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OFFICIAL REPORT
(HANSARD)

Wednesday, December 8, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Wednesday, December 8, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

IN VITRO MATURATION

Hon. Lucie Pépin: Honourable senators, three weeks ago researchers at McGill University reported that they had helped several couples to conceive babies, even twins, using a new and revolutionary method. This method, which facilitates the transformation of a woman's immature eggs into embryos is called *in vitro* maturation. IVM is an offshoot of *in vitro* fertilization, which revolutionized the treatment of infertility in the 1970s. *In vitro* maturation differs from *in vitro* fertilization in that, with IVM, the egg is brought to maturation and then fertilized outside the uterus of the mother while, with *in vitro* fertilization, the already matured egg is fertilized in the laboratory.

IVM was developed in South Korea and Australia in the early 1990s, for women whose eggs did not mature naturally. Until recently, the success rate with IVM was low, but Dr. Seang Lin Tan, Director of the McGill University Department of Obstetrics and Gynecology, has changed all that. By successfully bringing eggs to maturity outside the body, he has opened the door to new methods of *in vitro* fertilization with a better success rate than the present 20 per cent. This technique seems to work successfully for women who have tried unsuccessfully to achieve a pregnancy with other methods. As well, the cost is half that of IVF. What wonderful news for the couples who will be able to take advantage of this!

However, where does society fit in all this? With all the new reproductive techniques available, the answer to this is that we are uncertain. We are very pleased for the couples who will now be able to have children because of this technology. However, it is not that simple. Who should benefit from this technology? Who has access to this treatment? What do they need to know before undergoing this treatment? What could the unexpected moral repercussions of this treatment be in the short, medium and long terms? These issues are so complex, and the potential applications of some of these technologies are so vast. There is nothing black and white here; everything is grey.

[*English*]

In 1993, the Royal Commission on New Reproductive and Genetic Technology presented their report, with a recommendation for the creation of a national reproductive technologies commission. The commission was supposed to do several things. First, it was to license institutions, set standards and monitor practices in the use of existing reproductive technology. Second, the commission was to collect, evaluate and disseminate information to the public on these technologies. Third, it was to monitor future technologies and practices, and set policy. Finally, it was supposed to facilitate intergovernmental cooperation in the field.

Unfortunately, this recommendation has not been acted upon by the federal government. Each time I read or hear of a new reproductive technology emerging in Canada, I regret the absence of the national commission. We have no national body to examine the implications these technologies raise or to regulate their use.

[*Translation*]

I urge the federal government to review the recommendations of the 1993 royal commission and to act as quickly as possible to establish a national reproductive technology commission. The problems being raised by these new technologies will not go away. They will become more complex, as science progresses. Now more than ever, we need a permanent institution capable of monitoring the use of new technologies and developing a policy in order to protect the health and well-being of Canadians.

• (1340)

[*English*]

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION—
PROPOSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL

Hon. Lorna Milne: Honourable senators, by law and by the Constitution of Canada, the Ontario government is master of all the municipalities of the province, and this present government is bound and determined to make that fact extremely clear. Unfortunately, the present government in Ontario has never hesitated for a single second to force its will upon the people of this province. I must point out that the Government of Ontario has never forced the official description of "bilingual" upon any of its creature municipalities. However, Ottawa is a municipality unlike any other. It is the national capital of this bilingual country of ours.

Honourable senators, I strongly urge the Government of Ontario to follow the suggestion of Mr. Glen Shortliffe, their special advisor on the restructuring of the Ottawa-Carleton region, and to declare the new amalgamated City of Ottawa, the capital city of Canada, to be officially bilingual.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

FIRST REPORT OF JOINT COMMITTEE PRESENTED

Hon. Louis J. Robichaud, Joint Chairman of the Standing Joint Committee on the Library of Parliament, presented the following report:

Wednesday, December 8, 1999

The Standing Joint Committee on the Library of Parliament has the honour to present its

FIRST REPORT

Your Committee recommends that it be authorized to assist the Speaker of the Senate and the Speaker of the House of Commons in directing and controlling the Library of Parliament; and that it be authorized to make recommendations to the Speaker of the Senate and the Speaker of the House of Commons regarding the governance of the Library and the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein.

Your Committee recommends that its quorum be fixed at seven (7) members, provided that both Houses are represented whenever a vote, resolution or other decision is taken, and that the Joint Chairs be authorized to hold meetings to receive evidence and authorize printing thereof so long as four (4) members are present, provided that both Houses are represented.

Your Committee further recommends to the Senate that it be empowered to sit during sittings of the Senate.

A copy of the relevant Minutes of Proceedings (*Meeting No. 1*) is tabled.

