcommittee on this topic.

None of us here are immune from attacks by the press and from some members of the House of Commons. The attacks are, by and large, from people who do not understand the Senate, what it does and how it works. To that end, I should like to commend the intervention by Senator Rompkey yesterday, during which he outlined very succinctly and clearly the good work being done by the members of this chamber.

One of the great benefits of an appointed upper chamber like ours is that on certain issues we can put party politics behind us and pursue matters of national interest in a bipartisan manner. I know, and I know that my colleagues do not take it for granted, that members of the opposition do chair standing committees. In my case, and as I mentioned, I chaired a subcommittee, the standing committee of which was ably chaired by Senator Bacon, who was a very active member of the Subcommittee on Transportation Safety with a particular interest in drugs and other abusive substances. It is one of the great strengths of this place — and I say this with a little bit of knowledge and authority, having sat for a considerable time now in both places — that the interests of members can be accommodated in a non-partisan manner.

The idea of a Senate committee on transportation safety originated a few years ago with Senator Keith Davey, one of our former colleagues, a very distinguished Canadian. At the time, his preoccupation was with the safety of truck transport, and he wished to see a special study undertaken in this area. His idea was prescient, since we are now fully aware of the dangers of having far too many unsafe trucks on our highways. Unfortunately, Senator Davey resigned from this place before his idea of a truck transportation safety committee could come to fruition.

I was struck by the validity of Senator Davey's idea when it was first raised in the early part of this decade, and pursued it with Senator Bacon. She was receptive to the idea but was concerned that such a study would be too narrowly focused, and perhaps focused in an area which was predominantly within provincial jurisdiction. The solution was, therefore, to study all modes of transportation, and the vehicle for doing this would be a subcommittee of the Standing Senate Committee on Transport and Communications. Such a subcommittee was struck in October of 1996. It was composed of Senator Willie Adams, deputy chair, Senator Lise Bacon, Senator Mercier, Senator Roberge and myself as chair.

I can say without any shadow of a doubt that we worked hard, but it was only after we got into the study that we realized the enormity of the task we had undertaken. Not only was it an enormous job to study safety in the various transportation modes of rail, air, marine and highway transport, but of course we were all amateurs in these areas. However, we persevered, and slowly but surely built up a bank of information on the major safety issues affecting the modes of transport within Canada. During our travels, both throughout Canada and abroad, attending seminars, workshops, international conferences on safety, hearing from literally hundreds of people involved in the transportation industry around the world, we were able to identify issues and, in some cases, solutions to address problems in the transportation industry facing us here in Canada today.

I look upon the work of the subcommittee as one of fact-finding and issue development. In the early spring of last year we realized that, given the enormity of the subject-matter to be studied and reported on, and the heavy workload of the Standing Senate Committee on Transport and Communications, it would be a better use of the time of the Senate if a special Senate committee on transportation safety and security were established. This was accomplished on June 18, 1998, and all of the work that had previously been done by the subcommittee was referred to the new special committee. We began our work with a view to writing the report that is now before the Senate for deliberation.

•(1500)

I wish to provide you with an overview of the work of the subcommittee and the special committee, their conclusions and recommendations. I trust colleagues on both sides of the chamber will deal in greater detail with the specific modes of transportation covered within the report.

Our overall purpose in this exercise is to create in Canada, among all Canadians, a culture of safety. We believe that by raising the profile of transportation safety through our discussions with industry, unions, consumers and transportation associations, we can raise the profile of safe transport in Canada.

Honourable senators, the idea of a culture of safety came about because I am and continue to be worried about the state of transportation safety in Canada. When you look at rail, marine, air and highway transport, has any industry changed as much in Canada as transportation? Has the work force been downsized in any other area of our lives more than in transportation?

We have gone through deregulation, privatization, transfer of ownership of transportation facilities to the private sector, and ever increasing competition. That is just to name a few of the changes that we have asked this industry to undertake. At the same time, more people are travelling and more goods are being shipped in and out of Canada by more modes than ever before.

Honourable senators, given these and other stresses posed on all facets of the transportation industry, I believe, and I know that most of our witnesses would agree, that we must make every possible effort to ensure greater safety.

One of the major recommendations of the committee, and the one that got the most publicity, dealt with random mandatory drug testing to be adopted in Canada in a manner similar to the testing program in the United States. Senator Bacon pursued this issue with great vigour with virtually all of the witnesses who appeared before us.

We heard from Ms Barbara Butler, for example, a well-known Canadian and international expert in this field. She assured us that drug and alcohol abuse was an issue in the transportation industry in Canada. We were pleased that a number of transportation companies have instituted some type of testing program. In the case of the Irving Transportation Group, they have instituted random mandatory testing for all employees.

The witness from Irving set out the matter of concern relating to drug and alcohol testing. The law in the United States which requires all those in safety sensitive positions to submit to random mandatory testing may be challenged as not being applicable to Canadians driving trains or transport trucks in the United States. If the courts found that it was not to be applied to Canadians, it might mean that Canadian transportation companies may be effectively prohibited from doing business in the United States, a situation which would be intolerable.

One of the most compelling arguments in favour of random mandatory drug testing came from Maurice Engles, the former chair of the Railway Safety Act Review Committee. He told us:

> Automobile drivers in practically every province in this country are now being tested on a random basis. If indeed it is considered to be of concern that one of these drivers should be on the road, how can we say that a locomotive engineer should not be subject to such testing, when you consider the responsibilities that person would have?

We hope the government will reconsider its position on random but mandatory testing and institute it at the earliest possible time.

During our hearings both in Canada and abroad we came to have even more respect for our Transportation Safety Board than we had when we began this process. However, we are concerned that this vital part of our transportation safety system is overworked, understaffed and under-resourced. It is our opinion that the government should build upon the good work that the board has done and expand its mandate in order to give it the resources it needs to continue to perform its work at the high level of competence we now experience.

We were told by Mr. Ken Johnson, the executive director of the board, that they are reassessing their needs after the work they have done in relation to the Swissair tragedy. In this reassessment, I hope the board, along with government, will look at expanding its mandate to include major truck-transport highway accidents as well as making the board responsible for the establishment and operation of victims' family assistance programs.

Canadians have every right to be proud of the work of the board and the international stature it enjoys.

I should like to touch briefly on safety issues affecting rail and marine transport before I deal in more depth with the air and highway sectors.

Two recent reports from the Transportation Safety Board highlight safety problems in the rail industry. The board's investigation in the Biggar, Saskatchewan VIA Rail derailment and the Edson, Alberta accident revealed deficiencies in safety procedures, the application of safety procedures and general attitudes toward safety.

Evidence before our committee concentrated on the management and union problems in the rail industry which some of us believe are severe enough to be detrimental to safety. Bill C-58, currently before the Senate, seeks to amend the Railway Safety Act. We must look at further amendments to this act as our study continues.

With regard to marine transportation, the main safety problem comes from recreational boating. Over 200 people die each year in these types of boating accidents. I congratulate the government for bringing in regulations that will impose minimum age limits on the operation of certain types of boats. The committee will continue to monitor the effect of these measures as we continue our work.

We are also concerned about the ageing work force in our marine industry. Many reputable witnesses appearing before us at our hearings in Halifax expressed grave concerns that young Canadian men and women are not being attracted in the numbers they should be to a life and career at sea. The reasons for this include a lack of tax inducements, opportunity, and access to educational institutions concentrating on marine life.

Turning to highway transportation safety, there are three fundamental points that must be made. First, massive amounts of money must be directed by all levels of government into a coherent program of highway building, repair and maintenance. The CAA suggested to us and we made it a recommendation that a portion of the excise tax on gasoline be directed toward highway projects. In our final report on this matter, we will set forth a formula that we believe is equitable and fair.

Second, we must do something about truck-transport safety. There are too many trucks carrying larger and longer loads, paying more attention to the corporate bottom line than to safety. The Province of Ontario began to address this problem with stiff fines for unsafe vehicles and roadside spot checks. We commend them for their efforts. This is an area where the federal and provincial ministers of transport must take the lead and crack town on unsafe trucks.

Third, Canada needs an enforceable national safety code. Agreement was almost reached a few years ago on such a code. We need to try again. Such a code would regulate the size of trucks across the country and set out minimum standards of safety that could be enforced.

These three initiatives are overdue. If they are accomplished, literally hundreds of lives will be saved annually.

Finally, I wish to touch on the subject of air safety. This area is a priority for the special committee. We have begun our hearings in this area and hope to report with respect to this issue before our summer break. We will then hold intensive hearings on the various other modes, issuing reports with a view to winding up our work by early next year.

Our study of air safety and security will give us the opportunity to reflect on Canada's role in air safety throughout the world as well as at home. In other words, air travel in Canada for Canadians is pretty safe, but it is not enough that it be safe within Canada. Canadians should be able to travel the globe and feel safe knowing that they are flying through systems that meet Canadian standards.

•(1510)

We discussed this international aspect of air safety with various witnesses when we held hearings in the United States and Europe. The Second World Conference on International Safety, held at the Technical University in Delft, Netherlands, concentrated on the global aspects of air safety.

We are fortunate in Canada in relation to air safety, and we should explore the export of our knowledge and expertise to the developing countries of the world.

The special committee will spend much of its time in the coming year studying the future of transportation safety. We view it at as our role to recommend procedures that will point towards safer travel in the first 10 to 15 years of the next century.

In conclusion, I want to invite senators opposite who are interested in transportation safety and security to join in our work. Because of conflicts and time restraints, we had difficulty filling a number of spots on the special committee. As I said earlier, we can promise you lots of interesting, sometimes fascinating, work, most of it indoors and out of the cold. I remind you that we do not scrub floors, windows, or ceilings! If you have free time and you note that the committee is meeting, please join us.

Honourable senators, I look forward to returning with other segments of our final report at a future date.

On motion of Senator Forrestall, on behalf of Senator Spivak, debate adjourned.

THE ESTIMATES, 1998-99

RETENTION AND COMPENSATION ISSUES IN THE PUBLIC SERVICE—REPORT OF NATIONAL FINANCE COMMITTEE TABLED

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

Hon. Terry Stratton: Honourable senators, I have the honour to table the ninth report of the Standing Senate Committee on National Finance concerning retention and compensation issues in the public service.

EXCISE TAX ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-10, to amend the Excise Tax Act, with an amendment) presented in the Senate on December 9, 1998.—(*Honourable Senator Murray, P.C.*)

Hon. Lowell Murray: Honourable senators, with this report, the Standing Senate Committee on Social Affairs, Science and Technology returns Bill S-10 with one amendment. Bill S-10, which had been sponsored by Senator Di Nino and received second reading in this place before Christmas, is a bill to remove the GST on reading materials. Bill S-10 amends the Excise Tax Act.

For at least two reasons, it is the happiest of coincidences that this report should be before you today. First, we are only a couple of days removed from the budget presented by the Minister of Finance, Mr. Martin. From that budget, it is clear that the nation's finances are in pretty good shape. Indeed, the finances are well able to support the relatively modest costs that would be imposed on the Treasury by Senator Di Nino's bill. To remove the GST from reading materials is not a big-ticket item in terms of the federal fiscal scene, but as honourable senators know very well, it is a significant matter for many Canadians.

That brings me to the second reason that having this report before you today is such a happy coincidence. Today, as we were reminded earlier, is Literacy Action Day in this country. We heard eloquent speeches from our friend Senator Fairbairn, from Senator DeWare and from Senator Cochrane on just that subject.

Let me single out Senator Fairbairn for special attention. Senator Fairbairn led the charge in 1990 when the GST was going through this chamber to remove the GST on reading materials.

Senator Oliver: I remember!

Hon. Senators: Hear, hear!

Senator Murray: Senator Fairbairn has been the leading champion in this chamber in Parliament and in the government, and certainly one of the leading champions in the country, of literacy and of a coordinated attack on the illiteracy problem. She knows more about it than anyone. She appreciates more than anyone does the importance of a measure such as that proposed by Senator Di Nino to remove the GST from reading materials.

Before Senator Fairbairn gets up to remind me of the fact that I voted against her amendment when it was going through this house, I will acknowledge that right away. I was bringing the GST through the house and it was the position of the government of the day that there ought not to be exemptions or exceptions and that there were other ways to pursue such policies as the attack on illiteracy.

We are now, however, faced with a different principle. My honourable friend was able to persuade the Liberal Party and, in particular, Mr. Chrétien to adopt that policy. What we are dealing with today is a solemn commitment made by the Right Honourable the Prime Minister in the course of an election campaign to remove the GST from reading materials. That commitment on behalf of the Liberal Party, which now forms the government, was made without evasion, without equivocation, without reservation whatsoever.

And so honourable senators on both sides of this house have an opportunity, and, I think, a responsibility in the case of our friends opposite, to redeem that solemn commitment made by none other than the Right Honourable the Prime Minister.

Senator Kinsella: Stick to your principles!

Senator Murray: Honourable senators, at the Standing Senate Committee on Social Affairs, Science and Technology, there was a very commendable bipartisanship as among Liberal and Conservative senators. I want to acknowledge that today.

Senator Roche: And independents, too!

Senator Murray: An independent senator also took part in our deliberations, and I am happy to be reminded of that fact by Senator Roche.

We passed one of the amendments that was before us, the effect of which is to maintain the GST on any material that contains an age restriction imposed by law on its sale, purchase or viewing or is either obscene within the meaning of section 163 of the Criminal Code or of a pornographic nature.

Those amendments were passed by the committee and are before you today in this report. As I say, there was a most commendable bipartisanship in the committee on this important bill of Senator Di Nino's. I urge all colleagues to carry that spirit of bipartisanship over into this debate, to adopt this report, to send this bill for third reading, passage and transmittal to the House of Commons with all possible speed.

•(1520)

Hon. Sharon Carstairs (Deputy Leader of the Government): Would the honourable senator accept a question?

Senator Murray: Certainly.

Senator Carstairs: Honourable senators, three amendments were sent to the committee. I understand that only one has been returned. Could my friend give us a brief explanation as to why the other two amendments were rejected?

Senator Murray: I am not in a position to do that from memory, honourable senators, but I happen to know that our friend Senator Di Nino, who is the sponsor of the bill, intends to take part in the debate on the report. Perhaps he or one of our other colleagues would care to deal with those other amendments. I do not even have them in front of me at the moment. I only have the report and the amendment that we are recommending to the Senate.

Hon. Consiglio Di Nino: Honourable senators, if I may, I should like to address the question of the Deputy Leader of the Government.

The amendment was actually in three parts, not three amendments, if I remember correctly. The first part dealt with the age restriction, as Senator Murray has just mentioned. The second part dealt with the issue of pornography. The third part, which the committee did not accept, stated that any publication, magazine or newspaper that contained 5 per cent or more advertising should also not be included in the bill and, in effect, should continue to carry the GST.

A number of senators on both sides spoke eloquently on all of the amendments. As Senator Murray said, it was a wonderful, bipartisan effort. However, what carried the day for removing the third part of their amendment was the fact that hundreds, if not thousands, of publications across this country — small publications, magazines and newspapers, including third-language newspapers — would have been hurt by accepting this amendment. Hence, the committee saw fit to take that particular part of the suggested amendment by Senator Maheu and Senator Ferretti Barth. I trust that is the answer the honourable senator was looking for.

