Debates of the Senate

2nd SESSION • 36th PARLIAMENT • VOLUME 138 • NUMBER 6

OFFICIAL REPORT
(HANSARD)

Thursday, November 4, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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

Debates: Chambers Building, Room 943, Tel. 996-0193

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, November 4, 1999

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

Prayers.

SENATORS' STATEMENTS

THE LATE ANTHONY GUSTAVE VINCENT

TRIBUTE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I learned only yesterday of the death of former ambassador Anthony Vincent. I know that many honourable senators knew him.

Mr. Vincent was born in England. He finished his education in the United States and joined Canada's department of external affairs, as it was known then, as a diplomat. He had a distinguished career which took him across the world, including most recently to Spain and Andorra where he served as our ambassador. He also served as our high commissioner to Bangladesh and as our ambassador to Burma. He served in the missions of Canada in The Hague and New Delhi.

However, it was during his time as ambassador to Peru that he became a hero. In 1996, Mr. Vincent played a major role in the hostage situation at the residence of the Japanese ambassador in Lima. We believe his actions saved countless lives. He was awarded the Governor General's Meritorious Service Medal for his extraordinary contribution to the resolution of that crisis. He was a gracious and modest hero and an admired servant of Canada. He exemplified Canada's role as an important contributor to a more stable and better world.

Honourable senators, I wish to join the Right Honourable Prime Minister and the Minister of Foreign Affairs in offering condolences to Mr. Vincent's family, in particular to his wife, Lucie, and daughter, Alexandra.

• (1410)

WORLD WAR II

FIFTY-FIFTH ANNIVERSARY OF THE
BATTLE OF THE GULF OF ST. LAWRENCE

Hon. J. Michael Forrestall: Honourable senators, I should like to pay tribute today to all Canadians, those living and those who have left this earth, for their service to our great nation through the profession of arms. Additionally, I want to say a very special thank you to those Canadians now serving abroad on peacekeeping missions.

This afternoon I should like to speak specifically about the Battle of the Gulf of St. Lawrence, that scenic expanse of ocean that blesses the shores of Quebec, New Brunswick, Prince Edward Island, Nova Scotia, and Newfoundland and Labrador. It is an interior Canadian waterway now, and many Canadians might think that it has always been so, but in 1942, it belonged to the Nazi Germany U-boat service.

This morning, through the auspices of our gracious Speaker, we had a ceremony in this chamber, a ceremony of remembrance, commemorating the Battle of the Gulf of St. Lawrence, 1942 to 1944. For the purists, of course, only two boats were lost after 1942, both in 1944 — thus, it is the fifty-fifth anniversary — but to most of us who perhaps know naval history better, the battle of the gulf was, in fact, in 1942.

Honourable senators, the ceremony this morning, presided over by Her Excellency the Governor General, was fitting and warm, and we had amongst us a large number of Canadian merchant seamen who fought in those waters to defend our country.

The German U-boats found the convoys crossing the Atlantic to be relatively well-guarded in 1942, with the American entrance into the war, and decided to prey upon coastal waterways of North America in search of easier prey during what the U-boat crews termed the "American Hunting Season" or the "Happy Times."

Honourable senators, the U-boats sank 2.5 million tonnes of shipping in six months along the North American coast. The first seven months of 1942 almost cost the Allies the war. It is said that the U-boats had so many targets that they went home simply because they had run out of torpedoes. While the Battle of the Atlantic raged on the high seas, the U-boats slipped into the Gulf of St. Lawrence, often in sight of land, and searched for unescorted merchant ships.

In May of 1942, the battle of the gulf began. The German U-boat U-553 was actually spotted off Cape Ray on her first gulf patrol. In the next five months, 21 ships were to be sunk and an estimated 200 mariners killed. In 1944, two more Canadian warships were lost, and an estimated 91 people killed. The first victim was the steamer *Nicoya* — the first ship sunk in inland Canadian waters, I might add, by hostile forces since the War of 1812. Sadly, she was not the last. Among the many others, the *HMCS Raccon*, an armed yacht, was lost to U-boat 165 on September 6, 1942, and the Corvette *HMCS Charlottetown* was sunk by U-517 only five days later. Then on October 14, tragedy struck the ferry *Caribou*, which of course was the ferry linkage between mainland Canada and Newfoundland.

The Hon. the Speaker: Senator Forrestall, I regret to have to interrupt you, but your three-minute period for statements has expired.

Senator Forrestall: I am sure honourable senators understand that it is Canadians we are appreciating here today.

SUPREME COURT

APPOINTMENT OF THE HONOURABLE BEVERLEY MCLACHLIN AS CHIEF JUSTICE

Hon. Joan Fraser: Honourable senators, I rise to speak of the announcement yesterday that the next Chief Justice of the Supreme Court of Canada will be Madam Justice Beverley McLachlin.

I think Canadians all across this land were delighted to hear the news, but I think that women were particularly exhilarated — the word is not too strong — to learn of her nomination. She is the first woman to be the chief justice of our Supreme Court. What was exhilarating was that she was not named because she was a woman; she was named because of her excellence.

Hon. Senators: Hear, hear!

Senator Fraser: She is the quintessential Canadian. How much more Canadian could you possibly be than to have been born in Pincher Creek, Alberta? She was called to the bar of Alberta in 1969 and she has done just about everything there is to do in the Canadian legal system. She practised law in private practice from 1969 until 1975. She was a law professor at the University of British Columbia from 1974 to 1981, and then she started on the very bottom rung of the court system, at the County Court of Vancouver in 1981. She did not stay on the bottom rung for very long. That same year, she started climbing; she went to the Supreme Court of British Columbia. Then, in 1985, she went to the Court of Appeal of British Columbia, a court of which she was named chief justice in 1988. Then, 10 years ago, in 1989, she was called to the Supreme Court of Canada by Prime Minister Mulroney — one of his better decisions, I dare say.

Madam Justice McLachlin has proved refreshingly difficult to label. It has not been possible for even intensely ideological commentators to classify her as belonging to one or the other judicial school since the announcement yesterday. Everyone has simply had to say that this is a judge of first-class calibre, of wonderful mind and of independent spirit, who does not naturally fit into any tidy boxes.

One of the most interesting commentaries came from the President of the Canadian Bar Association, who said, "She has a Canadian willingness to just do it, to break it down into bite-sized pieces and get on with it."

Although I am not a lawyer, I have had to spend a fair amount of time reading judicial decisions over the years, and I must say that, as a former journalist, I am also exhilarated to see that we have a chief justice who carries on in the fine tradition of good, clear, plain judicial writing. It is important for the citizens of this country to be able to understand what their Supreme Court tells them, and when Madam Justice McLachlin writes, there is no doubt that you understand what she is saying and why.

[*Translation*]

She also said something recently to the Canadian Bar Association:

> Parliament, with its superior fact-finding tools and access to opinions and information, is the most appropriate forum for decision-making of a political nature, using political in its most noble sense.

[*English*]

This is important, I am sure. We will watch her with fascination, and we welcome her appointment and congratulate her.

REMEMBRANCE DAY

Hon. Norman K. Atkins: Honourable senators, as you know, next week's November 11 ceremonies will honour our veterans and military personnel. We all hope that Canada — and indeed the world — will see a time of relative peace and freedom throughout the next century.

Today, I want to honour those Canadians who have made sacrifices in the name of freedom. Our Canadian military personnel have protected this great nation through the ages, through many wars and peacekeeping and peacemaking missions. They have fulfilled, and continue to fulfil, their portion of the contract of unlimited liability with the Canadian people since the dawn of this nation, and they must be remembered and honoured for their valiant service to Canada.

I have my own connection with the First World War. My father served with the Canadian Expeditionary Force, the 46th Queen's Battery, in the much hallowed Battle of Vimy Ridge on April 9, 1917. It was a battle that signalled Canada's coming of age as a nation, and at one time you could not find many families in Canada that did not have an attachment to that battle.

• (1420)

Additionally, at Acadia University, where I went to school, there is a residence on the campus, Willett House, that contains the Milton Gregg Lounge, named after one of Canada's most famous and indeed bravest of soldiers. The late Milton Gregg was one of 19 Canadian winners of the Victoria Cross, which he won at Cambrai, France, during the week of September 28 to October 1, 1918. He was a much respected New Brunswicker, a former president of the University of New Brunswick, a federal minister of fisheries and a student at Acadia who was also a classmate of my father.

It is sad to say that there are too few veterans of World War I, World War II and the Korean War still with us today. As of March of this year, Veterans Affairs estimates that there are only 669 veterans of the First World War, 390,230 veterans of the Second World War, and 17,783 veterans of the Korean War. It is incumbent upon us to honour these Canadians so that their sacrifices and great deeds will remain in the Canadian memory forever.

I want to turn for a moment to the men and women of the Canadian Forces who bravely serve today, whether here at home or overseas, on peacekeeping operations. Too often, we forget to show appreciation and gratitude to the brave military personnel on active duty. They have earned our respect time and time again, and we must find ways to show them that we care.

Honourable senators, to all those Canadians living and to those who have passed on, we give our eternal thanks and remembrance.

Hon. Calvin Woodrow Ruck: Honourable senators, I, too, rise to speak with respect to Remembrance Day. Once again, as we prepare to observe this event in Canadian history, the remembrance of two world wars and the Korean conflict, I am mindful of the fact that members of both the black community and the aboriginal community also served their country in those wars. I humbly request that, as you observe Remembrance Day, you bear in mind that we, the minority element in the community, also served our country, and we look forward to serving our country in many respects as time marches on. We are prepared for any eventuality in terms of preserving the democratic principles that this country expounds.

THE LATE GREG MOORE

TRIBUTE

Hon. Gerry St. Germain: Honourable senators, I rise today to pay tribute to the loss of a great Canadian, Greg Moore. I had the honour of representing the riding of Mission—Port Moody, the home of Terry Fox, one of our great Canadian heroes, and the area of Maple Ridge, the home of many fine athletes — for example, Cam Neely, a hockey great; Larry Walker and Greg Moore.

On October 31, on a race track in California, a horrific accident took place. I think most of us saw on television that tragic accident in which we lost this great young athlete, Greg Moore, who was only 24 years old.

Greg started his racing career on his father's dealership lot, which is Maple Ridge Chrysler, on the Lougheed Highway. It was located in the area that I represented. I often drove down that road, because my office was located there when I was a member of Parliament and a cabinet minister in the other place. I saw this young man, in his early years, driving his go-karts, and so on, around the dealership. I also knew his father and other members of his family. Greg came to prominence at an early age, racing with such great people as the Villeneuves, the Fittipaldis, Andrettis and Paul Tracys of this world. He made his mark. To many of us, he was a hero. He was a hero to many young Canadians. He was not only a congenial, nice young person, but he was also a young man who was always prepared to make appearances at schools for safety programs and other things relating to driving and the profession that he had chosen.

I should like to offer to his family and all his friends — and, I am sure that all of you do, too — our deepest sympathy and condolences on the loss of this great Canadian.

REMEMBRANCE DAY

Hon. Bill Rompkey: Honourable senators, I wish to join my colleagues who have already alluded to the coming of November 11 and all that that means for us, when we celebrate not simply a particular Armistice Day, but recall all those who fought and died for Canada and for other countries. My country was not part of Canada during World War I and World War II, but we raised our regiments, and many of our young people served in the Royal Navy and in the Merchant Navy.

As Senator Forrestall and others have alluded to, this morning in this chamber there was a moving ceremony with regard to the Merchant Navy. I wish that more of my colleagues had been here. If they had been here, they would not have left this chamber dry eyed, I can assure them of that. I want to thank His Honour for his efforts in having this place used as a venue for the ceremony, and for taking part in it. I hope we can do this every year in remembrance of the Merchant Navy.