Respectfully submitted,

LOUIS J. ROBICHAUD
Joint Chairman

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

On motion of Senator Robichaud, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

AGRICULTURE AND FORESTRY

FIRST REPORT OF COMMITTEE TABLED

Hon. Joyce Fairbairn: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour to table the first report of the Standing Senate Committee on Agriculture and Forestry, which deals with the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(*For text of report see today's* Journals of the Senate.)

NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17 OF CONSTITUTION—FIRST REPORT OF SPECIAL JOINT COMMITTEE TABLED

Hon. Joyce Fairbairn: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour to table the first report of the Special Joint Committee on the Amendment of Term 17 of the Terms of Union of Newfoundland, which deals with the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(*For text of report see today's* Journals of the Senate.)

[*Translation*]

OFFICIAL LANGUAGES

FIRST REPORT OF JOINT COMMITTEE PRESENTED

Hon. Rose-Marie Losier-Cool, Joint Chairman of the Joint Standing Committee on Official Languages, presented the following report:

Wednesday, December 8, 1999

The Standing Joint Committee on Official Languages has the honour to present its

FIRST REPORT

Your Committee which is authorized by section 88 of the *Official Languages Act* to review on a permanent basis the administration of the Act, any regulations and directives made under the Act and the reports of the Commissioner of Official Languages, the President of the Treasury Board and the Minister of Canadian Heritage, reports, pursuant to rule 104, that the expenses incurred by the Committee during the First Session of the Thirty-sixth Parliament are as follows.

Professional Services	$ —
Transportation	—
Other, Miscellaneous	1,218.72
Total	$ 1,218.72

Your Committee recommends that its quorum be fixed at seven (7) members, provided that both Houses and the Opposition are represented whenever a vote, resolution or other decision is taken, and that the Joint Chairmen be authorized to hold meetings to receive evidence and authorize the printing thereof so long as four (4) members are present, provided that both Houses and the Opposition are represented.

During the session the Committee undertook an examination of Part VII of the Official Languages Act which commits the federal government to supporting and assisting the development of English and French linguistic minority communities in Canada. The Committee held 28 meetings and heard 47 witnesses.

A copy of the relevant Minutes of Proceedings *(Meeting No.1*) is tabled at the House of Commons.

Respectfully submitted,

ROSE-MARIE LOSIER-COOL
Joint Chairman

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

On motion of Senator Losier-Cool, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

QUESTION PERIOD

TRANSPORT

FREDERICTON AIRPORT—STATUS OF NEGOTIATIONS TO TURN OVER TO LOCAL AIRPORT AUTHORITY

Hon. Brenda M. Robertson: Honourable senators, I have a question for the Leader of the Government in the Senate. The issue of uncertain air service to our smaller communities in Atlantic Canada is now on the minds of many of us from the area. However, the Fredericton airport has another problem besides this uncertainty. Anyone who flies in and out of the Fredericton airport recognizes that it has suffered from some neglect over the years.

The federal government is negotiating to turn the airport over to local authorities. However, the chickens are coming home to roost. This neglect has been going on for a long time — approximately 20 years. Because of the neglect of the physical plant and the disregard for its current needs, according to a report in *The Daily Gleaner*, the Greater Fredericton Airport Authority has been informed by its consultants that a $20-million investment is required to bring the airport up to present standards, or standards that are required now, shall we say. There are even questions about the main runway being too short.

The federal government is unwilling to make this $20-million investment before transferring responsibility for the airport to the local operators. When or if this happens, the local authority is left with little opportunity to succeed. Another factor is that airport revenues may fall given the restructuring in the airline industry and the possibility of fewer landings. The odds of a new operator succeeding are even poorer.

In my opinion, this is a matter of fairness. If the Greater Fredericton Airport Authority is to have a fair chance to succeed in operating the airport, which serves New Brunswick's capital city and the central New Brunswick community, the federal government must recognize that its years of treating the airport unfairly must be weighed heavily in the takeover negotiations with the local authority.

• (1350)

Will the Leader of the Government provide this chamber with a status report on these negotiations regarding this serious matter to the residents of Fredericton?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, while I am not familiar with the negotiations with respect to the Fredericton airport, I am aware of the process that has been adopted in other areas of the country. I am most familiar with the Halifax airport, where a similar process was undertaken and similar issues were brought to the fore.

I must pay tribute here to the work of my predecessor in the leader's office, Senator Graham, who was largely responsible for a federal government commitment to provide the funding for capital improvements at the Halifax airport. Obviously, this is a matter which comes under discussion when such negotiations are undertaken. Certainly, the precedent has been set. As to the final result of these particular negotiations, I am certainly not in a position to speculate, but I am aware of the importance of the issue. I am prepared to convey the senator's concerns to the minister in question.

