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OFFICIAL REPORT
(HANSARD)

Tuesday, November 16, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, November 16, 1999

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

CRIMINAL LAW AMENDMENT ACT, 1968

THIRTIETH ANNIVERSARY OF PROCLAMATION

Hon. Lucie Pépin: Honourable senators, whether Canadians realize it or not, the passage, on May 14, 1969, of Bill C-150, the Criminal Law Amendment Act, to legalize contraception and therapeutic abortion, changed our lives irrevocably.

As a young nurse specializing in obstetrics and gynecology, I volunteered my services to women who were preparing for a home birth. Before medicare, almost all the women living in the regions gave birth at home. Five children was considered to be a small family.

Complications during childbirth were not rare, and only the most serious cases ended up being transported on the back seat of the doctor's car to the nearest hospital, and often it was too late to save the baby or perform a caesarean.

Who should be saved, the baby or the mother? The teaching of the Church at the time was clear: Save the child. Furthermore, the Church had clear views on a number of matters: A woman committed a sin if she refused to have sexual relations with her husband, or if she employed another means of contraception. The government was equally adamant that contraception was illegal, as was abortion. Faced with the government and the Church, women had no choice.

For many of us who worked in OB/GYN, the status quo had become untenable and we decided to work for change so that contraception would be available to women.

[*English*]

Bill C-150, or the "Omnibus Bill," as it is known, passed in 1969. This legislation has done many things for many people. In deference to former prime minister Pierre Elliott Trudeau, it began the process of removing the state from the bedrooms of the nation. Sexual preference, reproductive choices and activities were relegated to the private domain, provided they involved consenting adults. For women, doors were opened in a radical way. There were choices. Finally women gained a modicum of control over their lives, no longer relegated to a life of endless pregnancy, health risks and children they did not have the resources to take care of. This new freedom proved to be a stepping stone for many other freedoms and options that have altered women's place in our society — self-esteem, education, jobs, a voice and empowerment.

Honourable senators, I am very proud to have been part of this process and to have seen real change take place as a result of our efforts — efforts which seemed so natural and necessary at the time. It stands out among the most important endeavours of my life.

This is a wonderful anniversary to celebrate for several reasons, the first of which is for the freedom that it brought in the lives of women and men, and for what it helped women accomplish in Canada. More than that, this anniversary proves once again that change is possible, that people can make a difference in the lives of others, and that commitment and passion can produce wonderful results. Let us celebrate and let us salute all of those committed citizens who worked to ensure the freedoms inherent in Bill C-150.

[*Translation*]

REVEREND FATHER ÉMILE SHOUFANI

Hon. Pierre De Bané: Honourable senators, I have the honour to speak to you of the recent visit to Canada, from October 10 to 25, of the Reverend Father Émile Shoufani, Director of St. Joseph's Seminary and High School in Nazareth, and parish priest of Nazareth, Israel.

Father Shoufani, familiarly called Abouna Émile by everyone, Arabic for Father Émile, is a man and a priest with a deep commitment to his Church, the Greek Melkite Catholic Church, his Arab community, and his country of Israel. Father Shoufani was in Canada at the invitation of the Centre d'action bénévole Émilie-Gamelin de Joliette, organizers of a heavily attended and highly successful international forum on the "Stages of Life" and on ageing.

I would also like to thank the members of the clergy who spared no effort to make this visit a great success. These include His Excellency Monsignor Sleiman Hajjar, Bishop of the Greek Melkite Catholic Church of Canada, the clergy of Saint-Sauveur Parish in Montreal, and Monsignor Habib Kwaiter, parish priest of Sts. Peter and Paul here in Ottawa and his assistant, Reverend Father François Beyrouti.

During his visit to Canada, Father Shoufani had in-depth meetings with a large number of public figures, too numerous to mention in their entirety. Among these were the Prime Minister of Canada, the Right Honourable Jean Chrétien; the Speaker of the Senate, the Honourable Gildas L. Molgat; the Minister of Foreign Affairs, the Honourable Lloyd Axworthy; senior officials of the Privy Council, the Prime Minister's Office, and diplomats responsible for the Middle East in the Department of Foreign Affairs.

As well, Father Shoufani gave a number of lectures on the situation in the Middle East, one in particular right here in Parliament to the Middle East Discussion Group and another to the Conseil des relations internationales de Montréal. His topic was the new dynamic between Israelis and Palestinians on the eve of a new era. He also gave a large number of press, radio and television interviews. In addition, he gave addresses on specifically religious topics, in particular "the shared future of Christians, Muslims and Jews" at St. Paul University in Ottawa and before the community of Madonna House at Combermere, Ontario, where he met the former archbishop of Galilee, Monsignor Joseph Raya, an exceptional man whom I admire greatly. Father Shoufani also met the Archbishop of St. Boniface, Monsignor Antoine Hacault, and the Bishop of Joliette, Monsignor Gilles Lussier.

Surely one of the most moving moments was the meeting between Father Shoufani and the Right Honourable Pierre Elliott Trudeau, former prime minister of Canada and a dominant figure on the Canadian political scene for so many years. The meeting took place on the occasion of Mr. Trudeau's eightieth birthday.

• (1410)

Father Shoufani worked tirelessly to bring together and unite all people in his country, Israel. In our country, he met with many Canadians of Arab origin, especially in Montreal and Ottawa. He also met with a number of leaders of the Canadian Jewish community, along with the Quebec Jewish Congress, and he visited the French-language Sephardic school in Montreal, the école Maimonide.

[*English*]

• (1410)

What I find most admirable about Father Shoufani is that his deep respect for life cannot be separated from his conviction that we should strive to make life better for all men and that no one has the right to inflict suffering upon others. His positive approach to solving problems is striking. He is always ready to take the first step to meet others. He always tries to understand and to have empathy with other people's dreams, as well as their thoughts.

The Hon. the Speaker: Senator De Bané, your three minutes have expired. Are you seeking leave to continue?

Senator De Bané: Yes.

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

Hon. Senators: Agreed.

Senator De Bané: Honourable senators, Émile Shoufani was born in Nazareth in 1947. As an Arab Christian in the State of Israel, Émile Shoufani spent 52 years as a witness, through his life and work, to the possibility of reconciling centuries of opposition and violence. His life is a testament to the peaceful coexistence of Jews, Arabs, Muslims and Christians in a region that desperately needs a model of peace and reconciliation.

Émile Shoufani learned, through personal tragedy, the true meaning of forgiveness and respect for others. He serves as a model for others to do the same. Both his grandfather and uncle were killed in the war of 1948, during the deportation of villagers in Eilabun. His grandmother, who suffered through the death of her husband and her son, taught her grandson to forgive.

The eldest of Hanna and Marie Shoufani's children, Émile grew up in Nazareth where his parents were poor but hard-working. He grew up as a part of the Arab minority that remained in the new State of Israel. From the hardship he endured during that period of his life, he learned that humility is a virtue, but not poverty.

A rebel in his teens at St. Joseph's Seminary, he was captivated by a deep awareness of the value of life and a restless urge to make a difference. He decided to become a priest.

While in Paris from 1964 to 1971, following his studies in philosophy and theology, Émile Shoufani read *Treblinka*, by Jean-François Steiner. The work led him to learn more about the Shoah and to visit Dachau. He returned home having experienced a spiritual transformation and a completely new perspective.

Ordained a priest in the Greek Melkite Catholic Church in 1971, he declared during his first sermon:

> I feel within me a life in Christ that cannot be vanquished and I want to share this life with all... I want to be everyone's priest.

Very early in his ministry, as a pastor in different villages of Galilee, Abouna Émile became known as a mediator, not only for the settlement of disputes between religious communities of Christians, Moslems and Druze, but as a strong advocate for a true coexistence, not just in the sense of living side by side, but by truly sharing a common life.

When the bishop entrusted him with the direction of St. Joseph's Seminary and High School in 1976, Abouna Émile had already earned the trust of everyone in the area. The fact that many parents of many religious communities entrust their children to him is the evidence of the magnitude of the confidence and respect that he engenders in their neighbourhoods.

In 1976, St. Joseph's Seminary had 200 pupils and was on the verge of closing. Father Émile embraced the challenge of keeping the school open with a will strengthened by his faith. He worked on achieving two goals. The first was to rebuild St. Joseph's into a first-class school that strives for excellence. The second was to instill in new generations of students an awareness and knowledge of their separate histories and identities, but also with a full commitment to their integration in the State of Israel.

His first battle was to attract a vibrant body of qualified staff who would share his vision that the school should be concerned not only with instructions but also with developing the whole person — "the pupil, as a person, comes first."

The second revolutionary achievement was turning the school into an institution that mixed people of different religions, sexes and cultures. He said:

> St. Joseph's is not a Christian school that accepts Moslems and Druze, but a school where Christians, Moslems and Druze live together.

Together with the school community, Émile Shoufani was constantly striving for high academic standards. According to Father Shoufani:

> We have to produce the 20,000 to 30,000 Arab academics who are lacking in this country.

Now, 10 years later, the school can compete with the top schools in Israel. About 95 per cent of the students graduate. Of these, 90 per cent are accepted into Israeli universities. Today, the school has 1,200 pupils and graduates 120 to 130 women and men annually.

The revolutionary dynamism that motivated Émile Shoufani 24 years ago has not abated. He continues to concern himself with school appointments to the staff and to the board of directors.

In 1989, having established the school's academic strengths and reputation, Father Émile decided to pursue his second goal, a pioneer project of dialogue with "Lyada", a leading Jewish school attached to the Hebrew University in Jerusalem, in order "to give our youth the tools for full integration in the State of Israel while retaining their identity."

A three-year exchange program between Arab and Jewish youth was introduced through which the pupils now learn "to meet the other, erase prejudice, learn to discuss their rights democratically, and work together for peace." Although this exercise is always a painful and a liberating one, today both schools find this program indispensable. Today, the mission for St. Joseph's Seminary is "Education For Peace."

Father Shoufani has declared often:

> I feel I belong to this land, with its long and varied history, as an Arab, a Christian, and an Israeli. These differences create no problems for me. My faith gives me a universal vision that allows me to transcend the bounds of the particular to be a better listener to my brothers.

In closing, I should like to add that Father Shoufani was accompanied during his visit to our country by Mrs. Soad Haddad, whom I have had the honour of knowing for over 10 years. What is remarkable about Mrs. Soad Haddad is that from her earliest memories she always felt that she belonged more to the larger human community than to an individual family. Existence for her has always been connected with being on a mission. This is what led her to free herself completely in order to devote herself to the work in which she is involved. She has been walking side by side with Father Émile for over 20 years in service of the Greek Melkite Catholic Church and the Arab community of the State of Israel.

After everything is said and done, honourable senators, there are essentially two options before each of us. One is to maximize the differences between human beings, which is easy to do. We can see how many tragic conflicts that principle has caused. The other option is the opposite — namely, to emphasize what is common among people of different socio-economic groups, religions and backgrounds. The second option is a lot more difficult. However, it is undoubtedly the more generous, the more modern, and the one for which all well-intentioned people should strive. This option of bringing people together is the principle that Father Shoufani learned from his parents and the one that has guided him throughout his life.

It is not often that one meets a man of vision and courage like Father Shoufani.

It was a great honour for me, who was born in his country, to accompany him and his capable assistant, Mrs. Soad Haddad, on their visit to Canada.

PANEL ON ACCESS TO HISTORICAL CENSUS RECORDS

Hon. Lorna Milne: Honourable senators, I am very happy to rise today to emphasize to this chamber a recent announcement by the Honourable John Manley, Minister of Industry and Minister responsible for Statistics Canada.

Last Friday, Minister Manley announced the creation of an expert panel on access to historical census records. The panel will report to the minister by May 31, 2000, with recommendations on an approach that will balance the need to protect personal privacy with the demands of genealogists, historians and archivists for access to historical census records.

As all honourable senators are aware, I have been lobbying Parliament on this issue for over a year now. I am delighted to see the minister taking a proactive approach to this issue and appointing a panel of five well-respected individuals, one of whom is a former colleague of ours, the Honourable Dr. Lorna Marsden.

I hope that this panel will be able to drum up a few fresh ideas on how to reach an acceptable compromise between the interests of protecting personal privacy and researching our Canadian heritage.

• (1420)

Minister Manley has listened to my lobbying efforts, has taken note of the correspondence of Canadian genealogists, historians and archivists, and has now taken the first step in responding to our concerns through the creation of this panel. This is the beginning of results for all the effort that genealogical and historical groups have put into bringing awareness and public voice to this issue.

I look forward to reading the panel's report early next year.

[*Translation*]

OFFICIAL LANGUAGES ACT

THIRTIETH ANNIVERSARY OF PROCLAMATION

Hon. Jean-Robert Gauthier: Honourable senators, I should like to mark the thirtieth anniversary of the Official Languages Act, which was proclaimed on July 1, 1969.

This act, supported by the vast majority of Canadians, has advanced the cause of language of service and equitable representation within the public service. There remains, we must admit, however, a long way to go in the area of language of work.

I must recognize, in explaining the success of the act, the considerable support of the Commissioner of Official Languages, the various commissioners and the Standing Joint Committee on Official Languages of the Senate and the House of Commons.

I would ask all Canadians to continue to respect Canada's unique linguistic duality. The Official Languages Act gives English and French equal status, rights and privileges as the languages of Parliament and of the Government of Canada.

The provinces are encouraged to be generous toward the language minority. Some do so willingly; others must be encouraged.

I am well aware of the new efforts that must go into conserving language equality across the country, in both the spirit and the letter of the law, and especially respect for the laws that govern us.

[*English*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I call the next item on the Order Paper, I should like to introduce to you the pages who are with us on the exchange program from the House of Commons.

[*Translation*]

Rachelle Bédard is studying political science in the Faculty of Social Sciences at the University of Ottawa. She comes from Gatineau, Quebec.

[*English*]

Marie-Claire Raymond is from Penetanguishene, Ontario. Marie-Claire is studying in the Faculty of Social Sciences at the University of Ottawa, specializing in political science and in Spanish.

[*Translation*]

On behalf of all the senators, I welcome you to the Senate and hope that your week with us will be a pleasant and interesting one.

[*English*]

ROUTINE PROCEEDINGS

THE ESTIMATES, 1999-2000

SUPPLEMENTARY ESTIMATES (A) TABLED

Hon. Dan Hays (Deputy Leader of the Government) tabled the Supplementary Estimates (A) for the fiscal year ending March 31, 2000.

[*Translation*]

FRANCOPHONE AND ACADIAN COMMUNITIES OUTSIDE QUEBEC

REPORT TABLED ON DETERIORATION OF SERVICES

Hon. Jean-Maurice Simard: Honourable senators, I should like to table the report on the structure prevailing at the present time with respect to the development and cultural development of the francophone and Acadian communities, the progressive deterioration of and dwindling access to services in French, and government withdrawal over the past 10 years.

The title of my report is "De la coupe aux lèvres: un coup de coeur se fait attendre, Bridging the Gap: From Oblivion to the Rule of The Law," and it is tabled in both official languages.

The Hon. the Speaker: Honourable senators, I cannot accept the tabling of a document by a senator unless there is unanimous consent from the Senate. Do I have it?

Hon. Senators: Agreed.

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 tomorrow, Wednesday, November 17, 1999, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion adopted.

[*English*]

THE ESTIMATES, 1999-2000

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, November 17, 1999, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2000, with the exception of Parliament Vote 10a and Privy Council Vote 25a.

[*Translation*]

NOTICE OF MOTION TO REFER PRIVY COUNCIL VOTE 25A TO THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

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

That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 25a of the Supplementary Estimates (A) for the fiscal year ending March 31, 2000; and

That a message be sent to the House of Commons to acquaint that house accordingly.

[*English*]

NOTICE OF MOTION TO REFER VOTE 10A TO THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, November 17, 1999, I will move:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10a of the Supplementary Estimates (A) for the fiscal year ending March 31, 2000; and

That a message be sent to the House of Commons to acquaint that house accordingly.

FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CHANGING MANDATE OF THE NORTH ATLANTIC TREATY ORGANIZATION

Hon. John B. Stewart: Honourable senators, I give notice that tomorrow, Wednesday, November 17, 1999, I will move:

That notwithstanding the Order of the Senate adopted on Thursday, October 14, 1999, the Standing Senate Committee on Foreign Affairs, which was authorized to examine and report upon the ramifications to Canada: 1. of the changed mandate of the North Atlantic Treaty Organization (NATO) and Canada's role in NATO since the demise of the Warsaw Pact, the end of the Cold War and the recent addition to membership in NATO of Hungary, Poland and the Czech Republic; and 2. of peacekeeping, with particular reference to Canada's ability to participate in it under the auspices of any international body of which Canada is a member, be empowered to present its final report no later than December 15, 1999; and

That the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until December 24, 1999; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

• (1430)

QUESTION PERIOD

SOLICITOR GENERAL

CANADIAN SECURITY INTELLIGENCE SERVICE—
LOSS OF CLASSIFIED DOCUMENTS—
REVIEW BY SECURITY INTELLIGENCE REVIEW COMMITTEE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate. There have been media reports across Canada of an unfortunate event involving a CSIS officer who left a secure document on the back seat of her car while attending a hockey game in Toronto. Could the minister advise the house as to the level of security attached to said document?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that question. Obviously it has come to the public's attention through media reports, and subsequently confirmed by the minister in the House of Commons, that a rather serious breach of normal security protocol occurred with one of the employees of CSIS. That matter is presently being reviewed by the CSIS administration.

As to the level of security of the particular document in question, I will need to determine if I can obtain that information for the honourable senator.

