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Tuesday, December 7, 1999

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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, December 7, 1999

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

HIS EXCELLENCY MR. FARÈS BOUEZ

LEBANON—MEMBER OF PARLIAMENT FOR KESROUAN

Hon. Pierre De Bané: Honourable senators, in my capacity as President of the Executive of the Canada-Lebanon Parliamentary Group, I am pleased to draw attention to the presence in Canada of His Excellency Mr. Farès Bouez, who represents Kesrouan in the Lebanese Parliament. He is also the chair of the Canada-Lebanon Parliamentary Group and was his country's minister of foreign affairs for close to eight and a half years, starting in 1990.

Mr. Bouez is the son of eminent jurist and parliamentarian Nohad Bouez and Mrs. Jacqueline Bouez, née Debs. He and his wife, Mrs. Zalfa Hraoui, are the proud parents of four children, Rhea, Nouhad, Tarek and Andréa. His Excellency chose the same career as his father, his uncles and his cousins. He holds a Master's degree in Lebanese law from the Université St-Joseph in Beirut, specialized in French law in the Faculté Jean-Moulin, in Lyon, and studied as well at Georgetown University in Washington.

We are delighted to welcome Mr. Farès Bouez. He arrived in Canada on Sunday, December 5, and will be with us until the end of the week. He has already had a working session with the Minister of Foreign Affairs, Mr. Lloyd Axworthy, their second, as he had received Mr. Axworthy in Beirut during our minister's official visit to Lebanon. During his stay in Canada, Mr. Bouez will be meeting with the diplomats at the Department of Foreign Affairs who monitor the situation in the Middle East, as well as senior officials of the Canadian International Development Agency.

In Parliament, Mr. Bouez also gave a talk to the Middle East Study Group on the situation in the Middle East. He will also be speaking this afternoon at the University of Ottawa, where he will be the guest of the Rector, Marcel Hamelin. He will also be received by the Speaker of the Senate, the Honourable Gildas Molgat, and will meet with officials of the other House in our Parliament.

During his visit here, Mr. Bouez will visit Montreal and will be received officially by Mayor Pierre Bourque. He will also meet with researchers at the Institute of Strategic Studies. He will

be received by the Chairman of the Board of the ICAO, Dr. Assad Kotaite, an eminent citizen of the Republic of Lebanon.

While he is here, Mr. Bouez will meet representatives of the Lebanese Canadian community. I would like to mention the exceptional contribution made by this community.

The Hon. the Speaker: Honourable senators, the three-minute period for statements is up. Does the senator have leave to continue his statement?

Hon. Senators: Agreed.

Senator De Bané: Honourable senators, the Lebanese community is not only present, but it stands out in all sectors in Canada, be it university education, medicine, law, business or at top levels of the Canadian public service. We remember the important role played by two doctors of Lebanese extraction in connection with two premiers of Quebec.

Beyond the geographic distance, which in reality fades with the emergence of the global village, Beirut is as close to us as other Canadian cities. Thanks to modern telecommunications and Internet technology, our two countries share the same values of democracy, tolerance, liberal economy and religious and cultural pluralism. In addition, the presence in Canada of a large Lebanese community solidifies and gives permanency to close relations between our two countries.

Canada strongly supports the independence, sovereignty and territorial integrity of Lebanon. It also supports Security Council Resolution 425 and the extension of Lebanese authority over its whole territory.

Last summer, at the Sommet de la Francophonie held in New Brunswick, Canada welcomed the President of the Lebanese Republic. We were pleased to note that President Lahoud's first visit outside the Middle East took place in Canada. Incidentally, Lebanon is the only Middle East country that is a full-fledged member of the Francophonie. The next Sommet de la Francophonie, which will follow the one held in New Brunswick, will take place in Lebanon, in the year 2001.

In conclusion, honourable senators, Lebanon embodies the exemplary values of tolerance, generosity and tenacity. It suffered the hardships of a terrible war ignited and fuelled by foreign powers, but it overcame that ordeal thanks to the courage and tenacity of its population. It is a model for the whole world. I also want to express to the Speaker of the Lebanese Parliament, His Excellency Mr. Nabih Berri, and to the President of the Lebanon-Canada Parliamentary Group, His Excellency Mr. Farès Bouez, our determination to work in close cooperation with them to strengthen the relations between our two countries.

[English]

HUMAN RIGHTS

Hon. Calvin Woodrow Ruck: Honourable senators, over 200 years ago, a great emancipation took place both in the British Empire and in the United States of America, wherein the black male, the black female and black children were physically freed from the shackles of slavery. However, in this enlightened age blacks are still judged by the colour of their skin.

Honourable senators, we have come a long way since the days of slavery. My ancestors were slaves. Now, however, we live in a democratic country where many opportunities are available to us. The human rights legislation of 1977 has come a long way in terms of assisting visible minority people to engage in the benefits and the things that this great country of ours has to offer, but, as a country, we do have some problems in terms of staying together. I have recommended to people that we continue to work together so that individuals are no longer judged by the colour of their skin but by the character of their heart.

Human rights legislation has made it possible for me to live in any part of Nova Scotia. Prior to the Human Rights Act, blacks were banned from certain sections of cities. We were supposed to live in areas comprised of "visible minority persons only." Human rights legislation rectified that. While we have come a long way and there is still a longer way to go, I agree with those who say that Canada is the best country in the world!

SUDAN PEACE PROCESS

Hon. Lois M. Wilson: Honourable senators, in the last nine months there have been some important developments in the civil war in Sudan. The conflict between the north and the south has not abated, and the capacity for pumping many more barrels of oil has increased since the completion of the pipeline from southern Sudan to Port Said in the north. The international community, including Canada, has made monies available to support a small four-person secretariat based in Kenya, under the auspices of the Inter-Governmental Authority on Development, known as IGAD. This African initiative, charged with brokering a peace plan, is supported by the International Partners Forum, of which Canada is one.

On October 26, 1999, Canada's Foreign Minister announced two appointments — mine, as Special Envoy to the Sudan Peace Process, and John Harker's, as Special Advisor on African Issues. The two appointments are complementary but different in focus, reflecting Canada's public policy on Sudan. My focus will be on reinvigorating the peace process after wide consultations with Canadian NGOs, academics, the Sudanese community in Canada, and envoys of sister countries that support the mediation process, as well as with the government and the armed opposition of Sudan.

This week, for example, some of us will meet with Mr. Bethuel Kipligat, a Kenyan civil society leader working on a Track 2 peace process designed to effect reconciliation between leaders of the Sudanese NGO communities of both the north and the south, backed by the Waterloo-based Project Ploughshares and the Montreal-based Alternatives. The following week, I will host an Ottawa meeting with Dr. Haruun Ruun and Telar Ring Deng, representatives of the New Sudan Council of Churches, which body includes peace-building and working with IGAD on north-south solutions, as well as coordinating church development work in that war-torn country.

Canada's position is that nothing short of a monitored comprehensive peace plan is acceptable. The work of reinvigorating the peace process is of a long-term nature; that is, there is no "quick fix." John Harker's team of experts is already in Sudan and his mandate has been fully reported in the media. He will make his report early next year.

Canada's policy is slightly more complex than that of the U.S.A. in that it includes a lively dialogue with Canada's private sector. If it becomes evident that oil extraction is either exacerbating the conflict in Sudan or resulting in violations of human rights, then consideration will be given to using economic or trade restrictions or other instruments that may be at hand.

Only an accelerated movement towards a just peace will allow all Sudanese to enjoy equitably the benefits of this natural resource. That is why Canada has made the two complementary appointments and appears to move at a more measured pace than our neighbour to the south, for example, in attempting to resolve these thorny issues.

VIOLENCE AGAINST GAYS AND LESBIANS

Hon. Erminie J. Cohen: Honourable senators, on November 7, 1999, Robert Peterson, a first-year law student at the University of New Brunswick in Fredericton, was brutally attacked while walking home late in the evening. The attacker was cowardly and jumped Mr. Peterson from behind, kicking his face repeatedly. He spewed hateful, anti-gay slurs at a young man who deserves so much better. Approximately two weeks later, a similar incident occurred in the same downtown area.

Honourable senators, I rise today in response to a call for action from concerned New Brunswick citizens. Amid hurt and hatred, one thing is clear: The leaders of our nation must take a stand and speak out against the prejudice and violence that is eroding our streets. Robert Peterson is not the first gay or lesbian individual to come face to face with such viciousness in our streets, nor will he be the last — that is, unless we, as a society, stand up and voice our outrage. Only by speaking out against this type of bigotry and discrimination can we begin to see an end.

As a Jew, this blatant act of hatred appalls me. We should have learned from the horrors of the Holocaust what hatred does to a person, a family, a community and a nation. I find this type of racism and discrimination deplorable. It is appalling that ignorant people continue to judge their neighbour by race, religion or sexual preference. These characteristics do not define the person as a whole and, only through understanding, can we move past the stereotypes and put an end to prejudice.

• (1420)

Honourable senators, hate-mongering against gays and lesbians should not be concealed or ignored. It should be exposed. By ignoring the problem, we license them to practise. By standing up and saying enough is enough, we are demonstrating our concern for the victims. We must not be complacent. As a nation, we should strive to understand our differences and live in harmony. Gays and lesbians have the right to feel safe walking home at night as do we all. They are human beings. The type of cowardice illustrated by Robert Peterson's attacker runs deep, laced with hatred and bigotry.

Mr. Peterson is now planning on leaving UNB and relocating from the Fredericton area. What a shame that an outspoken and brave young man should feel the need to leave his new community and school, all due to ignorance, intolerance and bigotry. I applaud his courage to come forward and share the hurt that has been inflicted on him. I can only hope that we, as leaders, will set the example for the entire country and show moral leadership by speaking out against these hate crimes.

CANADA-UNITED STATES RELATIONS

PROBLEMS AT BORDER CROSSINGS

Hon. Jerahmiel S. Grafstein: Honourable senators, later this day I will table the report of the Canadian delegation to the Fall Conference of the CAN/AM Border Trade Alliance held in Washington, D.C., from September 12 to 14, 1999. Joe Comuzzi, of the other place, and I, as the Canadian co-chairs of the Canada-United States Inter-Parliamentary Group, were invited to speak at this benchmark meeting of important trade stakeholders on both sides of the border.

Honourable senators will know that two-way trade between our two countries now exceeds \$1.3 billion per day and is growing daily. Two-way trade has quadrupled in the last decade. Unhappily, border-crossing points suffer from traffic jams, gridlock and congestion. Long, costly delays are the order of the day. I estimate there are three levels of government as well as private authorities and at least 17 government agencies on both sides of the border with some governance responsibility for our border-crossing points. We can only note a deficit in leadership to renovate this bureaucratic barrier to trade efficiency that clogs our border corridors every day.

With the advent of "just-in-time" inventory practices and "just-in-time" product delivery exploding because of the Internet, this cancer of gridlock will intensify and metastasize daily. The

result is that Canadian productivity and competitiveness will continue to suffer. To date, there has been no master plan to ease this self-evident and eroding condition. Rather than political leadership, we encounter bureaucratic avoidance, inefficiencies and — worse — turf wars.

Joe Comuzzi and I joined members of the U.S. Congress — including Senator Moynihan of New York State, Senator Abraham of Michigan and our old friend and colleague Senator Frank Murkowski of Alaska, co-chair of the Canada-United States Inter-Parliamentary Group — as guest speakers. All of us brought home forcefully, each in our own way, the same message.

Our American colleagues have awakened to the problem. Massive investments in road and real infrastructure have just been allocated by Congress. This priority of investment has not been matched by the Canadian side. Leaders, ministers and ambassadors have yet to meet to work out a common plan to sort out this bureaucratic morass.

Honourable senators, only when our actions match our words will we become a trading nation on the ground as well as in the air. Hopefully, the millennium will wake up our responsible governments to act on their responsibility to benefit all Canadians.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— PROPOSAL TO DECLARE OTTAWA UNILINGUAL ENGLISH

Hon. Marie-P. Poulin: Honourable senators, I rise today to express a strong disappointment with what many of us read in today's *Ottawa Citizen* and on the first page of *Le Droit*. I find it surprising and shocking that the capital city of this bilingual country would not have its language duality declared officially in the regional restructuring legislation now before Queen's Park.

What kind of message is sent to Canadians across this land when a freshly-minted capital, the seat of the federal Parliament, still clings to the vestiges of unilingualism? Is the provincial government so anxious to impose a massive overhaul of the region yet sublimely indifferent to its francophone component?

Senator De Bané: Shame!

Senator Poulin: Surely it would be a simple matter for the Government of Ontario to declare Ottawa a bilingual region, along with the other restructuring recommendations in Mr. Glen Shortliffe's admirable report.

[*Translation*]

Honourable senators, it is much more than a local or provincial issue. It is a matter of national pride.

Canada plays a key role on the international scene. Ottawa regularly welcomes heads of states from all over the world. Ottawa is where ambassadors and their staff work to promote the diplomatic and trade relations of their respective countries with Canada.

Ottawa is also where the Parliament of Canada and the bulk of the federal public service are located, and it is a place where parliamentarians and public servants can choose to live in English or in French.

[English]

Honourable senators, I call upon you to join me in urging the Government of Ontario to rethink its actions and to restore the concept of a new, bilingual capital city of Ottawa, the bilingual capital of Canada, into its current restructuring legislation.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I wish to add my welcome to that of the Honourable Pierre De Bané, because I have often met with Minister Bouez and the Ambassador of Lebanon.