Honourable senators, I should like to add a few words to the eloquent presentation made by Senator Murray. He has given us some good background to consider and a lot of food for thought before we proceed to third reading of this bill. As well, it is quite opportune that today, Literacy Action Day, we are dealing with this bill in the Senate.

As I began to say yesterday, this has been a long journey. It started in 1990 with Senator Fairbairn and a number of other colleagues opposite who saw the wisdom of the need to remove the GST from reading material. As Senator Murray said, one can point to us and say, "You did not accept our amendment at that time," but I will not go into the political reasons for that. However, we must remind ourselves that the Conservative government in power at that time did state that this would be one of the first issues they would deal with at the earliest possible opportunity. Commitments were made to take a look at removing the GST from reading material.

It is unfortunate that the Finance Minister in his budget did not take the opportunity to do something about tax on reading material. He obviously chose not to keep this government's promise to Canadians, a promise made by the Prime Minister and others. Removing the GST would have cost very little money in relative terms. More important, it would have sent a message to Canadians that we take the issue of literacy seriously in this country.

That aside, honourable senators, this has been a learning experience. I should like to thank my colleagues on both sides for their support and, frankly, for some of the very wise debate that took place both in the chamber and in committee on the issue of GST on reading material.

The committee heard testimony from a wide range of individuals. All of them agree with the principles of this bill, even my colleagues opposite. Not a single witness had anything negative to say about this bill. The finance people expressed some reservation, principally dealing with costs, which obviously should no longer be the concern it was at that time.

Each witness had something interesting to tell us. Roch Carrier, the renowned Canadian author and former director of the Canada Arts Council, reminded us about the importance of making reading material as accessible as possible so we can start our children reading at an early age. He said:

> Kids should enjoy the privilege of reading.

Later he said:

> It is the best start to a good life.

Gailmarie Anderson, who owns the Melfort Bookshop in the small farming community of Melfort, Saskatchewan, spoke about the impact of the GST on her business. She said:

> Every day...I see parents who buy one book rather than two books for their children because of the added expense. In a small book store, the GST makes it more of a struggle to survive and makes it more difficult for Canadians, as individual consumers, to have books.

Incidentally, Ms Anderson wrote me following her appearance. In her letter, she referred to a single mother in Melfort who, because of her financial situation, is forced to purchase books for her children on a lay-away plan. This is 1999 we are talking about.

Senator Oliver: Shameful!

Senator Di Nino: Another of our wonderful witnesses was Sonja Smits, one of Canada's best actors and a director of the organization Performers for Literacy. She gave the committee some sobering statistics. She reminded us that "42 per cent of Canadians are below minimum literacy standards" and that "an additional 34 per cent can only use simple reading materials." She went on to say:

> People with low literacy are three times more likely to be unemployed.

Once again, honourable senators, I remind you that we are talking about 1999.

Just as an aside, a while back I received, as did we all, a letter from Canada Post concerning the corporation's Freedom of Literacy Awards. That letter noted that:

> Poor literacy skills cost the Canadian economy approximately $4 billion in lost productivity each year.

Another one of our witnesses, Jocelyn Charron, Government Affairs Coordinator of the Canadian Federation of Students, spoke about the impact of the GST on today's college students. He noted that:

[*Translation*]

> Post-secondary students have been seriously affected by the introduction of the GST.

Further on, he adds:

> The GST affects what students can buy.

I quote again:

> Students will have to do without one or more of the texts required because of the GST.

[*English*]

Honourable senators, perhaps the best and most eloquent testimony was heard from Peter Gzowski, who obviously needs no introduction. Mr. Gzowski mentioned two things that I believe bear repeating. The first was that "literary is, or ought to be, a civil right" in our country.

•(1530)

Mr. Gzowski also mentioned that removing the GST on reading material would have the symbolic value of recognizing the importance of reading and writing in our lives, and the practical effect of making the tools of training and re-education more accessible to the people who need them.

Other points emphasized during committee hearings were that literacy makes economic sense, taxation discourages consumption, education is not the only answer to literacy, and helping our children to learn to read is one of the most important things we, as parents, can do.

My conclusion from the different testimony heard before the committee is that this is not only a question of money, it is also a question of values. It is a question of what kind of a society we want and should have in Canada. We are entering an era in which the ability to read is becoming more crucial than it ever was. Those who cannot read, or those who read poorly, will be left behind. They will become part of the have-nots.

The government, through the Department of Finance, has argued that we should not fiddle with the GST; it is there, and we should live with it. The department has asked where the replacement revenue will come from, and stated that the programs already in place are a better solution to the issue of literacy than removing the GST. We know where the replacement money can come from, and we certainly know that there are better solutions. The best one is to remove the GST on reading material.

Argument and debate aside, it all boils down to one main thing: promises. I refer to promises made by members of this chamber on both sides; promises made by members of the present government, both before and after 1993; promises made by the Liberal Party membership; and promises made by members of the Conservative Party. Honourable senators, we all promised Canadians that we would get rid of this tax. We have an obligation to keep that promise.

Another thing about which witnesses reminded us is that getting rid of the GST on reading material is the right thing to do. I wish to take a moment to bring to your attention two points. The first is a comment made by a Liberal member of the other place, Mr. Peter Adams, who said:

> Books, newspapers and magazines are instruments of freedom.

The second point is that a number of Canadians from coast to coast were visiting members of Parliament yesterday and today as part of Literacy Action Day. I was extremely touched this morning by the words of a middle-aged gentleman who, like myself, immigrated to this country when he was a young teenager. He came from South America. He told me that a couple of weeks ago, his 6-year-old daughter returned home from grade one with a book. Her teacher had told the students that if their parents read from this book, the students would receive some form of recognition, I believe it was to be by way of stars, or something of that nature. Tears came into the gentleman's eyes and he said, "I have never felt so ashamed in my life. I could not read my 6-year-old daughter's book." He is now enrolled full-time in a school supported by the literacy movement.

Honourable senators, I close by urging each and every one of you to send a message to the other place but, most important, to send a message to Canadians that we care about literacy and about the promises we have made. At the appropriate time, I hope you will support the passage of Bill S-10.

On motion of Senator Carstairs, debate adjourned.

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, there is an agreement that at 3:30 we will move into Committee of the Whole.

The Hon. the Speaker: Is it agreed, honourable senators, that we now move to Committee of the Whole?

Hon. Senators: Agreed.

[*Translation*]

PRIVACY COMMISSIONER

ANNUAL REPORT—
CONSIDERATION IN COMMITTEE OF THE WHOLE

The Senate in Committee of the Whole on the Report of the Privacy Commissioner for the period ended March 31, 1998, tabled in the Senate on September 29, 1998.

The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Fernand Robichaud in the Chair.

[*English*]

Senator Carstairs: Honourable senators, I move, seconded by the Honourable Senator Kinsella, that Mr. Bruce Phillips, Privacy Commissioner, be escorted to a seat in the chamber.

Senator Kinsella: Honourable senators, while Mr. Phillips is being escorted to the witness table, I believe there is agreement that honourable senators who are sitting in seats at an extreme distance from the witness table may take vacant seats that are closer to the witness, and that the rules be waived in regard to where one must be seated whilst asking a question in Committee of the Whole.

[*Translation*]

The Chairman: Is there unanimous consent for the suggestion made by Senator Carstairs that senators be allowed to speak from a seat other than their own during these deliberations?

Hon. Senators: Agreed.

Pursuant to order adopted October 29, 1998, Mr. Bruce Phillips was escorted to a seat in the Senate chamber.

The Chairman: I welcome Mr. Phillips, Privacy Commissioner, and Mr. Julien Delisle, who is with him.

[*English*]

•(1540)

Mr. Bruce Phillips, Privacy Commissioner of Canada: My address will be as brief as I can possibly make it. I must start by saying that this is quite a thrill. It is an extraordinary occasion for us. This is the first time I have been called to appear before a Committee of the Whole of either house.

In my early days as a press gallery reporter here, about 40 years ago, appearances of witnesses before committees of the whole house were quite commonplace. It is now somewhat out of fashion, which is too bad. Whatever the intention, the result has been reduced public visibility of the legislative process and of the workings of government. When all or most of the departments and agencies were before committees of the whole, for better or for worse, it was always under the eye of the fourth estate. Even if it was only one lonely wire service reporter — although there were usually quite a few of us — since we had to sit there, we daily wrote thousands of words and scores of stories about it. Now that it is spread across many committees, I think much of the work goes unseen and unreported. Quite frankly, I think this contributes to the disconnection between Parliament and the public.

Senator Prud'homme: Bring him into the Senate!

Mr. Phillips: I will confess to having fantasized about that possibility once or twice. But for a stroke of fate or two, who knows, I might have made it here on my own!

If today's session represents the beginning of a revival of the process of Committee of the Whole, forgive me for attaching some special distinction to my appearance. I hope this does become true — at least for that small band of people who are known as officers of Parliament. That is, the half dozen or so of us whose appointment alone in the entire federal establishment requires a vote of approval by both Houses of Parliament and who answer to no ministry whatsoever but only to Parliament and who make our reports directly to the Speakers of both Houses.

Parliament has decided that some issues, values and interests are of such basic importance in Canadian life that they need a champion who stands at arm's length from the government and from the political debates of the day. Thus we have, among others, the Auditor General, the Chief Electoral Officer, the Commissioner of Official Languages, the Information Commissioner and, in my case, the Privacy Commissioner. All of us, in our special areas, share a common charge of working to preserve fairness, decency and honesty in public administration in particular and, to the extent possible, in Canadian life generally.

No one could ask for more in this life — and, believe me when I say this — than the opportunity to represent values of that kind. Please allow me, while I am on this subject, to record my thanks to the Senate for signifying its confidence in my fitness to continue in this office by having approved an extension of my term a while ago. In the time remaining to me, I hope to promote closer ties and greater interest by Parliament in the work of my office and similar offices. Also, I want to express some particular personal pleasure in my appearance here today. Many of you on both sides of this house are personal friends and acquaintances and former colleagues of mine. It is good to see you again.

Having said all that, I wish to express my gratitude at having the great good fortune, for the past eight years, to serve Parliament in an office that has been incredibly fulfilling, challenging and exciting. As most of you know, my term expires in about 15 months. This, therefore, might be my one and only shot at a meeting of this kind. On that account, I should like to take a minute or two to talk about the concept of privacy in the broad sense.

You often hear the phrase these days that "privacy is the issue of the nineties." I think there is some truth in that statement. In any given week, you only have to look at the daily papers or turn on the television to see how frequentlythe subject of privacy is raised as an issue of contemporary importance. I think it must also have been an issue of the 1890s, the 1790s and the 1690s — in fact, just about as far back as you can go into the mists of human history. "Privacy" is merely a convenient but altogether inadequate word that we use to encompass a set of values and considerations which touch almost every aspect of our lives, which have evolved over centuries of human experience and which, in every age, have set the terms and conditions of social interaction both between and among individuals and individuals and institutions.

Mr. Justice La Forest, who recently retired from the Supreme Court, described "privacy" as the value "that is at the heart of liberty in the modern state." That is a wise observation indeed. If you would assess the degree of freedom that exists in any particular society, look first to the degree of private life that its citizens can command and you find a striking correlation. I have only to mention some of the oppressive totalitarian regimes, many of which are still around and we have seen just in this century.

"Privacy," in short, is just another word for "freedom." Without it, we do not have any personal autonomy, no liberty and darn little dignity. The degree to which we honour and defend the right to a private life is precisely the way we measure the respect that we give to each other as individual and distinct human

beings. It follows that if we chip away at this edifice, we do it at our peril. Enough chipping away and it all falls down. It is the chipping process that I should like to talk about today.

Freedom does not always or even very often disappear in some cataclysmic eruption. It slips away quietly, bit by bit — usually the victim of many plausible and seductive propositions which society accepts out of either indifference or ignorance. In my view, it is this process which stands, in our time, as the greatest danger to the priceless right to a private life that we now enjoy.

There are privacy problems cropping up in all kinds of places these days. In surveillance technology we are now under the eye of someone's camera almost every waking hour, and in biological sciences such as drug testing, DNA testing, and so on we are also experiencing privacy problems. We could profitably discuss all of these things one at a time and at length. In fact, before some of your committees we have discussed some of these matters already.

My remarks today should be considered mainly in the context of the problem that arises from the application of computer and communications technology to the massive amounts of personal information that is being gathered in by both the corporate and governmental worlds. The problem here is to ensure that the management of all this information complies with fair practices of the kind that are embodied in the federal Privacy Act. This is not rocket science. It is simply to ensure that people know the information about them is being collected, and why; that it will not be used for purposes other than the reason it was collected, without their consent; that it will be kept secure; and that people have a right of access to it and to correct it. That is the whole story about privacy in the information world. Often it is honoured not in the observance but in the breach.

Based on my experience as a commissioner working with government departments, I do not think there are a great many people who deliberately or maliciously strive to erode people's privacy rights. It is more of an insidious process and it often happens quite unknowingly.

Earlier, I mentioned indifference and ignorance, and I used those terms advisedly. More than once it has been my experience that administrators have embarked upon actions which, in the upshot, they have been surprised to be told have offended good privacy practice. I can certainly supply examples. Most of this activity is certainly benign in its objective but carries with it a cost which, upon more careful examination, sometimes proves to be unacceptable. Usually, if my office finds out about it, I can fix it, but not always.

This aspect of the privacy problem has been exacerbated by the onrush of technology and its impact on the collection, use and disclosure of personal information. Every enterprise, public and private, depends upon personal information as one of its vital raw resources. This information, collected from all of us, is usually given up freely because we recognize the beneficial uses to which it will be put, but we do so on the assumption that it will not be used for unrelated purposes or disclosed to other persons without our consent.

If you go to a doctor, you reveal your symptoms. If you go to the bank for a loan, you must disclose your financial situation. If you go to an employer, you must cite your qualifications. The world would crash to a halt without such routine exchanges, but there is an element of trust involved in all of these transactions, and modern technology, unless properly hedged about with effective and legally enforceable restraints, can and sometimes does make a shambles of any notion of trust.

What, then, is the state of the law, which I think is of particular interest and relevance here? In a phrase, it is creaky and it is leaky. The federal Privacy Act, for a start, is badly in need of an update. Too much is excluded from its purview. The federal government, for example, engages in massive informational exchanges with other governments and private-sector entities. An essential precondition of all of those exchanges should be a requirement of compliance with the established privacy norms, but most of those exchanges occur unseen, without scrutiny, and certainly without the knowledge of the people who, in most cases, were the originators of the information.

There are other offensive exemptions as well. Federal investigative bodies, for example, are allowed to deny people access to their personal information, for any information that is gathered in "the enforcement of any law of Canada or a province." No such all-embracing exemption should ever be allowed unless an injury to enforcement can be demonstrated.