Senator Kinsella: I thank the honourable minister for that undertaking. I think it is germane as to whether the document was top secret, secret or confidential.

Parliament established the Security Intelligence Review Committee. The statutory mandate given by Parliament to that civilian review committee is to provide oversight of the activities of CSIS. Is it true that the head of SIRC only learned about this breach through the newspaper, whereas the Solicitor General had knowledge of this matter for quite a period of time — in fact, prior to it appearing in the newspapers?

Senator Boudreau: Honourable senators will appreciate that I would not normally be aware of how the Inspector General for CSIS became aware of this matter or, indeed, SIRC. However, the minister has indicated in the other place that he received notice of it two or three weeks ago. I think it was somewhat clear that SIRC became aware of it some time later than that.

In fact, I can indicate to honourable senators that both CSIS and the Inspector General for CSIS are investigating this matter as we speak. In addition, SIRC, on its own initiative, is now doing a review as well. I look forward to that report, along with honourable senators, and would be happy to make its details available.

[*Translation*]

Hon. Jean-Claude Rivest: Could the minister tell us whether there is a rule on the handling of documents in the secret service? Can an individual or an agent simply carry documents around? Is there a procedure that seemingly was not followed in this instance?

The minister has told us the federal government will try to look into this to discover what exactly happened. Could the minister be more specific on the nature of the upcoming investigation into this unfortunate incident?

[*English*]

Senator Boudreau: Honourable senators, there obviously was a breach of security involved in this incident. The individual in question will be part of both the CSIS and the SIRC reviews. As the honourable senator will know, SIRC is an independent external review committee that has taken on this task. I am sure that both institutions will carry out their responsibilities with due diligence and speed and produce a more detailed review of the events.

[*Translation*]

Senator Rivest: Honourable senators, obviously there are problems internally. Canada and CSIS work with many countries around the world. Are the minister and the government aware that this incident could seriously damage the credibility of the Canadian secret service?

[*English*]

Senator Boudreau: Honourable senators, fortunately this particular event seems to be an isolated incident. While it is regrettable and while one would not deny the seriousness of these events, I would hope that they would not impact in a significant way our relationship with other countries, particularly our allies.

Senator Kinsella: Honourable senators, perhaps the minister can shed some light on why it took two whole weeks for the Solicitor General to advise the committee, which will now, according to the minister in this house, review this matter. Why a period of two whole weeks? Is there not a sense of responsibility in the minds of members of this government when they apprehend a matter like this? Parliament established a committee to review matters such as this, and yet the Solicitor General's department wastes two whole weeks.

Senator Boudreau: Honourable senators, I cannot comment directly on the question of timing since I am unaware of exactly when that information was transferred. However, it is my understanding that the Inspector General of CSIS has taken the matter immediately in hand and is addressing it, as is his responsibility.

SIRC exercises a review role over activities such as the Inspector General would be conducting on these matters. I am unaware as to when, precisely, SIRC would come into the picture.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, a few years ago there were problems as a result of a leak that concerned the Minister of Finance's budget. In the end, everyone knew, and the minister had to quickly deliver the budget speech.

Is there a government procedure ensuring the confidentiality of documents? If such a procedure exists, are there varying degrees of quality? For example, we are all aware that the Minister of Finance's budget and matters of national security are very secret.

[*English*]

• (1440)

Senator Boudreau: Honourable senators, I am sure various levels of security classification exist for documents which are handled by CSIS. While I am not specifically aware of the details of each level of security, I will do my best to get that information and share it with the honourable senator.

[*Translation*]

Senator Bolduc: Honourable senators, I want to come back to this issue because we were recently told, with respect to transactions with the Americans concerning defence matters, that we were less than reliable. The Americans no longer wanted to deal with us and give us certain defence equipment permits because we are apparently not very reliable. It is upsetting to be told this by our neighbours, all the more so as our relations with them are generally good. Could the minister bring this extremely important issue to the attention of the Minister of National Defence? Something has to be done, because you can imagine that an affair such as this does not help relations between our two countries.

[*English*]

Senator Boudreau: Honourable senators, I am certainly willing to pass along the concerns of senators as to the nature of this incident. I will indicate the seriousness with which honourable senators view this very unfortunate series of events. However, I do not know that I would share the view of the honourable senator as expressed in the preamble to his question. The ITAR situation falls under a different category of issues.

It is certainly a matter of concern when any confidential piece of information or document is mishandled as, evidently, this document was mishandled. The investigation is underway not only internally at CSIS but also by SIRC. I am confident that the appropriate remedial measures will be taken and that the individual involved will be dealt with appropriately.

JUSTICE

POSSIBILITY OF FURTHER ASSISTANCE TO PROTECT PEOPLE AGAINST VIOLENCE

Hon. Herbert O. Sparrow: Honourable senators, I have a question for the Leader of the Government in the Senate. There is concern across the country about the violence being perpetrated by youth upon other youth. Another area of concern is highlighted by a recent Vancouver newspaper article stating that in B.C. another home invasion has claimed the life of an elderly woman.

It seems there is little or no protection for senior citizens in their homes and residences. This is particularly true in the rural areas where the residences are out of the range of police surveillance. It seems nothing is allowable for self-protection against these crimes. I do not wish to get into the gun control issue but, at one time, the farm community was protected by the shotgun. People were afraid to attack the residents of those homes because they may themselves be injured. Under the Criminal Code, pepper spray cannot be used by anyone for self-protection. There is no other means of self-protection for citizens in the rural communities and, now, in the urban areas who are subjected to such intrusions, according to the reports of break-ins and rapes and murders, and it is instilling great fear in them.

If the minister has no knowledge of this issue at the moment, perhaps he could discuss it with his colleagues, in particular, the Minister of Justice. Is anything coming down the pipe that may be of assistance in providing self-protection for these individuals of whom great advantage is being taken?

Many people cannot afford a gated property with fences and security guards. These people are being left out and are subject to the violence perpetrated by criminals in our society.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the type of situation referred to by Honourable Senator Sparrow is abhorrent to all of us. Under the Criminal Code the potential exists for harsh treatment of such criminal activity by the courts. However, I understand the concern expressed by the honourable senator.

Perhaps the problem stems in part from the way family trends have developed over recent decades. At one time a rural or farming family could count on becoming an extended family so that senior citizens were less often left on their own, living in an independent fashion away from other family members. I am speculating but I suspect if we compared the situation today with 30 years ago, we would find that many more senior citizens are living on their own, rather than as part of extended families. The protection the honourable senator requests is, perhaps, more needed these days for that reason alone.

I have seen statistics indicating that the number of violent crimes in the general population seems to be declining. One must always view such information with some level of criticism However, for victims of an attack in their own homes, senior citizens especially, this is a serious matter. I will certainly forward the concern and the question of the honourable senator to my cabinet colleague.

AGRICULTURE AND AGRI-FOOD

FARM CRISIS IN MANITOBA AND SASKATCHEWAN— POSSIBILITY OF PROGRAM FOR FARM CREDIT

Hon. Leonard J. Gustafson: Honourable senators, I have a question for the Leader of the Government in the Senate on the farm crisis, which is seemingly getting more severe every day.

On November 2, 1999, I asked the minister whether this government would be willing to make some adjustment for farm credit which would provide relief to some farmers who are not able to meet their payments. The response by the Leader of the Government in the Senate was positive, namely, that these subjects were being discussed but that he would not give away any cabinet confidentiality.

Is there any indication yet of what the government will do in the area of farm credit? This is one area where the government could set a positive example for the banks and credit unions.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I regret that I cannot give a definitive answer on this topic at present. Since we last spoke on this issue, the federal government has added another $170 million to the AIDA program to allow for more significant help to farmers.

At that time, we were unsure of the response from the provincial governments. We did not know whether they would agree to participate in the program on a 60/40 basis, as they did for the original program. I am advised that, unless there has been a recent change of heart, that has not taken place. The Governments of Saskatchewan and Manitoba both indicated publicly that they would not participate by adding more funds. Perhaps the honourable senator will know whether there has been any change in that stance.

I find that response difficult to understand. Both premiers came here to emphasize the crisis situation and the need for immediate assistance. As a matter of fact, in the last five years or so there have been dramatic cutbacks in the assistance the two provincial governments have given to farmers in their provinces.

• (1450)

When they demanded very dramatically that the federal government do something, the government put $170 million into the program. Perhaps it was not everything the farmers wanted, but it was definitely a positive measure. However, the responses of the Governments of Manitoba and Saskatchewan appear to have been wanting.

Senator Gustafson: Honourable senators, the honourable minister is not answering my question about farm credit, which is a federal responsibility. There is no sharing with the provincial governments. Those monies are advanced by the federal government.

However, with regard to the AIDA program, in the area in which I live, the people who are getting AIDA money are financially well off. They may have oil wells on their land or very good income from other sources, and they did not have to diversify. The farmers who need the money are not receiving it. I should like there to be an inquiry undertaken to find out who is getting the money. The poor families that need the money are not getting it. That is what I have been told by farmers right across Saskatchewan.

Returning to the issue of the Farm Credit Corporation, will the government provide some relief to farm credit debt? The Farm Credit Corporation is not shared with the provinces; it is strictly a federal responsibility.

Senator Boudreau: Honourable senators, I am not trying to dodge the question of the honourable senator. I simply cannot answer it today. Obviously, that issue lies with the minister. As soon as I am in a position to give a definitive answer, I will be more than happy to do so.

Honourable senators, both provincial governments involved have expressed, in a very dramatic way, in Ottawa and elsewhere, great concern for the farmers. It is not an excuse for them to say that the program is not working perfectly. We know that. Senators on both sides of the chamber made that clear in the emergency debate that the Honourable Senator Gustafson brought to the floor of the Senate. However, the program was designed by the federal government in cooperation with the two governments which now, having made their dramatic gestures, have backed away from a real commitment. If they did not like the program, they could have suggested that it be revamped. The Minister of Agriculture is trying to ensure that the program will work more effectively. However, the fact that the program is not working perfectly is no excuse for the actions of both of those premiers.

AGRICULTURAL INCOME DISASTER ASSISTANCE— EFFICACY OF PROGRAM

Hon. Herbert O. Sparrow: Honourable senators, the Saskatchewan government has put $200 million into the program, but it is not being spent because the federal government is not spending its portion of the money. There is money waiting to be spent, but the federal government is not organized in order that the money can be distributed.

The Leader of the Government in the Senate spoke of an extra $170 million. That is for all of Canada, not for the area where the problem we are talking about exists. The department itself stated that it will top up the grants that have already been issued. Therefore, it is not looking after the majority of farmers who have received nothing, some of whose applications are still on the desk after six months.

The Governments of Saskatchewan and Manitoba put into the program the money that they were requested to contribute. The leader has stated that the governments agreed to that. We are continually told that the governments and the farm organizations agreed to that. However, that is not the truth. That which was proposed was agreed to, but when the program came out it was different and the provinces said, "No, that is not the program we bought into." The Canadian Federation of Agriculture and all the farmers said, "No, that is not the program we bought into." Yes, they will fight it because the money is not getting to those people who are in need.

Surely, Mr. Minister, you can go back and say, "We have discussed this in the Senate chamber, and with a large delegation that came to speak to us; and it is not working." The Senate Agriculture Committee and the House of Commons Agriculture Committee know that this is the case, but we keep saying that it is not our fault.

Will the Leader of the Government in the Senate ask the Minister of Agriculture to damn well tell us if the government does not intend to do anything, so that we can go down with some dignity?

Some Hon. Senators: Hear, hear!

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, as was said by colleagues on both sides during the emergency debate, the program is not working effectively and must be repaired. There was general agreement on that and that message has been communicated clearly. I would not suggest for a moment that that is not the case.

Honourable senators, I am saying that there was an opportunity for the provinces to contribute in a significant way. It may be the view of everyone in this chamber that $170 million was not enough, but it is a concrete contribution and, in my view, it should have been matched by the two provinces.

EFFICACY OF AID PROGRAMS—SURVIVAL OF YOUNG FARMERS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. What the farmers are facing is death by a thousand cuts. The older, wealthy farmers can afford to ride this situation out because they have been around for a long time. Those being hurt are the young people who want to maintain the family business. We are slowly but surely strangling them. It is death by a thousand cuts, year after year. They slowly sink into bankruptcy.

Rather than having the integrity to be honest and say that there will be no more assistance, that if they cannot survive on their own they will be gone, the government hands out money in dribs and drabs to keep a false hope alive. That is unconscionable.

Does the minister think that is a fair way to treat the young farmers of Canada?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, we should assist young farmers who find themselves in that critical situation in any way that we can. The issue of the Farm Credit Corporation may well be an area that we wish to pursue with the minister.

This is a major problem which, as honourable senators know, has to do with commodity prices in the world market and the fact that our farmers are not operating on a level playing field with others. This is a huge issue with international implications and the solution is to be found at many levels.

• (1500)

I am assured by my colleagues that efforts are being made and discussions are taking place, not only with the Minister of Agriculture and his department, but also on the international scene, to address the larger issue, namely, the lack of a level playing field.

FARM CRISIS IN MANITOBA AND SASKATCHEWAN—
AGRICULTURAL INCOME DISASTER ASSISTANCE—
PAYOUTS TO APPLICANTS

Hon. Mira Spivak: Honourable senators, my question is for the Leader of the Government in the Senate. Though we have seen some valued efforts on the part of the honourable minister to look at the situation , there is still no indication of the urgency of the situation and the crisis. It is all very well to talk about the little steps that have been taken with the money or to refer to the international situation; however, we have here an urgent situation. Urgent situations require more radical solutions, such as, perhaps, scrapping the AIDA program and doing something completely different to really assist those in need.

About a week ago, I was told by people in the farming community in Manitoba that about 59 per cent of farmers' applications had been rejected. Does the minister have any indication, given the apparent restructuring of AIDA, that the situation is improving? How soon will it improve? As time goes by, the situation is becoming worse and worse.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I can assure the honourable senator that both the larger issue as well as the specific issue that she raises on rejection percentages are being monitored on a day-to-day basis. Whether or not there is significant new data available since the initiatives were taken, I am not certain; however, I will certainly inquire and relay the inquiry of the honourable senator.

Senator Spivak: What is the probation period for this new restructuring before the government concludes that the game is not worth the candle?

Senator Boudreau: As with any program, honourable senators, the minister responsible will monitor it. In this particular situation, I am sure he will monitor it on a day-to-day basis. I hope that the results will make themselves known rather quickly.

I cannot say when he might exercise his judgment that further changes are necessary or that the program is now operating at a much higher level. It would be difficult for me to say when he will make that judgment. However, I am sure he will be monitoring it on a day-to-day basis.

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. However, I saw Senator Gustafson indicating that he would like to ask a question.

Is that a supplementary question to a previous question?

Hon. Leonard J. Gustafson: Yes, Your Honour.

The Hon. the Speaker: Please proceed.

FARM CRISIS IN MANITOBA AND SASKATCHEWAN—
REQUEST FOR VISIT BY PRIME MINISTER

Hon. Leonard J. Gustafson: Honourable senators, given the crisis, would the Leader of the Government in the Senate convey to the Prime Minister a request that he come out and look at the situation himself? Western Canada deserves to have the Prime Minister come out and take a look at the situation first hand.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I will certainly bring that representation to the Prime Minister.

[*Later*]

ENVIRONMENT

NOVA SCOTIA—RESPONSIBILITY FOR CLEANUP OF TOXIC WASTE SITES—REQUEST FOR ANSWER

Hon. Lowell Murray: Honourable senators, some weeks ago I put a question to the Leader of the Government concerning the stand of the government with regard to liability for abandoned mine sites in Cape Breton. Bill C-11, the bill to wind up Devco, is now before the House of Commons, and I should like to see an answer to that question before the bill arrives here.

I appreciate that the Leader of the Government offered us his own curbstone legal opinion on the matter, which is probably the right answer, but the question is: Do the law officers of the Crown agree with him?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I should be happy to answer the honourable senator in regard to this question. At one time, people were happy to pay for that curbstone legal opinion. Those are what I refer to as the good old days.

I have seen legal opinion on this matter. The legal opinion I have seen, and I would be happy to share it with the honourable senator and any one else who is interested, is that the bill will not impact liabilities existing prior to the passage of the bill.

I can provide the information to the honourable senator in much more detail than that, and I undertake to do so.

Senator Murray: I wish to know the position of the government with regard to the liability of those abandoned mine sites.

Senator Boudreau: I can safely tell the honourable senator that the government would love someone else to assume the liabilities. However, I do not know whether I could be very confident of that.

[*Later*]

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTER FLEET—POSSIBILITY OF LEASING—REQUEST FOR ANSWER

Hon. Gerry St. Germain: Honourable senators, I address my intervention to the Leader of the Government in the Senate as well. I asked a question on November 4 with regard to leasing helicopters as a means for possible replacement of the Sea King helicopters, and the minister was to inquire of the minister on that particular subject. Will an answer be forthcoming, or should I pose the question again during tomorrow's Question Period? I am bending the rules, Your Honour, to get my question in.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, to deal with the matter quickly, an answer will be forthcoming.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have delayed answers to four questions. First, a question raised in the Senate on November 2, 1999, by the Honourable Senator Forrestall, regarding the West Nova Scotia regiment and the appointment of an honorary colonel. Second, a response to a question raised in the Senate on November 3, 1999, by the Honourable Senator Kelleher, regarding a possible consulting contract with a firm employing a former ambassador. Third, a response to a question on November 3, 1999, from the Honourable Senator Roche regarding nuclear disarmament, the policy of the government on the New Agenda Coalition resolution. Fourth, a response to a question raised in the Senate by the Honourable Senator Oliver regarding efforts to increase employment of visible minorities in the government.