On this day when representatives of a multi-constitutional country are paying a visit to a country that calls itself bilingual and multicultural, it is a pity that the news to which Senator Poulin referred is breaking.

[English]

I will not abuse this privilege today. I will come back to this matter. You all know what I think of this country and you all know what I think of Ottawa. Ottawa is the capital for all Canadians.

[Translation]

It would be unthinkable for Ottawa to be the national capital and for only one of the two official languages to be spoken here, for French Canadians and other French-speaking Canadians not to be able to say that Ottawa was their capital as well.

[English]

• (1430)

I will not say anything more now because this will be a long debate, but I will return to the subject. I am certain that honourable senators wish to join with Senator Poulin and others in saying that something must be done so that Ottawa truly reflects what Canada is all about. We say many things around the world, and we should start by reflecting them here in Ottawa, Canada.

[Senator Poulin]

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I call your attention to the presence in our gallery of Mr. Farès Bouez, Lebanon's former minister of foreign affairs and President of the Canada-Lebanon Parliamentary Friendship Group.

[English]

Mr. Bouez is accompanied by His Excellency the Ambassador of Lebanon to Canada.

[Translation]

ROUTINE PROCEEDINGS

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE

Hon. Céline Hervieux-Payette, a member of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, December 7, 1999

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

SECOND REPORT

Your Committee, to which was referred 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, has examined the said Bill in obedience to its Order of Reference dated Wednesday, November 24, 1999, and now reports the same without amendment.

Respectfully submitted,

CÉLINE HERVIEUX-PAYETTE
Member of the Committee

[English]

BILL REFERRED TO FOREIGN AFFAIRS COMMITTEE

The Hon. the Speaker: Pursuant to a special order of the Senate moved with leave and adopted on November 24, and notwithstanding rule 97(4), this bill now stands referred to the Standing Senate Committee on Foreign Affairs.

**PERSONAL INFORMATION PROTECTION
AND ELECTRONIC DOCUMENTS BILL**

REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, December 7, 1999

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-6, an Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act, in obedience to the Order of Reference of Monday, December 6, 1999, has examined the said Bill and now reports the same with the following amendments:

Page 3, Clause 2 : Add the following after line 2:

““Personal health information”, with respect to an individual, whether living or deceased means:

- (a) information concerning the physical or mental health of the individual;
- (b) information concerning any health service provided to the individual;
- (c) information concerning the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- (d) information that is collected in the course of providing health services to the individual; or
- (e) information that is collected incidentally to the provision of health services to the individual.”.

1. Page 23, Clause 30:

(a) Add the following after line 4:

“(1.1) This Part does not apply to any organization in respect of personal health information that it collects, uses or discloses”; and

(d) Add the following after line 7:

“(2.1) Subsection (1.1) ceases to have effect one year after the day on which this section comes into force.”.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

Senator Kirby: Honourable senators, with leave of the Senate and notwithstanding 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to, and bill placed on the Orders of the Day for consideration later this day.

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, December 8, 1999, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate; and

That all matters on the Orders of the Day on the Notice Paper, which have not been reached, shall retain their position.

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

Hon. Senators: Agreed.

Motion agreed to.

**CANADA-UNITED STATES
INTERPARLIAMENTARY GROUP**

CAN/AM BORDER TRADE ALLIANCE CONFERENCE—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to present, in both official languages, the report of the Canadian Delegation to the fall conference of the CAN/AM Border Trade Alliance, held in Washington, D.C., from September 12 to 14, 1999.

RICHARD G. GREENE

APPOINTMENT AS HONORARY OFFICER OF THE SENATE—
FELICITATIONS ON RETIREMENT

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, with leave of the Senate, I am pleased to move, seconded by the Leader of the Opposition, the Honourable Senator Lynch-Staunton:

That the Senate desires to record their deep appreciation of the distinguished service rendered by Mr. Richard G. Greene as Deputy Clerk and Principal Clerk, Legislative Services of the Senate; and

That in acknowledgement of the dignity, dedication, and profound learning with which he has graced the office, he be designated an Honorary Officer of this House with an entrée to the Senate and a seat at the Table on occasions of ceremony.

Hon. Senators: Hear, hear!

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

Hon. Senators: Agreed.

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

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I happily take this occasion to speak for a few minutes in support of this motion.

This is a bittersweet occasion. It is bitter because Richard Greene — I think of him as Senator Greene — will be leaving us as of the end of the year. Actually, I think of him as exactly who he is — an extraordinary Table Officer in this house. It is sweet because he is so young. I look at him, and I regard him as younger than I am, and for me that is very young.

Even so, Richard has been in this place for a remarkable 44 years. I went down the hall to look at the photographs of leaders of the government of this place — unfortunately they do not take pictures of the leaders of the opposition — and the leader at the time Richard joined the Senate was one

William Ross Macdonald from Ontario. I am sure you are one of the very few people in this room, Richard, who even recognizes his name. I do now, and I am well acquainted with his remarkable achievements, but only because I read about them. Richard, you have seen eight prime ministers come and go since you started here in the time of Louis St. Laurent.

Honourable senators, Richard Greene is distinctive and distinct in this place and, I am sure, in most records of public service. He has made a unique contribution, starting out as a page and becoming the Deputy Clerk.

Richard, you have served us with extraordinary grace and scholarship, and we thank you for that. I am pleased to speak in support of this motion, and I look forward to seeing you on many ceremonial occasions. May you have a long and happy retirement. I extend best wishes from all of us to you and your family on this special day of recognition, and may you have a great year 2000 and beyond.

• (1440)

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am very pleased to rise and enthusiastically second Senator Boudreau's motion, if for no other reason than one of selfishness, if not fear. I need not remind you that Richard Greene, more than any other staff, sees all, hears all, and at least so far, has said very little, if anything. This is particularly significant when you realize that since arriving here in 1956, he has seen 277 of the 827 senators who have been named since Confederation. One-third of them have passed under his scrutiny. He has attended to 14 speakers and counselled nine governors general.

What a story Richard Greene could tell of his over 40 years here, and how reassuring to know that he is prevented from doing so as long as he is associated with the Senate, even in an honorary position. Honourable senators, I believe this is reason enough to support the motion without hesitation, and even in indecent haste, no matter how many leaves are required.

I wish to stress in particular Richard's impartiality, despite the fact that at least on this side his political leanings are somewhat suspect. Indeed, he dispenses convoluted procedural advice equally and without favour. The fact is, honourable senators, putting weak humour aside, this place will not be the same when we return next year because a little of the Senate is also leaving with Richard's departure. He has been too much a part of this place for it not to be otherwise. I can only hope that he will also take with him our respect, our gratitude and much affection, for, in the spirit of the Speaker's ruling yesterday, no minion has better served the Senate.

Senator Boudreau: Honourable senators —

The Hon. the Speaker: I must advise the Senate that if the Honourable Senator Boudreau speaks now his speech will have the effect of closing debate on the motion.

Senator Boudreau: Honourable senators, I should like to associate myself with the remarks by my deputy leader, the distinguished Leader of the Opposition and, as well, with all of the remarks that will be offered privately to Richard. I congratulate him and his family and wish them all a very happy, successful, and prosperous retirement. We all look forward to seeing you appear here as a very special and honoured guest.

With that, my role would be to move adoption of the motion.

Hon. Senators: Hear, hear!

The Hon. the Speaker: It was moved by the Honourable Senator Boudreau, seconded by the Honourable Senator Lynch-Staunton:

That the Senate desires to record their deep appreciation of the distinguished service rendered by Mr. Richard G. Greene as Deputy Clerk and Principal Clerk, Legislative Services of the Senate; and

That in acknowledgement of the dignity, dedication and profound learning with which he has graced the office, he be designated an honorary officer of this house with an entree to the Senate and a seat at the Table on occasions of ceremony.

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

Hon. Senators: Agreed.

Motion agreed to.

PAGES EXCHANGE PROGRAM WITH THE HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you the page from the House of Commons who is on exchange with us this week.

[*Translation*]

Julien Morrissette, a native of Ottawa, is a student in the Faculty of Political Science at the University of Ottawa.

On behalf of all of honourable senators, I welcome you to the Senate. We hope that your time with us will be pleasant, but more important, that it will be interesting and profitable.

[*English*]

QUESTION PERIOD

TRANSPORT

POSSIBLE TAKEOVER OF CANADIAN AIRLINES BY
AIR CANADA—SERVICE TO REGIONAL AIRPORTS

Hon. Ethel Cochrane: Honourable senators, my question is to the Leader of the Government. In yesterday's *Globe and Mail*, the Minister of Transport was quoted as saying:

We believe we've got to create an environment to encourage domestic competition to the new carrier...

There is no way we want to go back to the old regime of re-regulation...

That is the minister's reaction to the imminent takeover of Canadian Airlines by Air Canada. My question to the leader is this: Is the government aware that at most small airports in Canada there is no competition now? The issue is not choosing which airline to fly with; the issue is whether or not there will still be any airline serving the local airport.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for the question. Obviously it is a matter of concern, particularly in certain areas of Atlantic Canada. I believe the honourable senator brought to the Senate's attention the situation in Stephenville, where, at least temporarily, there is no flight service from that airport. People are required to travel roughly 100 kilometres to seek air transportation.

Stephenville is a good example, perhaps, of the current problem facing our air transportation sector because this airport has been problematic in the past. Before the recent events in the air transportation sector, it had been a matter of some concern to provide air service from that particular airport. The minister is aware of this situation, and certainly the strong representations from senators and members of the other place, particularly from Atlantic Canada and other small centres, will help to keep that issue firmly before him.

Senator Cochrane: Honourable senators, where I live is approximately 120 kilometres from Deer Lake. However, there are some other communities now without service and people will need to drive approximately 150 kilometres. I am thinking about people in communities such as Port aux Basques and Cape St. George on the mainland, and Port au Port Peninsula, who will need to travel much further.

My supplementary question is this, honourable senators: The Minister of Transport has been articulating a policy which is designed to serve Toronto, Montreal, Vancouver, Calgary and Halifax, but that policy will not serve the interests or meet the concerns of Canadians living in smaller communities. Does the government not realize that a policy of encouraging competition will not get airplanes flying out of Stephenville or Charlo or Chatham, New Brunswick, or any other airports that have been abandoned already by InterCanadian Airlines?

Senator Boudreau: Honourable senators, the statement by the minister, I would speculate, was not intended to be comprehensive in nature. As a matter of fact, I have mentioned a number of times in this place the basic principles attached to the government's policy, and one of them specifically deals with the provision of services to our smaller communities throughout the country. The minister has indicated on a number of occasions, both in the House of Commons and publicly elsewhere, that this necessity of ensuring service to small communities across Canada will form an integral part of government policy.

• (1450)

TREASURY BOARD

PREPARATION FOR YEAR 2000—
POSSIBILITY OF HEARING BY COMMITTEE OF THE WHOLE

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government, though it could be equally directed to the Deputy Leader of the Government. It arises out of a question asked of me a few moments ago by our whip.

Senator DeWare asked me where I would be shortly after New Year's. I said that I would be at home, but that I do have a new number and I gave it to her. I said, "Why do you want to know where I will be?" She said, "Oh, in case something goes wrong at midnight on that fateful day."

I have a growing apprehension that just possibly the government is not all that certain of how Canada stands with respect to potential Y2K problems. To that end, in order that our minds might be set to rest, I should like to ask the Leader of the Government in the Senate if he would ask the appropriate ministers, such as the Minister of Defence, together with one or two of their experts, to appear before us briefly in Committee of the Whole prior to the Senate rising for the Christmas break. This would allow senators the opportunity to ask questions about the wide range of matters that could be affected.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, Minister Robillard, the President of the Treasury Board, is the minister responsible for Y2K preparations. I am assured that the preparations have been thorough in all essential sectors and that the Government of Canada does not expect any problems with the transition to the new millennium.

Prudence is always a good element of any such program. Knowing where key people, such as the honourable senator, will be located at all relevant times may be of importance. As part of the overall planning, it simply demonstrates a level of prudence. However, I do not think it should set off any alarm bells.

Senator Forrestall: Honourable senators, I could ask the government whip whether or not he has found it necessary to seek such information. If he has, would he give some credence to that possibility?

My supplementary question is directed to the Deputy Leader of the Government in the Senate. Will he give some consideration to having the appropriate minister and someone from their staff spend 20 minutes or half an hour with us just to give us that reassurance?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I know from previous experience that it is not in order for me to answer a question unless the leader is absent. However, in not answering the question, let me take notice of what the honourable senator has said and attempt to deal with it.

HERITAGE

NATIONAL HOCKEY LEAGUE—POSSIBLE NEW LOTTERY TO
SUPPORT CANADIAN TEAMS—ANNOUNCEMENT BY MINISTER

Hon. David Tkachuk: Honourable senators, from Y2K I go to Sheila Copps, who is a Y2K problem of her own. We can always hope that she will fail to work after December 31.

Honourable senators, it was reported recently in *The Globe and Mail* that Sheila Copps had announced a new plan. Following in the great tradition of Liberal governments since 1993, she made her announcement outside Parliament. Her plan is that a lottery system will be used to help professional hockey teams in Canada. Since the announcement was not made in the other place, could the Leader of the Government in the Senate explain the new plan?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I must indicate to the honourable senator that I have not been present at any meeting where such a plan has been announced. Therefore, I am afraid I cannot help him with the matter.

Senator Tkachuk: That is an honest answer, honourable senators. It seems that was the honest answer of the minister in charge of this problem, Minister Manley, who did not have a clue about the announcement either.