If you had been campaigning in Newfoundland, particularly rural Newfoundland, as I have been, you would have seen on various walls any number of the following list of pictures: Joey Smallwood, the Pope, the Queen, John Kennedy, and a picture of the *Caribou*. The *Caribou* was our link to Canada before we became Canadians. She was the vessel that linked us to North Sydney. She went down during the Second World War. Many of my people died on that ship. She became a significant symbol of the Merchant Navy and a symbol of those who were commandeered and those who went willingly to do their bit for the war effort, even though they were not in uniform. The ceremony this morning acknowledged and celebrated them, and witnessed their contribution to the war effort.

Honourable senators, I hope that we will all take the opportunity on November 11 to participate in our regions to commemorate those who fought and died to make this country what it is today.

WORLD WAR II

FIFTY-FIFTH ANNIVERSARY OF THE
BATTLE OF THE GULF OF ST. LAWRENCE

Hon. Mabel M. DeWare: Honourable senators, as my colleague has just referred to, this morning, at eleven o'clock, we were all invited by His Honour to attend a ceremony, held in this room, commemorating the fifthy-fifth anniversary of the Battle of the Gulf of St. Lawrence.

To give you an idea of the importance and the impact of that historic battle, I should like to share with you the words of the Honourable George Baker, who took part in the ceremony. He said:

> This year, we commemorate a little known phase of the Second World War that took place right inside Canada. It is an incredible tale of the men and women who defended our shores, seas and skies in the Gulf of St. Lawrence between 1942 and 1944. Many, including members of the Royal Canadian Navy, the Royal Canadian Air Force, Canadian and Newfoundland Merchant Marine, Allied service personnel, and Nursing Sisters, lost their lives doing so.
>
> Fifty-five years later, it is with pride and gratitude that we salute those defenders and their fallen comrades. They fought valiantly for peace and freedom. They died protecting their home and native land from direct attack. Innocent civilians perished with them. Many were denied a known and honoured grave by the fortunes, and misfortunes, of the war.

• (1430)

Mr. Baker also reminded us that:

> We have a duty, not only to remember, but also to pass along this story to future generations.

Honourable senators, we do indeed have that duty. Today's ceremony represented one of the ways in which we can honour veterans who fought in the Battle of the Gulf of St. Lawrence for, this morning, in this very chamber, a commemorative distinction was proclaimed. Our Governor General, Adrienne Clarkson, was here. She joined the veterans of the Battle of the Gulf, men and women who were among those who made sacrifices. There were also families and friends of those who lost their lives.

My heart was warmed when I looked to the gallery and saw hundreds of school children there. Behind us were sea cadets, air cadets and army cadets. They, too, came to remember and to be part of this very special ceremony. Our young people are the ones who must carry this legacy of our veterans into the future, lest we forget.

It is up to the older generations of our society to encourage the newer generations to remember. As members of Parliament, as Canadians who may have personal memories of the Second World War, and as those who have lost friends and relatives, we have an added duty in this regard. One way we can discharge that duty is by being present at such occasions as this morning's ceremony of remembrance.

I hate to add but I must; I felt a little ashamed this morning to note that only 15 senators were present in the chamber. The veterans and the children looked down at some 80 empty seats.

LUCY MAUD MONTGOMERY

NAMED AMONG THE TOP TWENTY CANADIAN HEROES OF THE TWENTIETH CENTURY

Hon. Catherine S. Callbeck: Honourable senators, over 90 years ago, when *Anne of Green Gables* was first published, few thought it would turn out to be one of the most beloved works of fiction in Canada's proud literary history, but there is no question that Anne is part of our nation's cultural fabric. She transcends generations and boundaries in this country and around the world. It is amazing to think that today, almost a century after Anne was first published, young people can still look to her character as a positive role model. *Anne of Green Gables* was, of course, the work of Islander Lucy Maud Montgomery, a woman who also gave us many other fascinating works during her literary career, including the novels on which the current television series *Emily of New Moon* is based.

Recently, a project sponsored by the Dominion Institute and the Council for Canadians saw Lucy Maud Montgomery named one of Canada's top 20 heroes in the last century. L.M. Montgomery shares this spotlight with a number of remarkable Canadians: Terry Fox, Dr. Frederick Banting, Nellie McClung and Sir John A. Macdonald, to name just a few.

What an outstanding tribute to this celebrated Islander and how proud I am that Montgomery ranks so highly in the minds of Canadians. The works of L.M. Montgomery paint a picture of Prince Edward Island as a place where dreams can come true, where the pastoral beauty of the province has a deep and profound impact on those who are fortunate enough to live there. As Islanders we know this to be true and, through Montgomery's writings, others can discover it as well. L.M. Montgomery is a literary treasure, and Prince Edward Islanders are proud that she is one of them. Now, we know other Canadians are proud as well.

[*Translation*]

SUPREME COURT

APPOINTMENT OF THE HONOURABLE BEVERLEY MCLACHLIN AS CHIEF JUSTICE

Hon. Gérald-A. Beaudoin: Honourable senators, I wish to congratulate Honourable Justice Beverley McLachlin on her appointment to the position of Chief Justice of the Supreme Court of Canada.

I am delighted with the news of this appointment, which is to take effect on January 7, 2000. As honourable senators are aware, this is the first time a woman has achieved this highly prestigious position within the Canadian constitutional system.

Madam Justice McLachlin is an excellent jurist, who has risen through the ranks to this highest rank of Chief Justice. After teaching law and working in private practice, she was appointed successively to the Supreme Court of British Columbia, and the B.C. Court of Appeal, then returning to the B.C. Supreme Court as its Chief Justice. She was appointed to the Supreme Court of Canada in March 1989 at the age of 46.

She has left her mark in a number of areas of law. Among these, she particularly excelled in cases dealing with freedom of expression, legal guarantees, and equality rights. We are fully aware of the great importance the Canadian Charter of Rights and Freedoms occupies in our lives and of the enhanced role of our court of last resort.

Justice McLachlin was also awarded honorary degrees from the University of British Columbia in 1990, the University of Alberta in 1990, and the University of Toronto in 1995.

I wish her every success, a success that is well earned, as she attains the summit of judiciary power and contributes to the edification of the cathedral of Canadian jurisprudence.

LE COLLÈGE DE TECHNOLOGIE AGRICOLE ET ALIMENTAIRE D'ALFRED

POSSIBLE CLOSING BY ONTARIO GOVERNMENT

Hon. Jean-Robert Gauthier: Honourable senators, living in French in Mike Harris' Ontario is not easy.

The Montfort Hospital case is still before the courts. We have been waiting for five months for a decision on the fate of this Ontario francophone health institution.

The Harris government is now preparing to eliminate another francophone institution, but this time in the area of education. It will be the Collège d'Alfred, the only college in Ontario offering training in agri-food sciences in French.

The Harris government is again provoking its francophone minority, which will fight to save this institution it took the community 50 years to build.

The francophones of Ontario have the right to exist, live and work in their language. Eastern Ontario has a large agri-food industry, which must be protected at all costs, and that includes keeping the Collège d'Alfred.

Once again, Mr. Harris and his government will have to be dragged before the courts to ensure justice is done. It is bloody hard and tiring work!

[*English*]

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Dan Hays (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, November 16, 1999 at 2 p.m.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL DEFENCE ACT DNA IDENTIFICATION ACT CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Dan Hays (Deputy Leader of the Government) presented Bill S-10, to amend the National Defence Act, the DNA Identification Act and the Criminal Code.

Bill read first time.

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

On motion of Senator Hays, bill placed on the Orders of the Day for second reading on Tuesday, November 16, 1999.

• (1440)

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Raymond J. Perrault: Honourable senators, I have the honour to reintroduce a bill from the previous session, Bill S-11, to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable.

Bill read first time.

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

On motion of Senator Perrault, bill placed on the Orders of the Day for second reading on Tuesday, November 16, 1999.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

CANADIAN DELEGATION TO SUBCOMMITTEE MEETING ON FUTURE OF ARMED FORCES HELD IN ANKARA AND ISTANBUL, TURKEY—REPORT TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the second report on the Canadian NATO Parliamentary Association. It is by the Canadian delegation that represented Canada at the meeting of the Subcommittee on the Future of the Armed Forces, held in Ankara and Istanbul, Turkey, June 27 to 30, 1999.

[*Translation*]

PRESENT STATE AND FUTURE OF ABORIGINAL PEOPLES

NOTICE OF INQUIRY

Hon. Aurélien Gill: Honourable senators, I give notice that on Wednesday, November 17, 1999, I will call the attention of the Senate to the situation of aboriginal peoples, to enable us to take stock and consider appropriate measures for the future.

[*English*]

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. As he and all of us well know, the Sea Kings have been inoperable in the last week or so. Neither the ship-borne Sea King nor the one from Shearwater was available to come to the aid of a critically ill seaman, as we noted earlier this week. Another Sea King had problems with its hydraulic system this week. We know that to border on the catastrophic, particularly if you are in the air.

I have before me a briefing note to the Minister of National Defence dated September 24, 1998. It indicates that the lead time for replacement of the Sea King fleet is eight years and that the life expectancy of the Sea King is 2005. This leaves a three-year gap.

Honourable senators, when will the government initiate this project? If the government initiates it today, the fleet will be in place eight years from now. What options does the government have under consideration to fill this three-year gap? Perhaps the government could look at a means of putting helicopters on board the ships more quickly. After all, we know the requirement for the role of the replacement, and we know that the replacement was ready to be initiated by the government in 1993 before the government cancelled the EH-101 program.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the Honourable Senator Forrestall for his question and his obvious concern with respect to the operation of the Sea King helicopters. As I indicated to senators some days ago, the replacement for the Sea King helicopter remains a priority for the government and, indeed, remains at the top of the priority list of the current minister.

I believe the current fleet of helicopters — the CH-124 Sea Kings — was delivered to the Canadian Forces in 1963. The expectation was, and continues to be, that the Sea Kings will fly until the year 2005. There have been incidents. Issues of maintenance have arisen. Of the original 41 helicopters, I believe 30 are still in operation. In fact, it is felt that they can fulfil their role until a replacement is available.

POSSIBILITY OF TRANSFERRING ACCIDENT INVESTIGATION TO TRANSPORTATION SAFETY BOARD

Hon. J. Michael Forrestall: Honourable senators will realize it is now 1,825 days since this program was promised immediately. Does the Leader of the Government in the Senate realize that we are asking young men and women in the Canadian Armed Forces to fly in an aircraft that is inherently unreliable? We have the finest maintenance crews in the world dedicated to keeping these craft flying safely and as long as they are able to fly. The fact is that the helicopters are worn out. They are tired. They are aged. They are unreliable. Maintaining them is costing us a fortune. It takes thirty-eight hours — more perhaps now — to keep one airborne for one hour. Does the minister not realize that we are endangering the lives of Canadian Forces personnel?

Would the minister examine the possibility of transferring accident investigation from the military to our national Transportation Safety Board, which would have grounded these helicopters years ago?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, my honourable friend is quite right when he describes the abilities and capacity of our maintenance personnel in the Canadian Armed Forces, particularly those involved with the Sea King helicopters. He might agree with me when I say that they are among the most experienced maintenance people in the world with respect to this piece of equipment.

I do not think the honourable senator is indicating that the military would send its members into a mission in a piece of equipment that was not deemed appropriate and ready to fulfil the mission.

There have been and will continue to be, no doubt, challenges with respect to maintenance. As a piece of military equipment reaches the end of its useful life, the degree and number of those challenges increases. That has happened and will continue to happen. I would not take from that, though, that we would send people on a mission where their safety or lives were placed at risk. We should give the maintenance crews a great deal of credit for the job they do and will continue to do.

I share the honourable senator's wish that these helicopters be replaced expeditiously, and I have the assurance of the minister, as recently as a few days ago, that it remains his top priority and that he will push ahead. I will extend to the minister the encouragement, not only of myself but also of the senator, that the matter be dealt with as quickly as possible.