The very definition of personal information needs updating to take account of scientific advance, as, for example, with blood and tissue samples. Neither does the act provide an adequate system controlling what I think is the most dangerous potential misuse of government information holdings, which is in the areas of data matching, data linkages and data mining. These problems must be addressed if our national government is to stay abreast of technological change and fulfil its commitment to protect the privacy of Canadians.

In the private sector, at the moment, it is just a question of sauve qui peut. With the single exception of Quebec, where the commercial world is covered, it is an informational jungle out there, and survival of the fittest applies. Generally speaking, we have no right to know what information business holds about us, how they got it, how they use it, whether it is accurate, and how they will keep it. Some corporations increasingly regard client data as a resource which they can own and mine, use or dispose of as they wish. The more widely information is shared, the more likely it will be used to decide what services you will be offered, what benefits you may receive, even what jobs you might qualify for, all without your permission or consent or knowledge.

Equally dangerous is that these decisions may be based on faulty information, and we do not even have the legal right to correct that. One graphic example of that particular problem was revealed in a U.S. congressional study a few years ago which said that credit reports, for example — and we are all in someone's credit report somewhere — contain an average error rate of about 20 per cent. Errors of that kind can have real-life consequences in terms of the denial of credit, and denial, possibly, of employment opportunities and so forth.

I am very glad to report that, assuming the House of Commons passes it, you will soon have a bill before you which will go a considerable distance toward providing a remedy to the absence of legal privacy rights in the commercial sector. That bill, Bill C-54, will provide for the extension of federal privacy law, in the first instance, to the federally-regulated privacy sector, that is banks, communications, telecommunications, transportation, and so on — all massive holders and gatherers of information. The bill will also extend the law to the balance of the business world in the provinces, if they do not, in their own legislatures, provide equivalent protection within a three-year period.

This bill also provides an oversight mechanism involving my office. The bill is not perfect — few are — but I presume it will be improved in the legislative process. It is a long step forward and I support it. I presume I will be given the opportunity to come before members of this chamber when you are considering that bill.

It is a regrettable fact that a specific right of privacy was excluded from the Charter of Rights and Freedoms. That right is enshrined in the Universal Declaration on Human Rights, the European Covenant on Human Rights, and similar documents and covenants, and I believe it is even in the Quebec Charter of Rights. It was included in the original drafts of the Canadian Charter when they were first circulated to the provinces for discussion, and unhappily it got lost in all the horse-trading that went on from the Charter's conception on its journey through Parliament. The Supreme Court is slowly buttressing privacy through jurisprudence, but they have a long way to go.

At a minimum, inclusion of a specific privacy right would have meant much more rigorous examination of draft legislation for privacy implications, and it would have given my act, the federal Privacy Act, a more solid underpinning. As it is, the act enjoys no certain paramountcy, and its heart, the Code of Fair Information Practices, which I rattled off to you earlier, is subject to any other act of Parliament and can be easily circumvented by other departments.

Frankly, I think that anything as basic as privacy rights deserves a little better than that. We need Parliament to be especially vigilant on this issue, and I implore you to be especially tough and critical when you are asked to judge the merits of propositions in which the fate of privacy is put in the balance.

You have often heard from departmental officials, and you will hear it often in the future, that their objective is "to strike the right balance" between their wonderful program and that irritating obstacle known as privacy. This is a very depressing litany to me — I hear it almost every day — when I know that what they really mean, at least in the way that it translates to me, is, "Let us just get rid of privacy so we can get on with the business." Many more so-called balancing acts like that and there will be nothing left to balance; it will all have been chipped away.

The question that must be asked when it comes to data linkages and data mining and usage of that nature by government departments is the following: Can you make this program without the further abridgement of civil and human rights? If the answer is no, they should be sent back to the drawing board. I believe that, in the great majority of cases, the answer can be yes, if sufficient ingenuity and plain hard work are put into it, but in drafting programs, one of our troubles is that bureaucrats, and businesses too, reach too quickly for the cheap and easy solution, which is just to throw in some technology that will mix up the data and give them an answer. Any proposition that involves the trade-off of privacy rights for administrative convenience or efficiency should, in my view, face the very toughest of uphill battles before the legislatures of the land.

On the subject of parliamentary vigilance, there is one issue in particular that I wish to raise, and I will then conclude. No doubt you have heard about the proposal to create a medical information highway. This has been recommended by a special advisory council appointed by the government, and the Minister of Health has indicated his intention to proceed. What is involved here is a national health data network which will link existing and planned provincial and local networks. Putting health care information into electronic systems and then linking those systems has serious privacy implications. We all want a more efficient and effective health system but, given the fact that the raw material is the highly sensitive, personal information, medical information, of millions of Canadians, great care must be taken to ensure that no abuse is possible. What is at stake here is all that people have come to expect from the doctor-patient relationship.

•(1600)

The advisory council has laid great stress in its reports on the privacy dimensions that are involved, but it remains to be seen how well good intentions are translated into good deeds. I urge you, I plead with you, on that account to give this, when you get the opportunity, the most careful study. Of course, I will be anxious to contribute the help of my office.

Honourable senators, that is a very quick skim over a small part of the privacy landscape, but it is enough, I hope, to demonstrate that there is much here for legislators to ponder. When you do so, you will be animated by a resolve to ensure that efficient government is not achieved by the abridgement of precious and hard-won rights. People have a right to control their own lives, and that means the right to control their information. They are only seeking after what Mr. Justice La Forest called the heart of freedom.

We are now ready to field your questions.

The Chairman: Mr. Phillips, I remind you that you have access to translation services through your ear piece.

Senator Milne: Mr. Phillips, under your mandate, for how long after a person has died is information about the individual held by a government department or agency protected? Does a person's right to privacy change at some time after he or she has died?

Mr. Phillips: Senator, the retention schedules for keeping information are established by the public Archives of Canada. They vary a great deal depending upon the kind of information involved. A few time limits are set in the Privacy Act for certain kinds of law enforcement information, for example. There are some kinds of information that the government is allowed to exempt from disclosure for periods of 20 years.

I cannot give you a simple answer. In some cases, the retention periods are one or two years, and in other cases it is longer.

In the case of the census, to which I think you may be referring, there is an absolute prohibition on census data gathered beyond a certain date — I think it is 1901 or 1911 — that will keep it from disclosure in perpetuity.

Senator Milne: Even though the federal Privacy Act states in section 3 that information about an individual who has been dead for more than 20 years is not considered personal information for sections 7, 8, 19 and 26 of the Access to Information Act, you are still saying that the census information will be privileged forever?

In respect of the census information, in a letter dated January 11 of this year from yourself to the Chief Statistician of Canada, you referred to certain proposals to amend the Statistics Act to allow for the transfer of identifiable census returns to the National Archives for archival and historical purposes. Your opinion on this proposal was as follows:

> It will come as no surprise to you that this Privacy Commissioner has not been persuaded that it represents an acceptable balance between the preservation of individuals' privacy rights and the interests of researchers and genealogists.

When you refer to the preservation of individuals' privacy rights, for how long do you feel that the privacy right of an individual should be preserved, in spite of the fact that your mandate says 20 years after death?

Mr. Phillips: Senator, census information is gathered by Statistics Canada on a promise of confidentiality to the people who are required to give it up under penalty of law. That is a compulsory collection of information. We get, in my office, many complaints from people about the intrusive nature of the questions I mentioned merely to testify to the sensitivity of the information. It is not for me as Privacy Commissioner or, I submit, for any other individual, to decide how much privacy the people who give up that information in the expectation that it will be held confidential and secret by Statistics Canada can be expected to give up.

In my view, dead people are just as entitled to an expectation of privacy in those circumstances as anyone else. The notion that somehow or other our departure from this earth means that all the personal information about us will be open and exposed to anyone who wants to look at it thereafter is one that no Privacy Commissioner could support. I understand the interest of genealogists and others in this kind of information, but I simply make the case that there are all kinds of data banks gathered by the Government of Canada which contain a great deal of interesting personal information which I think might be of equal interest. I do not see a special case for excusing the census. In fact, I think the case for keeping that information confidential is stronger than it is with most databases because of the sensitive nature of it.

To argue that simply because you are dead you have waived all your rights, in my opinion, is not an acceptable proposition.

Senator Milne: Even though that is a proposition under which you are mandated to operate?

Mr. Phillips: The Privacy Act also says elsewhere, senator, that information shall not be disclosed without the consent of the person to whom it relates, subject to the very limited and specific exemptions that are in the act. Even if information may be disclosed after 20 years, there is still the factor of complaint. Yes, it has escaped the definition of personal information. Nevertheless, there is a good privacy principle involved here.

In the case of Statistics Canada, the promise of confidentiality is right there on the form. It establishes for the individual citizen, Statistics Canada, and the Government of Canada as a whole an element of trust. No convincing argument has been given to me that would justify, in the interests of some historians, genealogists, and other interest groups, violating or disposing of that trust.

Senator Milne: Thank you Mr. Phillips. I expect you and I will be locking horns on this again.

Senator Atkins: Welcome, Mr. Commissioner, and thank you for your presentation. I think it is incredible that you are in your seventh year, and this is the first time that you have appeared before this body.

As I recall, you were concerned when they made the amendments to the Elections Act about the permanent voters list and the misuse of that list. Do you still have those concerns, or are you satisfied that the Chief Electoral Officer is fulfilling his responsibility of protecting that list and using it only for the purposes for which it was intended?

Mr. Phillips: I will try to give a quick answer to that, senator, but I must say that I have not looked at this issue since the act was amended.

•(1610)

Most of the concerns that I held at the time were addressed and resolved by the Chief Electoral Officer. The only remaining one was the issue of making a list available on an annual basis, which I know was a very desirable change in some people's mind. We thought that this might expose the body politic, as it were, to an excessive amount of political proselytization, but that got a little out of my brief, to be quite frank.

Our chief concern was with the consent of voters to have their names put on the list. The Chief Electoral Officer wanted to use Revenue Canada returns, because of their current addresses, as a principal resource. We resolved that by having Revenue Canada agree to put a consent box on the tax returns, and I was pleased to see that more than 80 per cent of tax filers gave their consent to have their addresses given to the Chief Electoral Officer. There were some other changes as well, but that was the principal concern.

Senator DeWare: Mr. Commissioner, given that we have a proposed act on the books that will change Revenue Canada to the Canadian Customs Revenue Agency, headed up by an 11-member board appointed from across Canada, probably political appointments, would that change your mind as to the privacy of the use of the names?

Mr. Phillips: I must give you a conditional answer because your question is based on an assumption. I am assuming that the proposed agency will be subject to all the legislative safeguards that are now in place for Elections Canada and Revenue Canada. If that were not so, then I believe we would have something to worry about.

Senator Kinsella: It is good to have you here, Mr. Commissioner. I also should put on the record that your assistant, Mr. Delisle, is a former student of mine. Therefore, honourable senators, Mr. Delisle is well trained and was one of our lead investigators at the New Brunswick Human Rights Commission when I was chairman of that agency.

It is my understanding that, under section 72(1) of the Privacy Act, all heads of the various government agencies have an obligation to submit reports to you as to how they are complying with the act. In your report, which is the subject of this Committee of the Whole, you present a table on page 48 of the top 10 departments by complaints that you have received. According to that table, from Human Resources Development Canada there were 671 privacy complaints and 356 from Revenue Canada. The number of complaints from all the other agencies drops way down to 20, 40, 19, et cetera.

Based upon what you tell us in that table, you are in constant communication with Revenue Canada and Human Resources Development Canada. What is the problem?

Mr. Phillips: First let me say, senator, that I do not know whether we have an inside man at the Senate or you have an inside man in my office, but in any case it is very useful.

Yes, that very high number of complaints from those two departments relates to one particular issue, namely, the data match in which Revenue Canada supplied the Customs forms from returning travellers to HRDC for the purpose of matching up against unemployment insurance claimant lists, in order to find people who were out of the country while receiving benefits. That particular issue has triggered one of the largest body of complaints we have ever had on a single problem.

Senator Kinsella: Has that practice stopped?

Mr. Phillips: It has stopped. We tried very hard to negotiate a compromise arrangement with HRDC because we saw some problems in that particular data match. We could not succeed, therefore, we joined with the Department of Justice in a reference to the Federal Court to test the ministerial authority for conducting the data match. We have another case ongoing to test the validity of that kind of use of the information against the Charter of Rights. We have had a judgment from the Federal Court on the first question, which found that the minister has exceeded his authority. I believe that is a fair way to describe the outcome of the case. While they contemplate their next step, the match has been suspended.

Senator Kinsella: It seems to me, honourable senators, that where the Privacy Commissioner and a few others are officers of Parliament, and whereas under our system of governance ministerial accountability is to Parliament, this is a very important area for us to mine. That is to say, when an officer of Parliament, whether it be the Privacy Commissioner, the Official Languages Commissioner, or any other officer, is having difficulty with the agencies of government, rather than using the judicial system the parliamentary system could be used.

Would you comment on that in terms of accountability of these agencies that you have difficulty with and their accountability to Parliament, and whether or not the Privacy Commissioner could be coming to Parliament with the problems that Parliament could be addressing?

Mr. Phillips: I am pleased, Senator Kinsella, to hear that suggestion raised here. The act does provide for the commissioner, should he or she feel the problem is of sufficient importance, to make special reports to Parliament. I have always regarded that special report provision as being a nuclear bomb-type of provision to deal with something that I consider to be of an all-embracing and critical national nature.

That particular case is a classic of the kind that comes up these days, and I believe we will see more of them, of departmental officials seeking to use databases which were collected for one purpose and used for another. It comes up most often as a means of tracking cheats and that sort of thing, which we all wish to do. However, it does raise privacy questions because of the government's obligation to the people who give up all this information on certain undertakings.

We do not have, at this moment, an effective way of dealing with that, and I should like people to turn their minds to the problem. Any department, by Treasury Board policy, wishing to conduct a data match is required to bring it to the office of the Privacy Commissioner for review, and some do, if I can put it that way. I do not have the power to stop them. I only have the right to offer an opinion, usually delivered by a member of my staff because I must be very careful not to be seen to be judging any particular issue in advance against which I might subsequently receive a complaint that needs to be investigated.

I do not feel the Privacy Commissioner should be permitted to stop data matches. There are other considerations besides privacy. Equally, I do not believe that ministers, simply on the

authority to manage a department, should be allowed to override issues of a privacy nature. What I am thinking of is perhaps some additional system of review.

I am very unhappy with the present situation that drove us into court. It has cost a great deal of time and expense, and I do not wish to repeat it. However, we are not Luddites in our office; we do recognize the great value that modern technology can bring to government operations by way of efficiency and savings. At the same time, bureaucrats who are under enormous pressure to improve their systems to achieve economies tend either to ignore the privacy dimension or not to take notice of it at all. We must do better than that. We need a better system.

Senator Kinsella: Mr. Commissioner, it is my understanding that section 75(1) of the Statutes of Canada establishes that the administration of the Privacy Act can be reviewed by a committee of either House but that such a review has not occurred too often.

Am I correct in my understanding?