Senator Robertson: Minister, I would appreciate that very much, and I am sure other members of the chamber would as well. You mentioned good cooperation and good results in the transfer of other airports in the region, for example, in Moncton, Saint John, Halifax, St. John's, and so on. Their needs seem to have been met rather well. However, we would appreciate a status report on your intervention with the minister to ensure that the Fredericton circumstance is dealt with expeditiously and with a great deal of fairness. We look forward to your response on this matter.

Senator Boudreau: Honourable senators, I am certainly prepared to raise that issue with the Minister of Transport, the Honourable David Collenette. As well, when the matter presents itself, I will be pleased to discuss it with my colleague in the Privy Council from the province of New Brunswick.

FREDERICTON AIRPORT—INABILITY OF RUNWAY SYSTEM TO ACCOMMODATE CERTAIN AIRCRAFT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a supplementary question. In his discussion with the Minister of Transport regarding the Fredericton airport, could the Leader of the Government draw to Minister Collenette's attention the Department of Transport 1992 study which recognized the need to extend the east-west runway to 78,000 feet? Currently, that runway can only handle turboprop equipment flying in. The southwest runway can handle DC9s and the BAC146 and, when the weather is good, it can handle the regional jet. I would ask the minister to raise that matter not only with his colleague the Minister of Transport but also with his colleague the Minister of National Defence.

In other words, honourable senators, the Canadian Armed Forces Airbuses cannot land at the largest Canadian Forces base in Canada, which seems rather extraordinary. When there is troop movement from base Gagetown — the largest Canadian Forces Base not only in Canada but also, in terms of geography, in the British Commonwealth — they must bus in from Moncton, which has a longer runway so that it can handle the Armed Forces Airbuses. I wonder whether that second dimension of the need, reflected in the Department of Transport's own study of 1992, and secondly, in the reality that CFB Gagetown is right there and they cannot land their equipment, could be addressed?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I would be happy to relay the comments of the Deputy Leader of the Opposition to the ministers in question. My experience, as limited as it is, has been that the negotiating process is pretty vigorous — at least, it was in the Province of Nova Scotia. All the factors are generally brought to bear, in a forceful way, by the airport authority which is negotiating in hopes of reaching that overall agreement with the minister. I suspect the length of the runway issue has already been raised with the minister, but I will convey the comments of both senators who have raised this matter.

[*Translation*]

INTERGOVERNMENTAL AFFAIRS

ONTARIO—REGIONAL RESTRUCTURING LEGISLATION—PROPOSAL TO DECLARE OTTAWA UNILINGUAL ENGLISH

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate. As we all know, the day before yesterday the Conservative Harris Government of Ontario rejected the recommendations of the Shortliffe report on restructuring government in the region with respect to institutional bilingualism. According to Premier Harris and company, the capital of the country would be unilingual English. This new City of Ottawa will group under one administration all of the urban municipalities in the region of Ottawa-Carleton. This decision by the Harris Conservatives shows just how ignorant they are of the Canadian reality, the reality of a country with two official languages.

For Canada to have a unilingual national capital is unacceptable and intolerable. We would be the only capital in the world rejecting institutional bilingualism. I know no other country with two or more official languages that does not respect linguistic duality in its capital.

Can the minister tell us whether the federal government intends to pressure Mr. Harris and his government to respect both official languages, French and English, in our country's capital?

[*English*]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the statements which have been made in this place by the honourable senator, as well as by Senator Milne earlier today and by others yesterday, reflect my own view that it is entirely appropriate for the capital of our country to be bilingual. While we recognize that municipal government is a responsibility of the provincial authorities, Ottawa is a city unlike any other city in Canada. It is the capital of our country. Before answering on behalf of the government, honourable senators, I wish to indicate my own strongly held personal views that Ottawa must be a bilingual national capital.

Honourable senators, the Prime Minister has spoken out publicly on this issue. He will be contacting the Premier of Ontario and very strongly urging the Premier to take the necessary action to ensure that Ottawa becomes the bilingual capital of our country.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, I have listened to the response of the Leader of the Government and I agree with him entirely.

Senator Gauthier: Honourable senators, I understand the government's position. The Municipality of Ottawa-Carleton is a creation of the provincial government and therefore comes under its jurisdiction. Nevertheless, in light of the province's refusal to declare the national capital bilingual, can the minister say whether the federal government will use its constitutional power or its powers under the Official Languages Act to resolve this situation and ensure that an enlarged City of Ottawa is and remains the nation's capital with two official languages?

[*English*]

Senator Boudreau: Honourable senators, it has been the view of very learned individuals, including senators, that, under section 16 of the Constitution Act, there is some jurisdiction for the federal government to intervene in issues of this type.

• (1400)

I am not pronouncing on that issue from a legal point of view, except to say that the members of the federal government and the Prime Minister are currently reviewing this matter. Any constitutional issue is complicated and usually requires clear study.