Senator Forrestall: The Leader of the Government in the Senate did not respond to my question. The question is still hanging out there. Let me add to it, and I hope he will respond.

The second part of the question is whether the minister recognizes that the tasking for the ship-borne replacement program was carried out before the present Prime Minister cancelled the EH-101 program. That two-year job has already been completed.

• (1450)

Can we get some assurances? We have waited eight years and cannot deal with a further three-year gap, because this is critical. These helicopters are unreliable. They should be grounded. Will the minister, as well, respond to the suggestion that perhaps this matter of the performance of this equipment should be monitored by the Transportation Safety Board and not the Canadian military?

Senator Boudreau: Honourable senators, the honourable senator has raised two questions. The first question asks whether or not I can reassure him that the replacements will be in place prior to some date eight years hence. Certainly the judgment I can make, based on my conversations with the minister, gives me great confidence that, in fact, we will not be waiting eight years for the replacement of the Sea Kings. I wish to extend the confidence which I feel to the honourable senator, and indicate that I believe that we can be assured that the replacements will not take another eight years.

The second question that the honourable senator raises is one with respect to investigations of incidents involving military equipment. Frankly, it is not an area in which I have a great deal of expertise. I suspect, though, that the Armed Forces generally handle these matters on their own. That may not be the case, however, and the honourable senator may perhaps at some point have an opportunity to share his experience with me on that point. I cannot answer definitively at this stage in any event.

REPLACEMENT OF SEA KING HELICOPTER FLEET—
POSSIBILITY OF LEASING

Hon. Gerry St. Germain: Honourable senators, my question is a supplementary to Senator Forrestall's questions.

I happen to have flown aircraft in the air force and I still fly today. I say this in order to qualify what I am about to ask the minister. The point is that the government is asking these maintenance people to perform miracles. I started my military career at the maintenance level and progressed to aircrew. That is how I know that these maintenance people are excellent. However, they are not miracle workers.

I read recently that for every hour one of these Sea Kings flies, 30 hours of maintenance is required. I have asked your predecessor a certain question which I have posed on several occasions in this place, and that question is: Why has the government not taken action? They have gone so far as — and I stand to be corrected on this — to have given aircrews the discretion of not flying if they do not feel comfortable with the aircraft. When you get to that level, the game is over.

How could the minister possibly do that, as a member of cabinet? I believe that if an accident takes place, the responsibility will lie squarely on the shoulders of the cabinet and, in particular, the Minister of National Defence and the Prime Minister of this country. I believe that there are solutions, such as the leasing of helicopters. There are mechanically sound helicopters all over the world which could perform this function safely. Why are we not proceeding in that direction? On the occasion I posed this question to the leader's predecessor, he said he had discussed it with the minister and that consideration was being given in this particular area.

I have flown a four-seater aircraft accompanied by one of our senators. I was particularly conscious of the safety aspect. Even if the senator had been a Liberal, I would be just as conscious of safety. I am sure that when I was in the air force I must have flown many Liberals, or flown with them, and I was just as conscious of their safety.

Honourable senators, I urge the minister to act on the possibility of leasing, and I ask for a response in that regard. As I say, there are millions of helicopters. In North America alone there are thousands of them, at least. Why are we not leasing them? Why are we doing this to our military? We are doing things to our military, in various other areas, that are disgraceful. Why are we doing this to aircrew who are working to save lives and jeopardizing their own lives in the process?

Hon. J. Bernard Boudreau (Leader of the Government): The honourable senator makes a number of points and I will not try to follow all of the comments. Specifically with respect to the Sea King helicopter, the honourable senator has indicated that my predecessor had discussions at some point with the minister with respect to the issue of leasing. I have not. However, I certainly will undertake to have a similar type of discussion with the minister, and then perhaps I can relay more specific information.

Honourable senators, before sitting down, I should like to say that the Canadian Armed Forces, be they operating Sea King helicopters or any other equipment, do a remarkable job. They have been supported by government. I believe that the people in charge of maintaining the Sea King helicopters not only do a remarkable job, but that at no time would they ever permit an aircraft to be used if they felt there was any threat to life and limb. I believe that those people maintaining the Sea King helicopters do a magnificent job under admittedly difficult circumstances, especially when you consider that this is an old piece of equipment.

AGRICULTURE AND AGRI-FOOD

POSSIBLE TRANSITIONAL FUND FOR FARMERS
WISHING TO CHANGE CAREERS

Hon. Herbert O. Sparrow: Honourable senators, I have a question for the Leader of the Government in the Senate. However, before I bring the question forward, I wish to again express my appreciation and the appreciation of the house for having allowed the discussion that we had yesterday on the farm crisis in Canada. I thank all honourable senators for their input in the debate.

I understand that there will be a statement today in the House of Commons by the Minister of Agriculture pertaining to additional assistance for the AIDA program. I am somewhat concerned, though, about a report in *The Globe and Mail* today, that says:

> The minister is also believed to be considering a transitional fund for farmers who decide to leave the land and switch careers.

I am concerned about that because I know of no farm organization and no farmers who have asked for such a program. That is an indication to me that maybe we are trying, as a government, to push farmers out of farming. That is not the purpose of representations at all. The purpose arising from our concern is to keep the farmers on the land, not to encourage them to leave the land.

As the farmers leave the land in rural Saskatchewan, Manitoba, and Alberta, it destroys the very fabric of that part of the nation. We need every farmer and farm family where they are in order to support the elevator system, the education system and the health system in those communities. I am concerned, therefore, if this is truly what the government is proposing.

I ask the Leader of the Government in the Senate two questions: Could he tell us who, if anyone, has been asking for such a transition program — any farm organization, or individuals who would have indicated that that is the kind of program they are looking for? Would the Leader of the Government in the Senate tell us if, in fact, the government and the Minister of Agriculture are proposing such a program?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for the question. With regard to the first part of the question, I am not aware of any such discussion or any such proposal from any contact or conversations I have had with the minister. Therefore, I am unable to respond as to whether the suggestion has been proposed by another organization. However, as I walked into the Senate this afternoon, I was handed a news release issued by the Minister of Agriculture and Agri-Food which lays out the details of the proposal made by the minister.

• (1500)

I asked my staff to prepare a bilingual copy of the announcement, in order that it would be available for all senators to read. I have not yet received that copy; however, I anticipate receiving it shortly. If it is the desire of honourable senators, I will supply senators with copies of that announcement.

There is nothing in the announcement that refers to a buyout program or anything of that nature. It does, however, indicate that the federal government has today announced that they will be adding another $170 million to the two-year Agricultural Income Disaster Assistance program, the AIDA program. This additional funding raises the federal portion of the program to over $1 billion. This is in addition to annual federal farm payments of $600 million.

As well, other changes in the administration of the program are being contemplated. I do not intend to give details here since they are contained in the announcement which will be provided shortly. In any event, it is anticipated that the provincial premiers who expressed such concern when they recently visited Ottawa will join the federal government in making the AIDA program that much more available. I presume that the provinces will continue to maintain the 60-40 cost sharing arrangement under the existing program, taking into account that additional $170 million. Assuming that that is the case, another significant amount of money will be added to the fund.

REQUEST FOR PROGRAM TO KEEP FARMERS ON THE LAND

Hon. Leonard J. Gustafson: Honourable senators, I have a supplementary question with regard to keeping farmers on the land. Today, only 2.5 per cent of our country's population is left in agriculture. Therefore, it is very important to keep them there.

In the U.S., President Clinton has said that he had decided to sign the measure because farmers are facing a true emergency and cannot wait. That was in reference to the $8.7 billion that was allocated to farmers in that country. The president of the farmers' national union said that this infusion of assistance may mean the difference between farmers quitting and staying in business.

The important thing is to keep farmers on the land. Would the Leader of the Government in the Senate communicate that to cabinet? We were pleased to hear that some measures have been taken to infuse more capital into the situation. I do not think that is nearly enough, given the extreme circumstances we face. However, would the leader give us the assurance that he will press the government to bring in a program to keep farmers on the land, as opposed to helping them off the land?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I have no difficulty in indicating that everything reasonably possible should be done to keep farmers on the land, contributing to Canadian life and society as they have over the years.

Let me paraphrase one portion of the release that just recently came into my hands. The Minister of Agriculture and Agri-Food said, "We will be asking the provinces to join us under AIDA, in covering 70 per cent of the producers' negative margins or undertaking equivalent measures." The Minister of Agriculture and Agri-Food also indicates that "We will continue to work with the provinces and industry to find ways to help farmers, particularly those in the most difficulty."

This statement clearly indicates that this is a federal commitment, backed up with a significant amount of money, to aid those in most difficulty and in most danger of having to leave the land. I expect this measure will have some of the effect that the honourable senator wishes.

Some credit should be given to the Minister of Agriculture and Agri-Food because he did not await a negotiated process with the provinces. The minister and the federal government, in putting this money immediately into the program, took action in a very direct and responsive way. The assumption is that the provinces will also comply and join with the federal government in contributing to enlarge the AIDA program. However, the federal government and the minister did not want to stretch out the process for a week, two weeks, 10 days, or a month looking for some sort of written guarantees to that effect. The minister moved immediately.

This money is an improvement over the way the AIDA program operated previously. It will reach the farmers who are most in need and most in danger of leaving the land.

AGRICULTURAL INCOME DISASTER ASSISTANCE PROGRAM—
ALLOCATION OF MORE FUNDS—
REQUEST FOR CLARIFICATION ON MINISTER'S STATEMENT

Hon. Herbert O. Sparrow: Honourable senators, is the leader suggesting that the new money will go out before the old money is paid out? Is that what he is suggesting when he says that it will go faster? Farmers have not received yet the old money that is under the AIDA program, and now it is being suggested that the new money will be going out faster.

I wonder if the Leader of Government would take the message back that for the new money we do not really require another 47-page application form. We are fed up with the old one, so we would like something simpler than that.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, there has been a recognition by the government that the funds in the AIDA program did not get out to the people in need as quickly as they should have.

I listened to Senator Carstairs' excellent speech yesterday in this chamber. She clearly and quite candidly outlined the difficulties in the program. The money did not get to the farmers in need as quickly as the federal government and all the other parties to the AIDA agreement had intended. It did not get to the farmers as quickly as the parties who designed the program had intended.

This new money will not operate under a different set of rules. It will go into the pot. However, along with the announcement of this money, the minister has also announced that some changes will be made to the program which will result in the money passing through the program and ending up in the farmers' hands much more quickly.

Hon. Leonard J. Gustafson: Honourable senators, the problem with the last program was that if a farmer had an average of three years and got hailed out in one year or dried out in one or two, there was no way that 70 per cent of that three-year average would work.

Could the minister convey to the members of cabinet the importance of getting to the farmers who are most in need? If they were hailed out or dried out, there is no way that the negative average of 70 per cent of two bad years meant anything. Those are the people who got burned the worst; the ones who needed it the most. If that program is to work, some type of change is required so that the hurting will be healed.

• (1510)

Senator Boudreau: Honourable senators, that may have been addressed. Let me paraphrase again from the release.

The minister also proposed other changes to the AIDA program, including one that will allow producers to make a one-time choice in 1999 of a reference period on which payments are based, that is, either the previous three years, or three of the previous five years where the high- and low-income years are not counted. I do not know if that addresses the specific problem the honourable senator raises, but it seems to indicate some assistance for the type of situation he brought to our attention.

Honourable senators, with leave, I should like to table the news release. I just received a bilingual copy, and I would ask that additional copies be made and distributed to any honourable senators who may be interested.

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

Hon. Senators: Agreed.

The Hon. the Speaker: We will make copies and distribute them as soon as they are ready.