Who in the government is in charge of finding a solution to the problem? Is it Sheila Copps, the Minister of Canadian Heritage, or is it John Manley, the Minister of Industry?

Senator Boudreau: Honourable senators, there is certainly a level of concern and a shared responsibility among all the members of the executive council. Certainly, Minister Manley would be the lead minister in this regard.

Senator Tkachuk: Honourable senators, it intrigues me how the government has been dealing lately with national problems. Minister Copps has laid out a plan. She discussed it with Premiers Harris and Klein at the Grey Cup game. Yet, Minister Manley has no clue about it. As a matter of fact, she announced the plan outside Parliament. It was reported in *The Globe and Mail* before parliamentarians had heard anything about it. The

responsible minister does not know anything about the plan. This does not give me a great deal of confidence in anyone finding a solution to what the NHL teams in Canada have raised as a major problem for them, continuing to do business here.

If all the ministers and all the members of government are in charge of finding a solution to this plan, it might help us if the minister were to explain the process to us. How does one arrive at a solution to a problem such as this?

Senator Boudreau: Honourable senators, I am sure that this is a matter of concern to all members of the Privy Council. Ultimately, the decision will be a decision of government. It is a decision that will be very carefully weighed and all relevant considerations will be taken into account.

Perhaps the lesson to be learned in this incident is that one should not always believe everything one reads in *The Globe and Mail*.

INTERGOVERNMENTAL AFFAIRS

QUEBEC—POSSIBLE CONDITIONS OF REFERENDUM— TIMING OF ANNOUNCEMENT BY PRIME MINISTER

Hon. Lowell Murray: Honourable senators, by all accounts today was the day when the cabinet was to have made a decision concerning the Prime Minister's initiative to establish federal government parameters for any future referendum in Quebec. Has any decision been taken?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, any resolution to discussions which would have taken place, were they to have taken place, would be made public by the Prime Minister in due course. I am sure the honourable senator would be aware of that.

Senator Murray: Honourable senators, I naturally appreciate the reluctance of the Leader of the Government to upstage the Prime Minister on his own announcement. Can he, however, let us know when we may expect an announcement from the Prime Minister on this matter?

Senator Boudreau: With apologies to the honourable senator, I would be reluctant to guess the Prime Minister's timing on an issue so important and so central to him. At the risk of accidentally misleading senators, I would beg not to give a direct answer to this question and would prefer to answer using the common phrase, "in the fullness of time." One would hope in the relatively near future that the Prime Minister will come forward with his announcement.

• (1500)

Senator Murray: Honourable senators, I appreciate that. I am not trying to rush things. I ask the question simply because there is a possibility, perhaps even a likelihood, that Parliament, which obviously includes the Senate, will be involved.

What I am trying to get at is whether we should be ready, if not to deal with a matter, at least to take note of an initiative in Parliament before the Christmas recess.

Senator Boudreau: Honourable senators, if the Prime Minister's direction is to proceed by way of legislation, then, by necessity, the Senate will have a major role to play. As to whether that might interfere with our Christmas celebrations, I am fairly confident that we all will be celebrating Christmas with our families.

LABOUR

PLIGHT OF HOMELESS—STATUS OF GOVERNMENT STRATEGY

Hon. Brenda M. Robertson: Honourable senators, my question is for the Leader of the Government in the Senate and it concerns the government's strategy to fight homelessness. It is really a follow-up question to an answer the honourable leader gave in response to a question asked by Senator Cohen on November 23.

The government appointed the Minister of Labour to coordinate the government's response to the problem of homelessness late last winter. At that time, there seemed to be great urgency. Much concern was expressed and many people were suffering last winter. At that time, the minister said she would develop the government's strategy within a month.

Honourable senators, what concerns me, given the elapsed time, is the possibility that the strategy may have become bogged down inside government. Indeed, a report in yesterday's *Toronto Star*, which I am sure the leader has read, suggests just that. A government source is quoted as follows:

We just haven't delivered. Not everyone is happy about it. The minister has been working and there are things we can say we've done, but we haven't delivered.

I do not want to rely solely on this article. Perhaps the government leader could expand on his answer to Senator Cohen of a couple of weeks ago and inform the chamber at what stage the homelessness strategy is and on what basis he said that he expects there will be more to announce shortly. "Shortly" is always a very strange word here.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the minister responsible has done a remarkable job consulting across the country, travelling and meeting with groups directly involved. She has covered a tremendous amount of ground and is very aggressive about putting forward policy positions and programs for this particular group of individuals.

I can assure the honourable senator that this process has not been stalled. The minister is diligently and aggressively pursuing her recommendations.

As to the timing of any announcements, once again I must say that that will be left with the minister to decide. However, I share the senator's hope that it will not be delayed for too long.

Senator Robertson: Honourable senators, I thank the leader for that answer. What bothers me is that the government was premature in saying that a strategy would be in place long before now. I believe this increased expectation has undermined the government's good intentions somewhat and has created confusion for everyone who has an interest in tackling this very serious problem.

In the same *Toronto Star* article, the Minister of Finance was quoted as saying that the strategy needs an agreement between the three levels of government to work. Many honourable senators here, including the government leader and myself, have been involved in negotiating federal-provincial agreements. We all know how difficult that is and how long it can take, so who knows when we will get a homelessness strategy. Now that there must be an agreement between the provinces and the municipalities, we could be looking at two or three years. In the meantime, many people are suffering.

Could the Leader of the Government in the Senate inform the chamber if negotiations with the provinces have started and what is the timetable?

Senator Boudreau: Honourable senators, other levels of government have a clear responsibility to help deal with this very significant challenge facing us across the country. It is clear that they do have a role to play. Any program the federal government brings forward would not be a substitute for the responsibilities that constitutionally fall on the provincial governments and their surrogates, the municipalities.

I will convey the honourable senator's questions to the minister and I will provide as much information and detail as I am able.

Senator Robertson: Honourable senators, part of the concern of many residents in Canada is that there was no mention of provincial or municipal involvement at the time of the announcement last winter. It seems that the federal government has not taken the lead as they said they would. This is troubling, and I would like some definitive and clear answers so that I can respond in a sensible manner to the people who are in contact with my office on a continual basis.

Senator Boudreau: Honourable senators, I appreciate the honourable senator's impatience, if you will, with this question. I can only assure her that the minister is very involved and continues to move the agenda forward. To repeat what I have just undertaken to do, I will provide whatever additional information I can in an effort to relieve some of the concern expressed by the honourable senator.

FOREIGN AFFAIRS

REPORT OF CANADIAN COUNCIL FOR INTERNATIONAL CO-OPERATION—RECOMMENDATION TO ESTABLISH TASK FORCE—GOVERNMENT POLICY

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. Today, the Canadian Council for International Co-operation released a report, "The Reality of Aid," which points out that Canada's contributions to official development assistance have reached a 30-year low and now stand in eleventh position among the 21 OECD donors, down from seventh position in 1996. This is a pretty poor performance for the number one country in the world.

Recognizing that the government has said that Canada intends to increase the aid budget, the question remains as to the quality of aid. Thus, the council has recommended the creation of a Canadian aid renewal task force to undertake a systematic review of CIDA's program priorities.

Will the government leader take this recommendation to the government and undertake to report back to the Senate whether such a task force will, in fact, be created and, if not, why not?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I recognize the report to which the honourable senator refers. It was released today, I believe, so I am sure the minister in question has not had an opportunity to review it in any detail as yet.

The Speech from the Throne clearly outlines a commitment to increased aid and international development assistance. It further makes a commitment that such assistance will be brought forward in innovative new ways to be more effective in assisting poor countries to achieve economic development results. I hope the sentiment expressed in the Speech from the Throne will be given effect as we move through the budget process.

• (1510)

To answer the honourable senator's question specifically, I will convey his inquiry to the minister in question. We should give the minister some time to absorb the substance of the report, but I will undertake to bring back a response to the honourable senator.

PLAN TO ESTABLISH COHERENT FOREIGN AID POLICY

Hon. Lois M. Wilson: Honourable senators, I was at the round table today sponsored by the CCIC with CIDA officials present. One of the questions raised, and which I should like to pose to the Leader of the Government, was this: What plan is being advanced by the government for more coherence in foreign aid policy to balance the needs of trade with human rights, foreign affairs and the environment? Where is the forum to resolve these contradictions so that there will be more coherence in our aid policy?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the Speech from the Throne clearly signalled a renewed look at our foreign aid policy. That renewed look will be brought forward as we work our way through the budget cycle and address some of the important issues that have been raised in that regard.

The decisions regarding foreign aid obviously must respect the goals of reducing poverty, improving health and education and, indeed, the good governance in countries throughout the world. It remains an important objective of the Department of Foreign Affairs and International Trade.

Senator Wilson: Honourable senators, that is very comforting, but the answer we received this afternoon is that there is no plan.

Senator Boudreau: Honourable senators, I would hate to be that definitive. The plans, as indicated in the Speech from the Throne, will be developed over the weeks and months ahead. As we move through the budget cycle, I am hopeful that the honourable senator will see some detail that will give her some comfort.

COMPOSITION OF BUDGET FOR FOREIGN AID

Hon. A. Raynell Andreychuk: Honourable senators, the Prime Minister has indicated that the aid budget will be increased. The aid budget has been depleted to a 30-year low. It has also started to include more humanitarian aid and peacekeeping and the kind of intervention that is taking place in Kosovo. Is there any undertaking by the government to increase the aid budget for traditional programs of education and basic health, rather than for those other initiatives, which should justifiably be put under a different category?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, Canada's role through our armed services has expanded dramatically. There are probably more service members overseas today than there have been since the Korean War. Our peacekeeping role has been expanded dramatically. I have not had an opportunity to read the report, "The Reality of Aid 2000," so I do not know how such expenditures are categorized therein. My impression was that those expenditures would not have been lumped in, for purposes of budgeting, with the aid expenditures referenced by the Prime Minister and the initiatives described in the Speech from the Throne.

Senator Andreychuk: Perhaps I could enlighten the minister. Many of the costs for peacekeeping initiatives, the military interventions, and the peace-building and humanitarian activities were covered with funds from the aid budget. That category has increased, whereas other aid capacities have decreased. I would appreciate it if the minister would look into the question of supplying more aid directed to the root causes of unrest in developing countries.

PROVISION OF FOREIGN AID CONDITIONAL ON HUMAN RIGHTS RECORD—GOVERNMENT POLICY

Hon. A. Raynell Andreychuk: Honourable senators, if the speech by Maria Minna accurately reflects present government policy, then Canadian aid in the future will be conditional upon receiving countries adhering to peace-building policies. Is that the government's policy? Is that a change in the Liberal government's position? The Liberal Party in the past has spoken against tying aid to human rights.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, because I am not familiar with the particular speech to which Senator Andreychuk refers, I will raise the matter with the minister responsible and bring back an answer for the honourable senator as soon as possible.

BUSINESS OF THE SENATE

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, had there been time in Question Period, I would have asked a question of the Chair of the Standing Senate Committee on Banking, Trade and Commerce. That senator is not in the chamber; however, I do see in the chamber the deputy chairman and several members of the Banking Committee.

Earlier today, Senator Hervieux-Payette presented a report from the Banking Committee that was read and taken to the Table. I went to the Table to examine the report, and it had not been certified as a report from the committee by the Chair of the Standing Senate Committee on Banking, Trade and Commerce. I was advised by the Table Officers that they had noticed that as well and had sent it back to Senator Hervieux-Payette for her signature.

Can the Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce describe for us the nature of the meeting in which it was decided — if, indeed, it was decided — that the Banking Committee should study, clause by clause, Bill S-3? Is there a record of that meeting? Was a motion put, and is there a record of that motion, instructing the chair or the deputy chair to present that report in the Senate?

Hon. David Tkachuk: Honourable senators, the answer is "yes."

Senator Kinsella: Can the deputy chair explain whether another senator was designated to present the report to the house, rather than having it presented in this house by the chair or the deputy chair, which is the custom and usage of this place?

Senator Tkachuk: Honourable senators, I am not Senator Kolber. I do not know what was in his head. Originally, when we agreed to report the bill, Senator Kolber said he would bring it to the Senate on Wednesday, December 8. At the meeting on Thursday last, he said he may bring the report in earlier.

A message was received in my office yesterday asking me to report the bill, but I was in transit from Saskatoon to Ottawa, and, as you may know, that takes all day. Therefore, I gave no response to that request.

• (1520)

The first I heard about it being presented today was when Honourable Senator Hervieux-Payette rose in this chamber.

Senator Kinsella: Honourable senators, in a publication of the Senate dated November 1999 entitled *Fundamentals of Senate Committees*, on page 14 there is a description of how reports are to proceed from a committee to the chamber. It indicates that, when a committee chair submits a report, the committee is stating that it has concluded the work assigned to it by the Senate through the order of reference. In the instance of a bill, that includes, in committee, clause-by-clause analysis of that bill. The usage and the practice is that, in committee, the chair asks the question: "When shall this bill be reported?" A member of the committee then moves a motion in that respect. Authorization is thereby given, if that motion is carried, to the chair to present it. This publication also says that the report is either put forward by the chair or another designated member of the committee.

I should like to determine, in the absence of the chair and the deputy chair, the process that was followed by which another member of the committee was so designated. The process needs some quality and control in order for us to know whether a committee report is indeed the report of the committee decided by the majority members of the committee. That is one of my problems with respect to the report that was presented in this place earlier in the proceedings.