Quite frankly, I think it would be the view of the government that this matter be resolved without any reference to other proceedings through the court system. It is hoped that the Premier of Ontario will respond to the very clear expressions of Canadians, including senators who have raised the issue, the Prime Minister, and other prominent individuals. One would hope that the Premier of Ontario will take those comments seriously, will take them to heart and will change his initial reaction.

[*Translation*]

Senator Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. I agree with his reply and with what the government is trying to affirm.

There is no doubt that the question of what is to be done with Hull, which is also part of the National Capital Region, will have to be asked. That is another problem entirely.

What financial assistance is the government prepared to provide in order to ensure that the Government of Ontario does not cite economic reasons for failing to act?

[*English*]

Senator Boudreau: Honourable senators, this is an issue which will require a frank discussion between the Prime Minister and the Premier of Ontario. I believe such discussions will take place, and the Prime Minister will know from all the comments that have been made, certainly in this chamber, that we very much support measures to ensure that Ottawa will be a bilingual capital.

It would be impossible to speculate on the details at this time. However, the message has clearly been given. It is being taken seriously by the Government of Canada and the Prime Minister. One hopes that it will be taken seriously by the Premier of Ontario.

Hon. Marcel Prud'homme: Honourable senators, Queen Victoria decided that Ottawa should be the capital of Canada after considerable deliberation. Montreal, Kingston and Toronto were all previous capitals and it did not work in any of those places. Ottawa was chosen.

I agree with Senator Nolin that the addition of Hull to Ottawa would have been preferred, but nonetheless, Ottawa is the capital of Canada. I may disagree slightly with my colleague, in that the federal government should give some money or incentive. However, if the Government of Ontario cannot realize it, I should hope that the people of Ottawa would realize that they are not just a city, but that they populate the capital of all of Canada and, as such, they should reflect the ideals for which Canada stands. I am asking that Ottawa reflect an ideal.

[*Translation*]

I am Canadien français du Québec.

[*English*]

Do not translate that as "French-Canadian" of Quebec. I am Canadien français du Québec, and I say that Ottawa is my federal capital.

Therefore, I say that the federal government should remind the people of Ottawa and the Government of Ontario that this place should truly reflect what it was meant to be, the capital of all Canada.

I like to be positive, so I suggest that the honourable Leader of the Government reflect, with all his colleagues, on proposing a motion to the Senate, to remind those who are responsible, that Ottawa should reflect what Canada is all about.

Would the Leader of the Government consider a simple resolution of the Senate to remind everyone that Ottawa should stand for all Canadians?

Senator Boudreau: Honourable senators, certainly we will reflect on that suggestion. I would also like to associate myself with the remarks the honourable senator made in his preamble. The honourable senator was much more eloquent on the subject than I could be, but it certainly is a matter of grave importance to all of us.

TRANSPORT

TAKEOVER OF CANADIAN AIRLINES BY AIR CANADA—REGULATION OF POSSIBLE MONOPOLY IN AIR PASSENGER INDUSTRY—GOVERNMENT POLICY

Hon. J. Michael Forrestall: Honourable senators, I have two or three questions regarding Air Canada and the merger with Canadian Airlines and Air Canada's most recent action. Air Canada has now extended, as we all know, to December 23, the deadline for the turnover and final settlement of the shares and whatnot. While Air Canada did not specify what these problems are in any detail, it did suggest that it would seek regulatory consent, as well as clarification respecting the terms of any new proposed legislation or policy.

Do I take from those general comments that something has been proposed, that the matter has been discussed with Air Canada's officials and that we are awaiting further examination of it?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I read in *The Globe and Mail* of the delay and the reasons that were given for the delay, and of course, I believe them to be accurate.

Senator Forrestall: That is because it is a CP story.

Senator Boudreau: The Transport Committee of the House of Commons has tabled their report.

Senator Kinsella: They did not deal with section 47, though.

Senator Boudreau: The Senate Transport and Communications report will, no doubt, be tabled in the very near future. Both reports may provide some assistance and direction with respect to specific air transportation policy. I am aware of the reason for the delay in the Air Canada offer. The only information I have at the moment is what I read in *The Globe and Mail*.

I would say, however, that the very clear enunciation of the principles upon which the Minister of Transport and the Government of Canada will act have already been spelled out. Air Canada must take these principles into account in any future arrangements.

AIR CANADA—INCREASE IN AIR FARES

Hon. J. Michael Forrestall: Honourable senators, we have seen Air Canada take its second step. Its first one was a desperate slap in the face to the Government of Canada and to most reasonable Canadians when it suggested that if the government tries to shackle it in any way it will withdraw its offer and the whole merger will collapse.

There is something now afoot in discussions between the Government of Canada and Air Canada having to do with costing fare structures. Because of hikes in oil, we just had an across-the-board increase in airfares of 3 per cent, an absolute bloody rip-off. They always go up, and never come down. No one seems to know why they cannot come down.