REQUEST FOR FINANCIAL SUPPORT FOR ALFALFA DEHYDRATORS

Hon. Nicholas W. Taylor: Honourable senators, I have a supplementary question. Can the Leader of the Government in the Senate take to the cabinet table the problem of alfalfa dehydrators in Western Canada who contract for their crops with farmers? The alfalfa industry runs in four-year cycles, and these people are also caught in the sudden drop in world prices for alfalfa. They are in a squeeze because they promised the farmers X dollars per tonne and can only sell at X-minus dollars per tonne. They are mostly small companies, sometimes co-ops. A couple of dozen in Western Canada are likely to go under because the Minister of Agriculture ruled that they are corporations, in effect, and cannot qualify for AIDA. Yet, if they go under, a number of farmers will not be able to sell alfalfa any longer. Even though they are very small businesses, they do provide jobs.

Since the AIDA program cannot help in this regard, I hope the Leader of the Government will take their problem to the cabinet table and find out if there is some other way to get them over the next two or three years and to keep those alfalfa plants open. After all, farmers need them badly.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I appreciate my honourable friend's comments on that subject. I will, with pleasure, take his concerns to the cabinet table and specifically to the minister responsible.

FISHERIES AND OCEANS

MARITIME PROVINCES—
SUPREME COURT DECISION UPHOLDING
NATIVE FISHING RIGHTS—EFFECT ON LOCAL ECONOMY

Hon. Gerald J. Comeau: Honourable senators, my question is on a slightly different subject. It concerns the recent Supreme Court decision in the *Marshall* case. Regardless of how one may view the decision, most people agree that it will have a profound impact on the lives of both natives and non-natives in Atlantic Canada, and the adjustments will have ramifications for the economy and finances for the whole of Canada. I would cite the possible effect on Sable Island gas, on timber and mineral rights, and so on.

Would the Leader of the Government in the Senate indicate what measures and contingency plans are being undertaken to deal with the economic adjustments and the fallout from the Supreme Court decision?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the first and most immediate fallout from the *Marshall* decision, as the honourable senator well knows, has occurred in the Atlantic Canada fishery. As a priority, the Minister of Fisheries and the government have attempted to address that situation as quickly as possible, in the hope of bringing calm to both parties and encouraging meaningful discussion towards what ultimately will have to be a long-term solution to a situation that has pretty serious short-term implications. Some of the scenes we witnessed made us all uncomfortable, I am sure. That short-term negotiating process seems to have taken hold. A sense of calm has been restored, and we are very hopeful that those discussions will proceed.

However, it is also important to point out that the rights granted to the aboriginal community by the Supreme Court have a price attached. It is a price that cannot be paid by simply one sector of our economy. It cannot be paid solely by fishermen in Atlantic Canada, any more than it can be paid by office workers in Vancouver. An accommodation must be made by the entire country in recognition of these aboriginal rights as defined by the Supreme Court.

I anticipate a long-term process. However, in areas where an immediate resolution must be obtained, especially in the Atlantic fishery, I think good work has taken place and I hope it will continue.

POSSIBILITY OF TRANSITIONAL FUND
FOR FISHERS WISHING TO CHANGE CAREERS

Hon. Gerald J. Comeau: Honourable senators, I could not help but take note earlier of the question asked by Senator Sparrow regarding the adjustment programs that were contemplated or were rumoured to be contemplated for the agricultural sector. Similar indications have come from various sources that money has been set aside for an adjustment program — I will not suggest the word "buyout". The figure I have heard is $500 million — I believe I counted eight zeros after the five — to accommodate the agricultural sector alone. That is a huge sum. Is the same approach being contemplated for fisheries — in other words, buying out certain people in the fishery sector and other sectors, which will add more zeros to the figure — or is this merely a rumour that is floating around?

I might remind the minister that there is a great deal of uncertainty in many communities. We are entering the winter fishery now, which is a much-reduced fishery. That gives us a little lead time, although a very short lead time, and time is of the essence.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I cannot confirm any speculative numbers. I would be very surprised if numbers have been seriously discussed at this point. One reason is that the full extent of the *Marshall* decision — its application, width and breadth — is unknown at this time. Somewhere in the government someone might be writing a paper on all sorts of scenarios, but I do not think any numbers have been seriously considered at this stage. A possible buyout may arise at some point.

By the way, honourable senators, I cannot confirm — quite the contrary — any such rumours with respect to the farming community. I am not aware of any plan to buy out farmers. I do not want to mislead the Senate with respect to that question. However, the situation with respect to the fishery is a bit different. A buyout program is in effect now. As a matter of fact, an aboriginal buyout program has purchased licences in certain areas of the fishery and turned them over to the aboriginal community. That program was in existence before the *Marshall* decision and is almost guaranteed to continue in some form.

The point I wish to make to the honourable senator again is that the situation is a challenge not just for the fishermen in New Brunswick or Nova Scotia; it is a challenge for all of Canada.

• (1520)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I rise to ask the Table to call, as the first item of business, Order No. 2 under the heading of "Bills", namely, the second reading of Bill C-6.

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Michael Kirby moved the second reading of Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act.

He said: Honourable senators, I am pleased to have the opportunity to address the Senate regarding Bill C-6, whose short title is the Personal Information Protection and Electronic Documents Act.

With the advent of the new information economy, Canadians are finding new ways of connecting to each other, to markets, to governments and to the world. All Canadians have a stake in the new knowledge-based economy which is bringing with it changes that profoundly affect all our lives.

Canada's success in the 21st century will depend on the ability of all Canadians to participate and succeed in the global, knowledge-based economy. To ensure that participation, we must move quickly to provide Canadians with the necessary access and skills and the confidence that this new technology will not erode the privacy they now have and enjoy with respect to the way in which their personal information is handled. Bill C-6, the Personal Information Protection and Electronic Documents Act, is a significant step toward achieving these goals.

Honourable senators, Bill C-6 is the product of informed review by many experts in the field of data protection and electronic commerce, of widespread public consultations, and of extensive examination in the other place. It will also be subjected to extensive hearings by a standing committee of the Senate.

The bill addresses three broad issues to help Canadians fully exploit the true potential of the Internet as the medium of information and commerce. The legislation will, first, create an electronic alternative for doing business with the federal government; second, provide a legal basis for electronic records and secure electronic signatures; and, third, protect the personal information of Canadians in their dealings with private sector organizations.

Already, the federal government has pioneered the use of the Internet as a means to improve service to Canadians, increase efficiency and lower costs. Many of the federal government's transactions with the public, from the filing of income tax returns to the provision of information on any number of subjects, can now take place electronically at great speed and at much lower cost than the old paper way of doing these things. However, much more can be done if we update federal statutes and regulations to capture the opportunities presented by the Internet.

Many existing statutes and regulations often specify that information must be given in writing or certain documents must be signed. Such references can be, and historically have been, interpreted as restricting transactions to paper only and as precluding electronic alternatives. Bill C-6 allows us to make existing statutes and regulations compatible with the new electronic environment. It will enable us to provide an electronic alternative to the transmission of information on paper.

Parts 2 to 5 of Bill C-6 will eliminate the so-called "paper bias" in our current federal laws and regulations by making them essentially media neutral. That is to say, by making electronic transmission and information equal in quality in terms of the statutes and regulations with paper documents. Bill C-6 will put electronic transactions governed by federal laws on the same footing as paper ones. It will assure business and citizens that electronic documents and signatures have legal standing.

Bill C-6 will not replace or eliminate communications through the written word. Instead, it will make the electronic transmission of information through computers an option that is realistic, practical and, above all, legally sound. Moreover, we are enabling the federal government to accommodate a way to do business that is increasingly popular with Canadians, namely, doing business electronically over the Internet.

Canadians increasingly want to do business electronically, not just with their governments but with the private sector as well. There is a lot of evidence to support that trend, from public opinion polling information, from looking at the number of transactions that are now being conducted over the Internet and from looking at the rate of growth of those transactions.

The increasing pervasiveness of networks and the increasing speed with which the associated technology advances means companies are collecting more information from more sources, moving it faster and further and combining it more ingeniously than ever before. This has resulted in the treatment of personal information as a commodity. Personal information is now bought, sold, and traded. Personal information now has commercial value in and of itself.

In order for electronic commerce to flourish in Canada, consumers need to feel confident about how their personal information is gathered, stored and used. In the electronic age, each time we make a transaction we leave a "data trail"; tracks that can be compiled and assembled to provide a detailed record of our own personal history and preferences. Canadians are concerned that their personal privacy is being eroded by the shift from paper to electronic transactions and information storage, and the storage of accumulated files of information about each of us. Canadians want government to work with business to do something about the problem.

In July 1998, an Angus Reid poll showed that 88 per cent of Canadians said they found it "unacceptable" for companies and organizations to sell, trade or share lists containing personal information with other organizations. The business community has recognized these concerns in the past by adopting a voluntary privacy code developed by the Canadian Standards Association.

Although the business community's efforts and commitment to this code has been impressive, Canadians need assurance that they can be confident about privacy when doing business. Bill C-6 will give Canadians the privacy protection they desire by legislating a privacy code that is enforceable and mandatory.

Right now, personal information is crossing all boundaries: provincial, territorial, and national. In the other place, there were some concerns raised about how Bill C-6 will coordinate with areas of provincial jurisdiction, in particular, concerns that Bill C-6 encroaches on provincial jurisdiction. However, because of the business orientation and focus of Bill C-6, the federal government is confident that the bill is a legitimate exercise of its authority to legislate in respect of trade and commerce in Canada. Nevertheless, honourable senators, the committee to which this bill is referred will hear expert witnesses who will argue both sides of this constitutional question.

Honourable senators, there is clearly a need to legislate on a national basis. Provinces acting alone and even together cannot pass laws that can effectively protect information crossing interprovincial and international boundaries. A company in British Columbia collecting information from customers in Manitoba may disclose it to another company in New Brunswick or New York. Canada, therefore, clearly needs a national law to protect personal data in such circumstances — a law that is harmonized, with the provinces and territories playing their part in their area of jurisdiction.

Honourable senators, Bill C-6 will apply to all industry sectors, regardless of the size of business. This includes the health care sector. It will provide protection for personal health information it has collected, used and disclosed in the course of commercial activities. To reconcile data protection rules across jurisdictions, the government encourages the provinces and territories to protect citizens' data in their area of competence and to harmonize not only with the federal privacy legislation but also with each other.

Part 1 of Bill C-6 addresses the need to safeguard personal data by establishing the right to the protection of personal information. It sets clear rules for how that information will be collected, used and disclosed in the course of commercial activities.

Based on government consultation and industry committee hearings in the other place, Canadians have sent the following messages: First, they want legislation that is flexible and effective and provides meaningful recourse for consumers. Second, Canadians support building on existing instruments such as a voluntary privacy code of the National Standard for the Protection of Personal Information of the Canadian Standards Association. Third, Canadians want independent oversight — that is, someone to investigate complaints and ensure compliance with the new legislation and regulations by the private sector.

Bill C-6 will require organizations to comply with the 10 fair information principles of the Canadian Standards Association standards for their protection of personal information, principles which are incorporated directly into Bill C-6 as Schedule 1. The CSA standard principles address the way in which organizations should collect, use, disclose and protect personal information. They call for businesses to identify the purpose for which information is collected, to obtain the individual's consent regarding collection, to use and disclose personal information, and to provide measures allowing for access to records and organizational accountability.

• (1530)

Compliance with Part 1 of the legislation will be overseen by the Privacy Commissioner of Canada. The Privacy Commissioner will investigate and mediate disputes and investigate complaints. Indeed, one of the issues I believe the committee will want to discuss will be the rules necessary to ensure that the Privacy Commissioner, in carrying out his investigative and mediation roles, falls within the guidelines set out in various Supreme Court of Canada decisions, including the decision on the search-and-seizure powers of the old Combines Investigation Act in relation to *The Edmonton Journal* case. That is clearly an issue the committee will want to examine.