NATIONAL DEFENCE

WEST NOVA SCOTIA REGIMENT—APPOINTMENT OF HONORARY COLONEL

(Response to question raised by Hon. J. Michael Forrestall on November 2, 1999)

The West Nova Scotia Regiment is among the distinguished Reserve units of Canada. Like all Reserve units, it is an important part of the Canadian defence team.

With respect to the appointment of a new honourary colonel, an individual has been recommended for the position. This recommendation is currently being reviewed.

FOREIGN AFFAIRS

NEW AMBASSADOR TO WORLD TRADE ORGANIZATION—POSSIBLE CONSULTING CONTRACT WITH FIRM EMPLOYING FORMER AMBASSADOR—REQUEST FOR TABLING

(Response to question raised by Hon. James F. Kelleher on November 3, 1999)

1. No, Mr. Weekes is on leave without pay from DFAIT and has no contract with the Department. That would be a conflict of interest and Mr. Weekes knows well the code of ethics that pertain to his situation.

2. No, APCO has no contract with the Government of Canada.

UNITED NATIONS

NUCLEAR DISARMAMENT—POLICY OF GOVERNMENT ON NEW AGENDA COALITION RESOLUTION

(Response to question raised by Hon. Douglas Roche on November 3, 1999)

After careful, very intensive, high-level consultation, Canada decided to maintain its abstention on this year's "New Agenda" resolution.

Our decision was not, for the most part, a response to the text of the resolution. This year's text has evolved considerably and favourably relative to that we examined last year.

The Government of Canada also shares much of the New Agenda Coalition's assessment of the serious strains on the NPT-based nuclear disarmament and non-proliferation regime.

In our view, however, concerted action to address the many challenges facing the nuclear disarmament and non-proliferation regime will require the broadest possible base of support.

The nuclear-weapon States and their partners and alliances need to be engaged if the goals of the New Agenda resolution are to be achieved.

For our part, we intend to continue to cooperate with all like-minded states in the relevant fora to build greater support for advancing the key aims of the nuclear non-proliferation and disarmament regime.

As a member of NATO, Canada was pleased to note the increase in the number of NATO non-nuclear-weapon states sharing a common position in this year's vote.

The issues addressed by the New Agenda resolution will be before us again in next spring's NPT Review Conference.

The Canadian Government will be working to ensure that that Conference reinforces the Treaty and restores momentum to the fulfilment of its goals.

HUMAN RESOURCES DEVELOPMENT

EFFORTS TO INCREASE EMPLOYMENT OF VISIBLE MINORITIES

(Response to question raised Hon. Donald H. Oliver on November 3, 1999)

Information on Visible Minorities in the federal Public Service is based on the principle of voluntary self-identification. The latest available figures indicate that out of a total of 248 employees at the EX-4 and EX-5 levels (Assistant Deputy Ministers), five or 2.0 per cent have self-identified as members of a visible minority group. Self-identification data is not available for Deputy Ministers or other Governor-in-Council appointees.

ORDERS OF THE DAY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Lewis, for 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.

The Hon. the Speaker: Honourable Senator Murray, before you begin, under our rules you are allowed 45 minutes as the first speaker after the sponsor of the bill. However, you did use up 37 minutes. Therefore, you have eight minutes left.

Hon. Lowell Murray: I shall do my best.

Honourable senators, I was looking upon this as the second half of a speech which I began to deliver on November 4, when I opened debate on behalf of Her Majesty's Loyal Opposition on Bill C-6.

Before proceeding, I wish to correct the record in respect of an inaccuracy that I placed thereon during my speech on November 4. I was discussing efforts that had been made in the past by various political parties to entrench in the Canadian Charter of Rights and Freedoms a right to privacy.

I stated, mistakenly, that Mr. Chrétien had been Minister of Justice in the Trudeau government prior to the 1979 election. He was not. Mr. Chrétien became Minister of Justice in the Trudeau administration that took office in March of 1980.

In the course of my speech on November 4, I also opened a parenthesis concerning the confidentially of census data. That matter was raised earlier today during Senators' Statements by our colleague Senator Milne.

• (1510)

I referred to the campaign presently underway which would change the law brought in by Sir Wilfrid Laurier that guaranteed the confidentiality of personal and private information collected in the course of the census. At that time, I expressed my opposition to a change in that law as a matter of principle. Since that time, I have had a number of indignant — indeed, in some cases irate — letters from various people, notably those interested in genealogy. These people represented to me that adequate safeguards could be devised if we would but change the law. My response to them has been and is: Show me the safeguards and we will consider them, if and when Parliament is asked to change that law. However, on the general principle, I am unmoved. I believe that personal and private information collected from individuals by the government in the course of a census on the basis of a law that guarantees confidentiality should be kept confidential. I believe, as a matter of principle, that we should not lightly change that law. After all, census-taking over the years has become more and more intrusive, and just because people die does not mean that the government should be relieved of the commitment of confidentiality it made to those people.

That is my opinion, honourable senators. In places like the Senate, we should be on guard against the apparent attempts by some historians, social scientists and journalists to persuade us that the right to collect and disseminate information should trump every other right in the book. That is why I have advocated that we revisit the idea of entrenching a right to privacy in the Canadian Charter of Rights and Freedoms.

I cheerfully acknowledge that what we have here is a conflict or a clash between two legitimate principles, one having to do with access to information and the other having to do with privacy. As in any similar conflict of principles, one must try to strike a balance. This clash of principles or of values is also apparent in the bill that is before the house today.

As I undertook to do, I met with or had telephone conference calls with or read carefully the briefs of a number of parties who are interested in and have concerns about this bill. I have not changed my mind about the bill. Generally, I think I can speak on behalf of my colleagues on this side in saying that we strongly support the principle and the purpose of this bill, particularly as it relates to privacy. I, for one, would be very reluctant to grant exemptions to the bill.

Having said that, I have had these discussions with interested parties, particularly from the health care sector. I will not take your time today by trying to anticipate the testimony I trust they will be invited to give before the committee. However, I should like to flag some of the main issues the committee will have to address.

Honourable senators, there is extraordinary confusion, which I believe extends right into the government and to its advisors, as to whether and how and where this bill applies to the health care sector. Senator Kirby, the sponsor of the bill, may well want to address this question when he closes debate on second reading. However, he will have to do better than he did with his careful statement to be found on page 120 of the *Debates of the Senate* of November 4, where he is reported as having said:

> 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.

Mr. Manley and the Department of Industry likewise indicate that the bill does not apply to doctors, patients and hospitals. I have to say that this view is questioned — indeed, it is explicitly disputed by many interested parties and their legal advisors. For example, it is disputed by the Canadian Health Care Association, which represents the hospitals, the Canadian Medical Association, the Ontario Medical Association and the Ontario Ministry of Health. What we have here are different organizations whose views as to the substance of this bill and what should be done about it are diametrically opposed. Yet, they are agreed on one point — the ambiguity and confusion in this bill regarding its application to the health care sector is something with which the health care sector cannot live.

The confusion arises, at least in part, because the bill purports to apply to "commercial activity." What is "commercial activity"? The definition in the bill is not really helpful. Commercial is as commercial does. It is stated in the bill that:

> "commercial activity" means any particular transaction, act or conduct or any regular course of conduct that is of a commercial character....

That is not a very helpful definition. Yet, I am told that the federal statutes are full of definitions almost identical to that with respect to "commercial activity." The idea is that they let the courts decide what qualifies as commercial activity in any given instance.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, the Honourable Senator Murray's time has expired. Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Murray: I wish to thank honourable senators for their kindness. Frankly, I had not focused on the rule that limited the speech of a senator who responds for 45 minutes. I had not realized that I had gone as long in my first chapter. However, I will not take too much more time.

The question is whether the doctor-patient relationship, in respect of which there is a fee, or the hospital-patient relationship, in respect of which there is a fee, are commercial in nature. Whether they are or not, we still have a problem. That problem is pointed out by the Canadian Medical Association in the following words, which I should like to share with honourable senators. They state:

> In the CMA's view, there is no clear way of distinguishing commercial activity from health care activity in a way that ensures that the health care record is subject to different rules than those pertaining to other records. Moreover, the dilemma for government is that even if such distinction could occur, would it be desirable that health records be subject to no rules? Put in another way, will those organizations that currently collect health care information be entitled to claim that since the information forms part of the health record they are not subject to the provisions of C-54?

• (1520)

As you know, C-54 was the number of this bill in the previous session. They go on to state:

> Under such a regime health care records would be subject to an even lower standard than that provided for information collected in the commercial context.

That is one view. The same opinion comes from the Canadian Health Care Association, the people who represent the hospitals. A legal opinion that they have obtained from the Montreal law firm of Heenan Blaikie states:

> ...not only is "commercial activity" in and of itself a highly ambiguous term, but also its application in the context of today's health system is, in our view, totally unworkable. In recent years, the health system has evolved into such a complex and seamless web of services, that any attempt to carve out only "commercial activity" within the health system for the purposes of Bill C-54 could only lead to illogical, senseless and ludicrous results.

While these two organizations, namely, the Canadian Medical Association and the Canadian Health Care Association, take vastly different views as to the substance of the bill, their analysis of the situation is remarkably similar — that is, in the health care sector, to separate out commercial and non-commercial activity is quite simply unworkable.

I do not want to oversimplify but, generally speaking, I think it is fair to say that those organizations in the health care field whose activity is clearly and indubitably commercial are opposed to this bill, and they seek an exemption for the entire health care sector from the provisions of this bill. When I speak of "those" organizations, I am speaking, among others, of the pharmacists, of the laboratories, of the companies that collect and pay for and sell health care data, whether in the aggregate or otherwise, and of certain research organizations and universities in respect of which there is some commercial component to their activity. They believe that the requirement to obtain the consent of the individual before health care data is released is too onerous. They believe that the requirement will seriously constrain the ability to assemble a unified body of information for the purposes of better health care policy and management. They go so far as to suggest that this bill would result in a serious decline in medical research in the country.

They are joined in seeking an exemption by such organizations as the Canadian Health Care Association, which I have already mentioned, the Ontario Medical Association, the Ontario Ministry of Health, and the Canadian Mental Health Association, or at least its Ontario division.

The Ontario Medical Association says that the bill is inconsistent with Ontario's Medicine Act and with Ontario's Health Care Consent Act. In their view, provincial legislation should prevail. All of these people believe that the way to deal with the privacy of health care information across the country is through interprovincial protocols and not through federal legislation. At this point, I should say that others who are familiar with existing provincial legislation are not so sanguine that that would be a constructive step. Indeed, the Ontario law is sometimes referred to as an "access law" rather than a privacy law.

I do not mean to imply that organizations such as the Ontario Medical Association or the Canadian Health Care Association are indifferent to the privacy of health care information; they are not. As a matter of fact, the Canadian Health Care Association has expressed the fear that this bill, because of its distinction between commercial and non-commercial activity, will lead to a two-tier system of protection: A higher level of protection would be afforded to health information obtained during the course of privately insured health care delivery; and a lower level of protection would be afforded to health information obtained during the course of publicly insured health care delivery.

Again, what we have here is a clash of values or, at least, of priorities. Running through these presentations of the groups that I have mentioned is what I would call an "institutional concern" for the ability to manage, plan and improve the health care system. They see a danger that this bill would impede collaboration between the public and private sectors with regard to the delivery or funding of health care. I have even read in one of the briefs that they believe that this would prevent Blue Cross and Green Shield from carrying out the responsibilities that they carry out in Ontario with respect to the health care system. They think it would make it difficult if not impossible for the federal government to implement the recommendations of its Advisory Committee on Health Infostructure which reported in February of 1999.

Against these views, we have the very strongly expressed positions of the Canadian Medical Association and the Canadian Dental Association. The Canadian Medical Association insists that ensuring the protection of privacy and confidentiality of the patient record must take precedence over other considerations. They believe that this bill is weak. They believe that the Canadian Standards Association code on which the bill is based is inadequate in respect of the health care sector, and they believe, as they said, that this bill appears to have access to information as its dominant value.

The Canadian Dental Association has told us that we must clarify the bill in a number of important respects. They argue that Bill C-6 fails to satisfy basic requirements to protect individual Canadians from misuses of health information by secondary and tertiary users of this information. Bill C-6 may achieve many government priorities in the areas of electronic commerce, they say, but the CDA believes that the Senate must act to clarify and strengthen the bill as it relates to personal health data.

Both the Canadian Medical Association and the Canadian Dental Association have drafted amendments that they want us to consider and which would, as I read them, essentially incorporate their own codes of privacy into this federal legislation.

Honourable senators, the committee faces a difficult and complex task. It would be tempting to say that, with these sharply opposing perspectives, even in the health care field, the truth probably lies somewhere in between and that the government probably got it right and struck the right balance with Bill C-6. It would be tempting to come to that conclusion or to make that argument, but it would be altogether too facile.

First, the committee will need to try to sort out the ambiguity and the confusion with regard to the applicability of this bill in the health care sector. Health care is altogether too important. The privacy of health care information is too important to saddle the sector with this confusion. It is clear that they cannot live with it because they have all told us so.

• (1530)

If it is not clarified, the danger is that this law, once passed, will be more honoured in the breach than in the observance. None of us want to see that.

Even if we can clarify the ambiguity as to the application of the bill, how do we respond to the Canadian Medical Association and the Canadian Dental Association and their insistence that the bill be considerably strengthened? Should we try to apply the provisions to the entire health care sector, commercial and non-commercial? If we try, do we really have the constitutional authority to do such a thing?

Finally, we must hear from Health Canada on this matter. As far as I know, they were nowhere to be seen during the Commons committee hearings. The bill is jointly sponsored by Mr. Manley and Ms MacLellan, Minister of Justice, each of whom has responsibility for different parts of it. The committee and the Senate need the benefit of the views of the Department of Health on all the issues in this bill as they pertain to the health care sector. Personally, I would not insist on having the minister, but most certainly senior officials from the Department of Health must come to the committee and examine this bill with us as it affects the health care centre.

Honourable senators, we have a lot of work to do. Let us get on with it but let us not rush it. On a matter of this importance, let us not submit to any artificial deadlines. We are not looking down the barrel of prorogation this time. We can take the time that is necessary to do it right.

Honourable senators, I thank you for your indulgence.

Hon. Sheila Finestone: Honourable senators, I listened with a great deal of interest to the constructive observations made by our honourable colleague. He brings to mind and reinforces the importance of our right to privacy and, in essence, our right to be left alone. I think it was Justice Brandeis who said that we all should have the right to be left alone, and I would agree.

The question is whether this bill fills that two-scale need. One scale is the scale of economy and the other the scale of social justice. Many senators facing me today understand the dilemma of balancing economic justice and social justice in a way that is fair to you and me, to the people for whom we are privileged to speak in this house and to all for whom we have a strong sense of responsibility.

Honourable senators, I am particularly delighted to speak to Bill C-6 today. I remember it as Bill C-54, the Personal Information Protection and Electronic Documents Act, from my time in the other place. My delight is all the more pronounced because one of my proudest duties and responsibilities in the other place was to serve as Chairman of the Standing Committee on Human Rights and the Status of Persons with Disabilities. We conducted hearings into a great range of privacy issues and, in 1997, prepared a report called, "Privacy: Where do we draw the line?"

The committee members spent many months studying this issue and travelling across Canada meeting with people. We heard some pretty disturbing stories about the treatment of the disabled and the areas of human rights where they were not being accorded proper consideration. We also heard about challenges of new technology in terms of every citizen's right to keep others from snooping into their personal stories and then using that information for whatever nefarious reason. From our research, I know today that there are many complex parts to this issue. Much work remains to be done to strengthen our fundamental human rights.

I will address my remarks today in particular to Part 1 of the bill and to the protection of personal information in the private sector. That in no way diminishes my concern for the second part of the bill dealing with electronic documents. The provisions in Part 2 of the bill are essential for smoothing the process to electronic commerce which is so important for the Canadian economy today, and that importance will only increase in the years to come.

I focus today, though, on the definition of "privacy" and the use of personal information. The privacy provisions in Bill C-6 represent a significant step forward for those who have seen the urgent need to buttress the protection of this right. By extending the ambit of internationally accepted data-protection principles to the Canadian federally regulated private sector, this bill is taking us one step closer to a comprehensive regime of privacy protection.

Privacy rights and e-commerce privacy laws are already being developed in Europe, in the European Union, at the OECD, in New Zealand and in Australia. The Americans are concerned about not having specific kinds of protection on a commercial basis. They almost lost a huge contract out of Germany because they did not have proper protection, and they were sure to push it forward. They are broadening the scope of that protection so that they can enhance their commercial activity. We must do the same with respect to our commercial activity as well, honourable senators. I am pleased we are moving in that direction with this bill.

I remind honourable senators that privacy is not merely an afterthought in a democratic society. I suggest to you that privacy is at the very foundation of many of the fundamental human rights that are elemental in a democracy.

Since 1983, Canada has had federal data-protection legislation in the Privacy Act. Privacy Commissioner Bruce Philips addresses these issues, along with matters under the Access to Information Act. Those two acts may sometimes collide, but both have the obligation to protect all citizens.

The Privacy Act governs the collection, use and disclosure of personal information by government institutions. It is quite strong and so far has been effective. Commissioner Phillips has handled that mantel very effectively, in my opinion. That legislation also provides rights to access the personal information held by those institutions, but until Bill C-6 is passed, there is no comprehensive data-protection legislation governing the private sector in Canada, except in the province of Quebec. We are one of the few countries, not only in the G-8 or G-9, but also in the G-22, that is far behind with this kind of legislation.