Mr. Phillips: There was one in 1987. It was provided for in the act, which required a review after the first five years of operation.

Senator Kinsella: There has not been one for the past 12 years.

•(1620)

Mr. Phillips: Some very sensible recommendations were made but not adopted.

Senator Kinsella: In your opening comments you made the observation that the act needs revision, that it is leaky and creeky. You alluded to too much exclusion. You made reference to data matching and data mining and those kinds of things. Let me ask this question: Are there many models available to draw from in a revision of the current Privacy Act, including the model that exists in the Province of Quebec?

Mr. Phillips: Yes, there are a number of offices similar to mine in this country and abroad, New Zealand, and Australia, most of the countries of Western Europe.

In Canada, most of the offices in the provinces are based upon our model rather than the other way around. There are also significant differences. The provincial commissioners all have ordered powers. I am an ombudsperson and I do not want ordered powers. I am able to take an approach that allows for less confrontation, that allows me to try to negotiate solutions, which puts the focus on locating and fixing problems rather than finding blame. My relations with government departments are quite cooperative. We do get some good results.

My office was set up exclusively as a complaints investigation bureau and an audit office. We were not given a mandate to do public education, policy or research work.

The nature of the discussion we are having now indicates how limiting the act is. Without the funding to do some decent policy research, it is difficult for us to stay abreast of the swiftly changing scene. As a consequence, we have had to patch and paste to do policy research in order to have some relevance to Parliament in terms of being able to provide you with some cogent advice and keep you up to date.

I have asked the Minister of Justice to take a look at amending the act to bring it up to date. A parliamentary review would be a good thing.

Senator Grafstein: Commissioner, the last time we had an exchange was in the Standing Senate Committee on Legal and Constitutional Affairs. Our committee worked very closely with you in order to ensure that the proposed DNA data bank legislation was more sensitive to privacy concerns than might otherwise have been the case. We hope that the output of that bill will justify our efforts in that regard. In that case, our committee insisted that there be an independent body and that the commissioner be involved in order to sustain and maintain privacy.

I was listening to your opening comments about the need for a constitutional amendment to ensure the right of privacy. I could not help but think about how that situation might have changed events in the United States if they had adopted the right to privacy in the last year or so. Things are ever fresh in constitutional matters. Who knows, we may adopt that principle.

I am interested in your mandate with respect to reviewing legislation. Legislation pours through this and the other place. Many legislative matters impinge on privacy. Do you consider one of your mandates to review all legislation for sensitivity to privacy matters?

Mr. Phillips: If we did not look at legislation, we would not know what is going on. In that respect, we would be failing in our duty to the chamber and the other place. We do our best, and that is all I can say. I have very limited resources for that purpose. I have one very competent officer in my office who takes care of that work as one of her many duties. We do not have adequate resources to thoroughly canvass all of the legislative propositions.

Funding has been a severe problem for our office. I know every official coming before a parliamentary body drags out this crying towel. However, ours is a special case. I am almost embarrassed to tell you what our operational funding has fallen to as a consequence of historic underfunding complicated by government reductions. This year our allocation is approximately $100,000. Let me tell you how this affects what is essentially a complaints investigation office.

The credibility of my office and the investigative process depends to a significant extent on the ability of my investigators to go on site where these complaints occur; that is frequently out of town. It would not take my office many investigations to exhaust a budget of that size.

Senator Grafstein: I understand what you are saying. That was not the thrust of my question. The thrust of my question was: Do you consider part of your mandate to review draft legislation before it is passed?

I try to read all the legislation that comes before this body, not in detail, but to try to grasp some of the central principles. It is one of the jobs of all legislators. Do you consider legislative review to be part of your mandate in order to raise some red flags to indicate a problem or possible problem? Do you consider your mandate sufficient to survey or verify privacy issues in all legislation?

Mr. Phillips: The answer to that is in the affirmative if, by "mandate," you mean our responsibility. This is not specifically mentioned in the statute as one of the things that we are instructed by Parliament to do. However, there are many other things that are not mentioned either. We have a responsibility to do our best in that respect. However, we need more funds to do our jobs effectively.

Senator Grafstein: Yesterday in the Foreign Affairs Committee we were reviewing Bill S-22. This is proposed legislation authorizing preclearance of travellers and goods in Canada for entry into the United States.

In that bill is a provision that allows American officers on Canadian soil to obtain reams of specified information about travellers, all with a view to offsetting difficult issues. That information goes into a data bank and a preclearance officer is obliged under the statute, if they do not use the information, to destroy it within 24 hours:

> ...unless the information is reasonably required for the administration or enforcement of Canadian law or preclearance laws.

Essentially, it is their choice as to whether they retain that information. That is a massive amount of personal information. We are wrestling with this subject in committee. It came to our attention as we reviewed the bill.

I cite this as a specific example as to whether or not your office considers it part of its mandate to raise red flags in order to provide parliamentarians with some advice on matters such as this.

When you consider the liability section, there is a limitation on liability against those preclearance officers even if they fail or omit to do anything under the proposed legislation from a civil aspect.

•(1630)

It is a major concern. More than 50 million trips are made across the border every year. Massive amounts of our information exist in American computers. I raise that as a question.

Mr. Phillips: Senator, we are looking at that particular bill now, even as we speak. I expect we will have something to say about it very shortly. We have not had it long, just a matter of a few days. Some of the implications were immediately apparent, but we are looking at it now and will certainly be prepared to offer some observations on the subject.

You mentioned the DNA bill. Let me compliment the members of the Senate committee who handled that particular issue. The end result was a wonderful example of what happens when a parliamentary committee digs in and knows its stuff.

Senator Grafstein: You are referring to a Senate parliamentary committee.

Mr. Phillips: Yes, I refer to a Senate parliamentary committee. The bill was greatly improved in the process. We had a very serious concern about some aspects of that bill and they have been pretty much resolved.

Regarding the DNA bill, my point is that we came to the Senate committee because we were doing precisely what you were discussing, which is monitoring legislation.

Senator Grafstein: With respect to the new computers in telephony, particularly those computers which measure the quantum of telephone use by users, those telephone numbers are now being monitored. There are reams and reams of these records. Senators will note that their telephone bills include reams of numbers, all of which are recorded in a computer. We all have two or three telephones and we are getting these long lists.

It struck me that the amount of information in such a federally-regulated industry puts enormous power on issues of privacy into the hands of an authority or a public corporation without any survey on what they do with that information or when they drop it.

I have not looked into this question. Has there been any thought on your part about that type of information? Can those long tracks of private information be curtailed, such as requiring that, after a year, the computer records be wiped clean? Have you given any thought to that? Is that an issue for you?

Mr. Phillips: Yes, of course, it is an issue. Those are typical of the kinds of mass information holdings that private corporations can collect. If it is not subject to some reasonable privacy standards, it can be abused and is being abused. We can give you terrible examples of information that has been collected and wrongly used.

I am assuming that if Bill C-54 passes this chamber and Parliament, we will go a long way toward getting a handle on that kind of problem, because Bell Canada's information management practices then would come within the purview of the office of the Privacy Commissioner. They would be required to subscribe to a legally established standard of information management, which is set out in the bill, principally guided by the Canadian Standards Association Model Code of Information Practice which was devised, in part, by private sector people. That would become the law and they would have to live with it.

The notion, therefore, that all of that telephone numerical information — which provides all sorts of information, including a very good guide to the interests of the callers and their locations at any given time — would be protected by a statute. That is the whole argument on behalf of legislating legal privacy rights.

Senator Di Nino: Welcome, commissioner. As a former member of the press corps, I am sure you must be very pleased that when you come to the Senate, you get an elevated position.

Mr. Commissioner, you and others have raised concerns about the privacy of information held by financial institutions. As you undoubtedly know, they have a privacy code to which all financial institutions claim to adhere. It has been suggested that if the financial institutions were really serious about the privacy of information, they would use your office either as an appeal mechanism or simply as their overall privacy adjudicator.

Could you give me some comments on that, and perhaps a bit of a report card on how the financial institutions are behaving themselves, or otherwise, as well as some advice or suggestions on how we should deal with that issue?

Mr. Phillips: To answer the last question first, I cannot give you any kind of informed judgment on the behaviour of financial institutions in this country. I have only anecdotal evidence. The reason is, of course, that at this moment I have no jurisdiction.

We do get complaints from people around the country. We can do very little for them except offer them comfort and sympathy because I have no right to go through the doors of a bank to ask any questions.

The Canadian Bankers Association and some of the individual chartered banks have developed good voluntary codes of practice. If they lived up to those codes in spirit and letter, that would probably be sufficient. I do not think that is enough in this day and age and I have no notion whether they live up to them or not.

In any case, we have reached the stage where the collection and use of personal information is now one of the principal activities in the business and governmental world. People are entitled to have legal rights respecting the use of that information.

We have a bill coming before a Commons committee now which will do exactly that. I have not yet heard the Canadian Bankers Association, as they have not appeared before the committee yet. However, it is my understanding that the Canadian banks feel that the powers given to the Privacy Commissioner in that bill are excessive and unnecessary. I am sorry that they are taking that position. The consumer advocates, on the other hand, feel that the powers given to the commissioner under that bill are lamentably inadequate. I guess the bill strikes a pretty good half-way position.

It is an act of some courage and imagination that the government has adopted this position. It will not get an easy ride. The bill needs some improvement and there are some powerful interests which do not like the idea, but the time has long since come for the acceptance in this country of legally established privacy rights.

Such laws have existed in most of Western Europe now for several decades. They are well ahead of us. Australia is now moving toward it. New Zealand has had it for some time. There are recently independent countries in Eastern Europe which were very quick to move toward data protection laws of the kind that we are talking about here. Those people recognized from their own unhappy experiences the dangers that are involved when the state or corporate interests can take personal information and use it in any way they want. Our time is long overdue and I am glad to see it is at last happening.

Senator Di Nino: That pretty well ensures you will return to the committee structure — I am not sure which one it will be — of the Senate in the not too distant future because obviously your comments have hit a chord today, particularly when you equate privacy with freedom. That was something to which we all paid attention.

•(1640)

I have a practical question dealing with some of the anecdotal evidence of which you spoke in relation to financial institutions abusing or misusing data. Have you heard of problems existing in the misuse or abuse of the data financial institutions have when it comes to cross-selling? To be more specific, are the banks or other financial institutions using the data they have to sell services in the insurance field or mutual fund field, something which was never intended when the original service was entered into?

Mr. Phillips: I think you can get a more complete and accurate answer to that by examining the report of the Canadian Bankers Association ombudsman, which was issued a few days ago. I have not gone over it in detail, but tied selling is one of the principal problems with which he has to deal, and those problems arise from bank clients. I cannot give you any more than fragmentary views on the subject.

If you have friends in the investment dealer community, they may tell you that the bank that owns them does not have anyone in the bank sending account information. However, it is hardly necessary if two people meet for lunch and one says to the other, "You should get in touch with Joe Smith, who blew into town the other day from Vancouver." If a banker says that to an investment dealer, it conveys something. As far as I know, there is nothing unlawful about the practice. However, I would not want to be in the position of trying to pass any kind of judgment, as I do not have enough information.

Senator Di Nino: I appreciate that, and we will look forward to seeing you when we deal with Bill C-54.

Senator Oliver: Mr. Commissioner, on two or three occasions when you have appeared before committees on which I have been sitting, we have discussed the issue of privacy in relation to medical records — that is, patient-doctor records and patients' hospital records and insurance records, such as the details of a person's private health concerns contained in an insurance policy. One of the things that will never leave my mind was evidence before one of our committees about where some Canadian

insurance health particulars are actually stored and how easily accessible they are to the general public. I am hoping you can comment on that to let us know whether that problem has been cured.

My specific question today deals with computer storage of some of these records and what will be done with them. Do you think Bill C-54 will be a big enough and good enough remedy to ensure that privacy of our medical and insurance records is contained?

Mr. Phillips: The answer to the question, Senator Oliver, is maybe.

A good deal of personal information is gathered in Canada in the course of all kinds of enterprises and activities, health being one of them, which is processed in the United States.

Senator Oliver: In Hartford, Connecticut?

Mr. Phillips: I believe the medical insurance bureau to which you refer is based in Boston. I think that is what you are talking about.

Yes, insurance companies routinely file from Canada to the United States a good deal of information they have gathered from their policyholders. That information, once it is out of the hands and over the border, is essentially beyond the control of any Canadian law. I do not think Bill C-54 really deals with that problem. It does deal with the information, though, as long as it is inside Canada. It may be that the problem can be approached through the disclosure provisions of the code. I am sorry, but I will defer a more complete answer to that question.

Senator Oliver: What happens in Canada when marketers marketing health products have access to some of our private insurance health records, records from hospitals and patient-doctor records? Will Bill C-54 be able to curtail that use when the information is stored in various computer systems and databanks?

Mr. Phillips: No, I do not think so. It could.

Mr. P. Julien Delisle, Executive Director, Office of the Privacy Commissioner of Canada: Honourable senators, Bill C-54 deals essentially with commercial transactions. If it is a doctor-patient relationship, which is not part of any commercial transaction, it falls outside the ambit of the bill.

Senator Oliver: What if someone has the data and they suddenly start to commercially market a particular health product based upon information they gained and gleaned from reading private health records, either from a hospital, a patient or an insurance policy?

Mr. Delisle: Then it may be subject to Bill C-54.

Senator Di Nino: It may be?

Mr. Delisle: Yes, but we would have to look at the specific circumstances.

Right now the private sector is largely unregulated anyway, so there is no legal protection with respect to those issues.

Mr. Phillips: One of the problems with the bill in its present form, Senator Oliver, is that it says it covers commercial activity. However, commercial activity is not sufficiently and clearly defined. Does it cover things, for example, such as non-profit or charitable organizations? In the case of a charitable organization, would it cover only that part of its activities in which they hired people to raise funds and paid them? What effect would that have on any records created as a consequence? There are some complications and ambiguities involved here that we must sort out.

Professional associations, such as bar associations and medical associations, are not specifically mentioned. Will they be covered, "yes" or "no"? If one sees a lawyer to get advice and a bill is sent, is that a commercial activity, or is it excluded because it is generated by a person involved in a professional activity not covered by the act? Again, we have to sort a few of these things out. I hope by the time we get back here before this chamber, we will have answers to those questions.

When I said maybe, I would lean more at this stage to "probably yes." When we look at what you are talking about, there is certainly bound to be a commercial activity involved there somewhere that would require the consent of the people whose information is involved before it could be used.

Senator Cools: Mr. Chairman, how long will we be? We do have other business to deal with today. Did we set a time frame?

Senator Carstairs: No, we did not.

Senator Cools: Welcome, Mr. Commissioner. You stated that you are an officer of Parliament, and most of us know exactly what that means. Your particular position as an officer of Parliament has a different history, say, from the electoral commissioner, who essentially took over the tasks the Speaker and the clerks of the House of Commons used to perform in respect of elections. I know that you are an officer of Parliament, but how does that affect the running of your office in a day-to-day manner? In other words, what do you do daily that other office holders who are not officers of Parliament do not do, other than giving one report to Parliament annually?