Unresolved disputes can be taken up under this act by going to the Federal Court for final resolution. The Privacy Commissioner is also given a strong public education mandate to help businesses meet the requirements of the bill.

At the present time in Canada, the protection of personal information can best be described as sporadic and uneven. Most industries are not subject to any rules at all concerning the collection, use and disclosure of personal information. The rest are covered by what the Privacy Commissioner of Canada has called a "patchwork" of laws, regulations and codes. Only the province of Quebec has broad legislation governing the use of private information by the private sector.

This situation is clearly no longer acceptable to the vast majority of Canadians. Canadians have consistently voiced their concern about the lack of protection for their personal information. Canadian businesses are also calling for legislation that would set a single national standard of rules to ensure a level playing field across the country and, indeed, across various types of businesses. Canadian businesses realize that privacy makes good business sense. They understand that flexible but effective legislation will help customers accept electronic ways of doing business and thus increase the volume of business.

Canada needs new legislation to protect privacy. Such legislation must strike a balance between the rights of individuals to have control over their personal information. Consumers need access to avenues for effective redress in cases where they think their personal information is being misused. On the other hand, legislation must address the needs of industry to collect and use personal information as a vital component of success in the information economy.

I believe, honourable senators, that the legislation before us, Bill C-6, strikes an appropriate balance. Bill C-6 will help build consumer trust while, at the same time, putting in place a set of rules that gives the business community the certainty it needs to take full advantage of the potential of electronic commerce and thus to help ensure that Canada is a world leader in electronic commerce and global information.

I look forward to participating in the analysis of this bill at the committee stage. I urge all honourable senators to join in that analysis and to send Bill C-6 as quickly as possible to committee.

Hon. Lowell Murray: Honourable senators, I intend to offer some extended comments on this bill, after which I will propose the adjournment of the debate.

Several people and organizations have expressed certain concerns about this legislation. I am trying to arrange to meet with them early next week if possible. I have in mind, in particular, people from the health care sector. I do not want to conclude my remarks on second reading until I have had an opportunity to hear their comments. After the adjournment of the debate, therefore, I would propose to conclude my remarks when we return here on the Tuesday following the Armistice Day break.

I should also signal to honourable senators that at least one other colleague on this side, namely Senator Oliver, intends to participate in this debate at second reading.

First, I should like to congratulate and thank the sponsor of the bill, Senator Kirby, for his usual thorough and careful elucidation of the provisions of this bill.

This bill is really two bills in one. It represents a forced marriage of two bills on two rather different, almost unrelated subjects. The Minister of Justice herself, when she appeared before the House of Commons committee, acknowledged, and government officials confirmed, that this bill started out as two bills. Somewhere in the cabinet process, someone came along with a pair of scissors and a pot of paste and decided to paste the two bills together and make them one.

Part 1 of this bill would protect personal information collected in the course of commercial activity. Parts 2 to 5 of the bill would validate electronic documents and processes under the Canada Evidence Act, the Statutory Instruments Act, the Statute Revision Act, et cetera. It would facilitate electronic commerce with the Government of Canada. Part 1 and Parts 2 to 5 of the bill do not really lend themselves to a single principle or to a single theme.

This bill is really an omnibus bill. Omnibus bills are not always improper and are not always an imposition on Parliament. I want to give honourable senators a good and concise definition of the proper use of an omnibus procedure. It comes from the Honourable Herb Gray who was speaking then as a member of the opposition during the debate on free trade in the House of Commons in 1988. He said:

> The essential defence of an omnibus procedure is that the Bill in question, although it may seek to create or amend many disparate statutes, in effect has one basic principle or purpose which ties together all the proposed enactments and thereby renders the Bill intelligible for parliamentary purposes.

This bill does not, as they say, "cut it" in light of that definition. That definition is very concise. It has been cited by succeeding Speakers in the House of Commons as an excellent definition of what an omnibus bill should be. Bill C-6 is not a proper omnibus bill. It covers two different themes, two different principles.

In all charity and with some understanding and affection for the drafters' problems, this attempt to invent a single principle or a single theme where none exists is not very impressive.

• (1540)

It is quite disingenuous. It is fancy legislative and verbal footwork and gymnastics. It is nowhere more evident than in the long title of the bill: An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act.

The first part of this bill, the privacy part of it, deals with private information however collected, whether by electronic or any other means. The long title, trying to make a single principle or a single theme of this bill — I say again with some charity — is a lovely piece of nonsense that the drafters have concocted.

Senator Stewart a few years ago accused me of having the mind of a mandarin. I do not think that is true. If it were even partially true, I would certainly defer to Senator Kirby, because I would not be even in the same league with him in that respect. However, I think I have had sufficient experience to understand something of the mandarin and, indeed, the political mind. Somewhere along the line, someone came in and said, "We only have so much parliamentary time at our disposal; let's slap these two bills together." Out came, electronically, of course, the scissors and paste. The bill was slapped together in that fashion.

This is an imposition on Parliament. Why did they do it? It is the same cause, the same consideration — namely, the convenience of the executive to which the prerogatives of Parliament, for the past 30 years, have time and time again been subordinated and which, in my humble opinion, have made a virtual shell out of the House of Commons. It is much to be regretted.

I am of two minds whether we on this side should pursue this issue. One part of me says, "We really must take a stand on matters of this kind as a question of principle." The other says, "Well, in the other place, so much time has gone by that they have forgotten even what their prerogatives are, and if they don't care, why should we?" However, I will take the occasion to consult with my colleagues to see whether at some later stage in the debate we may want to pursue this matter.

There is plenty of precedent, as Senator Graham will recall, for the Senate's splitting a bill. When I was sitting opposite and was the minister in charge of ACOA, I brought in a bill to create that agency and at the same time to create certain other agencies, including the Enterprise Cape Breton Corporation. Those were provisions that I thought hung well together, and which did hang together very well in a single theme, but my friend Senator Graham and his then leader, Senator MacEachen, had some policy problems with the bill. They proceeded to move, successfully because they were a majority in the Senate at the time, to instruct the committee, if you please, to split the bill,

which the committee did. A message was sent back to the House of Commons telling the House of Commons that we had split the bill and that it was now two bills, and so on and so forth. The House of Commons in its wisdom, of course, promptly sent the affair right back to us, with the bill reunited, and I somehow have no doubt that that is what will happen this time, if we push our view to the limit. I wished to flag that issue, honourable senators, if only for the record, because it is a matter of principle.

This bill was Bill C-54 in the first session of the present Parliament. It died when that session was prorogued, and it was revived in the new session at the report stage. What I have to say about Bill C-6 and evidence from committees and so forth refers largely to the proceedings on Bill C-54, but the bills are identical.

As far as I have been able to gather, there have been no principled objections raised to Parts 2 to 5, the electronic commerce parts of this bill. Most of the controversy, if I might call it that, relates to Part 1, the so-called privacy provisions. This may be one of the problems with pasting together two bills in one. It may well be that insufficient attention has been paid by witnesses and others interested, and by legislators in the other place, to Parts 2 to 5. Goodness knows they are very important. They have, among other things, to do with the judicial system — the courts and the law and the taking of affidavits and all of that kind of thing. It may be, however, that, because Part 1 is more controversial, Parts 2 to 5 have been given only a cursory examination, or an inadequate examination, by both the interested public and the legislators. As I say, this may well be one of the problems with pasting together two bills as one. I make that point so that the committee may bear it in mind, because it may want to look more carefully than our friends in the House of Commons did at Parts 2 to 5.

With regard to Part 1, and most of my remarks today relate to that part of the bill, let me express my strong bias. I strongly believe in the protection of privacy. I believe that privacy is inherent to the dignity of the individual. We already have a Privacy Act in this country that protects individuals from undue invasion of their privacy by the federal government and its agencies. I think that act works pretty well. So far as I know, it has been pretty effective. We have not had until now legislation to protect the privacy of personal information collected in the commercial sphere. I say "bravo" to the government for having brought this initiative in now. It is overdue, and I support the idea entirely and without reservation. I hope our support — I think I can speak on behalf of colleagues on this side — for this legislative initiative will be borne in mind, and that anything that I say that may be construed as a criticism of this bill will be considered in light of our support for privacy and for legislation to protect the privacy of information collected for commercial purposes.

In that connection, I do not find as offensive as some apparently do the fact that this bill will give certain powers to the Privacy Commissioner. I do not think these are excessive. I think that an individual's personal privacy is so important that Parliament ought to go the extra mile, if we must, to protect it.

I note in passing that some people have offered criticism of the structure of the bill. Indeed, if you try to read the bill, honourable senators, you will see it is rather complicated, because one must read back and forth between Part 1 of the bill and Schedule 1, which sets out the principles in the National Standard of Canada entitled *Model Code for the Protection of Personal Information*.

• (1550)

Schedule 1 itself has a mixture of the mandatory — in other words, what "must" be done and what "shall" be done — with the advisory — what "may" be done, what "can" be done, and what "should" be done.

Lawyers who have examined this bill more carefully and written briefs on it have said that this will present a very considerable difficulty and that what ought to have been done, and what still ought to be done, is that the mandatory provisions set out in Schedule 1 ought to be put four-square into the law and the "mays," "cans" and "shoulds" ought to be left separate in the schedule.

I raise that as something the committee should be ready to consider. If the bill can be improved in that respect, so much the better.

Pleas have been made in the House of Commons for blanket exemption from this bill. I am not very sympathetic to those pleas at all. It may be, however, that in certain fields, and the health care field comes to mind, a strong case can be made for special treatment under legislation of this kind, and I will come to that eventually.

As I said, I am not very sympathetic to pleas for exemption. Indeed, I question some of the exemptions in the bill as it now stands. In particular, may I draw your attention, honourable senators, to Part 1, clause 4(2)(*c*), an exemption that is granted to:

> any organization in respect of personal information that the organization collects, uses or discloses for journalistic, artistic or literary purposes and does not collect, use or disclose for any other purpose.

I shall first address artistic or literary purposes. What are they? Does this not strike you as a rather broad definition? I think it is. Can it be defined more closely? I think we should try. When the matter was discussed at the House of Commons committee, there was a presentation that implied that without this exemption docu-dramas might run afoul of the law. You know what docu-dramas are, honourable senators. They are a mixture of fact and fiction. They are interesting and enjoyable to watch, but perhaps they should come under a law such as this. Perhaps they should not be given a routine exemption. I think the matter is worth further consideration.

As for exempting information on individuals that is collected for journalistic purposes, the explanation of why this exemption is included is that, if we do not include the exemption, should this bill become law, it would be subject to a likely successful challenge under the Canadian Charter of Rights and Freedoms based on the right to self-expression, the freedom of the press. That is probably true. However, it raises a question in my mind as to why we do not have in the Canadian Charter of Rights and Freedoms the protection of a right to privacy that would put that right on at least an equal basis with the rights that appertain to a free press. I think it is regrettable that our Canadian Charter of Rights and Freedoms does not contain such a protection.

Allow me to give honourable senators some historical information. As long ago as 1979, the Trudeau government, through its then minister of justice, Mr. Jean Chrétien, made a commitment in a constitutional policy statement that the right to privacy would be one of those rights that the federal government proposed to enshrine in any future charter of rights and freedoms. When the opportunity came to do so during the lead-up to the 1982 Constitution, that same government, in a different incarnation post-1980, ducked. Mr. Chrétien was again the minister of Justice. Honourable senators will recall that there was a joint committee of the Senate and the House of Commons that reviewed the patriation package and, in particular, the draft charter of rights and freedoms. The co-chairmen were Senator Harry Hays, the father of our present colleague, and Serge Joyal, then a member of the House of Commons. The Conservatives and the NDP members on that committee took the initiative of proposing that a right to privacy be entrenched in the Charter.