The Privacy Commissioner of Canada has argued that the force that animates decent societies is observance of the principle of fairness. We are to treat each other with a reasonable degree of respect. We are not to go around behind each other's backs with little pieces of information we can use against one another. He said that this is not the kind of open, transparent and candid society we want to build, and I think all honourable senators would agree.

Bill C-6 is a measure of the observance of that principle of fairness and decency. I believe the bill has achieved the delicate balance required between the need for Canadian businesses to have access to personal information in order to conduct their business and the need of all individuals to control the collection, use and disclosure of their personal information.

• (1540)

Many of us have had our mailboxes stuffed with several new kinds of mailings. I believe that if we looked back and asked ourselves what magazine subscription did we buy, or where did we last use our Visa card, we might be able to account for what is coming through our door, in our mail and over our telephones, and we would not be so surprised. However, we are surprised because our names get sold. Each of us is a business, a commodity. To what extent do we wish to control that commodity in the interests of personal information? The effort to strike that balance is evident in the purpose clause of the bill. I would agree that some amendments are needed for greater clarification. Whether we will reach that compromise and that understanding, I do not know; however, I certainly would feel more comfortable if that issue was broadened and examined.

The privacy provisions in the bill acknowledge that we live in an era in which technology increasingly facilitates a circulation and exchange of information. These provisions recognize the need to establish rules to govern the collection, use and disclosure of personal information in a manner that recognizes the right of privacy of individuals with respect to their personal information, combined with the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances. I underscore this provision because it was an important amendment that was brought forward. I should like everyone to please remember that particular phrase.

Bill C-6 is not a panacea for all the threats to privacy that modern democratic societies face; however, it deals with one important element of privacy, and that is personal data that may come into the hands of organizations in Canada. The bill provides consumers with rights with respect to their personal information, while respecting legitimate business needs to gather and use this information. Consumers must feel confident — and that is very important with the Internet — and we must build a sense of trust. If our businesses want to profit and grow, they must develop a sense of trust with the people who are using their services. Therefore, the sense of confidence of the consumer that their information will be protected in electronic transactions is absolutely fundamental. At the same time, efforts to protect information relating to individuals must not be so heavy handed as to be unnecessarily costly for business.

The new legislation will require businesses to adhere to a set of fair information practices which were developed by representatives from industry. Consumer advocacy groups, unions and government, and various health sectors were consulted under this CSA act. I believe it is a very broad expression of concern and needs to be taken into consideration in that regard.

They are fair information practices and they are called the Canadian Standards Association model. This model has been tested now since 1996 and it is attached to the bill as a schedule. The model was developed by civil society, business, industry, professionals and NGOs. I believe that is where one of the amendments might well be considered, because it is such a broad-based description and covers a wide spectrum of business undertakings in Canada.

This model sets out the obligations of businesses that collect, use and disclose personal information. Companies must inform individuals of the purposes for which the data were collected, obtain their consent before using or disclosing the information, ensure that the information is accurate for the purposes for which it was collected — not any old purpose in the world, but for the purpose for which it was collected — and protect it with adequate security. The standard also establishes the right of data subjects to see and correct their records and complain to someone about problems. Subjects may complain to someone in the company that is seemingly abusing or misusing or misdirecting that information, and have someone responsible answer to the problem and take action.

There will undoubtedly be debate about the refinements that may be necessary to make the bill more effective. I remind honourable senators that legislation is rarely perfect in its initial form; in fact, there is not much in this imperfect world that is perfect. Experiences with the legislation as it matures will point the way to amendments that make it operate more effectively and more efficiently in the protection of privacy, while respecting the legitimate interests of Canadian businesses to the extent possible.

A question was raised by one of the senators about the health service agency. I know about the CMA and I understand that doctors have a Hippocratic oath, a code of conduct and a code of ethics. Every doctor, dentist and pharmacist should follow those codes of practice. That does not necessarily mean we must have a patchwork quilt a mile thick to ensure that individuals in this society do not have their personal rights to identification and information abridged in any way, shape or form.

Honourable senators, I wish to say how pleased I was to see the bill amended after first seeing it in the other place. There were 16 amendments and a number of those answered many of my questions and concerns. One in particular was about changing the definition of "personal information." It was a very significant change, for "personal information" is now anything that relates to an identifiable individual. That covers such things as surveillance cameras, cameras in washrooms, medical health information, dental information, pharmaceutical information, pharmacies that deliver drugs, as well as research. However, in order to ensure that we do not do anything wrong — this is crucial because our privacy, once lost, can never be regained — it is vital that the definition section ensure that professionals and, for that matter, NGOs, are properly covered. When the NGOs go out and sell their mailing lists that is a good thing, and that should be considered, too.

I am interested in seeing us move towards an amendment to that part of the definition section of the bill. I believe you will find that in Part 1, clause 2, of the bill, which the honourable senator read into Hansard today. Under that interpretation definition it talks about "commercial activity." What is a "commercial activity"? If it is a "commercial activity" then it should be covered and it should include professionals and non-profit organizations. That I believe would answer some of the problems that were addressed by these various organizations.

Honourable senators, may I just finish, with your permission?

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

Hon. Senators: Agreed.

Senator Finestone: I believe Mr. Phillips has said it better; however, I will say it in general. We are talking about information that relates to identifiable human beings, and quite frankly, I do not wish to think about them in different groups or circles or little get-togethers. In essence, it means that if the information that you have is about me, and you got it because I went to get my insurance policy from you, or be it for my health services, my doctor, or my dentist, it is mine and it relates to me. As my grandchildren would say, "It's mine." It is mine and stop mining it, and there is no way that you will be able to mine it if we pass this bill properly.

The whole point about being non-identifiable to those to whom we do not wish to be known — therefore, the right to be left alone — must be ensured under this particular bill and under the definition section. That is something I should hope we will be able to accomplish. I hope the minister will be open to changing that particular definition and making sure that it indicates that we do not care where the information was generated or how it found its way into the commercial world if it has no business being there — it did not receive my permission, it did not receive my review, and I do not want it there.

• (1550)

I believe that we should also look at the issue of the disclosure of data for research found in clause 7(3)(*f*) of the bill. We heard many complaints about the use of data for research. There are ways to use data without identifying individuals, and that is through non-nominative data. There is no reason we cannot have non-nominative data. With such data, research can be done without revealing identities. The issue raised in this clause is where all this begins and ends.

Honourable senators, in conclusion, this is a very good bill, although it must be fleshed out in some areas and debate must be undertaken in some areas. In the best interests of the people of Canada, I believe that we can look forward to enlightened discussion in committee. We can look forward to ensuring that our privacy will be protected. I believe that Bill C-6, which is one component of a necessary strategy toward that end, will find favour with this house and will become law. I believe that we will be able to do business with the European Union without headaches. I believe that we will meet the OECD qualifications. Most important, I believe that we will protect the personal information of everyone.

On motion of Senator Oliver, debate adjourned.

NATIONAL DEFENCE ACT
DNA IDENTIFICATION ACT
CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Joan Fraser moved the second reading of Bill S-10, to amend the National Defence Act, the DNA Identification Act and the Criminal Code.

She said: Honourable senators, it is a particular pleasure to speak in support of Bill S-10, which amends the National Defence Act, the DNA Identification Act and the Criminal Code. It is in large measure because of the Senate — and more precisely the Standing Senate Committee on Legal and Constitutional Affairs — that this bill exists.

This bill represents the fulfilment of the commitment made by the Solicitor General last fall when the committee was examining the new DNA Identification Act. As you may recall, that act provides for the establishment of a national DNA data bank that will preserve the DNA identification profiles of people who are convicted of serious violent crimes. These profiles are done only after conviction and should not be confused with the DNA work that may be done by investigating police forces during investigation of a crime. This is a post-conviction data bank.

The committee conducted a thorough review of the DNA Identification Act to ensure that Canada has a DNA data bank that is not only comprehensive but also protects the privacy rights of Canadians. During its review, the committee noted that there was no authority in the bill to collect DNA data bank samples from offenders who are convicted of serious and violent offences in the military justice system. The committee raised concerns about the highly sensitive nature of genetic information, about the rapid evolution of DNA technology, and about the potential for infringing the privacy of Canadians in unanticipated and unforeseen ways.

[*Translation*]

Because of these concerns, the committee recommended, in its sixteenth report, that certain amendments be made to the legislative measures concerning the DNA data bank. The Solicitor General undertook to follow up on these recommendations by introducing a separate bill before the establishment of the DNA data bank. The Senate agreed to this approach because the RCMP needed more than one year to establish the data bank. It is now expected that the bank will be up and running by next June.

[*English*]

Given that Bill S-10 deals with the issues raised in this chamber, the Solicitor General made a special request that it be introduced in the Senate before proceeding to the other place. I am sure we all appreciate this initiative of Mr. MacAulay. It is a prudent approach that will provide us with an early opportunity to review the bill and to satisfy ourselves that it fully addresses our concerns.

Let me now turn to the elements of Bill S-10. It is a highly technical bill, full of cross-references to other legislation, but its main elements are, in substance, quite simple.

First, in the field of defence, amendments are being made to the National Defence Act and the DNA Identification Act to include in the national DNA data bank profiles of offenders who are subject to the military's Code of Service Discipline and who are convicted of serious and violent offences. The code applies to military personnel, the reserves and some civilians who accompany military personnel abroad.

The DNA profile system established in Bill S-10 for the military closely parallels the system that Parliament has approved for civilians.

[*Translation*]

Following sentencing for a designated offence, military judges will thus be authorized to order the collecting of samples of bodily substances from persons who are subject to the Code of Service Discipline. The DNA profiles so established will be forwarded to the RCMP commissioner for inclusion in the national DNA data bank. To ensure respect for privacy, the enforcement procedures and the guarantees in the Criminal Code will also be included in the National Defence Act.

In addition, military judges can issue DNA warrants for the purposes of military police investigations into designated offences allegedly committed in Canada or abroad by persons subject to the Code of Service Discipline. The provisions of the legislation having to do with the issuing of warrants are adapted to the particular characteristics of the military context. Military police may request DNA warrants when investigating military offences comparable to the secondary offences defined in the Criminal Code for the purposes of the data bank.

[*English*]

These amendments represent important improvements over the current law. As matters stand now, military police can apply to a provincial court judge for a DNA warrant in the course of an investigation of a designated offence committed in Canada, but there is no avenue for military police to apply for a DNA warrant during an investigation of a designated offence that is committed abroad. The designated offence list in the Criminal Code is also insufficient to deal with comparable serious offences under the National Defence Act or with some uniquely military offences — mutiny with violence, for example. This bill will give military judges the authority to issue DNA warrants for designated National Defence Act offences so that military police will be able to conduct more efficient and effective police investigations both in Canada and abroad.

A second broad area of change addressed in this bill is in direct response to the recommendations of the Senate committee. This bill gives the Senate the same authority as the House of Commons to review the DNA Identification Act five years after its proclamation. Given the highly sensitive nature of DNA

information and the potential for technological change to affect the data bank, Parliament and the public will also be kept regularly apprised of the data bank's operation. The RCMP Commissioner will be required to present an annual report on the operations of the national DNA data bank to the Solicitor General. This report will then be tabled by the Solicitor General in both Houses of Parliament.

These amendments are specifically designed to give Parliament the necessary tools to oversee the effectiveness of the data bank over time, which was a concern of the Senate committee.

The third major area of change is that the statement of principles in the DNA Identification Act is being expanded. This will clarify that bodily samples and the resulting DNA profiles may only be used for law enforcement purposes. This amendment is intended to address the concerns of the Senate committee about the potential misuse of DNA profiles, such as using them to identify a person's medical, physical or mental characteristics. Indeed, this goes to some of the issues raised in the debate about personal information.

• (1600)

The purpose of this data bank is to identify individuals just as fingerprint records do. It is not designed to compile information on an individual's private characteristics, nor will it do so.

[*Translation*]

The amendments to the Criminal Code will mean protection as well against any improper use of genetic data on people subject to the Code of Service Discipline. The other amendments to this act will clarify and strengthen the existing regime on the collecting of samples of bodily substances.

Under the new principle I have just mentioned, the Criminal Code will be amended so that the Code of Service Discipline will also be subject to the prohibition against unauthorized use of bodily substances collected and the results of forensic DNA analysis.

[*English*]

Finally, this bill contains a number of practical changes to the Criminal Code to ensure effective implementation of the DNA Identification Act. The Solicitor General established a federal-provincial-territorial working group last June to plan for implementation of the data bank. During those consultations, federal and provincial heads of prosecution expressed concern that the current law is unclear as to when a court does not have to make a data bank order. The Criminal Code is therefore being clarified to specify that such an order shall not be made if the prosecutor advises the court that the person's DNA profile is already in the national DNA data bank. This will make the system more efficient by avoiding the unnecessary expense of collecting and analyzing duplicate samples of bodily substances from repeat offenders.

To deal with offenders who may be transferred out of a province before a data bank order can be executed, provincial court judges will be able to endorse a data bank order or authorization that was granted in another province.

[*Translation*]

Two provisions of the Criminal Code, which were not yet in effect, will be repealed because of the negative consequences they would have on the administration of justice. They are the obligation for an officer of the peace to inform an individual identified in an order or a warrant respecting forensic DNA analyses that he or she may express a preference as to the bodily substance collected — blood, saliva or hair — and the obligation of the peace officer to act on the preference indicated. These provisions pose a problem because nothing in criminal law obliges the police to let an individual who is the subject of an investigation choose the method of collecting elements of proof. In addition, as the provincial and territorial representatives pointed out, judges already set out in the warrants the investigation procedure to be followed, and letting the individual choose amounts to allowing their decision to prevail over that of a judge.

[*English*]

Another Criminal Code provision is being repealed. It relates to the consensual entry in the data bank of the results from a forensic DNA analysis of bodily substances that have been either voluntarily provided during a criminal investigation or taken under a DNA warrant during the investigation. Canadian forensic laboratories have advised that they do not support transferring bodily substances or related DNA profiles to the data bank in these instances because the substances and profiles are routinely retained as case work exhibits in the event of a retrial. In addition, samples taken under a DNA warrant, unlike samples that will be collected for the data bank after conviction, have personal indentifiers attached to them. This will make it difficult for the RCMP to protect the privacy rights of individuals, as is required by the DNA Identification Act. To avoid any potential problems, it is now considered necessary to take new samples of bodily substances in all cases when a data bank order is imposed; that is, after conviction.

In conclusion, Bill S-10 proposes amendments to the National Defence Act, the DNA Identification Act and the Criminal Code to permit effective implementation of a comprehensive DNA data bank. The bill not only addresses the recommendations that were made by the Senate committee but it also fine-tunes the data bank legislation for practical implementation purposes. Together these amendments, to which we in this chamber have contributed so substantially, will assist in protecting privacy rights of Canadians, while giving the police a sophisticated investigative tool that will improve public safety.

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

[*Translation*]

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

SECOND READING—DEBATE ADJOURNED

Hon. Céline Hervieux-Payette moved the second reading of Bill S-3, 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.

She said: Honourable senators, I am pleased to initiate debate on second reading of Bill S-3. The purpose of this legislative text is to implement the taxation conventions between Canada and seven countries — Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan and Jordan — with which Canada has no taxation conventions at this time.

As well, the bill creates a new convention to replace the present one with Luxembourg, and implements a protocol amending certain parts of the convention with Japan. Before I go into the bill in more detail, I would like to take a moment to establish its context.

In 1971, when Canada reviewed and revised its taxation system, one of the key outcomes was an expansion of the system of taxation conventions between ourselves and other countries. At the present time, we have them with 65 countries. For close to 30 years remarkable and continuing efforts have been expended in order to update our taxation convention system, and Bill S-3 is one of these efforts.

Honourable senators, you may be interested to know that, since 1976, 24 tax convention bills have been introduced in Parliament and in the past two years alone conventions or protocols have been established with 14 countries.

Tax conventions are particularly important for Canada because they are directly related to international trade in goods and services and because they therefore have a direct impact on domestic economic performance.

This impact is a large one. Canadian exports now represent over 40 per cent of our annual gross domestic product. In addition, Canada's annual economic health also depends on direct foreign investment, as well as the influx of information, capital, technology, royalties, dividends and interest.

It is therefore obvious that the tax conventions provided for in Bill S-3 will benefit Canadian businesses and individuals engaged in activities and holding investments in these countries. Canadian taxpayers will be particularly pleased to learn that a rate of taxation set in a convention cannot be increased without considerable notice.

In addition, by the mere fact of their existence, tax conventions will create a climate of certainty and stability for investors and marketers. This climate can only improve Canada's economic relations with each of these countries. Furthermore, by eliminating the need to pay taxes on certain corporate benefits and by establishing a mechanism for the resolution of problems experienced by taxpayers, it will be possible to reduce the complexity and inconvenience of the tax system per se.

Simplifying the tax convention system will stimulate international activity, which will have a favourable effect on the Canadian economy. Finally, eliminating or reducing the double taxation that would otherwise arise in international operations will be the biggest benefit.

If we take into account the convention that is replacing the one in effect with Luxembourg, the purpose of the new conventions provided for in Bill S-3 is twofold: to avoid double taxation and to prevent fiscal evasion. These problems have already been taken into consideration in the convention in force with Japan.

• (1610)

I should point out that previous tax conventions are generally patterned on the model double taxation convention prepared by the Organization for Economic Co-operation and Development. The possibility of double taxation arises when a taxpayer resides in a country while earning income in another country.