My second problem is that I am not certain — because I do not have the blues here yet — as to what His Honour said upon presentation of that report. I believe I heard something about leave being granted for something, but I do not know whether that was in reference to the proceeding that was occurring here today or whether it was in reference to the decision that had been taken some time ago when the bill was referred to the Banking Committee. There was some confusion at that time as to whether it was sent to one committee or two committees.

We need clarification on those two matters.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should like to speak to this point of order.

I have listened to Senator Kinsella. I am not sure whether he is concerned about three matters or one matter. He first raised the matter of the necessary signature on the bill and I gather has found that when he examined the bill there was no signature. I gather that is something that has been remedied since that was discovered.

The second matter is whether it was dealt with properly by the committee. I gather from Senator Tkachuk's question that, in his opinion, there was a motion to report the bill.

[Senator Tkachuk]

The third matter is whether there was a proper designation of a member of the committee in terms of whether it should be presented by the chair, who is not here and could not report it, the deputy chair, or another member of the committee, in fact, the sponsor of the bill, Senator Hervieux-Payette. I am not sure if that would go to the propriety of whether the matter is properly before the Senate, but I would submit that it does not; that a member of the committee might present in the absence of the chair when the deputy chair is present, although the normal expectation would be that the deputy chair would act in the absence of the chair.

As to the wording of the Speaker's statement following the tabling of the report, I will repeat it. I was given a copy.

Senator Lynch-Staunton: You were the only one, then.

Senator Hays: It was:

Pursuant to a special order of the Senate moved with leave and adopted on November 24, and notwithstanding rule 97(4), this bill now stands referred to the Standing Senate Committee on Foreign Affairs.

I received that while coming into the chamber. I am sorry that a copy was not provided to my counterpart; I will ensure that he gets one.

My understanding is that that was to ensure that this legislation was dealt with in an orderly way according to the desire of the Senate. I was trying to accommodate the bill being reviewed not only by the Banking Committee but also by the Foreign Affairs Committee because of matters that senators raised in connection with the specifics of the bill. I will not get into that, however.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, at question is the principle of allowing a member of the committee, without authorization of the committee, if such is the case, to table a report, even if it is approved by the committee.

The committee decided to report the bill. No one, as far as I know, has seen a draft of the report — perhaps not even the chairman or the deputy chairman. Out of propriety and respect for their position, they should at least have seen or authorized the release of the report here. I gather that that was not done and that Senator Hervieux-Payette was not authorized formally by the committee to present the report. I request confirmation of that.

Senator Tkachuk: No, that was not done.

Senator Lynch-Staunton: Second, not to bog down in procedure, and, I hope, not setting a precedent in sending a bill to more than one committee, I do not see how the Speaker is authorized to send, during Routine Proceedings, a report that has not even been debated in this place from one committee to the next. I do not see the link that the Speaker can make. This is more a point of information, but I had assumed, during the two days of debate on this issue, that the report would be presented

here and that the Senate on its own would decide what to do with it. It is a report to the Senate; it is not a Speaker's report. I do not know what this term "special order" means. When you reread the debate, it simply says, as Senator Hays explained on the second day when he clarified some remarks that were not properly transcribed into the official Hansard, first in one place and then in the next place.

The assumption was that, to get from one place to the other, it would need reconfirmation in this place. The Speaker acted on our behalf, without explanation and without warning. I always thought it was the Senate that, in the long run, decided how to deal with bills and reports and where they should go. In this case, though, although we do want it to go to the Foreign Affairs Committee, it was done in a way in which the Senate had no say. The Senate never had an opportunity to look at the report, to see what was in it.

Senator Hays: I wish to make a further comment on the matter of order, specifically in the context of Senator Lynch-Staunton's expressed concern about whether the bill would come back here to be referred to the Foreign Affairs Committee or whether it would go to the Foreign Affairs Committee after the Banking Committee had dealt with it.

I do not have the precise language in front of me, but I believe it was the interpretation that the Speaker has put on it, that is, that it would go to the Banking Committee first and, following disposition of it or dealing with it by the Banking Committee, that it would go to the Foreign Affairs Committee. We were silent on anything more than that. It is a reasonable interpretation that it would go directly to the Foreign Affairs Committee after the Banking Committee's deliberations were completed. It is also possible to interpret it the way Senator Lynch-Staunton interpreted it. In any event, I gather that the Foreign Affairs Committee has not commenced its deliberations.

Would the Honourable Senator Lynch-Staunton care to add a few words in terms of his desire to have the matter heard here in the Senate as opposed to the Foreign Affairs Committee?

• (1530)

Senator Tkachuk: Honourable senators, may I ask a question on this matter as well, as I believe there is a point of order that refers to me?

The Hon. the Speaker: Honourable senators, I presume we are on a point of order, and anyone can speak to a point of order.

Senator Tkachuk: I have not had a chance to ask Senator Kroft, who is a member of the steering committee with me on the Banking Committee, whether he was aware that Senator Hervieux-Payette would present the report in the chamber today.

The Hon. the Speaker: I am sorry, but a question to Senator Kroft is not in order at this time. However, if he wishes to answer and the Senate is prepared to hear him, that is up to him.

Senator Tkachuk: Perhaps I could explain why I wish to speak at this time. Senator Kinsella raised an interesting point. I have only been here six years, but I was chairman of the Finance Committee for some time and Senator Kirby was chairman of the Banking Committee. If I could not present a report, as chairman, I would ask Senator De Bané to present it. If we both could not be here, then we would make another arrangement together. The same was true of Senator Kirby. He would either present the report or ask me to bring it to the Senate chamber. If it was impossible for both he and I to do so, we would agree who should do it — that is, if it was necessary to be done.

Senator Kirby and I had no steering committee. Together, we were the steering committee, and that arrangement worked quite well. I wonder if Senator Kroft was made aware of this. That would help us to understand how this took place without me knowing anything about it or signing off on it.

The Hon. the Speaker: Honourable senators, I was out of the Chair, but I understand that there are two points of order before us at this time.

Senator Lynch-Staunton: They are wrapped into one. First, Your Honour decided during Routine Proceedings — when no point of order or debate is allowed unless leave is granted — to send to another committee a report that had just been presented. The rules provide at least one day for the report to be presented and then we proceed to third reading. In this case, obviously, we could not move to third reading, but we had no occasion even to see the report. It was tabled and then taken off the Table. Now it is gone. I had hoped that, if Your Honour were to have taken a decision, you would have done so during Orders of the Day when we could, perhaps, have had an explanation for this unusual decision. This situation is not of our making, by the way.

Second, given that Senator Hervieux-Payette was not authorized formally by the committee to present the report, was the report properly presented?

Senator Kinsella: Honourable senators, there are several elements to the point of order.

With respect to the Banking Committee's analysis of the bill, its clause-by-clause study and its report back to the Senate, I went to the Table to view the report. A report was there but it was not signed by the honourable senator who had presented it, which raised a procedural question in my mind. The report was not presented by the chair nor the deputy chair. Unless there is a record in the minutes of the committee — and I do not have that in front of me — delegating another senator to present the report, I am not sure the report is properly before the Senate.

The other issue, which by common agreement is unusual, is that by an order of the house, this report was to be referred to two committees rather than one. The desire to have it examined by the Banking Committee related to a series of concerns raised at second reading debate, which were matters of taxation to be properly addressed by the Banking Committee.

Honourable senators, if the report is properly before us, it must be debated and we must decide whether the part of the bill that dealt with issues to be canvassed by the Banking Committee have been accepted. Then the bill will go off to the Foreign Affairs Committee, pursuant to the order that was made earlier. We should have consideration of the report from the Banking Committee before we send the bill off to the Foreign Affairs Committee because there can be linkage between the taxation concerns that the Banking Committee addressed and the foreign affairs issues — in particular, human rights issues which joined the debate at second reading. All these issues should be canvassed.

Honourable senators, we may be jumping the gun a bit. We only had a report presented. We have not taken that report into consideration. There is, in my view, a substantial relationship between the analysis of the report and the analysis of the bill, which would then be committed to the Foreign Affairs Committee. They are the issues that motivated my questioning the order of the matter.

Senator Hays: Honourable senators, I have commented on the orderliness of what was done by the Banking Committee and Senator Lynch-Staunton's matter as well. However, I find Senator Kinsella's point most interesting. If I heard him correctly, he is saying that we should not have referred the bill to two committees; rather, we should have referred it only to the Banking Committee and then had the matter return here so that we could deal with that report. The Senate would then decide whether to do anything more with the bill.

On the day in question — and I am not able to put my hands on the *Debates of the Senate* of that day — there was a desire for members of two committees to direct their collective minds to this bill, particularly because of its nature and one of the elements in it, namely, an issue of human rights. We attempted to have the bill go to two committees sequentially. The Banking Committee was to deal with the bill first. The language we used at the time anticipated that study. Following that study, the bill was to be dealt with by the Foreign Affairs Committee.

The issue is this: What does the Senate do or how does the Senate best deal with the product of this committee work? My interpretation of the statements on this matter and all the things we have done to date, subject to not signing the report and whether it is proper for a member of the committee other than the chair or deputy chair to present a report without a specific motion — and I submit that is not an impediment — is that the thrust of what we are attempting to do is served by having the bill go to the two committees and by having the reports of the two committees return here to be dealt with at the same time. If that is done, all of Senator Kinsella's concerns can be addressed. In retrospect, perhaps the honourable senator's suggestion was the correct way to go — that is, we should not have referred the bill sequentially to one committee after the other. However, having done that, for this process to work, what is happening is exactly what needs to occur to achieve the desired result — namely, to have the work of the two committees before us so it can be

considered. To do that we need both committee reports before us at the same time.

The Hon. the Speaker: Does any other honourable senator wish to speak to the point of order? If not, I will take the matter under advisement. I was not here last week when this matter first arose and did not hear all the points.

• (1540)

However, I would remind honourable senators that when a bill is referred to a committee, the committee must report. If it is reported without amendment, it is automatic, then, that I simply put the following question: When shall this bill be read a third time? There is no motion and no amendment at that point. There is no discussion. That is the situation we are in now. However, I will study the matter and report back as quickly as I can.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we are now on government business, and I should like, on behalf of the government side, to call as the first item for deliberation the report of the Standing Senate Committee on Social Affairs, Science and Technology dealing with Bill C-6.

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Social Affairs, Science and Technology (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) presented earlier today.

Hon. Michael Kirby moved the adoption of the report.

He said: Honourable senators, as the sponsor of Bill C-6 and as Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, which originally spent considerable time studying the subject matter of Bill C-6 and then, more recently, studied the bill itself following completion of second reading in this chamber, I rise to speak to the report of the committee on Bill C-6. My comments today will focus on the bill in general, but also and more particularly on the amendments to the bill proposed in the report of the committee presented in this chamber earlier this afternoon.

In the global economy, information has become an important and valuable commodity. Where at one time governments were seen as the major collectors and holders of personal information, now the private sector has an increasingly important role in this field. The development of networks such as the Internet has made the disclosure and distribution of personal information a matter of concern to Canadians, many of whom feel that their privacy is being reduced as these networks expand.

In Canada, the federal and most provincial governments have laws that deal with the private sector's collection, use and disclosure of personal information, but only Quebec has enacted privacy legislation governing the private sector. Some organizations have adopted voluntary codes with respect to the collection and use of personal information, but the use of such codes is not widespread and is not uniform on a coast-to-coast basis.

In 1996, the federal government committed to developing legislation to protect personal information in the private sector. The government's goal in 1996 was to legislate by the start of the year 2000. Bill C-6 stems from that commitment.

Legislation that seeks to protect the privacy of personal information must, of necessity, attempt to balance an individual's right to know about or consent to the collection of the information, and its use or disclosure for certain purposes. Bill C-6 attempts to strike an appropriate balance between the conflicting goals, the need for consent and the need for an individual to understand that the information is being collected and how it will be used, and the need to have an efficient and functioning economy.

I wish to assure honourable senators that, aside from the one amendment proposed in the committee's report, the committee's examination of Bill C-6 revealed that it is indeed a very significant legislative accomplishment. The government has authored what can truly be called a masterpiece of electronic commerce. It strikes the very significant and delicately drawn balance between business and consumer interests.

Frankly, honourable senators, I have never seen a bill where both business and consumer groups were equally anxious to see a piece of legislation passed. Every single business, consumer, technology, insurance, bank and even credit-reporting witness who testified before the committee urged the speedy passage of the bill. All of these stakeholders agree that it represents a reasonable and fair set of information practices. Indeed, witnesses from across the entire spectrum of the Canadian economy, with the exception of the health care sector, used phrases in describing this bill and urging its speedy passage such as, "delicate balance," "result of years and months of negotiation," "a very good consensus," and so on.

The range of witnesses taking that view not only covered the business sectors, it covered, for example, civil rights advocates and privacy experts. In short, the Minister of Industry has done a remarkable job in achieving a consensus on a very complicated situation and has achieved that consensus in a relatively short period of 18 months across a wide sector of the Canadian economy.

Therefore, honourable senators, if in fact this bill is as good as I have just described it, why has the committee made an amendment? It is to that question that I believe I should devote most of my remarks. That is because, despite the massive support from business and consumer interests, one very important sector is unanimously opposed to the passage of this bill at this time. In short, one sector, the health care sector, is equally unanimous in its opposition to the bill's passage.

It is clear that the health care community as a whole was not part of the admirable consensus that I described a minute ago. Indeed, even within the health care community itself, there is absolutely no consensus as to what the right solution should be, in the sense that the health care community did not come before us as a cohesive group arguing for a specific set of amendments. They came before us arguing for a variety of amendments. Let me just give you some illustrative examples.