Senator Kirby will remember that. Those were his mandarin days and he was one of the principal actors in the constitutional drama.

Mr. Chrétien argued against it. His argument was that the concept of privacy was altogether too vague. Further, he opined that privacy would receive adequate protection because of section 7, relating to security of the person, and section 8, relating to unreasonable search and seizure, in the draft charter. In the event, the Tory-NDP initiative was defeated, I think most regrettably.

In the 1992 negotiations that led to the Charlottetown accord, the present Privacy Commissioner, Mr. Bruce Phillips, intervened and argued very cogently that the right to privacy be included, that the Charter be opened to allow an amendment to incorporate the right to privacy. The first ministers, in their wisdom, did not do so. I think it is regrettable that it is not there, and I see no reason why we should not have a debate very soon on the extent to which the media should be permitted to invade personal privacy.

It is sometimes said that we are protected by the laws of libel and slander. People more learned in the law than I would have to analyze that, but all that says to me is that the media can print or broadcast any information they like about any individual, so long as it is true. I think we should have more and better protection than that, and I think a right to privacy in the Charter of Rights and Freedoms, put on the same basis as the right of freedom to expression, might well fit the bill.

By the way, honourable senators, there was a lengthy article in *The Globe and Mail* this morning dealing with attempts made by the history industry to overturn the commitment that Sir Wilfrid Laurier had written into the law to protect census data.

• (1600)

I know that Senator Milne has a view about this. Many historians wish to get their paws on personal data that was given in confidence to the census takers since, I believe, 1906. The historians are arguing vigorously in favour of removing that restriction. Mr. Phillips, the Privacy Commissioner, is arguing just as vigorously against removing that restriction.

Let me say that I agree with Mr. Phillips. If my grandfather or great grandfather gave personal information to the census taker on the basis of the commitment made by Sir Wilfrid Laurier, I believe that that should be respected. I certainly would not want Michael Bliss or Ramsay Cook pawing over all that information and coming to their own tendentious and highly prejudicial interpretations of the data. I say long live Sir Wilfrid Laurier and Bruce Phillips and to hell with these historians.

Inevitably, in Canada, a bill of this kind raises constitutional issues, as my honourable friend has pointed out; constitutional issues in the classic sense of division of powers questions, as well as federal-provincial issues of a more administrative nature. On the constitutional issue, the opinions that were expressed are along the whole range, from one end that this is a proper use of the federal commerce power, to the other extreme, which is that the bill is completely *ultra vires* the federal Parliament.

My layman's opinion, for what it is worth, which is not much, is in agreement with that expressed by Senator Kirby. I believe this bill is a proper and legitimate use of the federal commerce power and Senator Kirby set out cogently, as only a layman can, some of the reasons why this is so. I also add that I do not believe the federal government should be shy, as governments have been in the past, to invoke the commerce power. It is there for a purpose.

The Canadian Bar Association was its usual unhelpful self on this issue when they appeared before the House of Commons committee. They noted the fact that some jurists said that it was *ultra vires* and some jurists said that it was completely within our power, and some jurists said something in between, and the Canadian Bar Association concluded that all of these positions have some constitutional justification. The Canadian Bar Association having copped out; I feel the committee should, as Senator Kirby has suggested, canvass this issue. We must take it seriously. We should hear from experts. I trust we will be able to engage those members of the Senate who have more constitutional expertise and experience than I have. They may even change Senator Kirby's and my minds about it, although it is unlikely.

Quebec is the only province that does protect the privacy of information that is collected for commercial purposes. Quebecers have a double protection in that there is a chapter in the Quebec Civil Code that protects privacy of information collected for commercial purposes, and also they have a Privacy Act that does the same thing.

Senator Kirby did not refer to this; therefore, I will. For the first three years after Royal Assent, after proclamation, this law will apply only to commercial activity that is in the federal jurisdiction and to interprovincial commerce. Only after three years will it apply to commercial activity that is totally within a provincial border and only if that province has not passed equivalent legislation. One wonders why the government goes through those hoops, given the robust assertion of their commercial power; however, I believe it has to do with the fact that Quebec already has legislation and Alberta is said to have some legislation in the pipe. Also, I may say that the provincial ministers of justice all asked to have this bill withdrawn. As I said, I feel that is going a bit far. Ms McLellan, the federal minister, rejected their appeal, although I believe the committee should still hear from them, and if it is possible to iron out some of their concerns, why not do so?

In addition to the constitutional issue, there is the problem that has been raised of some ambiguity and confusion in those provinces that do legislate, as Quebec has done. We will then have the federal law applying to the federal jurisdiction and to interprovincial commerce, and the provincial law applying to commercial activity solely within the borders of that province. It may be more difficult to make a distinction between those various activities than it appears. I mean, what is interprovincial, what is intraprovincial? What legislation will apply, federal or provincial? There may be some administrative difficulty, some ambiguity and confusion.

Administrative problems can always be overcome. Senator Kirby, who was a mandarin, would surely support that confident assertion; however, the provincial ministers, as I said, have asked that the bill be withdrawn and I believe they should be heard, with a view to trying to reassure them or, if possible, to address their concerns.

Senator Kirby has referred to the health care sector. Mr. Manley, the Minister of Industry, who had carriage of this bill in the other place, believes that he has met the concerns that were expressed by virtue of an amendment that he presented on October 15, I believe it was. My information is that those in the health care sector who have expressed such concerns are not at all satisfied that their concerns have been met. The Canadian Dental Association has taken quite a hard line, doctors and hospitals perhaps somewhat less so. However, they have all submitted briefs, and we will need to hear from them when this bill goes to committee.

The Canadian Health Care Association is especially concerned about this. The doctor-patient relationship is not "commercial" under the definition of this bill; however, there are pharmacies and other health care providers that may or may not be commercial. The Canadian Health Care Association has received a legal opinion which is quite detailed and quite, I would say, devastating in its analysis of this bill. That opinion was prepared by a Montreal law firm, and the man who wrote the covering letter was at some pains to point out that the lawyers who had worked on this were all people who had quite a track record as volunteers in important positions in hospitals and health care associations, et cetera. This legal opinion is must reading for anyone interested in this bill, in particular for anyone who intends to take part in the committee study of the bill.

I would not agree with those who think that we should simply exempt health care and the health care sector and let it go at that. However, as I suggest, perhaps we should reconsider whether some special consideration and special treatment ought to be legislated in respect of that important sector.

• (1610)

As I say, I intend, if I can, either personally or through my agents, to talk to them and hear what they have to say. I will return to that issue when I conclude my remarks on November 16.

With those few preliminary remarks, honourable senators, I propose the adjournment of the debate.

On motion of Senator Murray, debate adjourned.

CRIMINAL RECORDS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Joan Fraser moved the second reading of Bill C-7, to amend the Criminal Records Act and to amend another Act in consequence.

She said: Honourable senators, I am pleased to rise on second reading to speak to the merits of Bill C-7, to amend the Criminal Records Act. As many will recall, this bill first came before us last spring as Bill C-69. It is an important bill because it deals with improving the safety of our children and other vulnerable people. However, at that time we were faced with quite a number of important pieces of legislation. Therefore it is worth taking a few moments to review the main features and objectives of this bill.

[*Translation*]

First and foremost, the changes will increase public security. They will make accessible, for screening purposes, the police record of sexual offenders who have been pardoned and are applying for positions involving a situation of trust. Thus, a marker will be placed in the police record system when a sexual offender is pardoned and his record sealed. That means that when an agency caring for children wants to know the history of new employees, paid or unpaid, the history of a candidate who has committed a sexual offence and has been pardoned will not go unnoticed.

[*English*]

Few things are as disturbing as the thought that those who would prey on innocent children may take cover in an organization where those children should feel safe and protected. Yet we know that on some occasions that has happened. This bill will give us one more tool to help prevent such incidents.

In addition, the bill will do four things. First, it will clarify and strengthen the pardon system by providing for the automatic revocation of a pardon upon new convictions for hybrid offences, that is, an offence that can be prosecuted by indictment or as a summary offence. Second, it will impose a waiting period of at least one year before an applicant who has been denied a pardon can apply again. Third, it will require that appeals will be decided on the review of written material only unless the National Parole Board grants a hearing. Fourth, it will specify more clearly that the effect of the pardon is to seal the record, not to destroy it or to erase the fact of conviction.

While all of these measures are important in their own right, I should like to focus primarily on the question of pardoned sex offenders. The Criminal Records Act establishes a system to offer pardons to former offenders who have demonstrated a return to a law-abiding life. Under that act, offenders can have their records sealed by obtaining a pardon from the National Parole Board. It is important to remember that the sealing does not expunge the conviction, nor does it erase the record. The conviction is, after all, a matter of historical fact. The criminal record can be unsealed on the authority of the Solicitor General when it is in the interests of the administration of justice or national security.

Honourable senators, pardons are not lightly given. They are granted only when an individual has demonstrated sustained crime-free conduct. In the case of summary conviction offences, this requires a three-year, crime-free period after completion of any and all sentences. Bill C-7 makes it clear that this includes the payment of fines. In the case of more serious indictable offences, the waiting period is five years. The National Parole Board must confirm that the applicant has been of good conduct during that entire period of time. Before a pardon is granted, police are consulted in every community where pardoned applicants have lived during the past five years.

[*Translation*]

It is important to know that the vast majority of pardoned offenders continue to comply with the law. In the past 28 years, nearly a quarter of a million pardons have been granted and, of this number, only a little more than 6,000 have been revoked because of a new offence. This represents a rate of success of over 97 per cent.

[*English*]

Bill C-7 deals primarily with sex offenders who are a small segment of the larger pardon group. The Solicitor General's department has recently estimated that during the past 28 years, 4,200 sex offenders have received pardons. Only 114 or 2.6 per cent of these offenders have had their pardon revoked for commission of another sex offence. These estimates demonstrate that, fortunately, only a small number of pardoned sex offenders continue to pose a risk of reoffending. However, no matter how small the number, it is important to reduce that risk to the lowest level possible. Bill C-7 will help us to do so.

[*Translation*]

Bill C-7 is based on measures that have already been taken to protect children and other vulnerable groups. There was an important step forward in 1994 with the creation of the national screening system. This system relies on the Canadian Police Information Centre, or CPIC. Through CPIC, organizations have access to information allowing them to eliminate child offenders from their lists of candidates for positions working with children. This system was established following broad consultations with child services organizations, school and child welfare officials, voluntary organizations such as Boys and Girls Clubs, Big Brother and Big Sister agencies, and Volunteer Canada, as well as the police and victim assistance organizations.

These organizations said that checking criminal records was an important part of a thorough screening process. The national screening system is the result of cooperation between child welfare services, the police community, CPIC, and the Departments of the Solicitor General, Health and Justice.

[*English*]

The screening system has been working well. Its use by the voluntary sector and other bona fide organizations is constantly expanding, with more than 700,000 searches conducted to date. Bill C-7 will improve the national screening system by correcting a potential weakness that has been identified. That weakness is the fact that a pardoned record of a sex offender could be overlooked during a routine screening check using the Canadian Police Information Centre, or CPIC, system.

As it stands today, the Solicitor General has the authority to unseal and disclose a pardoned record for purposes consistent with the administration of justice, including screening. However, he cannot use that authority if such records are not requested, and they cannot be requested if their existence is unknown. As such, records are removed from the CPIC system and kept separately in a sealed database, and they do not show up when a routine query of CPIC is made.

This system of protection is exactly what is intended by the Criminal Records Act. For most purposes, these records should be invisible after a pardon has been granted. However, an exception is warranted when a person is applying for a position of trust and their record suggests that there would be an increased level of risk to a specifically vulnerable category of person. There was unanimous agreement on this point among federal, provincial and territorial ministers of justice and solicitors general when they met in October 1998.