Mr. Phillips: We investigate complaints against government departments daily. We receive an average of 2,000 complaints annually about various alleged abuses of personal information by people in Canada. We are required by the statute to investigate them.

•(1650)

The process of appointment, senator, and the process of accountability by which I report only to the Speakers and to the members of both Houses is to make absolutely sure that there can be no perceived or actual conflict of interest in the operation of my office. I am not subject to a direction by any department of government. That is the principal difference between what I do and what, say, a deputy minister in a line department does. He is under the control of the minister and the executive of the day; I am not. I am under your control.

Senator Cools: That is quite true, but the chairman of the National Parole Board, as chairman of such a tribunal, also has similar powers to do certain things. Those types of positions are not deemed to be for officers of Parliament. I am trying to get at the relationship of the officers of Parliament to Parliament, and the impact and the influence that that relationship has on your day-to-day operations.

Mr. Phillips: I do not know that I can answer it any better than I already have. The National Parole Board is in the business of examining the suitability of people for parole. I am in the business of investigating the National Parole Board from time to time and have done so. It would be a very awkward situation, for example, if my office and the office of the Solicitor General, which is the department to which the parole board reports, were both run by the same minister. It would be impossible to have a credible complaint investigation agency if it was under the thumb of a departmental minister.

We have a few problems with it as it is because in the financial area the Department of Justice — because privacy is under the justice envelope — is required, under the Financial Administration Act, to sign off on our Treasury Board funding submissions. This could be seen by some as a possible source of perceived conflict. However, it does not bother me. The Department of Justice has never in any way done anything other than add their pro forma signature to our submissions. They are mildly uncomfortable with this arrangement, too, but I do not think it is a serious problem.

I do not know what more I can tell you. The officer of Parliament works for Parliament. The National Parole Board works for the government. That is the difference.

Senator Cools: I have another question which is a bit more difficult and quite speculative. It may be awkward or difficult for you to answer, and I would understand that.

You have had extensive experience in privacy issues, and a life-long experience as a journalist, so you have unique experience. A couple of weeks ago, many of us were shocked by the depictions of Minister Sheila Copps in *Hustler* magazine. It bothered a lot of us here. It bothered Senator Kinsella and myself a great deal. I looked at the depictions. I examined the matter carefully.

My question for you is: Is there an issue of privacy there? If you look at those depictions, there is nothing "unlawful" about them. They are not perpetrating a crime. It certainly is not an issue of libel or slander because there is no slander, but what is it? Where does a minister or a member of Parliament look for protection in legislation against that sort of thing?

You began by quoting from Mr. Justice La Forest who said that privacy is at the heart of liberty, and so on. Have you given any thought as to whether or not there is a privacy issue there?

Mr. Phillips: There is certainly a privacy issue, absolutely. There is a privacy issue involved every time any individual's personal information is used for publication purposes. However, whether it is for or against the law and whether it is right or wrong are additional questions.

I have views on a good deal of these things. If you or anyone else can propose a system for correcting the abuses of bad taste of that nature that occur in public that will pass muster with the Charter of Rights and Freedoms — in particular, the free press — I would like to hear about it.

I share with many people some dismay at what I consider to be a decline in the standards of good taste in some areas of journalism.

Senator Murray: It is more than a question of good taste.

The Chairman: Order, please!

Senator Cools: I would be happy to defer to Senator Murray for a second.

The Chairman: Senator Murray, with Senator Cools' permission, you may ask a supplementary question.

Senator Murray: I was about to come to a question along these lines, but it was not specifically related to Minister Copps.

My question is: When will there be some protection for Canadians against invasion of their privacy by the media? I have never been victimized myself — I hasten to say that — but I know quite a few people who have in politics and in other areas where they achieved some degree of prominence. All of a sudden, matters that have to do with their personal, private or family lives are retailed in the media. Those are invasions of privacy. Why can there not be some protection for Canadians?

Mr. Phillips: Senator Murray, when you are referring to public media, the issue is: How much invasion of privacy is justifiable? We could get into an interesting and extended discussion on this point. How much expectation of privacy and what kinds are people in public life entitled to claim? What is their reasonable expectation of privacy? These are not simple questions. Finding a legislative answer to them would be extraordinarily difficult.

The real problem with the media these days is partly induced by the enormous competitive pressures of television, inadequate resources for proper editing, and inadequate training of journalists in areas dealing with ethics. Let me cite one example of the kind of thing I am thinking about. When I started in the newspaper business forty years ago, my first day on the job, as I was rolling the paper into the typewriter carriage to write an obit, the managing editor of this small newspaper came to me and said, "What are you doing?" I said, "I am about to write an obituary." "Good," he said. "Just remember that every time you put someone's name on a piece of paper for public distribution you are accepting some responsibility for that person's reputation thereafter, dead or alive." I have tried to remember that. I think

most of the reporters and journalists of my generation did try to measure their writings against that kind of standard. I am not sure that the same kind of attention is paid to those issues when young journalists start out in their careers these days.

Having been around here a long time — and, people who have been here for similar periods of time would probably agree with me — it is worse now than it used to be. Maybe the answer is in better tort law but I do not think it is to be found in trying to establish "what is" and "what is not" in a legislative framework — that is, a whole set of areas that you cannot report upon. It is very difficult. I must make the claim on behalf of my former occupation, sometimes, to know where to draw the line.

There are many people, particularly those in public life, who are the principal targets of this kind of journalism and who welcome a lot of public attention. The Princess Diana case is an interesting one from that perspective. Many of the people involved complained bitterly and incessantly about the horrendous stories that were written in the London papers, and the British Parliament was on the verge of passing restrictive legislation when it was discovered that these people were complicit and had encouraged the transmission of a lot of this very squalid and sordid material to the newspapers.

•(1700)

We have to be a bit careful about this kind of thing. The answer, in my view, is to be found inside the industry itself, I hope.

Senator Taylor: I was introduced to the commissioner many years ago through the medium of television. He has lost none of his persuasiveness. If he were ever to enter politics, he could be dangerous.

I have been a friend, for some time, of your assistant. I always wondered where some of his views came from, and now that Senator Kinsella has admitted to having a hand in shaping those views, perhaps I will be able to trace it back to that.

My question will be fairly short but perhaps a bit off the wall. Is the government infringing on my privacy by asking the sex of my partner when preparing pension benefits? What business is it of the government to know whether my partner is male, female, or maybe an it?

Mr. Phillips: I can only answer the first question. Yes, it is an intrusion in your privacy, absolutely, because they are asking you to give up what you consider to be personal information, and which my aunt would consider personal information, too, I think.

Whether it is justifiable in the circumstances, whether it strikes that famous balance that bureaucrats are always talking about when they want to strip you of your privacy, is the question. I could only give you my answer as a Privacy Commissioner if I knew all the circumstances.

Was the information absolutely necessary to properly administer the program in question? Could they do so just as well without that information? To what uses will the information be put? What security is attached thereto? Those are the questions that concern a Privacy Commissioner.

We start from the position that any disclosure of your personal information constitutes a subtraction from your privacy, if adequate controls do not surround the transaction of the information.

Yes, there is a loss of privacy involved. Is it right or wrong? I cannot answer that question until I know more.

Senator Andreychuk: Mr. Phillips, I had the benefit of listening to your views with regard to the DNA bill and was much taken by your concern for your proposition that you must put forward a strong position for privacy. I also liked the fact that you said that privacy rights are not absolute, that they have to be balanced against other rights. Consequently, if I understood your reasoning during our deliberations on the DNA bill, we could have had more privacy but we opted for a position of understanding the costs that that might bring if we used individual profiles rather than clustering profiles. You also understood that the profiles may change as our information changes. The way that I look at rights, we are constantly balancing one right against another.

I want to go back to Senator Milne's discussion about the census. While this was not legislated, people gave information on the understanding that there would be confidence under the census. Let us say 100 years pass. In my case, there will be no children, but who knows where my extended family will be in 100 years. It seems to me that, in a democracy, information collected by the government and put under seal may still need some examination at some later date, to determine the accuracy of the information and to determine whether it was used properly, or at all. In a democracy, we can learn from our history. You might wish to comment on that.

I also wondered if you would be in favour of the government entering into a public debate to reopen those census records, as they have in Australia and other countries, perhaps after 90, 100, or 150 years. Who knows where the breaking point should be?

I know you considered this issue from the perspective of historical research and genealogical research. I am looking at it from the viewpoint of fundamental democratic rights, such as the right to a double-check on a government system. Sometimes that double-check is immediate, in some cases fulfilled by the Senate; but at other times, time needs to pass and we need to reflect. I think of the 1911 census, when so much information was taken. Now there is the issue of internment of certain immigrant classes. We know by access to some of that information, through their kin, that it was false and was used by other government departments.

Would you therefore still absolutely say "no" to access to that census data, or do you believe that this broader debate should take place and that the government should encourage that?

Mr. Phillips: I would certainly agree that there should be a very broad, extended, public debate before the terms on which census data collected from Canadians is altered. I would agree with you that far, senator. I say that based upon my own experience of the extreme sensitivity with which a great many Canadians consider this census data. There have been two censuses since I started in this office, and each has generated an enormous number of complaints to my office relative to our normal flow of traffic. Generally, they turn on the subject of the intrusiveness of the questions.

It would be a pretty poor privacy commissioner, senator, who would easily yield to a plea for access to that kind of information by genealogists and historians.

I might be more easily persuaded if that were the only or most important source of information for historical research, but, clearly, it is not. I have seen some of the work that has been assisted by access to census data in other places, so I do not deny its value.

We have a system here in which Statistics Canada is charged, by law, not to disclose that information to anyone. I think that is the safe way.

Who among us really is ever in a position to make the decision about disclosure of that kind of information on behalf of someone else? That is what is proposed here. There are millions of people who have given up that information. All of them did so on the assumption that it would be protected from disclosure forever. Many of those people may very well believe that it is essential that, long after they are dead, that information be kept sacrosanct.

Let me give you a parallel experience, although it is not a precise analogy. There were many servicemen in Canada who were the fathers of children born overseas during the war. They came back to Canada, picked up their lives, got married, and had more children. Now there is a great appetite among people in Britain to know more about their biological fathers. They have come to Canada as a group and are individually asking the Department of Veterans Affairs and public archives to track these people down so that they can get in touch with them.

•(1710)

One can understand the anguish that lies behind some of those requests. They came to us and asked for our view. It was my view that unless these former servicemen consented, their privacy should be protected. I know that hurt people. I can tell you, however, that we took the trouble to get in touch with them ourselves, or public archives did, and we asked, "Do you wish to have your whereabouts disclosed to your children or grandchildren in Britain?" The answer in the overwhelming majority of cases was "no."

This is a case where one could identify a benefit to the people who wanted to breach someone's privacy. If there had not been a requirement of consent involved here, the institution might well have done so. We cannot put ourselves in the position of making decisions on behalf of other people as to how much privacy they want. We can only go by these well-tested principles that apply to Statistics Canada's informational practices. There is a law to fortify it. There is a reason for that law. It is there because Canadians are touchy about this census data, dead or alive. We must be careful before we monkey around with that. I certainly agree with you that if there is anything like that being contemplated, there should be the broadest kind of public debate.

Senator Andreychuk: One of the comments that has been made about the last number of censuses is that information gathering has gone way beyond what a census should gather and has become a ruse for getting other information in a quick and easy way.

We do have examples where, in the public interest, we have breached previous confidentiality, and that is in adoptions. We chose to reopen those cases for the benefit of children who have diseases, et cetera, and need to know their biological contacts. It seems to me that a debate in the public interest would be the right way to go.

Mr. Phillips: Senator, different people will think different things about these issues. It is a good debate.

With respect to the types of questions being asked by the census, yes, they are certainly asking for interesting kinds of information. If you have problems with that, I am not really the person to answer. The Chief Statistician will probably give you the answer that he has given me, which is that there is a defined, urgent public need for the kinds of information that is sought on the census.

On behalf of the process, I will say that it is very exhaustive. Committees of experts from all over the place consider all these things as they winnow down the list of census questions. No doubt they are extremely intrusive, and there is a substantial loss of privacy involved which, in my opinion, mitigates even further in favour of keeping our bond with the Canadian public.

Senator Andreychuk: Bill C-54 will put a lot of responsibility on the Privacy Commissioner, and certainly the resources will be needed if you are to be effective. I think it was more than a crying towel; I think it was an honest piece of information that you are giving the senators before we get to Bill C-54.

Can you comment on the issue of encryption and the information that you are receiving and will be looking at from the business community? Once the information is in the hands of someone else, whether it is the police or the Privacy Commissioner, those people will go offshore and run their businesses. Not only is it a question of us being involved in the loop on international business, but if we are to fight international crime, we need to break into the encryption for the police.

Should the police be monitoring the encryption systems and the financial institutions, or should the Privacy Commissioner be doing that? Do you feel there is a need for more powers for the RCMP in that respect, or do you believe there is a role for both your office and the RCMP?

Mr. Phillips: I do not believe the police should monitor anyone's communications unless they have a proper warrant to do it.

Senator Andreychuk: I am saying they would do it under the legislation.

Mr. Phillips: I do not think legislation that would permit any other kind of surveillance should be approved by a democratic legislature anywhere.

My view of encryption at this stage of the game is as follows: Electronic commerce will be greatly facilitated by the more widespread adoption of encryption. It is happening all over the place. I do not favour what is called the public key escrow system in which people who are using encryption systems have to give them all up and have them stored by some third party so that the police can get them whenever they want.

If I can use a more ancient sort of analogy, it is like saying you must give the police the key to your mailbox. Codes have been used in commercial and personal traffic for centuries. There has never been any suggestion before this encryption debate began that somehow or other the police had to be given keys to all these codes. I am not at all persuaded that the possession of these keys would have any significant impact on criminal enforcement. If anything, it would probably drive the criminally inclined to find some other means of communication. This subject will be around with us for a while, but that is my position as of now.

As for the banks and their arguments that the business will go offshore, I would like to know where they would go. I think you should be sceptical of these arguments. The chartered banks of Canada, by and large, have been operating in Europe for decades where they have much more stringent data protection laws than is proposed before the Parliament of Canada, and I have never heard them complain once that they could not do business there.

Senator DeWare: I should like to follow up, Mr. Phillips, on something Senator Taylor said, but my question would be in connection with Bill C-68, the Firearms Act. When they presented that act, I imagine you looked at the data that they were asking for to register a firearm or to buy a firearm. It is not only your name, age and address, your criminal history, but you must provide medical information, as well as psychological information, emotional information, loss of job, failure in school, marital status, which is not allowed in many cases, and other significant relationships.

You must have had some input into that and asked them how they would control this information.

Mr. Phillips: You put your finger on the issue of how to control the information. We have had many complaints about these forms, senator. People were thinking that the questions put are altogether too nosy and intrusive.

We have taken that issue up with the firearms people. They have been able to make a fairly decent case, if I can put it that way, that all those questions, which have been psychologically approved, are necessary to make a considered and informed judgment as to whether the person applying for the possession of the firearm is likely to indulge in violent behaviour or misuse of a firearm. You have to make what you will of that. There is no doubt that they are intrusive questions.