• (1410)

Are there ongoing discussions between the Government of Canada and Air Canada with respect to a regulatory process that would justify taking every slot, eliminating competition, and running roughshod over the Canadian traveller by charging an additional 3 per cent?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not aware of what, if any, discussions are ongoing. However, should Air Canada be successful in their approach, they are aware that they will have to accommodate the principles clearly enunciated by the Minister of Transport. The interests of the Canadian public, the small communities throughout our country, and the air traffic consumer will be principal in any discussions with Air Canada.

Senator Forrestall: Honourable senators, can the Leader of the Government in the Senate tell us whether Air Canada will be asked to roll back the 3 per cent increase until a decent period of time has passed?

Senator Boudreau: Honourable senators, I do not see it as my role to defend the national air carrier. However, we are informed that the increase is due to an increase in the cost of fuel, which I believe has gone up 100 per cent over the last number of months. If fuel prices come down, we will watch to see whether fares decline as well.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL—OPPOSITION FROM GOVERNMENT OF ALBERTA

Hon. Douglas Roche: Honourable senators, my question is directed to the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology. The chairman referred to a letter of December 7 sent to him by two ministers of the Government of Alberta — Shirley McClellan, Minister of International and Intergovernmental Relations, and Walter Paszkowski, Minister of Municipal Affairs — expressing opposition to Bill C-6, the protection of personal information bill.

In this widely circulated letter, which is the second communication from the Alberta government, Alberta is seeking amendments to the bill to strike out those clauses that intrude upon the jurisdiction of provinces, and other points.

In light of the strong representation made by the Government of Alberta on the jurisdictional question, what is the chairman's response to Alberta's statement that, if the bill is passed, Alberta may be forced to consider a constitutional challenge to preserve its authority under the Constitution?

Hon. Michael Kirby: Honourable senators, I will deal with the last question first. Although some may hold the view that the bill is unconstitutional, including the Government of Alberta, the constitutional expertise available to the committee, and indeed to the government, is strongly of the view that this bill will withstand any constitutional challenge.

The first question is a little more complicated in that this bill will not apply to intraprovincial activities, provided that the province has a bill substantially similar to the federal law. It would be difficult for business to be subject to two different schemes, which would be the case if a province were to pass privacy legislation substantially similar to Bill C-6. That is obviously a legitimate point of view and that is the rationale for the clause in the federal bill stating that if a province passes substantially similar privacy legislation, the federal bill will not apply in that specific area.

That leaves the question of whether the draft Alberta bill on health care legislation, for example, is substantially similar.

The Hon. the Speaker: Honourable senators, questions to chairmen of committees must not be on the subject matter before the committee but purely on the activities of the committee. Questions regarding the subject matter before committees are not in order.

Senator Roche: Honourable senators, in light of these difficulties, is there a reason the Alberta government was not called to testify before the committee to make clear its position, given that it originally sent a letter on October 15, which has now been virtually repeated?

Senator Kirby: Honourable senators, I can confirm this tomorrow, but I understand that several provinces that sent us letters — notably Alberta and Ontario — were asked whether they wanted to appear. Ontario sent officials and their Assistant Deputy Minister of Health. The minister did not appear.

It is my understanding, subject to confirmation by the committee clerk, that the Alberta government was asked whether they wanted to appear, and they said that they were content to have their letter be their testimony, rather than appearing in person.

TRANSPORT

AIR CANADA—INCREASE IN AIR FARES

Hon. Donald H. Oliver: Honourable senators, my question is about Air Canada and the increase in air fares. The question has been asked and answered in part, but I should like to direct a supplementary question to the Leader of the Government in the Senate.

In today's *National Post*, Laura Cooke, a spokesperson for Air Canada, is quoted as saying, in relation to the increased air fares, that tickets to the United States and other international destinations were exempted and that the fares did not increase for competitive reasons.

Therefore, if we have a monopoly in Canada with no competition for Air Canada, will we have continued increases in air fares?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I can neither confirm nor deny the information brought forward by Senator Oliver. However, I will seek further information and respond as quickly as possible.

Senator Oliver: Does the minister not agree that it is shocking that the Canadian airline will increase domestic fares but not international fares?

Senator Boudreau: Honourable senators, it is surprising, to say the least, and is an issue worthy of further attention.

HERITAGE

STATUS OF HOLOCAUST MEMORIAL MUSEUM

Hon. Colin Kenny: Honourable senators, I gave notice last week of the question I am about to ask. I have been approached by groups concerned about the status of the Holocaust memorial museum.