Without a tax convention, both countries could claim tax on that income. Double taxation conventions ensure that the same income cannot be taxed twice. Tax conventions signed by Canada deal with this issue in two ways: first, by dividing taxation rights between the taxpayer's country of residence and the country where the income was generated, and second, if the income is still taxable in both countries, by demanding that the country of residence deem the income to be tax exempt or granting a credit for the tax paid in the country where the income was generated.

Double taxation conventions also promote the exchange of information between tax authorities so as to prevent fraud or fiscal evasion. This is the second objective of these conventions. The sharing of information helps tax authorities identify fraud and tax evasion and deal with such cases.

As for the conventions provided for in Bill S-3, each country will give the appropriate relief for the tax paid in the other country that is a party to the tax convention.

Canada and other countries usually impose withholding taxes on various types of non-resident incomes. Without a tax convention or a specific exemption in our legislation, the mandatory tax deduction rate for non-residents on such income is 25 per cent. The Canadian system of tax conventions provides several rate reductions that all apply reciprocally.

The country in which the income is generated can withhold taxes, but at a rate that is usually set at 5, 10 or 15 per cent on branches' dividends and benefits, and at 10 per cent on interest and royalties. In some cases, royalties paid for copyright, software, patents and know-how are exempt at the source.

For example, the agreement signed with Kyrgyzstan limits the withholding tax rate to 15 per cent for branches' dividends, interest and benefits, and to 10 per cent for royalties. Some exemptions are provided for interest and royalties on copyright, software, patents and know-how.

The convention concluded with Lebanon provides for the withholding of 5 per cent of dividends paid to a company holding at least 10 per cent of the voting power in the company paying the dividends and 15 per cent in all other cases. Branch profits and copyright royalties, software, patents and know-how will be taxed at the rate of 5 per cent, and interest at the rate of 10 per cent.

In the case of Algeria, a 15 per cent tax will be withheld on all dividends, interest and royalties, and certain exemptions are provided for interest and royalties on computer software and patents.

The convention concluded with Bulgaria provides for a withholding tax of 10 per cent on dividends paid to a company holding at least 10 per cent of the voting power in the company paying the dividends and of 15 per cent in all other cases. In the case of interest and royalties, the rate will be 10 per cent. In addition, there will be a number of exemptions for interest and copyright.

In the case of the convention with Portugal, a company must withhold at least 25 per cent of the voting power in a company paying dividends to be entitled to withhold the 10 per cent of tax on the dividends. In all other cases, a rate of 15 per cent will apply. A rate of 10 per cent will also apply to interest and royalties, with a few exceptions for interest.

In connection with Uzbekistan, the applicable income tax rate applicable to dividends if the beneficial owner is a company which controls at least 10 per cent of the voting power in the company will be 5 per cent of the gross amount of the dividends, and 15 per cent of the gross amount of the dividends in all other cases. A rate of 10 per cent will apply to interest and royalties, while a rate of 5 per cent will apply to copyrights and royalties for computer software and know-how.

The new convention with Jordan sets the income tax rate applicable to dividends paid to a company which controls at least 10 per cent of the voting power in the company which pays the dividends at 10 per cent, and 15 per cent in all other cases. The convention also calls for a rate of 10 per cent on interest and royalties, with certain exceptions applicable to interest on loans made and guaranteed by the government.

Bill S-3 replaces the present 1989 convention with Luxembourg and calls for a rate of 5 per cent on dividends paid to a company which controls at least 10 per cent of the voting power in the company which pays the dividends, and 15 per cent in all other cases. A rate of 10 per cent will apply to interests and royalties, again with some few exceptions for interests and royalties on software, patents and know-how.

As well, Bill S-7 modifies the present 1986 convention with Japan. The protocol with Japan sets at 10 per cent the taxation rate on dividends between companies and clarifies a number of other provisions.

Among other things, the protocol specifically addresses the issue of Japanese enterprise tax by exempting from such tax Canadian enterprises operating ships or aircraft in international traffic, a courtesy measure already allowed by Canadian provinces to Japanese companies carrying out similar activities.

Honourable senators, the conventions making up Bill S-3 also address other matters relating to taxation conventions. For example, capital gains derived from the alienation of immovable property, shares or interest in a partnership or trust may be taxed in the country of origin.

Discrimination based on a taxpayer's nationality is forbidden. However, incentive measures such as deductions allowed to small businesses and dividend tax credits available to Canadians will not be affected.

Before concluding, I would like to examine the issue of taxpayer migration. Four of the conventions provided for in this bill take into account to a certain degree the rules on taxpayer migration that were proposed by the Minister of Finance, which will be included in the Budget Implementation Act, 1999.

The purpose of these proposals is to amend the Income Tax Act so that Canada will retain the right to tax gains realized by immigrants during their stay in this country.

When the bill was announced last December, the minister said that Canada would renegotiate its tax conventions with the new rules in mind in order to avoid double taxation. While waiting for these rules to come into effect, Canada has negotiated its tax conventions so as to avoid double taxation at the time when the gains realized by immigrants, before their departure, are taxed.

With respect to Bill S-3, the conventions with Luxembourg, Portugal, Lebanon and Jordan take taxpayer migration into account. The conventions with Usbekistan, Bulgaria, Algeria and Kyrgyzstan do not, however, because they were negotiated before the proposals were announced. Japan has requested that this issue of taxpayer migration be examined in future negotiations concerning the convention.

In conclusion, I wish to emphasize that the purpose of the tax conventions provided for in this bill is to avoid international double taxation of revenues transferred from one country to another. These tax conventions will make it possible for Canadian tax policies to be applied uniformly to operations concluded with Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Usbekistan, Jordan, Japan and Luxembourg. They will also create a climate of stability for Canadian investors and marketers in these countries.

Honourable senators, Bill S-3 is routine legislation aimed at promoting fair taxation and maintaining good international and trade relationships.

Taxation fairness — which, as we all know, is a priority for the government — demands that no Canadian be subject to double taxation. The objective of these taxation conventions is precisely to avoid double taxation.

In conclusion, I would like to salute the fantastic work of the team of specialists who helped the government through this long and painstaking process. These officials served Canada very well under the skilled direction of their respective ministers, the Minister of Finance and the Minister of Justice. They deserve our thanks. Since this is not controversial legislation, I urge honourable senators to support it.

On motion of Senator Lynch-Staunton, debate ajourned.

[*English*]

• (1620)

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Furey, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the Second Session of the Thirty-sixth Parliament.—(*3rd day of resuming debate*)

Hon. William M. Kelly: Honourable senators, I am delighted to see the many senators on this side who stayed to hear me this afternoon. I am pleased to participate in the debate on the motion for an Address in Reply to the Speech from the Throne. Since I will be retiring from the Senate next year, this will be my last opportunity to engage in this particular debate. I therefore intend to make the most of it.

I am pleased to see the commitment in the Speech from the Throne "to ensure that the Canadian forces have the capacity to support Canada's role in building a more secure world." We should not, however, underestimate how much we have to do to honour that commitment. Since 1988, defence spending has declined in real terms, year over year, to the point where today's defence budget has a purchasing power roughly equivalent to that of the early 1970s. Our ability to acquire necessary equipment and to maintain the equipment we have has been particularly hard hit by the budget cuts. Personnel in the military regular force, which numbered 87,000 in 1989-90, is forecast to decrease to 60,000 by the end of the current fiscal year. We no longer have the ability to organize fighting units at the brigade level, which is the accepted minimum for a sustainable military action. According to NATO figures, Canada is now at the bottom end of the scale of NATO countries in terms of its regular strengths and its primary and secondary reserve strengths.

There are those who claim that the end of the Cold War also put an end to the need for a large, standing military capability and created the prospect of a "peace dividend". As I have stated in this chamber many times, I think they are simply and emphatically wrong. While the threats to security and their origins have changed, the world today is potentially far more unstable, nasty and unpredictable than ever before. We face the prospect of bloody local and regional disputes spawned by nationalist secessionist movements anywhere in the world. We face the threat of terrorism from renegade states and disaffected groups. We have an important continuing role to play in the regional defensive alliances of which we are a part. All of these require a competent, motivated, well-equipped, flexible and responsive military.

Honourable senators, I persist in the belief that the international ripple effect caused by the failure of states will present the most significant security threat to Canada and Canadians for the foreseeable future. Whether they be in Africa, the former Soviet Union, Southeast Asia, Central or South America, states fail, as we have seen, for any number of economic, environmental or political reasons. The failure of states creates a power vacuum which is frequently filled by criminal or terrorist groups that, in turn, cause security problems for other states. We need look no further than the former Soviet Union for illustrations of that sort. The breakdown of the civil power has given rise to a host of nefarious activities.

Honourable senators, last month, for example, Russian authorities arrested six people in Vladivostok as they were about to take six kilograms of uranium 238 out of the country for sale. The uranium came from a plant disassembling parts of the Soviets' nuclear stockpile and could have been used by terrorists or criminal groups in the manufacture of small, but very dirty, nuclear bombs. It is for this kind of threat that we must be vigilant and for which a competent and standing military and security intelligence is required. While I commend the government for its commitment to the military, I look forward to more details in the next federal budget.

The Speech from the Throne articulates the government's plans for the advent of the new millennium. It has often been said that this Prime Minister and this government lack the "vision thing", as George Bush used to say. There is plenty of rhetoric in the Speech from the Throne about preparing for the millennium. I acknowledge the several references to facilitating, for example, electronic commerce and access to the Internet, but these do not constitute a comprehensive vision to secure Canada's future. The globalization of economies means that all economies have become increasingly interdependent. In fact, the day will soon come when there is no such thing as a "domestic economy". There will only be one economy and one market. Economies, markets and competition will not be limited by national or regional boundaries. There will be no boundaries. In the meantime, every domestic economy, including Canada's, is continually scrutinized by international investors and business people to a depth of detail never before possible. Advances in telecommunications technology, particularly advances in e-commerce, mean that investment and other decisions can be implemented in milliseconds.

Capital can flow in or out of a country in an instant. Last year, we witnessed perhaps the first illustration of the impact of these twin forces of globalization and e-commerce on the economies and the nations of Southeast Asia and the Pacific Rim. The dramatic outward flows of capital represented a vote of non-confidence by the international investment and business communities. The impacts reverberate today in individual countries, including Canada, and throughout the world. As a direct consequence of the Asian crisis, the Canadian dollar slid in relation to the U.S. dollar as currency traders bought up the U.S. dollar as a hedge against the Asian currencies. Our exports to the Far East suffered as the crisis depressed commodity prices.

Capital and business are no longer bound by geography, time or national allegiances. An economy or government that does not perform as the banks, financiers, investment dealers and credit rating agencies in the financial capitals judge as acceptable can be harshly and swiftly and, yes, arbitrarily, disciplined. While we may not like that, it is no less the case that Canada has no realistic option but to put on what has been referred to as an "economic straitjacket" that signals to all that Canada is a good place in which to invest and do business in the new millennium. The art of government will be to adjust that economic straitjacket in order to protect the circumstances and requirements of Canada and Canadians and to protect those things that are special to Canadians and that are part of "the Canadian way" such as, for example, our national health care system.

Notwithstanding, as we stand at the portal of the new millennium, Canada has much to do. Our total debt, federal, provincial and municipal, is too high and continues to rise. Our levels of personal taxation are excessively burdensome. Despite significant improvements over the past two decades, our economy is still heavily enmeshed in regulation and red tape. We are still heavily dependent on natural resources. Approximately 40 per cent of Canada's GDP is attributable to trade in our natural resources. There remain too many barriers to trade, investment and labour mobility within Canada. Despite considerable progress over the past several years, our basic water, sewage and transportation infrastructures, particularly in our major cities, require substantial renovation and improvement. We must do more to enhance our productivity. We must do more in education, research and development in order to become the type of innovative and adaptable society that will not only survive but will also be destined to prosper in the new millennium.

There is still a considerable gap between what Canada is and what Canada can become. In that regard, I commend the government for its commitment in the Speech from the Throne to reintroduce legislation to protect personal and business information in a digital world, and to recognize electronic signatures. Such initiatives are essential if Canada and Canadians are to be able to participate fully in the opportunities offered by the Internet and e-commerce. The reference does, however, beg the question as to what the government intends to do to address the issues surrounding the encryption of electronic communications and databases. While encryption is essential to protect the confidentiality of personal and business communications, it presents very grave challenges to our security, intelligence and law enforcement agencies and their ability to decipher unlawful communications and illegal transactions such as money laundering.

Honourable senators, the reference to money laundering reminds me of the commitment in the Speech from the Throne that the government will focus attention on new and emerging threats to Canadians such as money laundering. Our Department of Finance estimates that between $5 billion and $17 billion — or, as I read in the paper this morning, between $17 billion and $40 billion — moves illegally into and through Canada each year. The Financial Action Task Force on Money Laundering, which consists of 26 countries, including Canada, the European Commission and the Gulf Cooperation Council, has been consistently critical of Canada's inaction. The commitment in the Speech from the Throne is encouraging. However, we have a long way to go.

• (1630)

Honourable senators, I was frankly very disturbed by the fact that the Speech from the Throne made scant reference to the problem of illegal migration into and through Canada. We know that, in order to prosper in the new millennium, Canada must continue to attract immigrants from around the world. It is a cause for concern, therefore, that Canada is failing to meet its targets for landed immigrants.

Canada attracted 13 per cent fewer landed immigrants in 1998 than in the previous year. We appear to be experiencing particular difficulties in attracting skilled workers and professionals. However, this does not mean that we can turn a blind eye to the growing problem of illegal migration into Canada from various parts of the world. This is a very pressing issue, the root causes of which spring from our refugee determination process.

Honourable senators, political correctness makes it very difficult to have an open and rational debate about our refugee policies and procedures. Anyone initiating such a debate or questioning the status quo runs the risk of being cast as racist or anti-immigrant. It does not seem to help to point out that most of the illegal migrants are not fleeing persecution because of their religious, political or other beliefs, but are what is known as "economic refugees".

Also, it does not appear to help to point out that these illegal migrants have broken Canadian law, and that is a very poor way to start a new life in Canada. I take some pride in the fact that the recent Special Committee on Security and Intelligence that I chaired identified and documented the growing problem of organized illegal migration into Canada before it became a topical issue in the media and before it reached its crescendo of activity and publication this past summer.

The fact is that illegal migration into Canada undermines the integrity of our entire immigration policy. Persons who apply to enter Canada through proper procedures and due process see illegal migrants jumping into the queue ahead of them. It is also recognized that much of the illegal migration is conducted by criminal organizations. Not only are these criminal organizations of a particularly nasty variety, they also extract a heavy financial and personal toll from the migrants for the privilege of entering North America. Many of these migrants are forced into a life of servitude in order to pay off the debts owed to the criminal gangs, the so-called "snakeheads", who smuggled them into Canada.

I was pleased to see that a judge in London, England, recently sentenced four people smugglers to jail terms of between 7 and 14 years. Documents tabled in court indicated that the smugglers had extorted about $1 million from their clients. The judge characterized their activities as wicked, cruel and ruthless. Therefore, we are doing no one a favour by winking at illegal migration. The people who benefit most from lax enforcement and from our rather naive approach to refugee determination are the criminal elements who profit from the smuggling.

We must also recognize that illegal migration is not just a domestic issue. It is an international issue, particularly a bilateral issue with the United States. Experience clearly shows that many if not most of the illegal migrants who enter Canada ultimately end up in the United States or intend to find their way to the U.S. We have become the soft underbelly for organized, illegal migration into the United States, which is more dangerous, frankly, than the U.S.-Mexico situation because of the high level of organization and infrastructure for the smuggling of people via Canada.

If Canada is to work closely with the Government of the United States to modernize our shared border for the 21st century, as the Speech from the Throne promises, that modernization must extend to making our other borders less permeable to the organized smuggling of people.

In my opinion, the problem is not with our laws, the problem lies with enforcement. Those enforcement problems have been identified time and time again.

The review conducted by the task force commissioned by the former Minister of Citizenship and Immigration discovered that there is no effective system in place to verify compliance with the terms and conditions imposed by immigration officers on those who claim refugee status.

Furthermore, the Department of Citizenship and Immigration does not monitor the whereabouts of most of the refugee claimants, including the thousands of persons awaiting immigration hearings or who have been designated for deportation. Fingerprints of refugee claimants are taken at ports of entry in order to be able to determine whether the claimants have a criminal record or pose a security threat. However, immigration officers told the Senate special committee that the training and the fingerprinting equipment they are required to use are so inadequate that the prints are largely useless and they are usually simply warehoused. What is needed, therefore, are not new laws or policies, but the political will and resources required for implementing and enforcing the laws and policies that already exist.

The detention of illegal migrants is obviously a sensitive issue. Unlike the United States and other countries, we do not detain illegal migrants unless we have reason to believe that they constitute a criminal or security threat.

The Minister of Citizenship and Immigration has stated her opposition to detention on the grounds that the illegal migrants have done nothing wrong. To detain them therefore would, in her view at least, constitute an infringement of the Charter of Rights and Freedoms.

In my view — and I recognize that this is not popular — illegal migrants have done something wrong. They have knowingly and wilfully broken Canada's immigration laws and that should be sufficient grounds on which to detain them pending their refugee determination hearing. However, those processes need to be speeded up. The rulings must be timely. They cannot expect to detain people for months and months because of insufficient resources to carry out the work promptly.

Honourable senators, finally, I commend the government for its commitment to strengthen the capacity of the RCMP and other agencies to address threats to public security in Canada and to work with enforcement agencies in other countries.