The more relevant question for my office is how that information will be managed and controlled. I must tell you that we are not terribly happy. We have been working with the people charged with bringing this gun registration system into effect. We have been looking at the forms. We raised a number of questions. I will not go into them in great detail here. We suggested a number of changes to improve the degree to which the confidentiality, security, and privacy of the information could be protected. We urged them to be put into the bill. They told us they would be put into the regulations. We did not see them in the regulations. They told us they would be taken care of in the forms. The forms are now out. We were not shown the forms before they were published, and they have not acted on many of the things we suggested. We are not happy with this situation. We think that it is altogether too loose, that there are too many areas in which the information can leak to unauthorized places, and that it should be fixed.

•(1720)

The Chairman: Honourable senators, I have exhausted the list of questioners.

[*Translation*]

All that remains, Mr. Commissioner, is for me to thank you for responding to our invitation and giving direct answers to our questions. Your remarks clarified for us the role you will be playing and they will certainly help us in our future deliberations. Mr. Philips and Mr. Delisle, we offer you our thanks.

Senator Kinsella: Honourable senators, I think you will agree that the Committee of the Whole has concluded its deliberations.

The Chairman: Honourable senators, you have heard Senator Kinsella's proposal. Do you agree?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Fernand Robichaud: Honourable senators, the Committee of the Whole to which was referred the report of the Privacy Commissioner for the period ending March 31, 1998 has asked me to report that the committee has concluded its deliberations.

[*English*]

STATE OF FINANCIAL SYSTEM

CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON STUDY—DEBATE ADJOURNED

The Senate proceeded to consideration of the seventeenth report (Interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "A Blueprint for Change" (Volumes I, II and III), tabled in the Senate on December 2, 1998.

Hon. Donald H. Oliver, for Senator Kirby, moved the adoption of the report.

He said: Honourable senators, the past decade has witnessed the beginning throes of the convergence of banking, insurance and funds management into a single financial service marketplace — a North American marketplace if not a global one. What only six years ago was thought to be a stable and level playing field on which regulated and unregulated financial institutions alike could operate has shifted once again. For a second time this decade, we as public policy makers are being challenged to restructure the sector's regulatory framework with a view to rebalance its competitive and prudential profile, knowing full well that the landscape will continue to shift for the foreseeable future and, as the Banking Committee was told by virtually every witness at its hearing, the status quo is not an option.

At the outset I want to make it clear that the MacKay task force did an outstanding job. Charged with the duty of making recommendations for reform of this sector, the task force tackled all of the important issues head on. The Committee on Banking, Trade and Commerce endorses most of the 124 recommendations of the task force but has many recommendations of its own to make.

I wholeheartedly endorse the committee's report. The committee's non-partisan approach led it to draw conclusions and make representations that I believe will leverage the task force work in a way that will obtain what has proven to be an elusive objective — a vibrant, innovative, prudentially sound financial services sector for the beginning of the next millennium.

The committee unequivocally makes the point that competition from tier two financial institutions, such as trust companies, credit unions and the caisses populaires, will not be forthcoming overnight. Instead, it will take from three to five years for effective competition to take hold after the reforms are introduced. We can only hope for speedy implementation of our path-breaking recommendations so as to alleviate the sector's growing pains and establish a solid footing for Canadian firms facing competition from Goliath-like foreign financial institutions in an increasingly global marketplace.

Let me now go over the salient differences between the proposals of the Banking Committee and the MacKay task force. A major thrust of both reports is the fostering of increased competition across the full range of financial services, and particularly in banking services. The committee, however, proposes alternative and, I believe, better ways of achieving this objective, whether this competition comes from existing financial service providers, new home-grown financial services providers, or foreign financial services providers.

I want to focus on two areas of general interest that should not be overlooked — organizational structure and taxation. In terms of the first, your committee has taken a different approach from the task force on ownership rules, grandfathering provisions with respect to these ownership rules for presently non-conforming financial institutions, flexible corporate structures, and accounting rules dealing with the treatment of goodwill involving corporate acquisitions and takeovers. In terms of the second, your committee goes beyond the task force recommendations to eliminate capital taxes and it recommends a reduction in capital gains taxes.

Let us begin by focussing on the ownership question. The MacKay task force recommends three classes of financial institutions based on their equity sizes. Small businesses can be closely held, allowing for as much as 100 per cent ownership in a single individual's hand. For medium-sized firms, a 35 per cent equity float would be required. For large financial institutions, ownership is required to be widely held; that is, no individual or company would be permitted to hold more than 10 per cent of the voting shares of the corporation. This can be increased to 20 per cent with ministerial approval and the passing of a "fit and proper" test, and further on a temporary basis, up to 30 per cent with ministerial approval.

Your committee, on the other hand, would raise the widely held ownership rule for large financial institutions to 20 per cent of voting shares and 30 per cent of all classes of shares.

This recommendation, the Banking Committee felt, will achieve three goals. First, the ownership question will be left to market forces to sort out, not to the Minister of Finance and his department who may be tempted to impose unnecessary hurdles for approval or to cause uncertainty that will adversely impact the company's share price. In these matters, free and unencumbered bidding for title to these assets will best assure their proper allocation to the highest valued uses. Second, it provides greater flexibility for mergers and acquisitions that include share swaps in the transaction. Finally, and most important, large shareholdings will provide a greater incentive for investors to monitor and influence the performance of the financial institution's management. It would also allow investors to take advantage of equity accounting rules that provide more transparency to the investor company's shareholders who, in turn, will have an incentive to exercise indirect influence over the management of the financial institution.

The committee, by adopting this 20 per cent rule and not the 10 per cent rule, distinguishes control from ownership. It is generally recognized by the accounting profession and others that having 20 per cent or more of the voting shares of a company, without anyone else having 20 per cent or more ownership, provides such an owner with a significant influence, but not control, over operational and financial decision making of the firm.

Moreover, equity accounting rules would also apply under these circumstances. The equity accounting method recognizes the profits and losses from an investment, in this case the financial institution, immediately when they occur. That is, they are recorded on a quarterly basis on the investor's financial statements. In contrast, investments of less than 20 per cent use the cost accounting method, whereby the investor's books ordinarily reflect the financial institution's historical purchase price. Under this valuation method, the investor's books do not begin to reflect the operational performance of its investments until extraordinary re-evaluations or write-downs occur.

Obviously, the more timely reporting of financial performance under equity accounting rules provides more transparency to shareholders and would bring to bear more pressure on an investor company's management to influence the performance of the financial institution.

Let us now turn to the issue of financial institutions that do not presently have ownership structures that conform to the proposed structure of the MacKay task force. Specifically, we are talking about the Great-West Life Assurance Company, which is owned and controlled by Power Corporation, and Canada Trust, which is owned and controlled by Imasco.

The MacKay task force would grandfather the present ownership structures of these corporations for as long as the current majority owners possess their respective financial institutions, regardless of the possible graduation of, say, Canada Trust to the larger financial institution class. The task force would further extend the closely held privilege to immediately succeeding owners of these institutions. The Banking Committee would instead grandfather the current ownership structure of these financial institutions, provided they remain in their existing institutional class only. Once Canada Trust graduates to the larger classification, it must, within five years, comply with the ownership rules of that particular class.

The committee would also extend all powers granted to financial institutions of that class, regardless of their ownership structure, that is, whether or not they presently conform or are provided an exemption through the proposed grandfather provision. As for the MacKay task force rule that would extend the closely held privilege to the next owners of these financial institutions upon sale, the committee believes that this would introduce unneeded complexity and be of little value to the current owners.

The committee is of the opinion that its proposed grandfathering provisions will not inhibit Canada Trust's incentive to grow into the large financial institution class and, at the same time, will provide the Great-West Life Assurance Company similar powers to compete on a level playing field with its larger rivals. Being accorded the ability to acquire the other financial institutions will better equip the Great-West Life Assurance Company to be a more effective rival and can only render the sector more competitive. Furthermore, this proposition offers a more appropriate balance of equity and flexibility than does the MacKay task force proposition.

I now turn to the committee's recommendations on a more flexible organizational corporate structure.

The task force acknowledged that one way to support more competition in the financial services marketplace is to provide financial institutions with the option of using more flexible organizational structures. To this end, the task force recommended that a regulated holding-company structure be available to allow financial institutions to organize their activities.

The committee believes that a holding-company structure could afford a much needed level of flexibility to financial institutions without compromising safety and soundness. A holding-company model would make it easier to separate wholesale and other financial service activities from retail deposit-taking activities that are now possible within the confines of a parent subsidiary model. The ability to separate deposit-taking from other activities would allow for regulation according to the level of risk, making the level of regulation for those activities more closely aligned with the regulation of non-bank competitors.

A holding-company model would also allow subsidiaries of the company to engage in a broader range of financial services. This would make it easier for regulated financial institutions to raise capital, enter into strategic alliances with business partners, and facilitate the grouping of medium-sized financial institutions across different financial pillars.

Our committee proposed a holding-company model.

Senator Carstairs: Out of respect for the parliamentary reporter, could the honourable senator slow down just a bit?

Senator Oliver: I apologize.

Our committee proposes a holding-company model that is somewhat different from the model proposed in the task force. Like the MacKay task force model, the committee's proposal will be a regulated non-operating financial holding company. The non-retail deposit-taking entities would operate under a regulatory regime geared to the risk associated with their businesses. This would allow the regulated financial holding company to more effectively compete against other financial service providers that offer products and services in an unregulated environment.

For example, in the case of the wholesale financial market segment, where unregulated finance companies operate without CDIC insurance or to the adherence of OSFI's prudential regulations, a non-deposit-taking affiliate of the financial holding company could operate on the same basis, that is, unregulated by OSFI, while at all times allowing OSFI to have access to the information it requires. This feature, the Senate Banking Committee believes, is superior to that of the task force requirement for nuanced regulation, which would not offer any significant benefits to that of the existing parent-subsidiary model.

The last item I wish to comment on in terms of the organizational structure of the sector deals with accounting for business combinations.

Currently, Canada and the United States treat goodwill differently when it comes to business acquisitions and takeovers. The Americans use the pooling-of-interest method, whereby goodwill is not recognized on the purchaser's balance sheet. Canadian accounting rules use the purchase method, whereby the goodwill associated with the combination is valued and is set up as an asset on the balance sheet of the purchaser and is amortized over its useful life. This puts Canadian firms at a competitive disadvantage since share values are determined, at least in part, by market perceptions of their earnings, which, in this case, will be reduced as a result of the acquisition of goodwill.

The banking committee concludes that this differential accounting policy creates a competitive inequity for Canadian financial institutions in a period of integration and consolidation on a North American basis and supports the MacKay task force recommendations to harmonize this different accounting treatment by next year. It would be preferable that the Canadian Institute of Chartered Accountants, through current negotiating channels, be successful in achieving the Canadian accounting standard, which is more transparent and would support more shareholder scrutiny of management's acquisition strategies. However, failing such an agreement with the American accounting profession, OSFI should step in and use its power to specify principles of combinations and accounting for goodwill to the American standard as an interim solution to this problem.

Finally, I will turn to the issue of capital gains. I will omit the reference to capital taxes. The MacKay task force did not address the capital gains issue. This committee did and we recommended that this burden be reduced. The committee strongly supports enhanced borrowing opportunities for small and medium-sized businesses, but it recognizes that, in many cases, there is a more important need for these businesses to acquire equity investment. This is particularly true for the increasingly numerous and important knowledge-based enterprises.

The committee came to the conclusion that one such policy initiative would be to lower the capital gains burden on all businesses, but particularly to encourage the provision of high-equity risk investment to small business by financial institutions and individuals.

Entrepreneurs seeking to start up or expand an enterprise will tell you that a major obstacle is raising capital. The answer to this problem is not a proliferation of government entities, such as the Business Development Bank of Canada siphoning taxpayer funds to fledging businesses. Rather, what is needed is a financial inducement for the private sector to invest in small and medium-sized businesses.

•(1740)

The committee was told specifically at its hearings that raising the exemption on taxable capital gains and reducing the taxation rate would help small businesses in acquiring equity financing, particularly from successful business people who reinvest some of the profits that they have made into smaller companies.

Moreover, at current capital gains tax rates, there is an unfavourable risk reward relationship in extending equity financing to small and medium-sized businesses. Investors face the downside possibility of losing their entire investment with limited tax benefits, while on the up side they must share a significant portion of their return with the government. They are, therefore, better off making investments in less risky avenues where there exists a better risk-reward trade-off. This committee means to correct this error.

In conclusion, I believe the committee's recommendations, along with those of the MacKay task force, constitute a balanced package of reforms that will provide appropriate ground rules for the sector in the coming years. However, I stress the point that these reforms be treated as a package, and that the government not "cherry-pick" a subset of these recommendations that would add to the regulatory burden on business.

We look forward to working with the government when it introduces legislation to implement the reforms that the report recommends.

Hon. John B. Stewart: Honourable senators, I should like to rise on a point of order. I do so in order to obtain some clarification as to where we are in the business of the Senate.

As I understand it, Senator Oliver is asking the Senate to concur in or to adopt the recommendations set forth in the committee's report. Consequently, if we proceed and there is an affirmative vote, these recommendations will become the recommendations of the Senate; is that correct? Is that the position in which we find ourselves?

The Hon. the Speaker: Honourable senators, if anyone else wishes to speak on the point of order, I would be pleased to hear them. However, my understanding of the situation is that Senator Oliver, by agreement of the Senate, moved the consideration of the report.

What is presently under discussion is a consideration of the report. There must be a further motion if we are to have the adoption of the report. At the moment, this is simply a debate on the report. Out of that may then come a motion to adopt. At this stage, it is purely for consideration.

Senator Stewart: I appreciate that, Your Honour. It is most helpful.

On motion of Senator Oliver, for Senator Tkachuk, debate adjourned.

NUCLEAR WEAPONS

RESPONSE OF GOVERNMENT TO REQUESTS AND RECOMMENDATIONS—INQUIRY—DEBATE ADJOURNED

Hon. Douglas Roche rose pursuant to notice of February 16, 1999:

> That he will call the attention of the Senate to the urgency of the Government of Canada saying "no" to becoming involved in a U.S. missile-defence system; and the need for the Government of Canada to contribute to peace by implementing the 15 recommendations in the report of the Standing Committee on Foreign Affairs and International Trade, *Canada and the Nuclear Challenge: Reducing the Political Value of Nuclear Weapons for the Twenty-first Century.*

He said: Honourable senators, the Senate should be aware of a development that will profoundly alter international relations, cripple disarmament work, and tie Canada inextricably to U.S. ill-conceived military plans. I speak of the U.S. government's current design of a ballistic missile defence shield over North America.

Canadians thought this problem went away when Canada refused the U.S. invitation to participate in the strategic defence initiative known as "star wars," in 1985. SDI was abandoned, but in the 1990s it reappeared as a national missile defence program designed to provide for the interception of long-range missiles targeted on the United States.