Some witnesses recommended that health care information should be entirely excluded from the bill. Others, such as the Canadian Medical Association and the Canadian Dental Association, felt that the bill did not provide sufficient protection to health care information about an individual. Others were concerned about the consent provisions and whether they were adequate in the sense that they did not specifically refer to informed and meaningful consent.

All members of the health care sector who testified before the committee were uncertain as to the scope and application of this bill. All were concerned that this particular bill, as applied to the health care sector, would create what they called a two-tiered system of privacy protection — a two-tiered system in the sense that because of the way the bill is structured, one set of rules would initially affect a public sector health care institution such as a hospital, for example, or a lab operating in that hospital. Private sector institutions, such as the typical lab where many of us go to get tests or to give blood which is analyzed, et cetera, would be subject to a different set of rules. All of the representatives of the health care sector who testified before the committee raised considerable concern, although from different aspects, about the nature of this two-tiered system for the regulation of privacy that would result.

The concerns I have outlined, honourable senators, came from a wide cross-section. They came from doctors, dentists, pharmacists, nurses, hospitals, medical labs, medical research advocates, provincial departments of health, health care accreditation officials, and on and on.

Frankly, honourable senators, not a single health care group that came before the committee or sent correspondence to the committee in the form of a written submission supported the passage of this bill in its current form. The committee was also disturbed by the testimony of many health sector witnesses who alleged that they did not play a meaningful role in consultations leading up to the tabling of the bill. Indeed, some witnesses told this committee about going to government officials as recently as eight or nine months ago and being told by those officials that they should not worry about this bill because it was an e-commerce bill and not one directed at the health care sector.

• (1550)

Therefore, honourable senators, the consensus that was so admirable in the rest of the economy and that was developed by the minister in a very short period of time, some 18 months, did not apply to the health care sector because the bill was designed to be an e-commerce bill. As a result, the health care system was not instantly included as one of the sectors that ought to play an integral part in the negotiations.

The second unique feature about the health care sector is that the private sector and the public sector are far more intertwined than any other sector of the Canadian economy. While many elements in the health care sector are paid for out of public funds, the people and organizations that perform the actual services may be part of the private sector, the public sector, or the not-for-profit sector. There is a much greater degree of intertwining between the public and private sectors in health care than in any other area of the Canadian economy.

Thus, honourable senators, the health care sector is very reluctant to proceed with the bill as it is. Interestingly, however, the recognition and concern surrounding the lack of clarity as to how this bill would apply to the health care sector came not only from health care advocates but from other people as well. Valerie Steeves, a noted privacy expert, testified that, in her view, this bill was really an e-commerce bill — she referred to it as e-commerce legislation and not privacy legislation per se — a view that was echoed by other expert witnesses. Indeed, the Minister of Industry implicitly supported this rationale when, in testimony before the Social Affairs Committee last Thursday with respect to the application of Bill C-6 to health information, he said that, in the first three years after the bill came into effect, its impact on the health care sector would be very limited. Indeed, he argued that the impact would be sufficiently limited, such that it did not justify delaying the effects of this legislation for the sake of clarifying its impact on the health care sector.

Honourable senators, the committee members understood the minister's arguments, understood the facts on which it was based, yet came to a completely different conclusion based on exactly the same facts. The committee remained concerned that this

e-commerce legislation could have unclear or unintended side-effects; more important, the committee was more concerned as to what those side effects are likely to be. Indeed, what the impact is likely to be on the health care sector is not clear at all.

If this bill will only affect, as the minister argued, a very small portion of the health care sector in the first three years after it is proclaimed, then clearly there is a window of opportunity to clarify the effects of this bill on the particularly sensitive and intimate personal health information without jeopardizing the impact of the bill on the remaining and vast commercial sector. Since, with this amendment, the bill will impact on the health care area in the public sector only three years after the bill comes into effect, we are providing an opportunity for the government and the affected parties to develop rules and regulations that will assure Canadians that their health information will be dealt with appropriately by all health care stakeholders.

Honourable senators, faced with both that window of opportunity and the unanimity of the support of all the other sectors of the Canadian economy for the bill proceeding quickly, the committee then considered whether there was a way to meet the objectives of those who want the bill passed quickly while simultaneously addressing the concerns of the health care sector.

The committee unanimously rejected the notion of a complete exemption from privacy legislation of the health care sector, a proposal put forward by some witnesses. The committee did, however, believe that a short period of time was desirable to try to see if an effective consensus could be built as to how this bill should be changed in order to make it impact fairly and equitably on the health care sector. The question became: How long should those negotiations be allowed to go on?

Last Thursday, we heard from a series of health care witnesses. They had obviously spent some time getting together before they testified, because every single one of them proposed exactly the same amendment, which was a five-year delay before the bill would come into effect for the health care sector.

Given the critical importance of private health information and the need to have health information covered by a privacy act, the committee's view was that five years was far too long. We opted instead for a one-year delay after proclamation, or two years from the time the bill receives Royal Assent. The minister has already said that the bill will be proclaimed one year after it receives Royal Assent, so our proposal can be looked at as either two years after Royal Assent or one year after proclamation. Our view is that two years should be sufficient for interested parties in the health care sector and government officials in the Departments of Industry and Health to reach a consensus as to how this bill should be changed in order to have it impact effectively on the health care sector, and in a way that removes much of the uncertainty now surrounding it.

We also believe, honourable senators, that there is a significant negotiating advantage to the structure of our amendment, in the following sense. Our amendment proposes that, in the event that the two years go by after Royal Assent, one year after proclamation, and no consensus is reached and no amendments are introduced, the current bill will go into effect on the health care sector. Therefore, honourable senators, our view was that this was more than a modest incentive for people in the health care sector to try to reach a consensus to avoid all the problems they say they are concerned about. Having a deadline that would put the bill into effect unless a better consensus is achieved in the meantime would work very effectively.

I should say, honourable senators, that the committee did a yeoman's job in a very short period of time. We had many hours of hearings. We heard from 25 witnesses, which is roughly half the number people that originally asked to be heard. In the latter days of the hearings, additional witnesses kept coming up and asking to be heard. It thus became very clear to the committee that if we were going to find the correct solution to the health care sector problem, by keeping the bill before us until we had negotiated what the solution would be, it would take a very long time. We would have had to hear all the remaining witness. We would then have had to try to do some consensus building. In the meantime, had we taken that approach, the bill would not be law and would not apply to all the other sectors of the Canadian economy that want the bill applied.

Therefore, our view was that the logical thing to do is not to delay its application to all the remaining sectors of the economy that like the bill and want it passed, but only to delay its application to one sector, and in that case only for one additional year after proclamation.

That, honourable senators, is essentially the background to the report. If you want a more detailed analysis of the evidence the committee heard, which I think strongly supports the committee's conclusion, I refer you to the second report of the committee, which was tabled in this chamber yesterday. I would urge honourable senators to read that.

Again, our view is that this one-year delay after proclamation, two years after Royal Assent, will lead to very focused negotiations between the Departments of Health and Industry and the health care sector.

Finally, honourable senators, there is one other issue that I should like to comment on, and that deals with the Privacy Act. As some of you know, there is a federal Privacy Act. The Privacy Commissioner made an interesting observation to us in his presentation before the committee. He pointed out that there are some significant differences between Bill C-6 and the Privacy Act. For example, the present Privacy Act allows recourse to the Federal Court only in situations where access to records has been denied. Complaints about the collection, use or disclosure of information by a government institution cannot be referred to the Federal Court. Yet, under Bill C-6, complaints with respect to the

collection, use or disclosure of information by the private sector can be appealed to the Federal Court.

• (1600)

Surely, honourable senators, as people in government, we must require that the same standard of privacy protection be applied to government institutions as is applied to private institutions. The conclusion that the committee drew from that was that, if Bill C-6 becomes law, there is a need for the Privacy Act to be updated so that government institutions are subject to at least the same standard of privacy protection as private institutions.

Related to that issue also, honourable senators, is that because the bill calls for a public education program by the Privacy Commissioner, and because Bill C-6 imposes significant new responsibilities and substantially enlarges the mandate of the Privacy Commissioner, it is obviously, again, an inherent part of the committee's report that additional resources will be required by the Privacy Commissioner if he is to carry out the expanded mandate called for in this legislation.

In closing, honourable senators, the committee tried to reach a balance that would ensure that the application of this bill to the vast majority of the Canadian economy — that is, the largest number of sectors of it — would proceed as expeditiously as possible and that, for a very short period, namely, one year after proclamation of the bill, it would not apply to the health care sector, in the hope that, in the ensuing 24 months, we can reach a negotiated solution to this bill.

That, honourable senators, is the background behind the bill. The amendment was passed unanimously by the committee. There was no dissension with this proposed amendment from senators on either side of the chamber. Therefore, honourable senators, I would urge your adoption of the committee's report.

Hon. Donald H. Oliver: Would the honourable senator accept a question?

Senator Kirby: Yes.

Senator Oliver: The honourable senator said throughout his remarks that there was only one sector for which there was no consensus, and that was the health care sector. He also said that part of the answer is that it was designed as an e-commerce bill and not a health care bill.

What went wrong and what can this Senate learn from this process? What instructions does the honourable senator have to ensure that this does not happen again? Here, you are amending a bill and sending it back to the other chamber. What went wrong with this process?

Senator Kirby: I can only speculate on that. Senator Oliver's question is a good one. He will appreciate that our focus was on the content of the bill and people's reaction to it, given the shortness of time and our desire to deal with the bill quickly. What I am about to say now is drawn from bits and pieces of evidence as opposed to a detailed conclusion.

First, the bill started out correctly as an e-commerce and an e-commerce privacy bill. Instinctively, when one thinks of e-commerce one does not think of the health care sector in Canada because it is publicly funded. That is what we normally think about it. If you were to rhyme off all the sectors that are involved with e-commerce, most of us, even if we thought about the health care sector, would dismiss that sector. Therefore, it is understandable that it was not at the forefront of the initial negotiations.

The second thing that makes it different is that the bill applies to private-sector commercial activity. Again, when we think of commercial activities, we are not inclined to think instinctively of the health care sector. However, when we are forced to sit down and think about it, we realize that there are labs and other things that are business related. Nevertheless, when the question of commercial activity is first raised, one does not immediately think of the large number of health care companies in the health care field.

Finally, there is a factor in the health care field that does not exist anywhere else; that is, large numbers of public and private sector institutions are providing identical services. Labs is the obvious one. There are also occupational therapy services and some diagnostic services. We do not think of them as being different because they are all paid by the same payor.

Therefore, I think there was an honest and early oversight. Perhaps not a bad reflection of that is that, when this bill was before the Industry Committee in the House of Commons — and to indicate the level of interest in the bill I wish to inform you that they had 18 days of hearings on it — a very short amount of time was spent on the health care field because witnesses did not ask to appear before the committee. There was far more time spent on health care before the Senate committee than there was before the House committee, which is not to criticize the House committee. No one in the health care sector had come to the realization that this bill had significant impact for them.

In part, as one moves into new fields of commerce, such as e-commerce and so on, the traditional barriers between various sectors of the economy are collapsing. In the future, when looking at bills affecting these new kinds of communication systems, which is effectively what e-commerce is, we must be careful to ensure that we are completely comprehensive and that we get everyone inside the tent. I do not think anyone should be blamed; there is no scapegoat here. An honest series of things happened over time here, of which the best evidence was that from the CEO and President of the Canadian Health Care Association, Sharon Sholzberg-Gray, who testified that she went to the Department of Health as recently as last April or May and was told, “Do not worry. The bill does not apply to you.”

Honourable senators, what occurred here was a series of inadvertent things. This is a terrific bill, but it seems to the

[Senator Kirby]

committee that it makes sense to deal with the one problem. Alternatively, if you pass the bill unamended, you are imposing the bill on a significant sector of the Canadian society against the wishes of every organization in the sector. Our view is that that is probably not a great way to do public policy.

Senator Oliver: That leads to my second question. A number of the medical witnesses who did appear said that one possible solution for them would be if their code, as drafted, could somehow be amended or attached. Could the honourable senator explain why the committee did not accept those representations that came from a number of the medical health care witnesses?

Senator Kirby: Yes. That is a good question. The best example was the Canadian Medical Association, who suggested that we should add their code to the bill. The problem with that option is that you cannot do it quickly. Why would you pick the Canadian Medical Association’s code and not the dental association’s code or the pharmacists’ code? They all have different privacy codes. The minute you ask that question, you get yourself into the detailed set of negotiations and consensus building that I said was required. The committee came to the conclusion that, while one could do that, it would clearly take a matter of several months. Our preference was to get the bill passed with respect to those sectors of the economy that are on side and to use the intervening 24 months to build a consensus. It is a fact that several of the professional and institutional organizations indicated that they already had privacy codes that made those of us on the committee optimistic to the fact that it should be possible, within the 24 months, to develop out of these various privacy codes a consensus set of codes that would apply to the health care sector. Our view was that it was better to do that than to grab one of the codes belonging to one of the groups, adopt it, and apply it to everyone.

• (1610)

Hon. Lowell Murray: Honourable senators, I begin where Senators Oliver and Kirby left off.

First, the people from the health care sector generally represented to us that they had not been involved in the development of the Canadian Standards Association code on which this bill is based. Second, as Senator Kirby mentioned, some of them think they were led to believe by someone in the government that this bill would not apply to the health care sector. Indeed, it does not apply, apparently, to large parts of the health care sector, those being the “non-commercial” parts, including the professional relationships between patient and doctor and patient and hospital, and so on. Nevertheless, when you try to disentangle commercial from non-commercial activity in the health care sector, it becomes very difficult to decide where and how the bill will operate. Those two factors have been quite important in respect of the health care sector.