While commendable, once again, we must come to grips with how far we must go. As reported by the Senate special committee, since 1993, the operating budgets of the organizations in the federal security intelligence community have been reduced, on average, by 40 per cent. This has created a substantial challenge for our security and intelligence sector to deal with emerging threats and new types of criminal activities such as money laundering, the smuggling of everything from tobacco, alcohol, drugs and credit cards, to people, and with new trends in terrorism such as information operations or cyber-terrorism. Again, I look forward with great interest to seeing the details in the next budget.

Honourable senators, as we wait for the new millennium, we should reflect on the century that has passed. This has been a century of tremendous instability, unprecedented in its bloodiness due primarily to misguided nationalism and ideological extremism. At the same time, this has been a century of unprecedented advances. The world today would be unrecognizable by someone living in 1899.

One hopes that we have learned some lessons in the 20th century, and that the advances we have made will launch us into a new century that is more just, less susceptible to war, the excesses of nationalism and ideology, and where economic and political freedoms are allowed to flourish. If we learn those lessons, the new century holds for us and for the world unbounded promise.

Finally, honourable senators, in the complex world in which we are moving, I wish the government well, both this government and whatever governments succeed it. It will take a significant amount of wisdom to succeed in the future, far more than has been needed in all the years prior.

Hon. B. Alasdair Graham: Honourable senators, I would begin by congratulating both Senators Kroft and Furey for the excellence of their remarks in moving and seconding the Address in Reply to the Speech from the Throne. Their participation brings credit not only to themselves but to the Senate itself and speaks very well for the future of this institution.

Indeed, I congratulate all honourable senators who have participated in one of the most important debates to take place in the life of any Parliament. I particularly wish to thank both the Leader of the Government and the Leader of the Opposition for their generous remarks.

May I say to Senator Lynch-Staunton and, indeed, to all honourable senators how much I appreciated their patience, good humour and the quality of their advice during Question Period and on other occasions when the former leader of the government was required to participate, at times vigorously, during the various exchanges which took place in the last two and one-half years. While there may have been the very rare occasion when it was necessary to move the puck around a bit before approaching the net, I hope that all honourable senators will understand that I endeavoured to provide as accurate and complete information as was possible under the circumstances on all occasions.

• (1640)

Honourable senators, when Vaclav Havel, the President of the Czech Republic, spoke to the combined Houses of Parliament on a recent visit to Canada, he spoke of a world on the cusp of dramatic change. "The highest value is humanity," he said, and "the state exists to serve the public good, allowing the fullest blossoming of human liberties, rights and freedoms." He went on to praise Canada as a pathfinder nation in the creation of a better world, adding that the "Canadian ethic" enjoyed profound respect in his country.

The Canadian ethic is a perception renowned and widely shared throughout the international community. President Chirac referred to it at the Francophonie Summit in Moncton when he spoke of Canada as a "vast country that seeks and invents the rules of peaceful and tolerant coexistence."

As President Clinton threw away his prepared text at Mont-Tremblant, speaking from the heart about the historic importance of the Canadian federation, all of us who watched and listened thought of the intellectual foundations on which this country was built, of reform and social justice, of compassion and commitment to people. The Canadian commitment to the public good is a concept that lies at the heart of this very special community. It has made this decent, civil and tolerant society a place of hope and promise for millions of people the world over.

The deep roots of our commitment to a better place grew from the soil of an ongoing state and a national passion for balanced equality, a nation-state driven by the engine of reform, by the well-being of the citizen, a point which John Ralston Saul makes so powerfully in his *Reflections of A Siamese Twin: Canada at the End of the 20th Century*. As I listened to his wife, Her Excellency the Governor General, deliver the Speech from the Throne on October 12, it was clear that that ongoing national passion, the passion for balance and service to people, the heart of what we are and where we have come from, remains in spirit as vital and dynamic as it was at the time of our early origins.

In many ways, honourable senators, the Speech from the Throne took us back to the future. The speech maps out a course and a direction for Canadians who long for real identity, real belonging, and all the values which are the anchor of our national identity as this difficult, perilous, yet exciting and adventuresome decade comes to a close.

Now that the government has put our fiscal house in order, and with the impetus of a strong and growing economy, we can move forward to a new era of governance which is fiscally responsible but which wears a human face. With continuing improvements in the financial health of the country, we will do more to ensure that Canadian families have more income in their pockets and that Canadian businesses are better able to compete in the knowledge-based economy.

We began budgeted tax relief even before the budget was balanced. Our balanced strategy allowed us to cut Canadian taxes by some $16.5 billion over three years and, in the process, remove 600,000 Canadians from the federal tax rolls, and still make key investments in areas such as skills development and health care and children, areas that really matter to Canadians. However, we know that tax reduction is only part of the equation. Canadians want much more from government. They reject the notion of government as a tax collector and an accountant — government based on the short term and the bottom line. Canadians do not want big gaps between rich and poor.

While Canadians have accepted the tough discipline of recent years as part of the duties and responsibilities that citizenship in this great country entails, they have consistently told governments that medicare, for example, is non-negotiable. They have reaffirmed that medicare is an anchor of the Canadian identity. Quality, affordable health care is a cornerstone of Canadian life. It is a hallmark of our society, an expression of the caring and compassionate spirit that makes Canada so unique.

The Speech from the Throne reiterated the Liberal government's steadfast commitment to one of the best publicly funded systems in the world. The centrepiece of our innovation effort is the creation of the Canadian Institutes of Health, which will foster state-of-the-art health care research across regions and disciplines, and receive over $500 million in funding. This government is committed to working with our provincial and other partners to test innovative approaches to home care, to pharmacare and to service delivery in ensuring that Canadians have the best health care system possible.

Honourable senators, a new century is almost upon us. Knowledge and innovation are the cornerstones to success in the "Softworld". The Speech from the Throne gives a vision of a country that is ready to seize the opportunities offered by a world where knowledge means power. In this global village, our researchers compete with the world, not just locally. They compete in one global economy, in one market. As we all know only too well, this has major implications for public policy, for we are in a global race where national vision is absolutely essential, where partnerships are key, and where government provides the framework so as to better unleash the extraordinary energies of Canadians in all walks of life.

In a world where virtual borders are all part of the reality of change, where once protective walls have disappeared, government must play a visible role of deep credibility and relevance in the daily lives of the Canadian people. Over the last six years of our mandate, this government has developed a comprehensive and ambitious strategy for putting Canada at the forefront of the knowledge-based economy of the 21st century. This has meant an active partnership with our universities and laboratories, with our knowledge-based industries and provinces, with our communities and our wonderful and excellent volunteer sectors and cultural organizations.

• (1650)

This government has recognized that all Canadians must have access to life-long learning and the promise that the digital revolution represents. We believe that smart communities are not and cannot be inhabited by the few for whom knowledge is power. They belong to all Canadians.

Our Connecting Canadians strategy, which aims to make Canada the most connected nation in the world, is based on our belief that the future of this country will be closely bound to the creation of a fair society that is united in the opportunity to access information. Through initiatives under this strategy, such as Schoolnet, the Community Access Program, and Computers for Schools, Canada has become a true knowledge democracy — a place where all Canadians are free to travel the information highway first class.

With the full conviction that the classroom is the engine of our knowledge democracy, we set up the Canadian Opportunities Strategy, which has helped hundreds of thousands of Canadians since 1998 and included the Education Savings Grant, Canada Study Grants, and the Canadian Millennium Scholarships. We have developed the infrastructure for and nurtured a healthy research environment.

That is why we are increasing our support to granting councils and embarking on a bold new venture, creating the 2000 21st Century Chairs for Research Excellence in Canadian universities. University of Toronto President Robert Pritchard pointed out that this initiative alone is the equivalent of recruiting the faculty of a major university almost overnight — a net brain gain of invaluable proportions. As the Prime Minister has said:

> We want to make Canada a place where Canadian students and Canadian graduates want to be. We want to attract the global research stars of today and the future stars of tomorrow.

We want to attract them to a place called home, not a place they must leave because of a lack of opportunity, but a place where education and research and the struggle for excellence are cherished as the most valued resources of our nation's capital. It is a place where a healthy environment and a high quality of life go hand in hand, a place where our young people understand that winning is not just about market share but about value and service and commitment to our roots. It is a country that speaks with a moral voice and whose citizens are committed to a sustainable, global society and a better world rooted in the rich soil of humanism.

My friend, Hodding Carter, once wrote that there are only two lasting bequests we can hope to give our children. One of these is roots, the other, wings — roots to walk the earth with compassion and strength; wings to fly further into the future.

It is our children who will take us there. They will take us there with their genius and their dreams, with their hopes and their love, with their talent and their ingenuity, and with their eyes wide open on a better world. However, the challenges facing them are great. Their responsibilities are overwhelming. Honourable senators, it is they, our children, who must win the future.

This government has made a commitment to our tiny babies and our little children. Our commitment is to the best possible start in life. Our commitment is to good shelter and nutrition and green neighbourhoods. It is to allow parents the maximum amount of time possible with their newborn children in the critical early months. It is to help parents who too often must make difficult choices between a job and benefits for their children. It is to provide legal regimes which ensure, in cases of separation or divorce, that the needs of our children come first. It is to put more money into the budgets of Canadian families through tax cuts.

Yes, our children have rights. They have a right to hope. They have a right to dream. They have a right to grow up equal in this remarkable country that is a symbol of hope and promise to millions the world over — this place called Canada, this place called home.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, in rising to participate in the debate on the Speech from the Throne, I begin by extending my best wishes and congratulations to Her Excellency as she begins her tenure as the representative of the Crown in Canada.

Honourable senators, in reflecting upon the role of the Crown in Canada, we are reminded by our colleague Senator Beaudoin that section 17 of the British North America Act, our fundamental constitutional document, points out that the Governor General, together with now 301 members in the other place and 105 senators in the Senate of Canada, constitute our

Parliament of Canada. These 407 Canadians have been given a great privilege and an awesome responsibility. Only 407 individual Canadians serve 30 million Canadians in our Parliament.

As I reflected on the Speech from the Throne and reflected also on Parliament, some of the recurring questions that continued to present themselves were questions such as how well is the ship of state really doing during the watch of we 407 Canadians? Is the practice of freedom stronger or weaker? Will we be leaving Canada a better place after our sojourn here in Parliament?

In reply to these questions, I was drawn to the consideration that a trinity of fundamental institutions lay at the base of our freedom in Canada: One, a judicial infrastructure with an independent judiciary; two, Parliament and the other legislative bodies across Canada; and, three, the voluntary or the non-governmental sector of Canadian society.

• (1700)

As I thought about the first institution, the Canadian judicial infrastructure, and how the Speech from the Throne might bear on it, I was quite frankly more drawn to the outpouring of critical attack on our courts in recent days, particularly during debate in the other place in reply to the Speech from the Throne. As I heard the criticism being heaped upon our courts, I felt that it ought to be of great concern to all of us who recognize that an independent judiciary is a critically important cornerstone in our system of democracy and liberty in Canada. Our highest court, the Supreme Court of Canada, has come under vicious attack from certain quarters. Some of the most boisterous attacks on the judiciary have come from Reform Party members in the other place.

In his reply to the Speech from the Throne, the Leader of the Reform Party in the other place stated:

> We have seen the courts increasingly encroach on the prerogatives of Parliament to the point where one might argue that one cannot fully interpret the Speech from the Throne until after hearing the speech from the bench.

Well, honourable senators, some listeners may have been amused. Some may have found that to be a quaint or cute proposition. I, personally, was not amused. Neither was I amused when the Leader of the Reform Party in the other place began to heap great criticism on the courts at various levels for decisions rendered in their assessments of government actions — federal, provincial or territorial — as measured against the Charter of Rights and Freedoms. It was as if somehow the court was to be held accountable for the existence of our constitutional Charter of Rights and Freedoms. I would quickly remind all Canadians that it took a resolution passed by both Houses of Parliament and by nine provincial legislative assemblies to bring about the Canada Act of 1982.

It is important for us in Parliament to assess a government's vision and the resulting programs in terms of whether each program will place our courts in a more difficult or a less difficult circumstance. As I looked at the Speech from the Throne, I could see nothing to persuade me that the government has anything other than a "do nothing" agenda. The government seems to be avoiding serious political criticism with this strategy. It is leaving to the courts the difficult tasks of interpreting highly general or loosely knit legislation. The government has failed to take sufficient leadership in bringing forth the political and legislative vision necessary for Parliament to function in the manner originally envisaged.

Further complicating the independence and function of the judiciary in recent times seems to be the misunderstanding at some levels in the government of the relationship which ought to exist between the executive and the judiciary. Honourable senators have paid very close attention to the rendering of the Supreme Court's judgment in the *Marshall* case. That case recognized certain treaty rights and caused quite unfortunate outcomes in the province I represent, New Brunswick.

During this time, the Prime Minister mused about the possibility of the Supreme Court withholding its judgment on *Marshall* for a period of time to allow the government to introduce regulations necessary to reduce the levels of hostility. While we were all anxious to avoid that hostility, we still faced the question of political interference in the work of the highest court of the land and clearly demonstrated how the executive powers are beginning to flex their muscles in the domain of the judiciary and other institutions integral to our parliamentary form of democracy.

Honourable senators, it is dangerous for any prime minister to be asking the courts to do their job in a manner beneficial to the ruling regime. The law is the law. It should not be bent or customized to suit the preferences of the political party in power at a given time.

Adding to this clouding of the separation of the executive branch from the judicial branch is the virtual knee-jerk reaction of so many members, particularly in the other place. In the years that I have been in this house, I have seldom, if ever, heard an immediate appeal to resolve a serious political problem or social policy problem by resorting to the notwithstanding clause of the Charter. Yet, so often we hear from the other place that the notwithstanding clause can be used to get around a problem. Parliament must be very cautious when that kind of proposition is brought forward.

Honourable senators, I view Parliament as one of the three fundamental institutions governing the practise of freedom in Canada. Many parliamentarians, representing a cross-section of political parties in both Houses of Parliament, as well as some members of territorial and provincial legislatures, have begun to express alarm at the failure of leaders in government to properly nurture and be guided by established rules of parliamentary accountability. For example, it seems sometimes that governments do not want their respective legislative body even to be meeting.

An examination of the number of sitting days of the various legislative assemblies and the two Houses of Parliament is quite revealing. Reference the delay in reopening Parliament this fall. The House of Commons, the institution meant to embody our democracy in Canada, has averaged less than 120 sitting days per year. All through the 1990s, our friends in the other place enjoyed the dubious distinction of sitting for fewer days per year than either the House of Commons at Westminster or our American counterpart. They sat 12 per cent less than the House of Commons in Westminster and 20 per cent fewer days than the House of Representatives in the United States.

Some members ask why they should bother coming here, that it is a waste of time to sit in Parliament because the government of the day does not bother to listen to its counsel anyway. In many cases, even the government's own backbenchers are punished by removal from committee, for example, because they opposed the might at the centre. Such advocates argue that government views the rules of Parliament as little more than obstacles on the course of realizing partisan objectives.

There are also those who maintain that the inner sanctum of the Langevin Block has collaborated to obscure the actions and decisions of this present government from the purview of Parliament.

Why would the Prime Minister and cabinet ministers not have Parliament sit? The answer is obvious, honourable senators. It is easier to get on with the important things, like making speeches or going on foreign trips or collecting donations for two-thirds of the year, if you need not be accountable or answer questions in Parliament. When dealing with potentially damaging or embarrassing issues, one either deals with the issue directly or extricates oneself from the situation, and in the latter case this has meant the Langevin technicians shutting off the lights in the Centre Block so that everyone would be sent home.

Stripping Parliament's capacity to study legislation and important issues of the day is the technique which has been used by the current government to usurp the prerogative of this institution. Within one issue, for example, we find evidence of the centre's unwillingness to allow Parliament to do its work. If you look at the circumstance surrounding the Nisga'a Final Agreement, brokered between the Nisga'a Nation and the Province of British Columbia, it was signed by both after it was passed by the B.C. legislature and accepted by the Nisga'a people.

[*Translation*]

The Hon. the Acting Speaker: I have to interrupt the Honourable Senator Kinsella and tell him that his time has expired. Honourable senators, is leave granted to continue?

Hon. Senators: Agreed.

[*English*]

Senator Kinsella: Honourable senators, before Parliament had the opportunity to review the Nisga'a Treaty, the Indian Affairs Minister had signed the treaty. Moreover, the agreement specifies that, as a tripartite agreement, all signing members agree to revise the treaty, where necessary. Although the Nisga'a and the Government of British Columbia can only do so after consulting their constituent bodies, it would appear the federal government can agree to treaty modifications through Governor in Council, thus, again, rendering Parliament irrelevant.

Accountability to Parliament has been a particularly onerous thorn in the side of this Prime Minister and his cabinet, which has become his private focus group. Within the cabinet, the Prime Minister has risen above the concept of first among equals. The hierarchical nature of this government continues through all ranks as well. Cabinet quashes the political participation and input of backbenchers, opposition members, committees, and individual citizens. At its fundamental level, the accountability of the Langevin Block to Parliament is next to zero. This frontal assault on parliamentary accountability is alarming and begs asking whether this Speech from the Throne clarifies whether government is still accountable to Parliament.

In our Westminister-derived form of government, the accountability of government is the cornerstone of parliamentary practice, and in this governance paradigm it is considered improper for cabinet and the Prime Minister to dominate the policy function of Parliament without proper and meaningful consultation with the general body of members in both places.

I should like to point out the inadequacy of this government to prevent the erosion of our political system by quoting scholar Philip Norton, who, on the topic of the government's failure to conduct itself in keeping with the principle of accountability, writes that, over the years, the instruments of Parliament have dulled. He states:

> Government also became less willing to divulge information to the House. Increasingly, MPs were expected to defer to the superior knowledge of government. As government bills came to dominate the legislative agenda, and as those bills became more complex, the House failed to generate the resources to keep up with those developments. Hence, in its relationship with government, the House...lacked both the political will and the institutional resources to challenge the measures formulated by government.