A missile defence program for North America is now being promoted, and Canada is inexorably being drawn into the web of U.S. military, industrial, and complex interests. This is being done without the knowledge or consent of the Canadian Parliament and people.

The Government of Canada keeps saying, "Relax, nothing will happen for a long time." Honourable senators, there is plenty to worry about. The time for us to speak out against this retrograde and dangerous proposal is now.

I shall briefly outline the facts. First, discussions are now taking place between the U.S. and Canada on a North American ballistic missile defence system. The U.S. is on track to deploy this system in Alaska and North Dakota, possibly by 2005, and the administration is pumping $6.6 billion into the project. The time for Canada to decide its course of action is now, on the eve of deployment, not later, when Canada's options will be significantly reduced.

Second, the 1994 defence white paper unfortunately opened the door to Canadian participation, despite a 1985 Canadian government decision not to participate in the U.S. strategic defence initiative research. SDI closed down in the early 1990s and BMD is its successor. The U.S. wants Canada involved in BMD through NORAD.

Third, BMD would violate the 1972 anti-ballistic missile treaty, known as the ABM, which forbids a nationwide missile defence system. The ABM treaty is an essential part of nuclear arms control. It has long been recognized that constructing such national defences, leaving aside the improbability of their working, would spur opposing nations to develop new offensive weapons to circumvent defence systems. Thus, the nuclear arms race would continue to accelerate.

Fourth, the U.S. recognizes that BMD would violate the existing ABM, and has suggested to Russia that the ABM be renegotiated. Russia has so far adamantly refused, and has threatened to stall the START II process even further if BMD is proceeded with. The Chinese government has warned that a new nuclear arms race will break out in Asia.

Fifth, the Canadian government said in 1995 that it opposed abrogating or weakening the ABM, calling it absolutely essential for the maintenance of international nuclear security. In 1996, the government added:

> ...Canada remains firmly committed to the 1972 ABM treaty.

Sixth, the Canadian government has consistently said it will work for the continued development of international law. To join in the process of weakening or abrogating the ABM to satisfy the demands of the U.S. military system, which has not lost its appetite for expansion even though the Cold War ended nearly a decade ago, would greatly endanger Canada's credibility in arms control and disarmament work. Canada must speak now. By signalling that Canada is open to the idea, the Department of National Defence is encouraging the U.S. to proceed on the assumption that Canada will be involved.

Seventh, U.S. proponents claim that the BMD will protect the continent against the incoming missiles of rogue states.

•(1750)

BMD is a bad idea because it presumes a potential attacker would develop an extremely expensive delivery technology when it could more easily and reliably deliver a bomb in a commercial airliner or shipping container — methods a BMD would be powerless to stop.

Honourable senators, Canadian interests in the NORAD agreement are being compromised through U.S. action. NORAD was not meant to be a ballistic missile defence system. Yet NORAD is being used as the instrument to jump-start U.S. ability to fight space wars of the 21st century. U.S. military interests are playing on fears of a ballistic missile attack on North America by some rogue state or terrorist and have even conjured up the ludicrous spectacle of North Korea launching a ballistic

missile attack on Montreal. The U.S. ambassador to Canada has joined in this softening-up approach to getting Canada's compliance by references to the needs of our two countries to stick together against vague enemies of the future.

We must realize what is happening. The U.S. is extending its military capacity in order to be the militarily dominant nation of the 21st century and to secure this power by a comprehensive system of surveillance and communications technologies. Is putting such immense power in the hands of a single state in the best interests of international peace and security? Is abrogating the ABM treaty justified by such an inordinate quest for power? Is Canada, which campaigned hard for a seat on the UN Security Council in order to bring forward new ideas for peace and security, served by tying ourselves to a military machine out of order?

The Canadian government has got to stop saying, "Don't worry; be happy." Every month that goes by without the government speaking out firmly against participation in a ballistic missile defence system allows the U.S. government to interpret our silence as tacit acceptance. Then when the system is about to be deployed, it will be too late for us to pull out. Moreover, putting $600 million of Canadian taxpayers' money into this ill-conceived venture would be an unconscionable affront to every Canadian who needs improved health, education and social care.

The correct answer to what BMD seeks to accomplish, namely the security of North America, is to pursue, as called for by the International Court of Justice, comprehensive negotiations leading to the elimination of nuclear weapons. Significant progress in this respect has been made in recent years. This process is now jeopardized by BMD.

As a prestigious U.S. National Academy of Science has concluded in its 1997 report entitled, "The Future of U.S. Nuclear Weapons Policy":

> ...deploying missile defences outside the bounds of the ABM Treaty could greatly diminish the prospects for future reductions in nuclear weapons.

That is cautious language for what should be stated frankly: We can kiss goodbye to nuclear disarmament if BMD proceeds. If strategic arms control collapses, the non-proliferation treaty which Canada has always championed will be in ruins.

Now is the time to debate this matter. Now is the time to inform the public. Now is the time to obtain the consent of the Canadian Parliament.

Honourable senators, on the basis of my experience in personally meeting with hundreds of informed Canadians in all 10 provinces on nuclear weapons issues, I contend that the Canadian public opposes the madness of a missile defence system. The Canadian government knows there is little support for this system. Why then dally?

The government should couple its resistance to missile defence with a vigorous implementation of the 15 recommendations in the report of the Standing Senate Committee on Foreign Affairs and International Trade entitled "Canada and the Nuclear Challenge: Reducing the Political Value of Nuclear Weapons For the Twenty-First Century." This report has rightly pointed the way for Canada to work with like-minded states in pressing the nuclear weapon states to make an unequivocal commitment to commence negotiations leading to the elimination of nuclear weapons. The committee wants Canada to argue within NATO for less reliance on nuclear weapons so the way can be cleared for NATO nuclear states to pledge no first use of nuclear weapons and to put their nuclear weapons on de-alert status.

That would be a positive contribution by Canada to enhancing peace and security in the world. That is the way forward — providing confidence-building measures and hope for the Canadian people who want an end to nuclear weapons.

On motion of Senator Prud'homme, debate adjourned.

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before Senator Kinsella begins, I think he will go past six o'clock. I think there is agreement on both sides not to see the clock, as this is the final item for today.

The Hon. the Speaker: Honourable senators, is it agreed that I do not see the clock?

Hon. Senators: Agreed.

HUSTLER MAGAZINE

MOTION CONDEMNING ARTICLE CONCERNING MINISTER OF CANADIAN HERITAGE ADOPTED

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition), pursuant to notice of February 16, 1999, moved:

> That the Senate of Canada finds unacceptable and rejects the article and contest dealing with a Member of Parliament as published in the February 1999 Canadian edition of *Hustler* Magazine; and
>
> That a Message be sent to the House of Commons requesting that House support the contents of the aforementioned motion.

He said: Honourable senators, mindful of the hour of the day, I will attempt to be brief on this motion which I trust will receive of the unanimous support of all members of this house.

Some students of human rights have argued that the rights of freedom of the press, freedom of expression, freedom of opinion, and the right to participate in public affairs are the mothers of all other rights. A democracy, to be active, makes freedom of speech the centre of its unconstitutional agenda and the right to participate in public affairs the engine of the practice of freedom.

History, however, has silenced women. For centuries it is men who have governed. It is men who have spoken, written and communicated with each other. Women had been subject to men's construction of history and their symbolic expressions. Institutions, words, language, images and the system of communication had an in-built prejudice in that they gave expression to the symbolic, material world dominated by men.

Today, as we approach the third millennium, we happily see a change. Women are at the centre in the practice of freedom and democracy and they have been writing their own histories and communicating their own ideas. The monopoly over language and political participation has been broken, but it is still an uphill struggle for women in the private and public sectors of our society.

This ongoing struggle is an act of excavation, removing centuries of assumptions and expectations by putting forward the contemporary Canadian imperative of women's freedom of expression, especially in Parliament, free from any fetter and, in particular, the fetter of lewd, pornographic, sexist *Hustler* magazine hype.

Honourable senators, in her work entitled, *Only silence will protect you: Women, Freedom of Expression and the Language of Human Rights*, the author Jan Bauer reminds us that, in early common law, there was a type of offender known as the common scold and the scold's bridle or brank, a cage-like device which enclosed a woman's head and which was used on women who spoke out on public affairs.

Believe it or not, honourable senators, a few centuries back, it was not uncommon that women who spoke too much had their tongues cut out.

•(1800)

In today's society, of course, the "scold's bridle" is not used, but there are other techniques or practices which diminish both the voices and roles of women in society, as well as attitudes and customs that sustain a climate in which it is clearly signalled to women that their main functions are to remain silent and obey the commands of men.

Women have in the past, and today continue to reject the argument that silence is their only protection. It is to the credit of Agnes Campbell MacPhail that women are members of the other place, and to the credit of the women involved in the Persons Case that the Senate of Canada now has the benefit of many distinguished colleagues. These women in the Parliament of Canada know only too well that throughout the ages, left to their own devices and cosy in their solidly constructed institutions, men would not voluntarily have accorded women the rights owed to them, whether in Parliament or outside Parliament. This is not to attribute ill-will to anyone, but rather to speak to the reality of systemic or institutional discrimination.

This is why, for example, a number of years ago I had the opportunity to take the *Lovelace* case against Canada to the United Nations. We were thereby able to repeal section 12(1)(*b*) of the Indian Act, which provided for legislative discrimination against Indian women who married non-Indians. The institutions are the systems through which society's function must be adapted or changed to reflect the fact that women's experiences are different from men's definitions of them. The rules of this place and the precedents of Parliament, particularly the precedents of Parliament to be found in the procedural literature, are the history of a different era and limited in serious ways, frankly, by man's interpretations.

The Parliament of the third millennium, honourable senators, must be reflective of the systemic and institutional change which has been occurring since Agnes Campbell MacPhail first took her seat in Parliament. We need to recognize the systemic nature of the traditional male interpretation, historically, of the parliamentary rights and privileges of its members. This reliance on tradition has the unintended effect of directly and indirectly contributing to a devaluation of the woman parliamentarian.

Women working in public affairs in our country are targeted, and there is a growing body of documentation that demonstrates the degree to which such targeting caused women not to partake in public affairs or to exercise their freedom of expression. Jan Bauer writes:

> This fear is most often articulated during discussions of violence against women generally and rape in particular. The fear not only reflects concern over the possibility of physical retaliation but is directly linked to customs that lead to the social exclusion, marginalization and stigmatization of women.

The Canadian Panel on Violence Against Women stated that:

> Canadian women have not enjoyed freedom of expression; rather, their fear makes them reluctant to speak out about the violence they experience. Canadian institutions have contributed to this situation — by denying that such violence can exist, they have supported misogyny and abuse of power.

The *Hustler* magazine item, in my judgment, is a classical example of interference with women parliamentarians by making one the object of a lewd contest. Parliament, as an institution, must not contribute to this attack on the freedom of expression in the exercise of a woman parliamentarian's duties. By remaining silent, Parliament would be giving silent support to misogyny and the abuse of Parliament.

It is important that we recognize in contemporary modern terms, given our understanding of these institutional and systemic dynamics, that this kind of publication does interfere in a manner that is sex-specific, and that it can interfere with women parliamentarians in a manner in which it cannot interfere with male parliamentarians. Nevertheless, it is an interference with parliamentarians, and that is the critical issue that speaks to my finding this great institutional offence of this particular item.

Parliament has in the recent past been passing legislation which has drawn our attention to the language in which the statutes have been written. Only just a few days ago our colleague Senator Maheu, Chairman of the Standing Committee on Privileges, Standing Rules and Orders, brought in a report that spoke to the correction of language and was based on our understanding and sensitivity to, and demand for, language inclusivity.

All students of human rights know that words have power, and can either do good or harm. Women know that words can include or exclude, and that language defines the norm. Women know that the distinctly masculine cast of much legal language and other instruments explicitly supports the male as the norm, in spite of the provisions that theoretically guarantee equality for all.

Honourable senators, we have in Parliament an opportunity to have the rules of Parliament reflect a framework of parliamentary practice which would be more representative and inclusive of women's needs and concerns. The United Nations Convention on the Elimination of All Forms of Discrimination Against Women defines areas in which women most often experience discrimination in both law and in practice. We must guarantee women the right to be eligible for election to all publicly elected bodies and appointment to all public offices on equal terms with men. We note that they must be entitled to hold public office and to exercise all public functions on equal terms. When women members of Parliament are made the subject of a lewd sex competition in a manner which is woman-specific, then there is a direct interference with the exercise of their public functions on equal terms with men in Parliament.

Honourable senators, I could speak to many international reports and a vast body of available literature that underscores and explains how and why pornographic publications interfere in very specific ways with freedom and liberty in our society. For example, *Undressing the Canadian State, the Politics of Pornography* by Catherine Itzin is but one document. From that document I will conclude with a quote in which the author writes:

> The part played by pornography in the subordination of women has been unacknowledged, underestimated or ignored. But it is part of the picture, part of the apparatus of oppression which contributes to constructing and maintaining the sexual subordination of women.

Honourable senators, we are not unaware of these dynamics. We do not want this offensive occasion caused by the publication of which I speak to pass without rising and seeking the support of all parliamentarians in this chamber and in the other place. Parliamentarians in the Parliament of Canada, in the words of the Speaker in his ruling the other day, must reject that kind of presentation. It is not the Canadian way.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I rise today to support the motion that has been put before the Senate by the Honourable Senator Kinsella and to offer my personal thanks to him for so eloquently expressing some of the difficulties that women who have chosen to enter public life have been forced to experience. I will now be a little personal for a few minutes about what some of these experiences have been.

I first entered public life when I was a candidate in Alberta. Senator Taylor was then the leader back in 1975. I remember knocking on doors and being told that I should be home looking after my children. What they did not know was that the Liberal Party in Alberta in those days was not a very vibrant organization and my little children were outside with me while we were knocking on those doors because I did not want to deny myself the opportunity of spending the time door-to-door with those children.

When I entered public life in a more serious way, when I became leader of the Liberal Party in Manitoba in 1984, I began to experience, on a first-hand basis, the kind of personal comments that are made about women politicians but are not made about male politicians — some of which I could laugh at. I must be honest. I have been told that I am living proof that Donald Duck had offspring. Clearly, that is a comment on my voice. I can accept that my voice is probably not the most delicate piece of vocal equipment that anyone has ever had. Some of it is a result of family characteristics and some of it is a result of having been raised in the Maritimes. I guess I still have that bit of Maritime twang that goes along with it.

I also found myself quickly subjected to criticism on everything from the way I had my hair done to the fact that I was letting it go grey and why did I not colour it — after all, 70 per cent of all women colour their hair. What was wrong with me? The fact that I wanted to make a personal choice about that did not seem to be acceptable to some individuals.

I have daughters. Perhaps the saddest part of all for me was that both of them, having witnessed what their mother experienced, are not the slightest bit interested in entering public service. I think that is the real tragedy. I accepted the challenge of public service because my father had been in public service. I thought it was something that I should do at a certain stage in my life. However, my two daughters have no interest in public service whatsoever because of the experiences that they saw their mother go through. To me, that is a tragic set of affairs.