With regard to appending the professional code of the doctors and dentists, or whomever, to the bill, I must confess that I was greatly tempted. It was clear on reading them that those codes represent a rather higher standard than the consensus-based code of the Canada Standards Association. However, I believe that, even if we had decided to do so, we would be venturing into quite uncertain constitutional waters. We would be purporting to legislate and to regulate in respect of the professions, which I think in most cases are the preserve of the provincial legislatures.

Honourable senators, there would be no point in my trying to add anything to what we have heard from the chairman of the committee by way of explanation, background or justification for the amendment that is before us at the present time. His speech in that respect was full and accurate, and I only say that I agree with all of it. I hope it will commend itself to the Senate and ultimately to the government and to the House of Commons.

I take this occasion, however, to thank the chairman of the committee for having led us safely and successfully, so far, through a very close study of a very important bill over a period of 20 hours. I thank him for having led us to a solution, which, while it may not have been the preferred solution of everyone who appeared before us or, indeed, of everyone on the committee, is nevertheless an honourable and practical compromise, which, as I say, should commend itself to the Senate and to the government. This has not been an easy task for him, and all of us on the committee appreciate his forbearance and leadership.

As I said, I will not add anything to the explanation and the background that he has given us with regard to the health care sector. I do, however, wish to flag one other matter in the bill. This is not a matter upon which the committee has pronounced, but it is a very serious concern of mine. I flag it only to ask you to turn it over in your minds overnight because I intend to return to it when we come to third reading and quite probably to propose an amendment.

There is a provision in this bill, honourable senators, to the effect that highly personal information collected on individuals by business enterprises in the course of their business may be disclosed 20 years after the individual in respect of whom it has been collected has died. I believe this provision is indefensible and, if I can, I intend to move that that provision be struck from the bill when the time comes at third reading. I have asked various witnesses before the committee — from the minister to the Commissioner of Privacy to various privacy advocates — to offer a principled justification for this provision, and none of them has been able to do so. The only explanation that any of them has offered is that there is a parallel provision in the Privacy Act, a provision that covers information collected by the federal government and its agencies. Well, there may be some valid public policy reason for such a provision with respect to

information collected by the government — I do not know about that and I would like to revisit it some time — but I cannot think of a single principled reason why your credit card information, your mortgage information, your banking information, your pharmaceutical record — information collected by commercial organizations for commercial purposes — should ever be disclosed.

Obviously, the possibility of investigation of a crime and national security and all those things are already covered in the bill. We have been told, “Well, they cannot simply be disclosed. There must be some reason for it. Perhaps the Commissioner of Privacy might be involved at some point.” All this is very subjective, especially 20 years after the person has died.

One lawyer before us, Mr. Lawson, to whom I referred yesterday, and who is, like most of the people who appeared before us, a strong supporter of the bill, said, “Well, in my view, the right to privacy extends only to living persons.” I absolutely reject that idea, and I think we should reject it.

I do not want to anticipate the speech that I will probably make tomorrow afternoon, but I do want to give you a foretaste of it. I want you to know that I will put the clause before you and invite colleagues to offer me a principled justification, if they can. If they cannot, I would invite you to join me in amending the bill at third reading to delete that provision.

Honourable senators, as I indicated at second reading, as a general comment, this is a bill that enjoys and deserves to enjoy just about universal support from Parliament, as well as to the extent that there is any awareness of it out there in the country. It will, after all, extend the protection of the privacy law to the voluminous personal information that is collected about each one of us by commercial enterprises in the course of their business. With the exception of the provision to which I alluded a few minutes ago, those protections, according to all the evidence, are solid and effective.

As Senator Kirby has told us, this bill is the result of an extraordinary consensus involving the private business sector, the federal government, and various privacy advocacy and civil liberties groups. The government can take very considerable pride in having forged that consensus.

For all of those who believe, as I think most of us do, that privacy is an integral part of human dignity and autonomy and that it is a human right, this is a major step forward. I do believe that, when we pass the bill, we will have added significantly to the legal protections and framework for human rights in this country.

• (1620)

All Canadians may not be aware of what we are debating and doing today, but I think this bill as amended will go down in history as one of the principal achievements of this or any other recent Parliament.

Hon. Sharon Carstairs: Honourable senators, I thank both Senator Murray and Senator Kirby for their excellent work on this piece of legislation. Senator Murray is not normally a member of the committee but, as he indicated in his earlier presentation, he has an abiding interest in this particular piece of legislation. Though it is not usually within the purview of the *Rules of the Senate of Canada*, we actually had four members on our steering committee. Senator LeBreton, Senator Kirby, and I were joined in our discussions by Senator Murray, because we understood his deep concern and interest in the legislation.

Like Senator Kirby and Senator Murray, I am generally supportive of Bill C-6. I am also strongly supportive of the amendment. It might be interesting to Senator Murray and to Senator Kirby that I have just had delivered to me a letter from the Canadian Dental Association. They are not particularly happy with our amendment. They wanted us to go in a different direction. They testified to the committee that they wanted us to strengthen and toughen the legislation. They state that the Canadian Dental Association has always been in favour of passing Bill C-6 with amendments that would provide for greater protection of personal information through informed consent versus the weak consent provisions included in the CSA code.

I agree with them. I would also like to see much stronger protection. The dilemma faced by the committee regarded consent. If we had put aside all other aspects of the bill to deal only with the increased need of privacy protection for the health community, I suggest to you, honourable senators, that we would not be able to pass any aspect of this bill for probably a six-month period. The purpose of our amendment was to allow quick passage and enforcement of the sections of the proposed legislation that address e-commerce outside of the health care field. Meanwhile some sober second thought could be applied, not necessarily by this chamber, but in discussions between the health community, the industry community, the health minister and his staff, and the industry minister and his staff. Perhaps those parties can come up with amendments to make this legislation meet the needs and objectives of the health care industry.

Honourable senators, that issue became the focus of my concern throughout our study of the bill. Some witnesses spoke only to the e-commerce sections of the bill. They came from the computer industry, from informatics, from the banking industry, from the marketing industry, and they were all in favour of this bill, taking only minor exceptions with its contents. In fact, they were glowing in support of this bill. They talked about the monumental achievement of getting a consensus from all of these groups on the CSA code.

As Senator Kirby indicated, the problem arose when the medical community, who thought they were completely outside

this bill, found out, as late as June 1999, that they were not outside the bill. They discovered that their activities would be captured by some aspects of the bill.

Committee members found out quickly that the medical community did not have a consensus position. The doctors and the dentists claimed that their own codes were tougher and better than the CSA model code. We then heard from pharmacists and those in the business of collecting health care information who, quite frankly, wanted a total exemption. I, for one, was not prepared to give them a total exemption. If they want to use or sell my information, then I should have some say over exactly what information will fall into their fat little hands.

More important, we never dealt with two critical issues — the definitions of “commercial activity” and “informed consent.” I was surprised to hear the Privacy Commissioner state that all consent is informed consent. With the greatest of respect to Bruce Phillips, I do not think so. If I am dragged off to an emergency room where I face five doctors and 16 other staff who say I need certain urgent medical interventions, quite frankly, I will sign anything. I hope that anyone who may be acting on my behalf will sign anything that will get me the care I need at that moment. Surely, that is not informed consent. I do not know what side effects can be expected from the proffered treatment and, frankly, at that moment, I am not terribly concerned about any side effects.

The definitions have not been clearly addressed in this bill with respect to personal health information. I am therefore fully supportive of the committee’s recommendation that we put in a delay so that some of these dilemmas can be addressed. Honourable senators, the involved parties needed to have their feet put to the fire. The testimony heard by the committee members was divided and confusing. Time is needed to define clear rules governing personal health information after dialogue between all the players who are involved in the collection and use of personal health information.

Simply allowing two years before the coming into force of the bill does not achieve our objective. Our course of action in amending the bill will, in effect, put the feet of the stakeholders to the fire. It will ensure that they get together and address the issues properly. Canadians deserve clear guidelines concerning the use of their personal health information, including the requirement for informed consent.

Most Canadians would not wish to be so protective that their health care information was not available for research that may help to cure a disease or condition. If such information is needed for testing of new drugs, then a balance must be found. That balance does not exist in this legislation. We can only hope that, by our sober second thought and this amendment, a balance will be found.

Hon. Jeremiah S. Grafstein: Honourable senators, I have a short question. I alerted Senator Carstairs to this question earlier today.

I have not looked at the bill as carefully as I should have nor have I read the testimony. However, in listening to the arguments, I am concerned about separating, as a question of public policy, the identity of the person whose information is being sought and the content of that information.

As an example, the Princess Margaret Hospital in Toronto serves 60,000 female breast cancer patients every year. Next door, the Mount Sinai Hospital sees 25,000 women every year at their breast cancer clinic. So within 100 yards on that city block, every year, 85,000 Canadian women are going through that process. That information is now collected and correlated with research and diagnosticians, all in central locations. There has been a majestic leap forward in at least the environment for treating breast cancer.

• (1630)

Having said that, in order to project a cure, the content of the information available is inseparable from an advance in research. Without that information which is gathered, correlated and sorted, there will be no advance whatsoever in moving against the horrible disease of breast cancer. I can apply exactly the same rationale when it comes to HIV, or any disease that takes hold of us.

I am still not clear whether either the committee or the amendment deals with this fundamental issue. In effect, does it dilute the problem and impose barriers to researchers for access to the information that is necessary for the advance of research? Instead of applauding ourselves, are we not stultifying research?

Senator Carstairs: Honourable senators, it might interest you to know that we heard from two groups of researchers who had two different opinions on this matter. One group felt that we had to have more controls to protect the privacy of the individuals giving the information. The other group wanted research of this nature totally exempted from provisions of the bill. They felt that these controls would result in the worst case scenario, to which the honourable senator has referred, in terms of not being able to develop the very kind of epidemiological information that is required.

Interestingly enough, Dr. Keon came down on the side of the need for tougher controls in terms of the patient-doctor relationship. I do not think I am misspeaking Dr. Keon on this point because he was very strongly in support of the Canadian Medical Association's presentation which called for tougher guidelines.

The honourable senator has identified our dilemma. We had serious presentations from people who said to us that, indeed, this measure would curtail the very kind of research data collection to which the honourable senator has referred. Others

said it would not do that. However, the point is that we were unclear as to whether it would or would not. We want this two-year period in order for those protocols to be developed. In that way, we will not be harming research. We will be allowing the collection of data to take place. At the same time, we will be guaranteeing the essential privacy of patients in this country.

Our researchers have done a good job of doing that in the past. There are some who say that an individual who does not want to participate in a research project should have the right to deny their information to that research project. Thus, we need to develop protocols. Frankly, however, we need the time to do it.

Senator Grafstein: Honourable senators, if there is a dilemma at the root of the legislation, what is the rush to judgment? What is the priority that makes us feel so impelled to proceed on this legislation if there are serious questions in the minds of some of the proponents of the bill?

Senator Carstairs: The problem with the legislation, Senator Grafstein, is that for the most part no one — and certainly no one in the House of Commons — dealt with the impact of health information on this bill.

Senator Grafstein: Another sloppy job in the other place.

Senator Carstairs: They did a sloppy job in the other place. To be fair to them, they did not do it deliberately.

The health care people themselves called the Department of Industry. They were told, "It is an e-commerce bill. It does not impact on you." As a result, the normal health care industry witnesses who might well have come forward did not come forward early in the game because they did not think the legislation would impact upon them. It was only in May or June of this year, after the bill had been through the process in the other place, that the health care community became sufficiently concerned to say, "This bill does impact on us. Thank goodness we have another chamber, a chamber of sober second thought, to which we can now go to make our case." That is exactly what they did.

Having said that, probably 90 per cent of the bill deals with e-commerce, issues that have nothing to do with the public health care field. They are positive pieces of change to guarantee privacy in the area of Internet shopping, and the spreading and sharing of information on the Internet. Those kinds of things should in my view go into force and effect as soon as possible. I would hate to delay the whole process because of this window which we have, I hope, opened and through which some fresh air will be allowed to flow so that we can examine the subject and perhaps force some positive changes with respect to public health information.

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

Some Hon. Senators: Agreed.

Hon. Dan Hays (Deputy Leader of the Government): On division.

Motion agreed to and report adopted, on division.

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

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

[Translation]

CRIMINAL RECORDS ACT

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Chalifoux, on adoption of the second report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, to amend the Criminal Records Act and to amend another Act in consequence, with amendments) presented in the Senate on November 30, 1999.

Hon. Pierre Claude Nolin: Honourable senators, I shall try to be brief. I do not intend to begin again exploring the components of this bill.

I am rising today to support adoption of the second report of the Standing Senate Committee on Legal and Constitutional Affairs concerning Bill C-7. I should like to tell you about a criminal case before the courts in Quebec at the present time. There is a link between it and Bill C-7.

It is clear, honourable senators, that in the event of sexual assault on children or vulnerable individuals, action must be taken promptly. One offence is one too many. The consequences are serious, and we must do everything in our power as parliamentarians to prevent the recurrence of such events.

I would like to demonstrate the need for Canada's Parliament to pass Bill C-7 by referring to a case of sexual assault earlier this year on three children in a daycare centre in Quebec. I will not name the city involved, because criminal charges are pending. I will try to avoid revealing too many of the details of this criminal matter, but I want, nevertheless, to give them to you within the limits of parliamentary rules.