The noted scholar C.E.S. Franks posits the danger of an overly centralized executive to the parliamentary process. He notes that their:

> ...enormous centralized powers are more like those normally associated with an autocratic dictatorship than with a democratic government...

and that:

> Parliament is the central forum for discussion about the use and abuse of political power.

In that spirit, we ask whether the cabinet and the Prime Minister's Office have taken measures to ensure their conduct is properly audited by Parliament, and whether there is evidence of that willingness to be found in this Speech from the Throne which is intended, of course, to set the tone of this parliamentary session. Honourable senators, there has been a shift of power to the other side of the street and many authors have commented on that.

Let me just turn, in conclusion, to the third institution that serves our democracy, that is, the voluntary and the non-governmental sector. It was disappointing, honourable senators, to find not a word in the Speech from the Throne concerning the upcoming world celebration of the role of the voluntary sector in society. One looks in vain to find innovative or creative support of the voluntary sector from this government. Indeed, the opposite is the case. Nearly every promise made in the Speech from the Throne entailed the central government undertaking one action or another.

Surely, honourable senators, given that the United Nations has declared the year 2001 to be the International Year of Volunteers, the government would have made some effort to indicate our national preparedness to underscore the importance of the non-governmental volunteer associations.

In conclusion, honourable senators, I wish to refer back to Professor Donald Savoie, to whom we have alluded on other occasions, and his recently published book this year, entitled *Governing from the Centre*. Professor Savoie, in a razor-sharp analysis of the power of the Prime Minister and the change in politics and power in Canada, stated as follows:

> Cabinet has now joined Parliament as an institution being bypassed. Real political debate and decision making are increasingly elsewhere — in federal-provincial meetings of first ministers, on Team Canada flights, where first ministers can hold informal meetings, in the Prime Minister's Office, in the Privy Council Office, in the Department of Finance, and in international organizations and international summits. There is no indication that the one person who holds all the cards, the prime minister, and the central agencies which enable him to bring effective political authority to the centre, are about to change things. The Canadian prime minister has little in the way of institutional check, at least inside government, to inhibit his ability to have his way.

With this change in the paradigm, one can fully understand the frustration that members of the other place, and from time to time members in this house, manifest in having no say in the development of policy, but are simply given marching orders to push through a government initiative, sometimes with no reflection on it whatsoever.

Honourable senators, the Speech from the Throne is the mechanism by which the government of the day outlines its vision for the country and sets the tone in which this institution shall operate. Clearly, the foundations of our system of parliamentary democracy are threatened and little has been done to repair the damage.

• (1720)

Hon. Mabel M. DeWare: Honourable senators, I rise today with pleasure to speak to the recent Speech from the Throne. I enjoyed being here for the opening of Parliament and the pomp and ceremony wherein our new Governor General gave her inaugural speech for the new century.

I wish to talk about two aspects of the Speech from the Throne. They relate to two parliamentary committees of which I was privileged to be a member. One was the Special Senate Committee on Post-Secondary Education, which was chaired by our former colleague the Honourable Senator Lorne Bonnell and reported in December of 1997; the other was the Special Joint Committee on Child Custody and Access, which was co-chaired by the Honourable Senator Landon Pearson. Its report was tabled in December of 1998.

Honourable senators, we in this chamber are all well aware of the importance, both to individual Canadians and to Canada as a whole, of post-secondary education. The benefits that accrue to those who attend colleges, universities and other post-secondary institutions are immeasurable. They include financial benefits that enable graduates to achieve a better standard of living for themselves and their families. They also include other less tangible but just as important benefits in terms of quality of life, which also enables graduates to play a key role in building their communities. In turn, those benefits are passed on to Canada's economy and society, through higher tax revenues, cost savings on social programs, and greater social cohesion, for example. Even more important these days is the competitive advantage that an educated workforce gives Canada in the global economy. Companies in the growing knowledge and high technology sectors are more likely to invest in a country where they can hire well-trained graduates of quality post-secondary institutions.

It is clear that the federal government, too, recognizes the critical role of post-secondary education in Canada. In the Speech from the Throne, it acknowledged "Canada's advantage as a country with the most highly educated workforce in the world." The government further claimed that in the past three years it has taken action to build on that advantage. The Speech from the Throne pointed to measures that make it easier to save for a child's education and to Canada millennium scholarships, which the government says aim to make college and university studies more affordable. It also mentioned improved student debt relief and better tax assistance to promote lifelong learning. In fact, I believe it actually referred to these measures collectively as "the strategy."

The government now says it intends to continue to build on that so-called strategy through several initiatives. The Speech from the Throne included the grand pronouncement that Ottawa will:

> ...forge partnerships with other governments, public- and private-sector organizations, and Canadian men and women to establish a national action plan on skills and learning for the 21st century. This plan will focus on lifelong learning, address the challenge of poor literacy among adults, and provide citizens with the information they need to make good decisions about developing their skills.

Honourable senators, the Speech from the Throne listed three components of this action plan, although I sincerely hope others will be added, and soon. Specifically, the government said it will work with its partners to:

- enable skills development to keep pace with the evolving economy. This work will be led by the Sectoral Councils, which bring together representatives from business, labour, education and other professional groups to address human resources issues in important areas of the Canadian economy;

- make it easier for Canadians to finance lifelong learning; and

- provide a single window to Canada-wide information about labour markets, skills requirements and training opportunities — on the Internet, over the telephone or in person in communities across the country.

Honourable senators, these all have the potential to be very worthwhile measures. Action in these three general areas, which were identified almost two years ago by the Special Senate Committee on Post-Secondary Education, is certainly necessary, not to mention long overdue.

I should also like to commend the government for committing itself to improving Canada's knowledge infrastructure through such things as the creation of the Canadian Institutes of Health Research, increased support to the granting councils, and greater international research collaboration by Canadian universities and institutes, although the details are, once again, pretty fuzzy. Research and development is, after all, another key area that was identified by the Special Senate Committee on Post-Secondary Education. I was pleased that, in keeping with several of our committee's recommendations, the government appears to recognize the value of attracting top-notch researchers and encouraging our graduates to pursue careers in Canada rather than going to other countries. We must make it more attractive for Canadian post-secondary graduates to stay here at home in order to safeguard the competitive advantage our educated workforce gives us.

With the increased attention that Canada's much-publicized brain drain has received, this is a particularly timely intervention. A recent study by the Conference Board of Canada warned that the growing brain drain is threatening to deplete Canada's pool of skilled workers. Furthermore, Nortel Chief Executive John Roth has hinted that his company could leave Canada if nothing is done to stop the outflow of human capital. Noting that only 7 per cent of Nortel's top executives remain in Canada, he was quoted in the November 12 edition of *The Ottawa Citizen* as saying:

> What does having headquarters in Canada mean if most of the company's leadership team has left?

Considering that 22,000 Nortel employees work in Canada and that it hires one-quarter of Canadian-trained graduate engineers each year, this should not be taken lightly. Even Statistics Canada, which has been criticized for downplaying the brain-drain crisis, has admitted that Canadian graduates who head south of the border tend to be our brightest and our best. While a number of causes have been identified for this tragic out-migration, it is clear that Canada's system of post-secondary education is a factor. I recall to my honourable colleagues another remark attributed to Mr. Roth in *The Ottawa Citizen* of November 12. He said:

> The quality of Canadian grads in engineering and computer science is excellent, but I'm fearful of the quality going down because the education system is not well financed.

Honourable senators, we must ask ourselves whether the measures that the Liberals promised in the Speech from the Throne are sufficient, in the government's own words, "to build on Canada's advantage as the country with the most highly educated workforce in the world." In fact, if implemented, will they be enough to maintain the quality of our educated workforce? I am concerned that much more needs to be done in the post-secondary education sector in order to achieve the results that the government has promised us. I would have felt more comfortable if the Speech from the Throne had offered a bit of substance to back up some of its feel-good buzzwords. I would have felt even better if it had addressed certain areas of post-secondary education, which the government appears to have completely ignored, and areas that I believe are critical if we are to move forward with knowledge into the 21st century and not slide backwards or, if we are lucky, simply tread water.

Keeping in mind the remarks made by Nortel's John Roth, I wish to speak in particular of the funding of post-secondary education in Canada. Federal and provincial support for post-secondary education was identified as a top priority by the committee on which I served. The committee also recommended "that the federal government, while continuing to respect provincial jurisdiction, renew its strong commitment to post-secondary education."

Underfunding of Canadian colleges and universities, in part caused by cuts to the Canada Health and Social Transfer, has resulted in, among other things, higher tuition fees, deteriorating physical infrastructure and equipment, and an inability to attract the best qualified faculty at post-secondary institutions across the country.

In particular, high tuition fees risk placing post-secondary education out of the reach of many Canadian students. The prospect of graduating with crushing student debt loads that are not likely to be offset much by millennium scholarships, for example, can be a big deterrent. While it is important to make loans and other assistance available to students, there must be a limit on how much any individual should have to borrow.

• (1730)

I am wary of the government's Throne Speech promise to make it easier to finance lifelong learning. If it intends to simply make it easier for students to borrow even more money to add to their debt load, then I do not think that is the answer. That would be like putting the cart before the horse. If, however, the government is planning to provide more grants and bursaries, or some serious debt remission, then I would view this promise in a much more positive light. Canadians will be waiting with interest to see, over the next two years, just what the government has in mind.

In addition, we will be extremely interested to see how the government and its partners will, as the Speech from the Throne indicated, enable skills development to keep pace with the evolving economy. I sincerely hope that it will not simply be a matter of identifying which professions, trades and occupations will be in need of more graduates in the coming years, although that is an important undertaking. Rather, this initiative should be backed up with concrete measures to assist students to obtain the education and training that is required to meet those identified needs.

Again, Canadians will be following the federal government closely on these issues over the next two years. However, I do not think Canadians should have to wait up to two years for the government to implement the post-secondary education-related promises that it made in the Speech from the Throne.

I remind the government that action in this critical area is needed now. I might also remind honourable senators that this committee report is now two years old, and it was urgent when it was tabled.

Senator Graham was most eloquent in his promises about the future of education in Canada. He has a wonderful way with words. Two years ago, we listened to words of despair from students, educators and researchers about the state of education in Canada. It was not a pleasant overview.

It is timely, therefore, that this government give education a priority place on its agenda for the new century. I really must commend Senator Graham for his remarks today.

Honourable senators, I could speak at much greater length about post-secondary education issues and lifelong learning as these are close to my heart. Indeed, I hope to do so in the near future.

However, I shall now move to the other aspect of the Speech from the Throne that I wish to address, and that is, the reference to child custody and access issues. First, some background is in order.

I had the honour of serving on the Special Joint Committee on Child Custody and Access which was struck in October of 1997. The government created the joint committee to fulfil a promise it made in order to ensure approval by the Standing Senate Committee on Social Affairs, Science and Technology, which I chaired at the time, of the new federal child support guidelines.

As a result, 23 members, representing five parties, spent the next year hearing from hundreds of witnesses and studying very serious issues for families affected by separation and divorce.

In December 1998, the committee tabled its report entitled "For the Sake of the Children". It included a wide-ranging series of recommendations aimed at making the current adversarial system of child custody and access arrangements more child-centered. The most important recommendation involved changes which recognized both mothers and fathers must continue to have an important role in their children's lives. These recommendations focus on the concept of shared parenting, which involves joint decision-making, with time-sharing and residential arrangements to be worked out between the parents. With shared parenting, both father and mother continue to be active in the care and nurturing of their children.

In May 1999, the federal Justice Minister released the government's detailed response to the committee's report. I was pleased to learn that the government is preparing to support the committee's key recommendations, calling for a child-centered approach to family law in cases of separation and divorce.

We were excited, even elated, on the day we learned that the minister was going to act on our recommendations. However, I, along with thousands of Canadian parents and their children, was disappointed to learn that these families will have to wait another three years for any positive action to be taken on their behalf. That is because the government stated in its response that it intends to integrate legislative changes to the custody and access provisions of the Divorce Act into its comprehensive review of the child support guidelines. That is not due until May 1, 2002.

I was heartened, as I am sure you were, honourable senators, that there was reference to this issue contained in the Speech from the Throne. In it, the government stated:

> ...with its provincial and territorial partners, it will work to reform family law and strengthen supports provided to families to ensure that, in cases of separation and divorce, the needs and best interests of children come first.

Clearly, this reference shows that the government recognizes that child custody and access arrangements are a matter of critical importance for many Canadians and that concerns about the current system will not go away.

I am hopeful that the government is planning to speed up its planned implementation of the shared parenting recommendations included in "For the Sake of the Children". After all, the Speech from the Throne traditionally sets out the government's plan of priorities for the session of Parliament whose opening it marks. Recent reports that a federal general election is expected to be called within 18 months, well before 2002, may give some Canadians reason to hope for faster progress. I trust that their hope is not a false one, although given the Liberal government's poor track record so far on custody and access matters, they likely are not holding their breath. Still, we can always keep our fingers crossed. Meanwhile, hundreds of children will not be heard and will feel the heartache of broken families.

Honourable senators, I appreciate being given the opportunity to speak about these two aspects of the recent Speech from the Throne, which contains much more. Other members of this chamber have been doing a fine job speaking to different aspects of it and no doubt others will contribute to this debate.

I would conclude by expressing the hope that the government will listen to and take into account the very real concerns and the reasoned suggestions raised by my colleagues on this side of the chamber.

On motion of Senator Roche, debate adjourned.

• (1740)

ROYAL ASSENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. John Lynch-Staunton (Leader of the Opposition) moved the second reading of Bill S-7, respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.

He said: Honourable senators, I first must explain what this bill is not. Contrary to a number of recent newspaper reports and comments, it does not call for the abolition of the Royal Assent ceremony as we know it, and which has been followed here since 1867. The bill provides, in addition to confirming the traditional ceremony, an alternative, known as a written declaration, similar to what is practised in the United Kingdom and other Commonwealth countries. The traditional ceremony would be obligatory for the first appropriation bill in a session, and at least once a calendar year.

Honourable senators who were here at the time will recall that a bill nearly identical to Bill S-7, which was then known as Bill S-19, was introduced in the Senate by Senator Murray, the then leader of the government, in July 1988. Senator Doody opened second reading debate a few days later. The debate resumed in September but was short-lived, as the Senate's majority priorities were elsewhere then and not foreign to the dissolution of Parliament on October 1. The arguments put forward by Senator Doody 11 years ago are still valid today, and many of mine derive from his. The latest effort along these lines was before the Senate in the last session and it, too, became a victim of prorogation. My remarks, therefore, will be similar to the ones made at that time.

To repeat, the purpose of Bill S-7 is not to do away with a formal Royal Assent ceremony as we know it. Indeed, it is retained in the bill, which requires that the current procedure apply to the first supply bill in a session, and at least once in each calendar year.

Keeping the Royal Assent ceremony as we know it and allowing a written declaration as an alternative is a subject that has been before the Senate many times. In 1983, Senator Frith presented an inquiry regarding the advisability of establishing alternative procedures for the declaration of Royal Assent to bills. Following a recommendation in March 1985 by the Special Committee on the Reform of the House of Commons — the McGrath committee — that a new Royal Assent procedure be adopted, the Standing Committee on Privileges, Standing Rules and Orders, chaired by Senator Molgat, recommended changes along the same lines. A careful reading of the debate on the report presented by Senator Molgat indicates general support for the idea but disagreement on how to implement it. A solution was found through the introduction of Bill S-19 referred to earlier, a bill that died as a result of prorogation less than three months later. Bill S-7, as did Bill S-19, incorporates the principles found in that report.

The Royal Assent ceremony as we know it is not required by the Constitution Act of 1867. The relevant provisions are in sections 55, 56 and 57, which deal only with the granting, withholding and receiving of Royal Assent, which is necessary for a bill to be given the force of law. Section 5 of the Interpretation Act provides that the date of Royal Assent is the date of the commencement of an act if no other date is stipulated.

While no law outlines the Royal Assent ceremony itself, a description of it can be found in Beauchesne. The actual arrangements are the responsibility of the Clerk Assistant of the Senate. Canada is the only country to retain the formal Royal Assent ceremony requiring the presence of the sovereign or the Governor General or his or her deputy. The McGrath report noted that "Canada is still using a practice which was abandoned by the United Kingdom Parliament in 1967. In fact, no other Commonwealth Parliament has maintained the procedure still used in Canada."

Royal Assent in Great Britain required the presence of the monarch until 1541, when Lord Commissioners were designated to act on behalf of the sovereign. In 1967, the United Kingdom Parliament passed the Royal Assent Act, which retains the traditional ceremony while allowing a written declaration, as is proposed in Bill S-7. As with Bill S-7, the Royal Assent Act does not specify details respecting the alternative procedure, it simply authorizes it.

Parliament, as we all know, is made up of the three entities — the Crown, the Senate and the House of Commons — each of which is essential to a bill being enacted. Our Royal Assent ceremony brings them together for the final step in the sometimes lengthy process before a bill becomes law. While the Crown does not refuse assent, it must still be sought. One commentator has written that Royal Assent is still a necessary formality and is at the same time nothing more than a formality.