Could the Leader of the Government in the Senate provide us with an update on the status of that museum? Does the government remain committed to the principle of establishing such a museum? If so, when can we expect to see some activity on this file?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the commemoration of that horrendous event in the history of humanity is a matter of great importance. Unfortunately, I cannot comment on it in detail today. With apologies to the honourable senator, perhaps I can do so as early as tomorrow.

ORDERS OF THE DAY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

THIRD READING—MOTION IN AMENDMENT—DEBATE ADJOURNED

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

• (1420)

Hon. Lowell Murray: Honourable senators, I indicated to you yesterday that I intended to propose an amendment at the third reading stage of this bill. Perhaps it would be a good idea for me to read the amendment and then I will speak to it.

I move, seconded by Honourable Senator Doody:

> That Bill C-6 be not now read a third time but that it be amended in clause 7 on page 7 by deleting lines 16 to 22, and by renumbering paragraphs (*h*.1) and (*h*.2) as paragraphs (*h*) and (*h*.1), and any cross-references thereto revised accordingly.

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

Senator Murray: How much time do I have to speak?

The Hon. the Speaker: As you are the first speaker at third reading stage of the bill, you have 45 minutes. On the other hand, I must point out that there is an order of the house that the Senate will rise at 3:30.

Senator Murray: Thank you, Your Honour.

Honourable senators, I refer you to clause 7 (1) which says:

> For the purpose of clause 4.3 of Schedule I, and despite the note that accompanies that clause, an organization may collect personal information without the knowledge or consent of an individual only if...

There follows a whole list of mostly valid circumstances under which personal information collected about you by a business in the course of its commercial activity could be disclosed. Those valid circumstances include: for the purpose of collecting a debt owed by the individual to the organization; if the information was required to comply with a subpoena or a warrant; if there was a suspicion that the information related to national security, the defence of Canada or the conduct of international affairs; if the disclosure was required for the purpose of enforcing any law of Canada; if the disclosure was made to a person who needs the information because of an emergency that threatens the life, health or security of an individual; and so on.

These are quite valid reasons and any reasonable person would agree that they are sufficient to justify the disclosure of personal information collected for commercial purposes. However, we then move into several rather more dubious circumstances that are outlined in the bill.

Before I come to the paragraph that I have moved to delete, I want to recite two of the dubious circumstances. One is contained in subparagraph (*f*) where it would be legal to disclose personal information without the consent of the person about whom it was collected:

> ...for statistical or scholarly study or research, purposes that cannot be achieved without disclosing the information, it is impracticable to obtain consent and the organization informs the Commissioner of the disclosure before the information is disclosed.

There is nothing said here about whether the commissioner can halt the process or do anything about it. His right in this subparagraph is simply to be informed when information about an individual collected for commercial reasons will be released "for statistical, or scholarly study...".

Subparagraph (*g*) makes it legal to disclose personal information collected by a business if it is:

> ...made to an institution whose functions include the conservation of records of historic or archival importance, and the disclosure is made for the importance of such conservation.

This is personal information that is collected about you, or about any individual, by business firms in the course of their activity — for example, your mortgage information, your credit card information, and your pharmaceutical record. It says here that that information on you should be disclosed "for statistical, or scholarly study" or in subparagraph (*g*) for "historic or archival importance."

[Senator Murray]

I should like to deal with this issue en passant. This means open season on prominent people. Be very clear on what this is all about. In most cases this is not about an ordinary citizen. This is a right to get at the personal business of people who are prominent, whether they be in politics, the arts, or whatever. This will allow open season on them.

There may be some reluctance on the part of honourable senators to take on the vested interests in the archival community, in journalism, and people engaged in statistical or scholarly study. I think it is about time we drew the line. Prominent people have as much right as anybody else to privacy.

Under subparagraphs (*f*) and (*g*), these people will still be alive to object. They will be able, one assumes, to go to the commissioner or the courts, or have some legal recourse, to protect their personal and private information.

The paragraph on which I have concentrated, and that I would like to see deleted, is the provision under subparagraph (*h*) that personal information can be released if the disclosure is:

> (*h*) made after the earlier of
>
> (*i*) one hundred years after the record containing the information was created, and
>
> (*ii*) twenty years after the death of the individual whom the information is about;

What is the principled justification for a provision of that kind in this bill? In the briefing book that was given to members of the committee by the government, the background of this clause is set out as follows:

> The *Privacy Act* deals with this issue by defining personal information of a person who has been deceased for twenty years as not being personal information for the purposes of the *Act*. The approach in this legislation is more restrictive, permitting disclosure but not removing it from the ambit of the legislation.

It is true that the Privacy Act passed a few years ago protects the privacy of individuals with respect to personal information about themselves held by a government institution. Indeed, it does exempt from its protections information about an individual who has been dead for more than 20 years.

• (1430)

As I said on several other occasions, there may be good public policy reasons for disclosing information about individuals that is held by governments after 20 years, or sending the information to the archives, but that is not the bill we are debating today. We are debating a bill concerning personal information collected in the private business sector about people and whether there should be a provision of that kind.