A working group of senior officials examining ways to protect children have submitted 10 recommendations to their ministers. All 10 recommendations were adopted and are now being implemented. One proposal called for the records of pardoned sex offenders to be made available for consideration during screening of candidates for positions of trust. The federal Solicitor General, with the support of the Minister of Justice, undertook at the 1998 meeting to determine how best to do this, in consultation with provincial partners.

• (1620)

Bill C-7 was the next logical step. As I noted earlier, it provides that when a criminal record that includes a sex offence is pardoned and removed from CPIC, a notation or "flag" will be left in its place. After that, when a screening check is conducted on a candidate, that notation will direct the police officer doing the search to submit the candidate's fingerprints to CPIC headquarters with a request for that record. It will then be brought forward to the Solicitor General, who will consider its unsealing. The unsealing will not be automatic.

Some may think that this measure runs counter to the fundamental intent of the Criminal Records Act, and that is a serious concern, of course. We want the pardon system to be a real system. However, this is a narrow and limited exception that is, in my view, warranted. Ministers of Justice from all jurisdictions have supported this principle. Not to take this step would risk incurring the potential consequences of the pardon, helping a predatory sex offender work his way into a position of trust with children or with other vulnerable people.

[*Translation*]

I am speaking of a limited exception because only certain sexual offences will be flagged in the CPIC system. This flag will only be visible during a screening search, identified by entering a code in the computer. The legislation and CPIC policy will prohibit unauthorized use of this code. The consent of applicants must always be obtained, and they may always withdraw their application if they do not wish to disclose their file to the organization doing the screening. In order to ensure that candidates are accurately identified, their fingerprints will be included with the request to remove the seals on the application for pardon.

[*English*]

Finally, the Solicitor General will have to agree that disclosure of the record is warranted. The sex offences that will be flagged on CPIC will be specified, as will the factors that are considered by the Solicitor General in making his decision whether or not to unseal a record.

Honourable senators, you may recall that the Standing Senate Committee on Legal and Constitutional Affairs had a very good discussion about the then Bill C-69 during and following the appearance of the Solicitor General last June, and a further very productive session in September. I would like here to acknowledge the constructive contribution of Senator Nolin. The committee was particularly interested in the definitions of "children" and "vulnerable persons," and in the precise identification of the list of sexual offences to which this bill relates. I am confident that the committee's excellent work will be of value to this chamber when the committee once again reviews this bill, now identified as Bill C-7.

It is important to recognize that Bill C-7 builds on measures already instituted by this government to improve the protection of children. They respond directly to the unanimous recommendation of provincial and territorial ministers. They received the unanimous support of all parties in the other place. They are consistent, I believe, with the concern we all share to do all that is possible to protect our children and vulnerable adults from predatory sexual offenders who would seek to harm them.

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

[*Translation*]

COMMITTEE OF SELECTION

FOURTH REPORT ADOPTED

The Senate proceeded to consideration of the fourth report of the Committee of Selection *(composition of various committees)*, presented in the Senate on November 3, 1999.—*(Honourable Senator Mercier)*

Hon. Léonce Mercier: Honourable senators, I move that this report be adopted.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*English*]

DISTINGUISHED CANADIANS AND THEIR INVOLVEMENT WITH THE UNITED KINGDOM

INQUIRY—DEBATED ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of November 2, 1999:

That she will call the attention of the Senate:

(a) to persons of Canadian birth who sat as members of the House of Commons of the United Kingdom, including Ontario-born Edward Blake, Liberal Minister of Justice of Canada 1875-1877 also Leader of the Liberal Party of Canada 1880-1887, and New Brunswick-born the Right Honourable Bonar Law, Prime Minister of the United Kingdom 1922-1923, and Ontario-born Sir Bryant Irvine, Deputy Speaker of the House of Commons of the United Kingdom 1976-1982;

(*b*) to persons of Canadian birth who sat as members of the House of Lords of the United Kingdom, including the Right Honourable R.B. Bennett, Prime Minster of Canada 1930-1935, and Lord Beaverbrook, Cabinet Minister in the United Kingdom in 1918 and 1940-1942;

(c) to persons of British birth born in the United Kingdom or the Dominions and Colonies who have served in the Senate and the House of Commons of Canada including the Right Honourable John Turner, Prime Minister of Canada 1984 also Liberal Leader of the Opposition l984-1990 and myself, a sitting black female Senator born in the British West Indies;

(d) to persons of Canadian citizenship who were members of the Privy Council of the United Kingdom including the Prime Ministers of Canada, the Supreme Court of Canada Chief Justices, and some Cabinet Ministers of Canada including the Leader of the Government in the Senate 1921-1930 and 1935-1942 the Right Honourable Senator Raoul Dandurand appointed to the United Kingdom Privy Council in 1941;

(e) to the 1919 Nickle Resolution, a motion of only the House of Commons of Canada for an address to His Majesty King George V and to Prime Minister R.B. Bennett's 1934 words in the House of Commons characterizing this Resolution, that:

> "That was as ineffective in law as it is possible for any group of words to be. It was not only ineffective, but I am sorry to say, it was an affront to the sovereign himself. Every constitutional lawyer, or anyone who has taken the trouble to study this matter realizes that that is what was done.";

(f) to the words of Prime Minister R.B. Bennett in a 1934 letter to J.R. MacNicol, MP that:

> "So long as I remain a citizen of the British Empire and a loyal subject of the King, I do not propose to do otherwise than assume the prerogative rights of the Sovereign to recognize the services of his subjects.";

(g) to the many distinguished Canadians who have received honours since 1919 from the King or Queen of Canada including the knighting in 1934 of Sir Lyman Duff, Supreme Court of Canada Chief Justice, and in 1935 of Sir Ernest MacMillan, musician, and in 1986 of Sir Bryant Irvine, parliamentarian, and in 1994 of Sir Neil Shaw, industrialist, and in 1994 of Sir Conrad Swan, advisor to Prime Minister Lester Pearson on the National Flag of Canada;

(h) to the many distinguished Canadians who have received 646 orders and distinctions from foreign non-British, non-Canadian sovereigns between 1919 and February 1929;

(i) to the legal and constitutional position of persons of Canadian birth and citizenship, in respect of their ability and disability for their membership in the United Kingdom House of Lords and House of Commons, particularly Canadians domiciled in the United Kingdom holding dual citizenship of Canada and of the United Kingdom;

(j) to the legal and constitutional position of Canadians at home and abroad in respect of entitlement to receive honours and distinctions from their own Sovereign, Queen Elizabeth II of Canada, and to the position in respect of their entitlement to receive honours and distinctions from sovereigns other than their own, including from the sovereign of France the honour, the Ordre Royale de la Légion d'Honneur;

(k) to those honours, distinctions, and awards that are not hereditary in character such as life peerages, knighthoods, military and chivalrous orders; and

(l) to the recommendation by the United Kingdom Prime Minister Tony Blair to Her Majesty Queen Elizabeth II for the appointment to the House of Lords as a non-hereditary peer and lord of Mr. Conrad Black, a distinguished Canadian, publisher, entrepreneur and also the Honorary Colonel of the Governor General's Foot Guards of Canada.

She said: Honourable senators, I speak today to the unique historical and constitutional relationship between Canada and the United Kingdom, and to our shared Constitution and parliamentary systems, and to shared citizens and citizenship. Not long ago, in my lifetime, British and Canadian citizenship were indistinguishable, though Canada's sovereignty was asserted under a peculiar dominion status. As a black person, born and raised to age 13 in Barbados, British West Indies, who moved to Canada, I share in this dual experience. Years later, compelled by the comprehension that, as a black British anglophone in Quebec, I would never be a true Quebecer, I moved from Quebec to Ontario, a refugee from "pur laine." I feel strongly that my heritage is being undermined and that I must assert and defend it.

Honourable senators, many in this country, including some cabinet ministers, advocate the dismantling of Canada's constitutional monarchy. I call this constitutional vandalism the deconstruction of Canada. They invoke a so-called popular democratic impulse against aristocracy, but their appeal to the democratic principle is shallow, hollow and very transparent. They present absolutism to the public as the ancient absolutism of kings, while deliberately ignoring the current absolutism of cabinets and courts in this modern era. These deconstructionists are intellectually and morally bankrupt. They mislead the public because Canada has never had an aristocracy or an aristocratic political structure. Unlike the United Kingdom, aristocracy has never been a part of Canada's social, economic, military or political structure.

Canada, as a new world settlement, has never possessed the social conditions that caused the creation of aristocratic structures. Canada never had the requisite condition for the aristocratic principle, being the hereditary principle known in England as the law of primogeniture, nor the aristocratic structure necessary for the protection of persons and property, being the protection of life and liberty provided by the aristocrat to his charges in return for their loyalty and service to him. In the United Kingdom, that political aristocratic structure gave way over time to ministerial responsible government, which Canada adopted very early in its history through the political party system.

My political culture is that of a constitutional monarchy and British parliamentary institutions which gave the British Caribbean the oldest legislative assemblies in the common law world. These parliamentary institutions brought about the abolition of the slave trade in 1807 and the abolition of slavery itself in 1833. These parliamentary political solutions avoided the carnage and bloodshed of the United States of America Civil War of 1861 to 1865, to my mind the military republican solution versus the Queen in Parliament political solution. The essential element of ministerial responsible government by the Queen in Parliament is the duty of Her Majesty's cabinet, under the confidence of Parliament, to find political solutions to human problems and conflicts in contrast to legal, judicial or military responses to those problems. Politics is the answer to most problems. The greatest contribution of our British system is the art of politics. The making and recommending of political appointments and honours is politics.

• (1630)

Honourable senators, Barbados is an old settlement whose legislative assembly was established in 1639, the oldest legislative assembly outside the United Kingdom. This stands in stark contrast to that of French Haiti and Spanish Cuba, both republics and both non-British settlements. I feel a strong affection for the Queen in Parliament, and no affection or craving for republican institutions in Canada. I feel disaffection towards those who would transform Canada into a republic. I shall resist them, as is my sworn duty. Canadians are no less free or independent, and no less blessed in liberty than the citizens of any republic. In fact, Canadians are blessed by being citizens of this constitutional monarchy, and that fact has made Canada and Canadians what they are, for in Canada freedom wears a crown. That schools, political institutions and, especially, many politicians decline to uphold Canada's great constitutional heritage is a great tragedy. Some have called it a lament for a nation.

Honourable senators, I turn now to the Queen's Royal Prerogative in respect of conferring recognitions, honours, distinctions, and titles. It is the ancient prerogative of sovereigns to extend honours to their own citizens. The converse is the entitlement of citizens — that is, Canadians — to receive honours from their own Queen. Further, Canadians who reside in other countries are entitled to recognition by sovereigns of those countries. In cases of shared sovereigns and citizenships, those Canadians acquire additional entitlements. This fact is vital in today's era of globalization, which our government's foreign policy has supported vigorously. The desire of human beings, the desire of the human heart for support from fellow humans, for community acknowledgement as expressed in the sovereign's recognition, is a powerful, noble and important desire. All persons, distinguished in politics, industry, arts, community and military service, acts of bravery and every aspect of human and public service share in this universal desire of the human heart to be at one with fellow humans. This is the royal prerogative, the safeguarding and rewarding of this aspect of human nature.

Our sovereign has a distinct and separate relationship with each individual subject. Every subject, by virtue of that individual relationship, is entitled to consideration for the Queen's justice, the Queen's mercy, the Queen's honour, the Queen's protection, and the Queen's peace. The lexicon reveals this. This entitlement flows from that special private relationship between Queen and individual subject. This relationship is a mystique and is deeply personal, because it is anchored in a belief and in an ideal called God, Queen and country. Honourable senators, forgive me if I did not differentiate between "raw human ambition", "greed" and the human need for approval by one's Queen, the Fount of Honour for their contributions to the common good. I meant honourable desires for honour.