There are many days when I think things are getting better and that no one else will talk about a helium-driven voice. Yet I picked up a newspaper article just last week and there was a reference to the Honourable Anne McLellan and her helium-induced voice. I thought: Here we are some 15 years later and nothing has changed!

I do think, however, that some things have changed for the better. The very fact that women now make up 31 per cent of this chamber is obviously a step in the right direction. That there are more women in the House of Commons than ever before is also a step in the right direction. The fact that there are more women in legislatures across the country is also a step in the right direction. Clearly, with all the difficulties that they know they may have to face, they are still accepting the challenge.

Then, honourable senators, I also think things are worse. We notice and we observe — and, quite frankly, I could not bring myself to read the article in *Hustler* magazine after I saw both the headlines and the pictures — that a minister of the Crown is used in an extraordinarily offensive way by someone who is trying to sell a magazine. I have to believe that that degradation is not the norm and that it is, for almost all of us, an unacceptable means of speaking about a female person. I have to believe that the views expressed in that magazine are minority views, not majority views. I have to believe that things will be better for my daughters and, I hope some day, my granddaughters. I have to believe that. To be honest with you, I could not get up and function every day if I did not think that things were going to be better for them.

I read about the early experiences of some of our women in politics. Senator Kinsella made reference to Agnes MacPhail. Her first battle in the House of Commons was not her fight for the rights of those who had been imprisoned, although that was certainly a fundamental part of her fight. Her first fight, believe it or not, was whether or not she had the right not to wear a hat on the floor of the House of Commons. That was the first fight that she had to go through because women in the gallery had to wear hats. There had never been a woman on the floor of the House of Commons. Therefore, it was assumed that she would have to wear a hat on the floor of the House of Commons.

The first battle for Cairine Wilson, the very first woman senator in this chamber, was what to wear to be sworn in? The ideas were that she should be dressed in a formal evening gown in order to be sworn in to this chamber. She decided on a business suit for the occasion and, therefore, made it a lot easier for all of us.

I look at those kinds of fights. We fought all those fights, so they are in the past. Other women will not have to fight those fights.

I take the entire history of women's involvement in Canadian politics and I say to you that it is better. It will get even better. This is an aberration. We must condemn it as such. We must insist that women enter politics on an equal basis with males so that all views can be adequately represented in all the legislative chambers of Canada.

Hon. Senators: Hear, hear!

Hon. Anne C. Cools: Honourable senators, I rise in support of this motion. I would like to thank Senator Kinsella for bringing it forward. Obviously, I will be voting for it.

I would like to thank Senator Carstairs on my side and the leadership on the other side for supporting it. It is my hope that when the vote takes place in a little while that it will be a unanimous vote because I think a unanimous vote will be a fine and splendid statement for us to make.

As I said in my remarks on February 2, 1999, I supported Senator Kinsella's question of privilege. *Hustler* magazine's depiction of Sheila Copps is an offensive and vile piece of obscenity. It is unjustifiable by any defence of freedom of the press or freedom of expression because there is no expression and there was very little that was written. It was just an ugly and indefensible depiction of Minister Copps.

As I said before, it was a piece of vulgarity which was aimed at achieving an outcome. Thus, it was a piece of vulgarity with a purpose. In my opinion, that outcome was the embarrassment of Minister Sheila Copps and the intimidation of her political and parliamentary actions, as embodied and contained in Minister Copps' Bill C-55.

•(1820)

That bill will be coming before us shortly, and at that time I plan to visit this issue more substantially because, as we can see, the time is late and we must be moving along today.

I re-emphasize the point that Bill C-55 is a bill of the Parliament of Canada. It is a proceeding of the Parliament of Canada that has been impeached and degraded.

A degradation of Minister Copps is a degradation of all of us. It is a degradation of public service. I would also add that an immorality against Minister Copps offends all of us because it is an immorality against each and every one of us. It is an immorality against the Parliament of Canada and against public service.

Honourable senators, many are intimidated or impaired in the face of the assaults that seem to be coming fast and furiously in today's community. The assaults are coming faster than many of us can mentally process and respond to. In this particular instance, I cannot help but feel that we are doing the right thing, because I happen to know for a fact that Minister Copps was personally very offended by this particular publication.

I feel privileged that, by having Senator Kinsella bring forward his initiative and by having Senator Carstairs and myself speak to it, we are beginning to shed some light in a huge darkness around many issues that need a lot of clarification.

In my remarks on February 2, I was trying to refer to a particular incident and I said at that time that I was not sure if it was 1975 or 1976. According to Hansard, the incident was on Wednesday, December 22, 1976. The issue was a question of privilege, and the offending newspaper was *The Globe and Mail*. The member of the House of Commons who was offended was none other than the Speaker himself, James Jerome. Our former leader here, the Honourable Allan J. MacEachen, on December 22, 1976, with the agreement of Mr. Walter Baker, who was the House Leader of the Conservatives, and of Mr. Stanley Knowles and Mr. Gauthier (Roberval), rose, moved, and passed, unanimously, a motion in the House of Commons that said:

> That the statement "Let it be said of James Jerome that he is not a Speaker but a gambler who plays incredible odds for the popularity of his party" contained in the editorial in the Globe and Mail on December 22, 1976, is a gross libel on Mr. Speaker, and that the publication of the article is a gross breach of the privileges of this House.

I put that on the record today so that colleagues can know that, in 1976, our own Senator MacEachen moved a motion without debate, with unanimous consent, on the issue of a breach of privilege.

This is an issue I plan to revisit. I do not see this *Hustler* matter totally as a gender issue. I see it as even larger than the peculiar historical aspects that have been raised. I see it profoundly in terms of morality and ethics as they marry the definition of what is fitting in debate.

I think one of the finest things Mr. Bruce Phillips did earlier was that he talked about tastelessness and scruples and ethics. We are now living in an era where, in raising these issues, one is placing oneself at a certain kind of risk of perhaps being considered old-fashioned or conservative. There is a new language developing in this country. Conservative? I have never thought of myself as a Conservative. It would be an interesting perception, but I do not think of myself as a Conservative.

In any event, I thank Senator Carstairs from the bottom of my heart for supporting us. It would be my wish that Minister Copps could know how we in this chamber really feel about this and that we have sent a strong message to the master pornographers in the United States of America, including Mr. Flynt, that this type of thing will not be tolerated by the Senate of Canada.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I am certain that if my colleague Senator Roche were present, he would want to take part, if only briefly, in this debate.

I wish to support the motion by Senator Kinsella and reiterate the words of Senator Carstairs. I knew her in Alberta and then in Manitoba.

[*English*]

It is a long story between Senator Carstairs and me. I spoke in one of her classrooms, in Alberta, not in Manitoba where she became so well known. That goes back a long time.

I want to join in what Senator Cools has also said. I share her words about Minister Copps.

I have had a long association with Minister Copps. I ran as chairman of the national Liberal caucus and there was no opposition. It was delayed for three months until someone suggested to Minister Copps that she take me on. Of course, I said, "Sheila, I will have fun. I am not running against you. Let us fight." It was quite a fight because she is a fighter. I do not have to explain the outcome today.

Even though I won the contest, some years later I did not hesitate to support her. It was a very difficult situation, and I say that in front of my friend Senator Mercier. The Montreal Liberal Saint-Denis Association was the only non-aligned delegation for the entire convention, and we only decided in Calgary which candidate we were going to support. Of course, our decision was not very good for my career. We gave Sheila Copps 14 votes on the first ballot. I want to say that publicly.

Politics has always been very important in my family. I am glad to say that my father and mother understood independence. I can relate to what Senator Carstairs said. It is clear in my mind, in 1944 my mother had been doing her bit to advance the rights of women to vote, and guess what? On the same night, on the same corner of Beaubien and Saint-Denis, my mother was on the main stage with André Laurendeau and the Bloc populaire canadien while my father was across the street presiding over the Liberal gathering. Many people said to my father, "What is wrong with your wife? Can you not talk to her? She is going against your decision?" My father said, "She fought for the vote and now she is voting that way," and that was the end of the story.

Many of you know my family, and if our society would have been fair and right for women, one of my sisters who would have been in politics before me because I was younger than she, but that was not to be. People say a woman should help politicians but not be politicians.

I use this opportunity to say that I have great admiration for that gutsy lady called Sheila Copps. She is full of courage, we all know that. It is not necessary to expand on that tonight. We may agree or disagree at times, but she always tries to do what she thinks is best.

En passant, we should get our act together here in the Senate to decide how to answer one of the members of the House of Commons who is viciously attacking the Senate, because it is not helping the entirety of the Senate. Senator Carstairs said herself that there are now 31 women in the Senate. Under Jean Chrétien, we may have more before long, before the millennium. Is it because women are better represented in the institution that the institution is coming under attack now? I have to ask myself that question.

•(1830)

I believe reform of the Senate, like reform of the House of Commons, is a highly debatable issue. Just because you want change, you do not need to be vulgar about it. Change will take place.

Everywhere I go, I am proud to say that we now have 31 women in the Senate, and we should have more. When I arrived in the House of Commons, there were two women, and there are now 63. That is still not enough. When I arrived here 35 years ago, there was only one woman in the Senate. There are now 31.

We should continue to fight. I am sure Senator Roche wanted to support Senator Kinsella's resolution, and I fully agree with it.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed with the motion.

It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare:

> That the Senate of Canada finds unacceptable and rejects the article and contest dealing with a Member of Parliament as published in the February 1999 Canadian edition of *Hustler* Magazine; and
>
> That a Message be sent to the House of Commons requesting that House support the contents of the aforementioned motion.

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

Motion agreed to.

ADJOURNMENT

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

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, March 2, 1999, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, March 2, 1999, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)
Thursday, February 18, 1999

GOVERNMENT BILLS
(SENATE)

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

S-23	An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier	98/12/10	99/02/03	Transport and Communications					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

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

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

C-22	An Act to Implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31,1998	97/11/26	97/12/04	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-25	An Act to amend the National Defence Act and to make consequential amendments to other Acts	98/06/11	98/06/18	Legal and Constitutional Affairs	98/11/24	one	98/12/01	98/12/10	35/98
C-26	An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act	98/06/08	98/06/16	Agriculture and Forestry	98/06/18	none	98/06/18	98/06/18	22/98
C-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce	98/06/04	none	98/06/16	98/06/18	19/98
C-29	An Act to establish the Parks Canada Agency and to amend other Acts as a consequence	98/06/03	98/06/15	Energy, the Environment and Natural Resources	98/10/20	none	98/11/19	98/12/03	31/98
C-30	An Act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education	98/06/11	98/06/16	Aboriginal Peoples	98/06/18	none	98/06/18	98/06/18	24/98
C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources	98/06/09	none	98/06/10	98/06/11	14/98
C-33	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	98/03/18	98/03/25	—	—	—	98/03/26	98/03/31	02/98
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/03/18	98/03/26	—	—	—	98/03/31	98/03/31	03/98
C-35	An Act to amend the Special Import Measures Act and the Canadian International Trade Tribunal Act	98/12/07	99/02/17	Foreign Affairs					
C-36	An Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998	98/05/28	98/06/08	National Finance	98/06/15	none	98/06/17	98/06/18	21/98
C-37	An Act to amend the Judges Act and to make consequential amendments to other Acts	98/06/11	98/09/22	Legal and Constitutional Affairs	98/10/22	eight	98/11/04	98/11/18	30/98

C-38	An Act to amend the National Parks Act (creation of Tuktut Nogait National Park)	98/06/15	98/06/17	Energy, the Environment and Natural Resources	98/12/01	none	98/12/10	98/12/10	39/98
C-39	An Act to amend the Nunavut Act and the Constitution Act, 1867	98/06/03	98/06/08	Aboriginal Peoples	98/06/09	none	98/06/10	98/06/11	15/98
C-40	An Act respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence	98/12/02	98/12/10	Legal and Constitutional Affairs					
C-41	An Act to amend the Royal Canadian Mint Act and the Currency Act	98/12/02	98/12/09	National Finance	99/02/18	none			
C-42	An Act to amend the Tobacco Act	98/12/02	98/12/08	Legal and Constitutional Affairs	98/12/10	none	98/12/10	98/12/10	38/98
C-43	An Act to establish the Canada Customs and Revenue Agency and to amend and repeal other Acts as a consequence	98/12/08	99/02/10	National Finance					
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	28/98
C-46	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	29/98
C-47	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	98/06/11	98/06/16	Banking, Trade and Commerce	98/06/17	none	98/06/18	98/06/18	23/98
C-51	An Act to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act	98/11/18	98/12/03	Legal and Constitutional Affairs					
C-52	An Act to implement the Comprehensive Nuclear Test-Ban Treaty	98/10/20	98/10/28	Foreign Affairs	98/11/18	one	98/11/24	98/12/03	32/98
C-53	An Act to increase the availability of financing for the establishment, expansion, modernization and improvement of small businesses	98/11/25	98/12/02	Banking, Trade and Commerce	98/12/08	none	98/12/09	98/12/10	36/98
C-57	An Act to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence	98/12/07	98/12/10	Legal and Constitutional Affairs	99/02/18	none			
C-58	An Act to amend the Railway Safety Act and to make a consequential amendment to another Act	99/02/02	99/02/11	Transport and Communications					
C-59	An Act to amend the Insurance Companies Act	98/12/10	99/02/04	Banking, Trade and Commerce	99/02/16	none	99/02/18		
C-60	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/12/02	98/12/08	—	—	—	98/12/09	98/12/10	40/98

COMMONS PUBLIC BILLS

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

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the "Persons Case" (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology	98/04/30	two	Dropped from Order Paper pursuant to Rule 27(3) 98/10/01		
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology	98/06/03 98/12/09	none one	referred back to Committee 98/09/24		
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs	98/06/04	one	98/06/09		
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10	98/05/06	Legal and Constitutional Affairs					
S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation (Sen. Kenny)	98/02/26	98/04/02	Social Affairs, Science & Technology	98/05/14	seven + two at 3rd	98/06/10	*Bill withdrawn pursuant to Commons Speaker's Ruling 98/12/02*	
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples					

S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02	98/06/09	Legal and Constitutional Affairs	98/06/18 report withdrawn 98/12/08	four	*Bill withdrawn 98/12/08*
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12	98/06/02	Legal and Constitutional Affairs			
S-19	An Act to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment (Sen. Forrestall)	98/06/18					

PRIVATE BILLS

S-18	An Act respecting the Alliance of Manufacturers & Exporters Canada (Sen. Kelleher, P.C.)	98/06/17	Dropped from Order Paper pursuant to Rule 27(3) 98/11/17				
S-20	An Act to amend the Act of incorporation of the Roman Catholic Episcopal Corporation of Mackenzie (Sen. Taylor)	98/09/23	98/10/29	Social Affairs, Science & Technology	98/12/03	three	98/12/09

CONTENTS

Thursday, February 18, 1999

Available from Public Works and Government Services Canada —Publishing Ottawa, Canada K1A 0S9