When the officials were before the committee, I asked Stephanie Perrin, Director, Privacy Policy, Electronic Commerce Task Force, Department of Industry, about this, and I said:

> Am I correct in my reading of this section and subsection that personal information collected by an organization — your bank, your credit card company, your mortgage company, your insurance company, whatever — could be disclosed 20 years after the death of the person about whom it was collected? Am I correct in my reading of that?
>
> **Ms Perrin:** That says you need not seek the consent of the individual for that disclosure. However, all disclosures must be justified with the purpose clause, so there must be a legitimate purpose for the disclosure of that information. There are still a number of tests. This merely says that you need not seek consent to disclose.

A little later, she said:

> You must state your purposes, if you are an organization, for the collection, use and disclosure of personal information.

I went back to the bill to see what she was talking about. I came to clause 5, which is really not very helpful at all because it just refers to Schedule 1 and states about Schedule 1 that:

> The word "should", when used in Schedule 1, indicates a recommendation and does not impose an obligation.

I then went to Schedule 1, the so-called purpose clause. The purpose clause has mostly to do with the collection of information, not with its disclosure. That clause states that it should be read in conjunction with clause 4.5 of Schedule 1, entitled "Limiting Use, Disclosure and Retention." Thus, I went to that clause, and what did I find? I found two or three paragraphs stating that organizations "should" develop guidelines and implement procedures with respect to the retention of personal information.

I found another one which states:

> Personal information that is no longer required to fulfil the identified purposes should be destroyed, erased, or made anonymous.

All that is not much help in the face of a provision that provides that it would be legal to disclose personal information that is collected for commercial reasons 20 years after you have died.

Then Ms Perrin and I got right down to the nitty-gritty, and I want honourable senators to listen to this. I asked her about the justification. She said:

> This clause is basically for historical purposes and archives. You obviously have not heard yet from the archivist and historian community.

Why would we need to? Their interests have been taken care of.

She continued:

> They feel very strongly that if we do not have a clause that permits private organizations, businesses and institutions to disclose information to historical institutions for the preservation of historical records, that much valuable information will be destroyed. There are provisions in the bill to retain the information only as long as is necessary for the purposes for which it was gathered, so there is a strong push on institutions to destroy information that is no longer necessary. An insurance company, for instance, if they are not doing business with you and there is no longer a need, would be strongly impelled by the schedule to dispose of that information. Nevertheless, some information is of historical interest. An example that has been used in letters to our minister on this very clause is the Hudson's Bay archives that were recently donated.

Cut up your Bay credit card, honourable senators.

> Those were company records. If you put in a clause which says that if you no longer have a use for the information, the information must be destroyed or deleted, then who will keep these records? There is still a threshold there for the bank and the insurance company to prove that their purpose is indeed the retention of historically interesting information.

She tries to make a principled justification, but I do not think that is acceptable. Let me come back to that.

We are dealing with an individual's personal business and personal information that was collected for commercial reasons. It is suggested that there might be good historical reasons for putting the business of Jean Chrétien, or his successor or his predecessors, whether it is credit card information, mortgage information or pharmaceutical records, into an archive somewhere. I say it is none of our business. I say that this kind of personal information is none of anybody's business. Further, I say that we must understand the mentality, and I say that with some respect. I hope I will always have some respect for learning and for science, including the social sciences, but we must understand the mentality of social scientists, archivists, historians and all the rest. They would have us save every last scrap of paper. They would have us preserve every last jot and tittle of information because they believe it is all relevant, no matter how personal or intimate. They will never agree that any scrap of it should be destroyed, especially if it deals with someone who may be considered of some importance, either now or in history. They insist that it is theirs. I say it is not theirs. I say it belongs to the individuals, and it should be given the same protection in this law that personal information generally is given.

I must say also that some of the witnesses from the privacy advocacy groups and the civil libertarians came conspicuously ill-prepared on this point. I do not think they had focused on it. I asked a man by the name of Murray Mollard, Policy Director of the British Columbia Civil Liberties Association, what he thought about it. He said:

> I do not think we have an official position on your question. This may or may not have to do somewhat with some of the census debate that has been ongoing.

It has nothing to do with the census. We are talking about commercial matters.

He then said:

> My intuitive response is that 20 years is not a long time. Why it has been chosen as 20 years, I do not know.

Then a bit later he said:

> Perhaps my colleagues have something to add. I do not understand the justification for that. The figure of 20 years strikes me as being not a long time.