Honourable senators, I turn now to the Nickle Resolution moved by William Folger Nickle, the Conservative member for Kingston, which was adopted in the House of Commons on May 22, 1919. This motion, a Commons only motion for an address to His Majesty George V, never sought concurrence of the Senate. The political reasons are clear and obvious. It would have faced certain defeat here, because senators would have comprehended it for what it was politically and constitutionally. Further, it was an address to His Majesty, not to the Governor General of Canada, then the Duke of Devonshire. The address asked His Majesty to refrain from honouring Canadians and said in part:

> We, ...humbly approach Your Majesty, praying that Your Majesty may be graciously pleased:-
>
> To refrain hereafter from conferring any title of honour or titular distinction upon any of your subjects domiciled or ordinarily resident in Canada, ...
>
> To provide that appropriate action be taken by legislation or otherwise to ensure the extinction of an hereditary title of honour or titular distinction, and of a dignity or title as a peer of the realm, on the death of a person domiciled or ordinarily resident in Canada at present in enjoyment of an hereditary title...

Honourable senators, 10 years later, in 1929, there was another debate in the Commons about this Nickle Resolution. Charles Cahan, a Conservative member moved, on February 12, 1929, that a special Commons committee be formed to reconsider Nickle, therein to investigate and report upon the advisability of qualifying, amending or rescinding the Nickle address as adopted on May 22, 1919. Mr. Cahan noted that the

Nickle Resolution favoured foreign sovereigns over Canada's own sovereign, because, since 1919, some 646 foreign orders had been conferred upon persons resident in Canada by foreign, non-British sovereigns. In that debate, as reported on page 78 of the Commons Debates of that date, Prime Minister William Lyon Mackenzie King said:

> If we are to have no titles, titular distinctions or honours in Canada, let us hold to the principle and have none, let us abolish them altogether; but if the sovereigns or heads of other countries are to be permitted to bestow honours on Canadians, for my part I think we owe it to our own sovereign to give him that prerogative before all others.

The division, that vote on February 14 on Charles Cahan's motion, showed that Prime Minister King and the Conservative leader of the opposition, Richard B. Bennett, both voted "yea" with Charles Cahan. The motion was defeated. Many voted against it, believing that any reconsideration of Nickle would validate the original resolution that they believed was a dead letter anyway.

Honourable senators, four years later, on May 17, 1933, Prime Minister Richard B. Bennett told the Commons that the Nickle Resolution was of no force or effect, because a resolution of one house of parliament alone could not limit the Royal Prerogative and, further, that such resolutions die when a Parliament dissolves. To a member's question on honours, he said, as reported on page 5126 of the Commons Debates:

> ...it being the considered view of His Majesty's government in Canada that the motion, with respect to honours, adopted on the 22nd day of May, 1919, by a majority vote of the members of the Commons House only of the thirteenth parliament (which was dissolved on the 4th day of October, 1921) is not binding upon His Majesty or His Majesty's government in Canada or the seventeenth parliament of Canada.

Prime Minister Bennett restated this position firmly on January 30, 1934, in his reply to the Throne Speech. About the Nickle Resolution, at page 93 of the Commons Debates he said:

> In other words, it asks the sovereign, by resolution of the House of Commons, to cease to exercise his prerogative in Canada. That was as ineffective in law as it is possible for any group of words to be. It was not only ineffective but I am sorry to say, it was an affront to the sovereign himself.

About his actions in reviving recommendations to His Majesty for honours, Prime Minister Bennett continued, in the same speech, by saying at page 96 of the Commons Debates:

> The action is that of the Prime Minister; he must assume the responsibility, and the responsibility too for advising the crown that the resolution passed by the House of Commons was without validity, force or effect with respect to the sovereign's prerogative. That seems to me to be reasonably clear.

Honourable senators, the sovereign of France, the President, conferred the Ordre Royale de la Légion d'Honneur on Quebecer Robert Gagnon just two weeks ago, and on Premier René Lévesque in 1977, while he was premier of Quebec. No doubt Premier Lévesque would have frowned on any anglophone premier being knighted "Sir" by the Queen of Canada.

• (1640)

Honourable senators, in my view, any distinguished Canadian who is considered for membership in the United Kingdom's House of Lords or any Canadian considered by Her Majesty the Queen for recognition of any kind is a credit to Canada. Every time a Canadian is honoured, I am honoured. We are all honoured. Canada is that much greater a nation for their achievements. I will turn now to Mr. Conrad Black.

Honourable senators, recently the terms "Lord Almost" and "Lord Nearly Nearly" have been used to described Mr. Conrad Black. I distinguish between good satire and ridicule. I distinguish between honest criticism and shaming. Because Mr. Black is rich, some think it is desirable to heap great scorn upon him because somehow he has no feelings. I believe that Mr. Conrad Black is a great and distinguished Canadian. Mr. Black's world is not my world. It is not a world in which I have worked. His is the world of enormous financial initiatives and enormous financial risk — the world of entrepreneurship, competition, commerce and newspaper production. However, it is a world worthy of my respect, even if I have no direct involvement in it. I am a Liberal — a classical 19th century Liberal. Liberalism taught me to respect those individuals who possess those unique personal characteristics necessary for creating wealth and employment for other people. Liberalism taught that the employment of people by private enterprise as opposed to the public purse is the true measure of economic wealth in a community.

Honourable senators, it was thought that the greatest achievement Whiggism — that is, Liberalism as a political concept — had given to the world was the political notion that wealth could be created, shared and enjoyed by each and every person, that wealth creation and wealth enjoyment were not subject to the hereditary principle but were subject to individual human ability, initiative, energy and industry. Mr. Black's life journey from modest means is a triumph for liberalism and the liberal principle. Similarly, liberalism, as against laissez-faire, believed that governments must intervene in the marketplace to protect life, limb and competition and also to provide a social safety net for employees. Mr. Black has created employment for thousands of Canadians, a claim few can make. I respect that. He has also provided competition in the Canadian marketplace of newspapers. I believe it is an honour to Canada that the United Kingdom's Prime Minister Tony Blair recommended Mr. Black for appointment to the House of Lords as a non-hereditary peer and Lord. It is unfortunate that Prime Minister Blair withdrew his recommendation for appointment, and I hope that Prime Minister Blair will see his way soon again to re-recommending Mr. Black.

The Hon. the Acting Speaker: Senator Cools, I must advise you that the normal period of time allotted for your speech has elapsed. However, if you ask for leave and it is given, you may continue.

Senator Cools: Thank you, Your Honour. I would ask leave to continue.

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

Hon Senators: Agreed.

Senator Cools: Thank you, honourable senators.

Publishing greats Lord Thompson and Mr. Black are both a credit to Canada, as was former prime minister John Turner. They all represent an historical exchange which for centuries saw Canadians and Britishers, myself included, white and black, sitting in both Houses of Parliament in Canada and in the United Kingdom.

Honourable senators, human behaviour and motivation are a mystery, as is human frailty. This is the human condition. The human psyche is an artful dodger, and human motivation is its accomplice. This paucity of the human condition was revealed to me poignantly in an article about Mr. Nickle's dubiety and spitefulness, written by his relative James Travers. In the September 14, 1999, *Toronto Star* article "Black's peerless battle for honour continues," Mr. Travers wrote:

> In a fit of pique and in the absence of then prime minister Robert Borden, Nickle highballed his resolution through the Commons after failing to secure a knighthood for Daniel Gordon, the principal of Queen's university and his father-in-law....
>
> Nickle's revenge was to ensure others didn't get what his family had been denied. His resolution asking the King to refrain from giving titles to Canadian residents swept through the Commons on a wave of public sentiment he did not share.
>
> Nickle's duplicity is a bit of a family embarrassment — W.F. Nickle was my grandmother's sister's father-in-law.

In humility, one can only pause, reflect, meditate and pray on the sadness of those many political actions of individuals, politicians and parliaments, and of journalists which have been actuated by the tragic yet dominant human weakness that can only be described as mean-spiritedness.

Hon. Joan Fraser: Honourable senators, I have a question and, if Senator Cools will permit, what I believe to be a factual correction. I do not think anyone can dispute Mr. Black's achievements in the field of publishing. However, if you were to examine the financial statements of the companies he controls, you would discover that employment in the newspapers he controls has diminished substantially, not grown, since he acquired them.

My question for the honourable senator relates to the nature of honours that the senator would deem appropriate for Canadian citizens to accept or to be granted by foreign governments. There is a distinction to be drawn between honours that are purely honorific, such as a knighthood or the Légion d'honneur, and honours that make one a legislator of a foreign country. The House of Lords is a body of legislators. They may not have quite as much power as we in this chamber do, but surely we in this chamber are well placed to understand that it is not an empty thing to be a legislator.

Does my honourable friend see a distinction to be drawn between these two types of honours and whether they ought to be considered differently, it being now 50 years or so since an act of peerage was taken up by someone active in the Canadian media business? I note, for example, that Mr. Kenneth Thompson deemed it inappropriate to assume his father's title when the late Lord Thompson died.

Senator Cools: I thank the honourable senator for her question. I hope that she will speak to some of the issues that she raises and perhaps join the debate. I know little about Mr. Black's financial statements and, to be frank, I have no interest in them whatsoever.

On the question of honours and foreign governments, I do not consider the Queen of England to be a foreign government. I should like to make this point clear and as strenuously and vigorously as I possibly can. This is the Queen of Canada, who is my queen. When I walked into this chamber in 1984 and was escorted down this very aisle, I put my hand on the Bible and took an oath, and it was to that Queen that I took that oath of allegiance. The Queen of Canada is not a foreign government.

Perhaps I misunderstood the senator. If I did, I would be happy if she would clarify.

Honours are being conferred all the time. Canadians are serving in legislatures all over the world. As the senator will recall, I was with her at a meeting of the IPU some months ago, and I encountered Canadian citizens at that meeting who were serving in the legislative assemblies of some Baltic countries, I believe.

• (1650)

The House of Lords is a Parliament, not a legislature, and there is an enormous difference between legislative assemblies and Parliaments. The House of Lords is an old institution. It pre-dates most in the world. Perhaps because many of my dear friends have sat as members of the House of Lords, I belong to that group of Canadians who hold that house in high regard.

When I was a little girl growing up in Barbados, I was taught to believe that, when all else failed, there was the right of appeal to the House of Lords. I do not share in this rush to end the life of upper chambers, including that of the House of Lords.

Finally, on the question of honours, there are endless honours. There are honours that confer titles, and others that do not. There are honours that confer precedents, and others that do not. There are honours that include rank, and others that do not. There is a variety of honours. I invite the senator to join me in putting forward a proposal here for a study of honours and Canadian entitlement to them.

In this modern era of the conferring of honours, I do not think that in Canada Her Majesty has been conferring too many hereditary honours. I have not been able to find new hereditary honours. I listed countless knighthoods in my inquiry. The examples that immediately spring to mind are obviously Lord Thompson himself and, of course, the former prime minister of Canada, R.B. Bennett, who, as we know, was made a viscount in 1941.

Clearly, the point is being obscured. The fact of the matter is that Mr. Black was recommended for a non-hereditary life peerage and, in my opinion, that is a noble aspiration.

On motion of Senator LeBreton, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. John B. Stewart, pursuant to notice of November 2, 1999, moved:

> That the Standing Senate Committee on Foreign Affairs have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

Motion agreed to.

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. John B. Stewart, pursuant to notice of November 2, 1999, moved:

> That the Standing Senate Committee on Foreign Affairs be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Motion agreed to.

The Senate adjourned until Tuesday, November 16, 1999, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)
Thursday, November 4, 1999

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02							
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04							

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02							
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	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. Perrault)	99/11/04							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.

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