In 1985, a prominent man in a city in Quebec established a daycare centre. This was the only daycare centre in the city, located near Montreal. On November 22, he was arrested and charged with sexual assault on three little girls aged four, who had been entrusted to his care.

Released the same day, he was arrested again the following day for having returned to the daycare centre and spoken to the teachers there, thus being in breach of the conditions of his release.

• (1640)

It is the Youth Protection Branch that alerted the municipal police after receiving a complaint from parents who were sending their children to the daycare centre. The whole thing started when it was recently discovered that, in 1992, the same individual had been found guilty of similar acts and given a suspended sentence.

At the time, no one in the town where that person set up the daycare centre, not even the police, had been informed of his criminal background. The local chief of police only found out about it on October 26, a few days before the charges were laid.

Honourable senators, these events have created quite a stir in society and the media in Quebec over the last two or three weeks. The Quebec Minister of the Family, Mrs. Léger, had to respond to accusations of laxness levelled against her department regarding verification of the criminal background of owners of daycare centres when issuing permits for this type of operation.

To ensure that parents who send their children to Quebec daycare centres do not lose confidence in the process to deliver permits to operate a daycare centre, the Minister of Public Security, Mr. Ménard, announced on November 25 an action plan to deal with the situation. The plan provides for greater cooperation between the Department of the Family and the Sûreté du Québec to ensure that the judicial records of all daycare centre permit holders are checked to avoid a repeat of cases such as the one I related.

That same day, the Minister of the Family also announced additional measures to meet the concerns raised by a Liberal MNA, Mr. Copeman. On November 25, during Question Period in the National Assembly, Mr. Copeman had asked the government whether the measures to be taken to check judicial records applied to the 12,000 Quebec workers in the daycare system.

According to Minister Léger, a new control mechanism should be in place by the beginning of next year, in other words, in a few days, for doing a background check on Quebec's 12,000 daycare workers. Part of this responsibility will fall to the holders of daycare licences and to members of the boards of directors of centres for the care of very young children, all of whom will be monitored by the Department of Public Security. This extensive operation will be launched in the next few days and will be pursued intensively in the coming months.

I am sure, honourable senators, that those of you who have followed the work of this chamber on Bill C-7 will know where I am headed. The National Assembly, in its enthusiasm, or by a very unfortunate combination of circumstances, forgot that this came under the authority of this Parliament. Although we are concerned about what happened in Quebec, we can only be satisfied that this Parliament was clear-sighted enough to give thought to the rules that Bill C-7 will make it possible to introduce.

It was not my intention to speak at length, but I wished to relate the grim story now unfolding in Quebec. As Senator Andreychuk reminded me yesterday, Bill C-7 is certainly not a panacea. It is not a miracle solution. We must not think that, because we are introducing these rules, we will all now be protected when we put our children in daycare. On the contrary, we are authorizing the introduction of an additional mechanism for the protection of children and other vulnerable groups. I hope that this measure will have your support at third reading and that it will help make Canada a society where it is still possible to live in safety.

Hon. Gérald-A Beaudoin: Honourable senators, I would like to say a few words about Bill C-7, to amend the Criminal Records Act.

The Chair of the Standing Senate Committee on Legal and Constitutional Affairs, the Honourable Lorna Milne, spoke about our committee's report yesterday. I support this report.

Essentially, Bill C-7 addresses the process of rehabilitation and is aimed at facilitating the social reintegration of criminals who have demonstrated during incarceration their desire to become law-abiding citizens.

Initially, this bill contained certain flaws, which have been corrected thanks to the amendments called for by the committee. It now gives a definition of "child" and of "vulnerable persons". Such important definitions cannot be relegated to the regulations. Regulatory powers are now given in the bill; the system of flagging records is limited only to those individuals who have been found guilty of sexual offences. A list of the offences involved is appended to the bill.

In closing these few remarks, I must state that, when the committee studies any matters relating to criminal records, as is the case with this bill, or some related subject such as DNA, we always step up our efforts in order to be assured of compliance with the Canadian Charter of Rights and Freedoms. As we all know, sections 7 and 8 of our Constitutional Charter protect privacy. This is a fundamental value of our system. I believe that it can be stated that Bill C-7, which we have before us, respects the Constitution, including the 1982 Constitutional Charter, to the best of our knowledge.

[English]

Hon. Joan Fraser: Honourable senators, I should like to speak very briefly on the issue raised yesterday by Senator Andreychuk because it is an important issue.

• (1650)

She is concerned, and rightly so, about the possibility that the integrity of the pardon system will be eroded if we start nibbling away at it. I think the members of the Standing Senate Committee on Legal and Constitutional Affairs were in profound agreement, first, that we wish to preserve the integrity of that system and, second, that this particular bill does not erode that integrity, that the exception it provides to the fundamental weight of the pardon system is so small and so justifiable that we should not be ultimately concerned about it.

It is a small exception in terms of statistics, honourable senators, and I thought you might be interested to know those statistics. In the past 28 years, nearly one quarter of a million pardons have been granted for all offences in Canada. Only 4,500 of those pardons concern sex offenders. We are talking about a very small proportion indeed of the total number of people who have received pardons. The bill, with the amendments brought forward, is very clear that it applies only to sexual offences. Parliament would have to authorize any other intrusion into the integrity of the pardon system, and I think Parliament would think long and hard before doing so.

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

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

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

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

CANADIAN DISTRICT OF THE MORAVIAN CHURCH OF AMERICA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—
SECOND READING

Hon. Nicholas W. Taylor moved the second reading of Bill S-14, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.

He said: Honourable senators, I will probably have the shortest speech on record.

This bill has been given second reading three times in the last six years. This time, nothing has changed. The Moravian Church came here at the turn of the century, just after the Senate was formed. The Senate has been working on this bill since 1986, when the church first approached us just to change their name, so that it is the same in French and English, and to change their corporation. They do not like having to come here to ask our permission, but that was one the founding articles of the church back at the turn of the century.

Therefore, I would ask honourable senators to move this bill forward.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

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

Senator Taylor: Honourable senators, with leave, at the next sitting of the Senate.

The Hon. the Speaker: Honourable Senator Taylor, bills are normally sent to committee. That is the normal practice.

Senator Taylor: I know that, honourable senators, but this is not a normal bill. It is the third time that it has been before us. However, that being the case, I move that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: It is moved by the Honourable Senator Taylor, seconded by the Honourable Senator Poy, that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Eymard G. Corbin: Honourable senators, unless someone is critical of this bill, in view of the fact that it has already been to the committee, as the Honourable Senator Taylor has just said, surely it is within the powers of this chamber to decide to skip that part of the process and move on to third reading. I am wondering if there is not a will to do just that, unless it has some element of controversy that merits its re-examination at committee stage.

The Hon. the Speaker: Honourable senators, I am in the hands of the Senate, of course. I only reminded the Senate that the normal practice is to send all bills to committee.

[Senator Taylor]

Senator Corbin: Then I will move a motion to that effect.

The Hon. the Speaker: I am sorry, I have a motion before me now.

Senator Corbin: Then, honourable senators, I will move an amendment to the motion. I move that the bill not be referred, as is the usual practice, to the said committee, but that the Senate agree to proceed with third reading at the next sitting of the Senate.

The Hon. the Speaker: It is moved in amendment by the Honourable Senator Corbin, seconded by the Honourable Senator Ferretti Barth, that the bill be not now sent to committee but, rather, that it be given third reading at the next sitting of the Senate.

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

Hon. Senators: Agreed.

Motion in amendment agreed to.

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

Hon. Senators: Agreed.

Motion, as amended, agreed to and bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1700)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO ENGAGE SERVICES AND TRAVEL

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it; and

That the Committee have power to adjourn from place to place within and outside Canada for the purpose of such studies.—(*Honourable Senator Hays*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have had an opportunity to discuss this motion with the mover, Senator Spivak. I wish to suggest that we deal with this matter now. With leave, we could modify it or deal with it by way of amendment. I suggest that Senator Spivak change the motion by deleting the words "and outside" from the last sentence so that it would read "That the Committee have power to adjourn from place to place within Canada for the purpose of such studies" and not as it now reads, namely, "That the Committee have power to adjourn from place to place within and outside Canada for the purpose of such studies."

I invite Senator Spivak to comment on that modification.

Hon. Mira Spivak: Honourable senators, in my discussion with Senator Hays, I did agree to this subject on two conditions: first, that this sets a level playing field for all committees; and, second, that the question of outside travel may be raised as the occasion permits or at the end of the fiscal year.

Senator Hays: Honourable senators, I do not believe I can accept conditions but perhaps I can satisfy Senator Spivak by indicating that I know of no other committee that has such power. It would be my intention, as Deputy Leader of the Government in the Senate, to take the same position with respect to other committees that I am taking with respect to the Energy, Natural Resources and the Environment Committee.

Of course, Senator Spivak, any committee can come to this place for leave or permission or instructions to travel outside of Canada. I hope that satisfies the honourable senator on that count.

[Translation]

Hon. Fernand Robichaud: Honourable senators, the amendment proposed by Senator Hays asks that the committee be authorized to adjourn from place to place within Canada. Last year, the Fisheries Committee wanted to do this and it was more or less recommended that it not do so via a subcommittee, because that would require the committee to authorize expenses. In this case, is the committee receiving the necessary authorization and funds automatically to travel throughout Canada without needing to refer a request to the Internal Economy Committee?

[English]

Senator Hays: Honourable senators, I will treat that as a question to me in debate on this matter.

The answer to Senator Robichaud's question about whether or not resources are automatically allocated to a committee for purposes of travelling within Canada is, "No; they are not." As a former chair of the Energy Committee, and the person responsible for getting the rather broad mandate that I am now questioning as Deputy Leader of the Government, that broad

mandate was requested because the committee has a practice of participating in conferences and events that take place in other parts of Canada. For instance, Senator Spivak has indicated to me that the committee would like to send a representative or representatives to the Globe 2000 Conference. The committee has always sent a representative to that conference and he or she reports back to the committee. I think it is very useful to the work of the committee. However, to obtain the resources to send a representative or a member of the committee, it is necessary for it to go to the Internal Economy Committee and have a budget approved. In the normal course, that committee does just that. That is the only answer I can give Senator Robichaud.

I would invite Senator Spivak to indicate whether she is prepared to modify her motion or whether it would be necessary to amend it.

Senator Spivak: Honourable senators, I am prepared to modify it. In response to Senator Robichaud, all items are specifically listed and will be thoroughly gone over in view of what we have before us for this coming year.

The Hon. the Speaker: Honourable Senator Spivak, do I understand, then, that you are requesting that we remove from your motion the words "and outside"?

Senator Spivak: No, just the words "and outside Canada." Those are the words that should be taken out.

Senator Hays: No, just the words "and outside."

Senator Spivak: Yes, you are right, "and outside."

The Hon. the Speaker: Is there consent that these words be removed from the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, we are back to the main motion, as amended. Shall we proceed with the question?

Hon. Senators: Agreed.

The Hon. the Speaker: It was moved by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane, that the Standing Senate Committee on Energy, the Environment and Natural Resources —

An Hon. Senator: Dispense!

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

Hon. Senators: Agreed.

Motion as modified agreed to.

[Translation]

REVIEW OF ANTI-DRUG POLICY

MOTION TO FORM SPECIAL SENATE COMMITTEE—
DEBATE ADJOURNED

Hon. Pierre Claude Nolin, pursuant to notice of November 2, 1999, moved:

That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specific needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs are more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy and, finally, to make recommendations for an anti-drug strategy developed by and for Canadians under which all levels of government will be encouraged to work closely together to reduce the harm associated with the use of illegal drugs.

That, without being limited in its mandate by the following, the Committee be authorized to:

- review the federal government's policy on illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;
- develop a national harm reduction policy in order to lessen the negative impact of illegal drugs in Canada, and make recommendations regarding the enforcement of this policy, specifically the possibility of focusing on use and abuse of drugs as a social and health problem;
- study harm reduction models adopted by other countries and determine if there is a need to implement them wholly or partially in Canada;
- examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights and other related treaties in order to determine whether these treaties authorize it to take action other than laying criminal charges and imposing sentences at the international level;
- explore the effects of cannabis on health and examine whether alternative policy on cannabis would lead to increased harm in the short and long term;
- examine the possibility of the government using its regulatory power under the *Contraventions Act* as an

additional means of implementing a harm reduction policy, as is done in other jurisdictions;

- examine any other issue respecting Canada's anti-drug policy that the Committee considers appropriate to the completion of its mandate.

That the Special Committee be composed of five Senators and that three members constitute a quorum;

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

That the briefs received and testimony heard during consideration of Bill C-8, *An Act respecting the control of certain drugs, their precursors and other substances*, by the Standing Senate Committee on Legal and Constitutional Affairs during the Second Session of the Thirty-fifth Parliament be referred to the Committee;

That the Committee have the power to authorize television, radio and electronic broadcasting, as it deems appropriate, of any or all of its proceedings;

That the Committee be granted leave to sit when the Senate has been adjourned pursuant to subsection 95 (2) of the Senate Rules; and

That the Committee submit its final report not later than three years from the date of its being constituted.

He said: Honourable senators, on June 14, I tabled in this house a motion asking the Senate to strike a special committee to review Canada's anti-drug policy. Today, I can tell you that I am more determined than ever to proceed with this plan. I do not intend to speak as long as the last time, but I intend to keep you informed of developments in the matter. This subject has aroused a lot of passion and interest. I would like to share it with you today. I do not intend to put the problem Canada faces in the use and traffic of illegal drugs to you once again. I did so amply in my remarks on June 14.