I fear, as do others, that what should be an event equal to its significance has become a routine one stimulating little but passive curiosity from those who happen to witness it by accident. Too often, the Governor General is unavailable, and finding a deputy governor general on short notice is difficult and embarrassing. Too often, the deputy may be kept waiting beyond the appointed hour because of unexpected Senate proceedings. Attending members of the House of Commons are usually outnumbered by their officials, particularly if assent is scheduled after the House has adjourned. A late Thursday afternoon Royal Assent means a small turnout of Senators. The atmosphere is one of indifference rather than of respect for an event which, while largely a formality, is nonetheless an essential one and reminds us of the evolution of the parliamentary system over the centuries.

There are those who will argue that Royal Assent is archaic and should simply be done away with altogether. I will not engage in that debate today except to say that as long as Royal Assent is a requirement, let it be given the standing it deserves by treating the ceremony surrounding it with respect for its significance rather than just a bothersome interruption of parliamentary business. What better way of doing this than by having fewer traditional ceremonies during a session? By allowing alternatives, Parliament would, in effect, sanction the importance of the traditional Royal Assent ceremony by making it a special occasion, properly planned and well-attended, rather than an obligation whose repetition dilutes its significance.

Objections to this bill will come from those who fear that it is but the thin edge of the wedge which in time will lead to the end of the ceremony as we know it today. Bill S-7, however, takes these apprehensions into account. The alternative suggested is to allow a non-traditional Royal Assent at times when it is difficult to get the parties involved, to agree on a time suitable to all, and to have more than a corporal's guard from both Houses of Parliament in attendance. This problem will become more acute once the House, as part of the Parliamentary precinct renovations, moves to the West Block, to be followed by the Senate after the House returns to the Centre Block. This alone, I feel, is reason enough to give serious consideration to this bill.

Honourable senators, I have deliberately not gone into a lengthy, detailed argument in favour of Bill S-7, feeling that this general outline is sufficient to stimulate interest in it. I am indebted to colleagues who have spoken on the topic over the past few years, to the Library of Parliament, and to the thorough research of Senate legal counsel, which together contributed significantly to these remarks, and I look forward to further debate both here and in committee.

On motion of Senator Cools, debate adjourned.

[*Translation*]

FRANCOPHONE AND ACADIAN COMMUNITIES OUTSIDE QUEBEC

DETERIORATION OF SERVICES—
INQUIRY—DEBATE ADJOURNED

Hon. Jean-Maurice Simard rose pursuant to notice of November 3, 1999:

> That he will call the attention of the Senate to the situation vis-à-vis the development and vitality of francophone and Acadian communities, its gradual deterioration, the growing indifference of governments in Canada over the past ten years, and the lack of access to services in French.

He said: Honourable senators, as agreed between both leaders in the Senate, and I hope all senators will be in agreement, I now give the floor to my colleague Senator Jean-Claude Rivest, who will read my speech. It could exceed the allotted time of ten minutes.

Hon. Jean-Claude Rivest, (Speaking on behalf of Hon. Senator Simard): Honourable senators, let me first say that I am really pleased to take part, in a rather unusual fashion, in the proceedings of this house. As Senator Simard just indicated, he asked me to read the address that he wanted to deliver in the Senate on the tabling of an extremely substantial report. Incidentally, I urge all honourable senators to read the report. It is truly an in-depth and very well-documented study by Senator Simard on the situation of Canada's francophone and Acadian communities.

Since I share the concerns he is raising, it is all the more easy for me to read Senator Simard's speech. I would simply ask that, in the *Debates of the Senate*, Senator Simard's speech be under his name, even though I will read it.

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

Hon. Senators: Agreed.

Senator Rivest (Speaking on behalf of Hon. Senator Simard): Honourable senators, I rise to speak to you about an issue of enormous importance, not only to myself but also to the country.

I want to speak to you about an issue that has long been close to my heart, an absolutely vital issue in which I have invested much of my political activity: the vitality and development of Canada's francophone and Acadian communities.

After months of personal thought and research and serious, in-depth consultations, my concerns about these communities' future outlook have become so grave that I dare to term that outlook a national emergency.

When I use the term emergency, and when I say this emergency is national, I not only base that claim on the results of research, but I also draw on the knowledge and experience I have accumulated in over 30 years of public life: I trust the instinct that we all develop in practising our trade to the best of our abilities.

Everything in me tells me that, unless we act immediately and with all the conviction and energy of which this Parliament and this country are capable, it will soon be too late. By refusing to act, out of indifference, and out of the comfortable paradigms of our ivory towers, we shall betray the promise of a country that could have been great, if only it had had the courage to do so.

I say we must act because, if these francophone and Acadian communities that have helped forge a Canadian identity that is recognized and respected worldwide disappear one day, it will be largely because their country's leaders abandoned them. It will be because we preferred to take refuge in the safety of inaction and half measures, while our people asked for no more than a helping hand. It will be because we gave in to threats from a handful of extremists who frightened us with their intolerance and dictated to us our own death warrant.

It will be because we were afraid of being afraid. Deep down inside, each one of us knows perfectly well why we do not speak up about the French fact. It is not that this issue is not important; it is not that it is not urgent. It is because we are afraid: afraid of provoking those elements in Canadian society — which are in fact dwindling — that might be tempted to fan the fires of intolerance; afraid of spending our political capital in English-speaking Canada to defend the French-speaking minorities in those regions; afraid of publicly standing up for Canada's marvellous social vision of linguistic duality that, elsewhere, we still display as a unique example of success.

Is this fear not the ultimate paradox? We are afraid to speak out at home about something that produces admiration, respect and indeed envy in all parts of the world. We are afraid to remind Canadians that our country's founding federation is characterized by unprecedented tolerance between two peoples dedicated to the principle of mutual equality.

On the threshold of the year 2000, we prefer to mollify ideological dinosaurs nostalgic for a less noble era, when a Canada of nine provinces plus one was determinedly anglicizing its society and all its citizens, French-speaking, aboriginal, and newcomers. That policy led us straight to what André Laurendeau of the Royal Commission of Inquiry on Bilingualism and Biculturalism, over three decades ago, called the worst crisis in Canada's history.

In short, we feel that, if we do not talk about the crisis, it does not exist. If we do not admit that the situation of Canada's francophone and Acadian communities has become critical, we do not need to do anything about it. If we do nothing, we cannot be criticized for having done anything. And, in the finest country in the world, everyone will live happily ever after.

We shall witness the glory of inaction and the triumph of indifference.

However, honourable senators, that is not all. We feel that, if we keep quiet, everyone must keep quiet. In other words, when these communities' leaders dare to speak up and denounce the abuses of which they are the victims, we tell them to keep quiet.

I beg your pardon. First we pretend to be unaware that they exist. Then, when their cries get too loud or too public, we give them lip service because we have no choice: after all, Quebec is watching what we do, and what an unflattering impression of Canada Quebec would have if we refused to support endangered francophones! Once the critical moment of timid support has passed and the media interest has died down, however, we quickly bring those troublesome francophones back into line, emphasizing that it will be much smoother sailing if they don't rock the boat. We take minority francophones hostages to power.

This federal government, which should be these minorities' ultimate defender, this government that is constitutionally, legally and morally responsible for ensuring that their rights are respected, attacks the victims, not the guilty parties.

This government not only refuses to act but also hits these minorities where they are most vulnerable. Their funding is cut, as one would refuse food to an animal that does not obey. The leaders of these French-speaking communities, still proud but ever hungrier, quickly realize what they have to do if they want more funding. They fall into line. These community leaders are told that, if things were managed "behind the scenes," they would get much better results and progress much faster.

The most troublesome are isolated, using the principle of "Divide and conquer."

I realize that there are those among you — and in the other place — who will take offence at these statements. You will hasten to list government programs supporting the official languages, and the millions of dollars allocated to those programs. You will note the success of Canada's French-speaking communities, the Year of the Francophonie proclaimed by the government, the Sommet de l'Acadie in Moncton, and the Jeux de la Francophonie planned for the year 2001 right here in the National Capital Region. You will be proud to celebrate the tenth anniversary of the Official Languages Act amendment giving the federal government broader responsibilities toward these minorities.

I shall applaud; I shall congratulate you. Of course these initiatives are worth the time and worthy of praise. Unfortunately, I cannot go home with a sense of duty done, as others in this Parliament are tempted to do. I cannot do that, because our real duty remains to be done. There will always be enough bread and circuses to keep people quiet, but no government can ever take pride in that kind of show when, in the trenches, doggedly brave francophones still battle the forces that seek to annihilate them.

You can throw us the world's finest parties, but those celebrations can never mask the truth about a government that refuses to support these francophones, in the face of its constitutional responsibility to do so.

I shall not applaud when I see that even section 23 of the Charter guaranteeing French-language education for Canada's French-speaking minorities is still ignored in the face of repeated rulings by the courts, including the Supreme Court of Canada, confirming these rights; or when nearly half of the 260,000 Canadian children with a constitutional right to French-language education are deprived of that right and must study in English-language schools or French immersion courses. Not even in education is the battle over.

• (1800)

You will not hear me congratulate you when I see provincial governments taking their cue from federal disengagement from these minorities, downloading responsibilities, and thus wiping out or threatening the gains francophones have made.

You can never alter the sad fact that, more than 30 years after the adoption of the Official Languages Act, equal opportunities, equality of people, real or perceived, is far from being achieved.

You can never make us forget that, more than 30 years after the Dunton-Laurendeau commission recommended that the New Brunswick, Ontario and Manitoba governments introduce official bilingualism, only one of those provinces has agreed to do so. The biggest and most powerful province, which half of Canadian francophones outside Quebec call home, still refuses to recognize the Franco-Ontarian minority's constitutional rights.

The Hon. the Speaker: I am sorry to interrupt Senator Rivest, but it is 6:00 p.m. Is it the wish of the Senate that I do not see the clock?

Hon. Senators: Agreed.

Senator Rivest: It took the Supreme Court to convince Manitoba that it had governed practically illegally for nearly a century, not to mention the disgraceful 1984 incidents, in which certain provincial politicians spite erupted against Franco-Manitobans.

We should be ashamed to think that, right this minute, a Franco-Ontarian woman named Gisèle Lalonde and a small team are travelling by car to all parts of that vast province to garner support for a project to enshrine Franco-Ontarians' rights in the Charter. You will tell me that Heritage Canada gave her funding for that trip. Is that so? I defy anyone in this Parliament to do what Gisèle Lalonde is doing with $35,000. You want people to be properly appreciative of that gesture. You would like Franco-Ontarians to be eternally grateful, when we are giving them crusts of bread to do our work for us!

Is this not our responsibility, especially since we in this chamber are constitutionally bound to defend the interests of the least powerful, the most vulnerable, those who have no voice? Is it not our responsibility to carry the message of the French fact to all parts of the country?

The Heritage Canada grant to the Opération Constitution movement is so laughably small that one is tempted to believe it was given in the hope that this movement would fail. That assumption failed to take into account the calibre of the persons who have decided to carry the torch, come what may.

Is that grant, instead, not a sad symbol of cuts to federal funding for official language communities? What has happened to the principle of equivalence, upheld by the Supreme Court in the *Mahé* case? How can we hope that these communities will develop when they do not have the same access as does the majority to federal government programs?

Canada's francophones continue to rise up like kites, into and against all winds of adversity. These people, hundreds of whom are still found in Acadie, Ontario, Manitoba and, indeed, all parts of the country, care about a single cause: Canada.

Canada's francophones believed this government when it said they were full and equal citizens, that Canada was a country for francophones, that in Canada they had their place in the sun. They believed this government so much that this profound conviction continues to lead them to fight for their rights today, in the hope that eventually this government will join them as a genuine ally, not a deceitful mercenary, in completing this forgotten vision.

The time has come for us, in this Parliament, to lend all of our efforts, all of our resources, and all of our voices to those who are successfully resisting and have always defied history. They are a people who refuse to die.

Honourable senators, I humbly ask you to read the report I tabled earlier today. It is a sincere and responsible piece of work, with neither claims to glory nor partisan bias. When you read it, I ask you to keep an open mind, open eyes, and an open heart.

Some sections of the report, like some of my statements today, will not please you. I very much wish things could be otherwise, but we cannot congratulate ourselves on the present situation. We can act, however. We must act.

I ask you to think about the following passage, on page 38 of the report.

> It is also surprising to note that, despite media coverage often designed more to trigger and fuel controversy than to report the news, Canadian public opinion, according to the analysis of Professor Stacy Churchill, has remained strongly in favour of official languages policies over the past 25 to 30 years. Professor Churchill's analysis has also led him to the conclusion that government administrations have failed lamentably in their attempts to inform Canadians of this support.

This support is the best-kept secret in the country. Over 75 per cent of English-speaking Canadians believe in the equality of the two founding peoples; 62 per cent believe that having official language communities in all parts of Canada is a great advantage for the country.

What do these figures tell us? In my opinion, they tell us not only that English-speaking Canadians agree that francophones — and institutions and public services for francophones — have a place among them, but also that the simple existence of French-speaking minority communities in Canadian society is part of English-speaking Canadians' own identity. In their view, being Canadian means that it is normal to accept that, around them, other Canadians choose to live in the other official language.

These figures also mean that Canadians understand the difference between linguistic duality and individual bilingualism. No one is asking that everybody learn and speak both official languages — even though, in a perfect world, that situation would presumably be the ideal. Linguistic duality means that all Canadians, both English- and French-speaking, can feel at home in this country. They can be born, live, and die in their language. They have institutions and services that speak their language. They are Canadians who also consider it normal for Canadians to live within or outside their language majority and share the whole of the Canadian experience with all of their fellow Canadians.

Honourable senators, these figures also mean that, as is often the case, Canada's politicians have become detached from the Canadian grassroots, where people await only a word, an action, an ounce of courage, to begin celebrating the end of our language wars.

I ask you, honourable senators, to take up this challenge to Canada as a whole.

I ask you to take up the torch from past heroes of Canada's French-speaking communities like former secretary of state Gérard Pelletier and former New Brunswick premier Richard Hatfield; and from one present hero, our colleague in this chamber, the Honourable Jean-Robert Gauthier, the senator for Ottawa-Vanier.

The time is ripe for dynamic, determined, definite recognition of Canada's francophone and Acadian communities. The time has come to act, to affirm and to activate the national will to ensure equality between English- and French-speaking Canadians.

Far be it from me, as a former finance minister in my province, to suggest that we go back to the spending sprees that left us with still-too-recent deficits. However, governments are now in an ideal financial position to invest again in building a network of institutions that will give these communities an equal opportunity to succeed. We must complete this forgotten vision.

[Senator Simard]

Personally, I feel that this investment in the potential of our French-speaking communities should never have been cut out or cut back.

Increasingly, Canadians recognize that bilingualism is cost-effective. Recently in Moncton, they saw with their own eyes how a reputation for openness and linguistic skills has opened formerly closed doors onto the world and specifically onto the emerging European economic superpower. Canadians heard a President of France paying tribute to a tolerant Canada, not inciting Quebec francophones to separate, as had been many people's only memory of a visit by a former french president.

Increasingly as well, majority Canadians are concerned about the erosion of the culture and language of their fellow Canadians in minority situations. They understand that a Canada without these minority official language communities would no longer be the country of which they are so proud. In the fight for the Montfort Hospital, for example, we saw unprecedented and unhoped-for alliances between the Franco-Ontarian community and members of the English-speaking community of that province and of other provinces.

What are we waiting for, to realize that the public has left us behind? What are the governments of this country and the provinces waiting for, to realize that the new generations have no interest in destructive language wars, that it is time to move on and build confidently on the foundations we laid three decades ago?

Why, in the turbulent 1960s, did the Dunton-Laurendeau commission speak of the worst crisis in Canada's history? It did so because it realized that Canada was on the brink of breaking up, that radical — and prompt — action was called for if we wanted Canada to survive the rifts that threatened it. At that time, Quebec was being swept by the Quiet Revolution and Premier Jean Lesage was calling on Quebec residents to affirm that they would become "maîtres chez nous". Increasing numbers of people in Quebec, who had always thought of themselves as French-Canadian, came to say they were Quebec citizens first, and perhaps exclusively.

Quebec residents, no longer accepting of minority status in Canada, would become a majority in Quebec. They realized they would never have full status in a Canada where their fellow francophones had endured so many affronts, where French-language education was still illegal.

Have we forgotten what got us into the present situation? Do the premiers realize that their own governments' historic intolerance was one of the sources of Quebec separatism? Does the federal government realize that, beyond any clever strategies for plans A, B, and C against "those darned separatists", perhaps they should think things through? How many sovereigntists dream of their own country simply because no one has ever wanted to give them what is theirs by right, because their most vital dream has been killed off by assimilationist policies?

Honourable senators, I do not ask you to turn back the pages of time. I do ask you to remember, to become wiser, and to lengthen your historical perspective. The report I submit to you contains 42 recommendations, the most important 10 of which form the backbone of our proposed recovery plan for Canada's francophone and Acadian communities. The task seems daunting, the challenge insurmountable; but the people of this country are equal to the task. You are equal to it. We are equal to it. Our recovery plan is an exciting, positive, and generous social vision.

The first step on this long journey is also the hardest, it is the step of courage: the courage to dare to go where no one wants to go, the courage to say things no one wants to talk about, the courage to take action that others will denounce. It is our duty to set an example; we have the power to change things. However, without the courage to do so, all that we stand for — including this fine place — is meaningless. When the walls of Parliament have become walls of silence, silence about the fate of the least powerful citizens, our existence is no longer justified.

I am confident, however, that you will hear me. I am confident that you will act. I am confident that, together, we can complete Canada, this magnificent work in progress.

On motion of Senator Kinsella, debate adjourned.

The Senate adjourned until Wednesday, November 17, 1999, at 1:30 p.m.

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Tuesday, November 16, 1999