Honourable senators, for the past 30 years, the inaction of successive governments in this area and the intensification of the fight against drugs in the West since the early 1980s have cost Canadian society dearly. The costs associated with the control and elimination of illegal drugs bear no relation to the level of consumption or its effects on society or individuals.

You will no doubt agree, honourable senators, that this situation warrants the most careful scrutiny. This is why, on November 2, I tabled once again before this house a motion calling for a special Senate committee to review Canada's anti-drug laws and policies.

The object of this exercise will be, first, to give Canadians accurate and detailed information on illegal drugs; second, to evaluate the standards of morality in Canadian society with respect to the use of illegal drugs; and, finally, to give the Government of Canada the information it needs to develop and enact appropriate legislation and policies reflecting the values and desire of the people of Canada with regard to drugs that are currently identified as illegal.

Honourable senators, you have no doubt noted a change in Canadians' attitude to drug control policies and their results. Canadians are beginning to realize that the significant sums of money being invested in the reduction of the consumption and trafficking of drugs are not producing the desired results.

• (1710)

We also need to know about the experiences of other countries in that area. We must evaluate the alternatives used by other countries, since these are sometimes less costly while ensuring better social rehabilitation for an important segment of society.

Last summer, I had the opportunity to travel across the country and to meet Canadians who were pleasantly surprised by my intention to ask you to form a special Senate committee to review Canada's anti-drug policy. These people came from all walks of life. I met police officers, stakeholders who work with drug users, doctors, fathers and mothers, lawyers, senators, university professors, students and journalists. I also participated in a number of open line programs during the summer. Many agreed that the government's anti-drug policy is not working and that this repressive program was extremely costly while causing much more harm than good.

A number of people said this is not an issue that concerns the justice or criminal system. Rather, it is a public health issue. Many individuals and institutions offered their expertise and resources, and said they wished to participate in the work of the future committee.

At the end of September, during a drug awareness week, I took part in a debate organized by the students' association of the University of British Columbia. One of the guests was none other than Gil Puder, a Vancouver policeman, who unfortunately died last month. For the last 15 years, Mr. Puder had fought against the havoc the fight against drugs had wrought on the population of the poor areas of his city. He spent the rest of his life organizing prevention and awareness campaigns to show young people in the community the harmful effects of substance abuse. He also took part in a number of campaigns to ask the federal government to adopt an anti-drug policy that would see the problem as a public health issue rather than a criminal one.

I take this opportunity to offer my deepest sympathies to his family. I also want to salute Mr. Puder's courage and determination over the years as well as his work as a whole. I must mention that Senator Chalifoux' message of condolences did not go unnoticed and was indeed very much appreciated.

Last month, I took part in two similar exercises at the University of Ottawa and the University of Moncton. Despite very busy schedules, many students put themselves out to take part in the discussions. This was a very rewarding experience for me, because the students, contrary to what one might think, are not necessarily in favour of total legalization of marijuana and other illegal drugs, but they are in favour of investigation into alternative solutions to the present repressive policies.

In reaction to the announcement of my project, there was a positive reaction from a number of editorial writers and media commentators all over Canada. They expressed surprise that such an initiative could come from the Senate. I would say that they perceived my motion as a breath of fresh air over the Canadian political landscape.

In this connection, *The Globe and Mail* of June 21 voiced the opinion that the Senate should absolutely give its agreement to this project in order to demonstrate once and for all that our present drug policies no longer work, and I quote:

[English]

Some public policy issues are so touchy that politicians do almost anything to avoid discussing them. The law's view on the non-medical use of drugs is one such issue....A thoughtful Senate report could document the high direct cost of the current policy and compare it with the realistic alternatives. If that report were to meet with broad public support, it could convince timid politicians that reforms are acceptable. It was politics, not reason, that led MPs to veto a joint Commons-Senate study of the question three years ago. Senators would perform a public service if they did the job on their own.

[Translation]

Honourable senators, this past November 26, at a meeting of mayors of the 21 largest cities in Canada, the members of the Canadian Federation of Municipalities, I presented my project. This association has more than 600 member municipalities, and two years ago it adopted a resolution in support of the federal government's prohibitionist approach to illegal drugs. This resolution called upon the federal authorities not to modify the provisions of the present Controlled Drugs and Substances Act.

On April 21, however, the Canadian Association of Chiefs of Police recommended to the federal government the decriminalization, not the legalization, of possession of small quantities of narcotics, including heroin. What was most encouraging about the position of the association was that it recommended to Canadians and the federal government the adoption of an approach that would handle all issues relating to drug abuse as public health problems. I would remind honourable senators that this position has the support of the RCMP.

Since this stand, the Federation of Canadian Municipalities has been revising its position on this issue. It is attempting to come up with a new strategy focusing on harm reduction for drug users. The federation, on behalf of its members, sent a letter to the Minister of Justice calling on the government to establish a forum where this issue could be debated. That is what I am proposing today, with the creation of a special committee on illegal drugs.

The municipalities have an important role to play in the reform of our anti-drug policies. They are the level of government closest to the citizen. They play a special role in identifying the main problems and social repercussions resulting from our repressive anti-drug policies. The mayors are aware of this responsibility and they have asked what they could do to change things. Like all of us, they are looking for alternative solutions to these social problems. Like us, they have reached the conclusion that the repressive policies used to control illegal drugs are ineffective and very costly to the public.

Furthermore, members of the caucus of mayors of major Canadian cities congratulated senators on having been receptive to my proposal of last June. In addition, the caucus unanimously approved the motion before you in its entirety.

To that effect, the Mayor of Edmonton, Bill Smith, wrote me as follows on November 29, 1999:

[*English*]

I certainly support the motion you brought forward to the Senate. In my mind, this certainly supports the need for a Senate and the good work that body does. As I mentioned at the meeting, I am always upset when I hear people in this country criticizing the Senate. I personally know many Senators and how hard they work for Canada.

[*Translation*]

I should like to point out that a number of mayors I met with wanted to contribute to the work of this committee.

Let us return now to the work of the committee. Based on the mandate described in the motion, the study I propose today would be divided into 12 themes. Honourable senators wishing to take part in the work would be welcome, but for purposes of efficiency, I am trying to limit the number of senators assigned to the work of the committee to five. Each of the five senators who would be members of the committee will have to agree to take on research work on two or three of the 12 themes. I would warn you that the job of directing research and selecting witnesses would not be reserved for the director of research and the committee coordinator. It would be hard work. Each of the senators taking on these subjects would have to report to the other members of the committee on the progress of their research.

[Senator Nolin]

• (1720)

Some of you might say that this approach is too rigorous. I would reply that I believe we will fulfil our mandate objectively and responsibly by taking this approach. We want to provide transparent and objective information checked by committee members. If we want to raise the level of the debate to a more serious level and properly inform Canadians and the government, we have no choice but to adopt this type of approach.

Honourable senators, I do not intend today to address in detail each of the 12 themes included in this study. I will speak only of those I consider really important for the deliberations of the committee to examine these issues.

You have all, I am sure, read the document I gave you in June. I am sure you noted in reading it that if we are serious in our approach, first, we absolutely must give Canadians all possible information.

Once they have been informed about all this, the committee will need to invite them to participate so that we may determine what their level of morality is in connection with drugs. Why do I use the word "morality", honourable senators? You will understand that by reading the documentation on the history of prohibition in Canada and in the world. You will understand that public health issues have never been taken into consideration when the time comes to legislate and to prohibit, and this dates right back to the first prohibition: opium.

There was never, or hardly ever, any question of public health; it was very much one of public morality, racism, international trade and the importance of pharmaceutical companies. The prohibition we know today was completely a matter of business and of morality.

Canadians will understand that the signatories of these treaties were somewhat calling the shots for the people of our countries, for the trusting parliamentarians never looked back to see where prohibition had come from. We bought what our ancestors had told us, so we continued with prohibition and signed treaties to step up prohibition.

Today we are back in the situation described by Dr. Riley in the report I tabled last June. I could speak for a long time on this, but I do not intend to take up any more of your time. You have before you the detailed parameters of the mandate I am asking of you for the committee, a three-year mandate.

As I said, each member would have responsibility for certain facets of the overall mandate and this will be a very demanding task. Why? Because there is a great deal of research in the field. It may be the most studied subject in the last half of the 20th century. An inventory will have to be made of this research, setting aside the dubious studies, because no matter which side you are on, you will find there has been loaded research. This will have to be weeded out and concentration focussed on pure scientific research.

Each committee member would have responsibility for one facet of the examination. This could easily take close to two years. After that, an interim report would have to be produced, informing Canadians of what we have discovered, and sounding out their reactions in order to move to the report stage.

There will be a federal election along the way. I would like to think we will be able to avoid the shoals occasioned by a federal election, especially when it involves such a sensitive issue. I prefer, therefore, to have more than less time to do the work and thus avoid being forced to produce a report that would be fed to the politicians, who will be looking for subjects that might arouse the passions of Canadians without their being given all the information necessary.

Honourable senators, I am proposing to you the establishment of a special committee, and, if you have questions, I am at your disposal to give you answers.

On motion of Senator Kenny, debate adjourned.

FISHERIES

COMMITTEE AUTHORIZED TO STUDY MATTERS RELATED TO ITS MANDATE

Hon. Gerald J. Comeau, pursuant to notice of December 2, 1999, moved:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to the fishing industry;

That the Committee report no later than December 12, 2000; 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.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to make a comment on the creation of terms of reference on a broad issue such as fisheries, which is essential and which I support completely. We had one last week on agriculture, and one on forestry. Senator Nolin is asking for one on illicit drugs. Senator Kirby is asking for one on health services. Some of these may go on for a year or two. In Senator Nolin's case, it will be three years.

Before we go too far in the approval of these special studies, we should get an idea of the cost involved, particularly since our committee budget, as far as I know — and I do not think things have changed much in recent years — is always very stretched. This is probably the one item on the budget which is most called

upon and always underfunded. I do not want to put a halt to the study suggested by Senators Comeau and Robichaud. However, before we go too far, I feel that we should have some global idea as to how much these studies will cost the Senate and how much we are committing over the next two and three years. We may find that we cannot complete some of these studies for lack of funds or lack of foresight.

• (1730)

Senator Comeau: The problem with presenting a budget prior to seeking the mandate is that, not having a mandate, we cannot present a budget. First, we need to have the mandate, after which we can go back to committee and prepare the budget. If the Standing Committee on Internal Economy, Budgets and Administration feels that we should not proceed with the study, it can be discussed at that point; however, we simply cannot prepare a budget without having first a mandate.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I wish to ask a question of the Honourable Senator Comeau. I think I know the answer, but let me confirm. I believe this motion is being brought with the approval of the members of the committee, and I assume the unanimous approval, but I would appreciate a comment.

I understand Senator Lynch-Staunton's point as well as the one Senator Comeau is making. As chair of a committee, it is difficult to know which comes first in these matters. In any event, I know the committee did excellent work in the last Parliament on such a reference. The committee incorporated into it — and we will come to this matter in the chamber at some point — a reference to the Estimates to aid it in having a basis for its study.

I would appreciate a comment on the status of the committee's decision in coming to the Senate with this motion.

Senator Comeau: Honourable senators, the motion to which the deputy leader refers, that referring to Estimates, is actually the third motion I shall be making. I shall come to that in a few moments. The third motion I shall be presenting is that, in the event the Estimates are referred to the committee, we would then need to have the means of depositing them. However, for the time being, if the Estimates are not referred to our committee, of course we would not be referring them to the clerk if the Senate is not sitting.

[Translation]

Hon. Fernand Robichaud: Honourable senators, I should like to add a few comments and perhaps reassure Senator Lynch-Staunton. When we considered this motion, it involved having quite a broad mandate to enable us to examine all issues relative to fisheries. It was clearly understood that, if we were to travel, a budget would be prepared and presented to the Committee on Internal Economy, Budgets and Administration so we could comply with the directives given each committee to monitor their spending.

Last year, the Fisheries Committee put off a trip to the West Coast because it could not find the funds to make the trip. It is understood that it is not a matter of budget and of traipsing around Canada.

[*Translation*]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Lise Bacon, pursuant to notice of December 6, 1999, moved:

That the Standing Senate Committee on Transport and Communications be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Hon. Eymard G. Corbin: Honourable senators, increasingly, all committees are seeking authorization from the Senate to broadcast their public hearings on the radio and television. It has come to the point where we should give a blanket authorization to all committees wishing to proceed in this manner. After all, we live in an age when everyone is plugged in, where everyone wants to see and hear what is going on. This requirement has become superfluous. The Standing Senate Committee on Privileges, Standing Rules and Orders should examine this prerequisite and strike it from the rules. Committees should be left to make up their own minds in this regard.

The Hon. the Speaker: Honourable senators, are there any other senators who wish to speak?

Hon. Senators: No.

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

Hon. Senators: Agreed.

Motion agreed to.

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Lise Bacon, pursuant to notice of December 6, 1999, moved:

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

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, December 8, 1999, at 1:30 p.m.

Senator Lynch-Staunton: It was not my intention to cast a shadow over the motion of Senator Comeau. I wanted to ask that we be as careful as possible, since our budgets are very limited. However laudable the studies proposed, particularly the one to take place over two or three years, it would be a good thing for the Senate to be informed of the costs immediately in order to avoid any unpleasant surprises.

The Hon. the Speaker: Honourable senators, no other senator wishes to speak. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Gerald J. Comeau, pursuant to notice of December 2, 1999, moved:

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

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Gerald J. Comeau, pursuant to notice of December 2, 1999, moved:

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

Motion agreed to.

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