I alluded yesterday to the testimony of a lawyer by the name of Ian Lawson from British Columbia, who is an expert in privacy law, and a relative of our colleague Senator Kelly, I may say en passant. He said:

> I may live to regret saying this, but the right of privacy is usually assigned to a living person. I am speaking about how we consider the interests at stake. In fact, when it comes to litigating and to enforcing rights of privacy, I wonder whether it would be possible at all for a person's interest to be at stake if that person is deceased.

Think about it, honourable senators.

Then we heard from Ms Valerie Steeves, Director of the Technology Project, Centre for Law and Social Change, Carleton University. She said:

> I differ with Mr. Lawson in this regard. There are all sorts of ramifications for the survivors of that individual as well. However, the sensitivity of personal information declines over time.

Perhaps it does, but that is no justification for releasing it, in my opinion.

She went on to say:

> It is a question of the appropriate time limit. I am not uncomfortable with a time limit. It may be that 20 years is not an appropriate time limit.

[Senator Murray]

She is not taking a position on principle. To her, it is a question of the time limit.

• (1440)

Fortunately, the Commissioner of Privacy, Mr. Phillips, was much more forthcoming. I remind you that Mr. Phillips was just about the most aggressive and robust supporter of this bill before the committee. I asked him to justify this provision. I will read you the exchange. I said:

> ...I invite you to offer us a principle justification for the provision in this bill that personal information collected for commercial purposes can be legally disclosed 20 years after the death of the person in respect of whom it was collected. Justify that for us.

Mr. Phillips: I will not try. That provision is the same one found in the existing Privacy Act. It is written by people who obviously believe that privacy rights expire at the grave.

Senator Murray: We had a lawyer tell us that today.

Mr. Phillips: If that is so and if that is an accepted principle in law, I think it is an unhappy one. I take a different view. I have learned in my experiences as a Privacy Commissioner that many people are very concerned about personal information which may linger on after their death and what happens to it. We need only consider the example of the enormous lengths taken by many people regarding the security and inviolability of their personal papers post-mortem. The assumption that people do not have a privacy right simply because they are dead, in my opinion, is a very poor one.

This argument, as we both know, is coming up in another context. It is now in the Privacy Act that, 20 years after your death, personal information does not qualify.

Senator Murray: There is no reason to apply it to the commercial sector as this bill does, is there?

Mr. Phillips: I do not draw a distinction between any kind of information. It is what the owner thinks about it, senator. You are right. The question is why?

Finally, we had the minister before us, Mr. Manley, and I asked him the same question — whether he could offer us a principled justification. He answered:

> I am told that the provision to which you have made reference is a standard archival rule. Any disclosure would still have to comply with the rest of the code. For example, the disclosure of the personal information must be made for the purposes for which it was collected.

The minister is obviously mistaken, or he did not understand my question. If the information is collected for reasons of your credit card application or your mortgage or your prescription at the pharmacy, that is one thing. We are talking about disclosing it for the purposes of the archives or for statistical reasons or for scholarly research or whatever it is. I do not think he quite understood the issue that I was raising.

Honourable senators, I have said on several occasions that I think the government and the Parliament that passes this bill can take some considerable pride in it. It does extend the protection of privacy law for personal information collected in the private commercial sector. However, a provision which allows disclosure 20 years after your death is, I think, a black mark on an otherwise excellent piece of legislation. No one has offered a principled defence of this provision, and I think it is indefensible.

We all know that individual privacy has been losing ground day by day and year by year. It has been losing ground to the forces of technology. It has been losing ground to the intrusiveness of some laws and regulations. It has been losing ground to the irresponsibility of a few players from the media. It has been losing ground to the otherwise valid and legitimate service of historians, archivists, journalists and the rest.

Whenever the issue arises, we are told that we must strike a balance between the right to privacy on the one hand and the right to information and the rights of a free press and the rights of a free state on the other. Whenever the issue is joined, that balance is shifted in favour of those other concerns and against the privacy of the individual. That has been the experience to date. That is the significance of the clause that I want to see eliminated from this bill. The right to collect and disseminate information should not trump every other right in the book.

We can let this clause go through and hope that it will always be used responsibly and with respect for the apparently non-existent legal rights of people who have passed on, or we can draw the line now and protect, as we should, the privacy of those people with regard to purely personal information collected by their bankers, their mortgage firms, their pharmacists and what have you. I hope that we will draw the line and strike this clause from the bill.

The Hon. the Speaker: Honourable senators, I must inform you that if Honourable Senator Kirby speaks now, his speech would have the effect of closing debate.

Senator Kirby: Honourable senators, I was about to speak to the amendment, but in any event I would have adjourned the debate. As I understand the procedure, it is the amendment, not the third reading motion, that is on the floor.

The Hon. the Speaker: You may speak on the amendment.

Senator Kirby: Honourable senators, given the usual entertainment value, thoughtfulness and cogency of Senator Murray's argument, I would not want to reply extemporaneously this afternoon but would want to reply tomorrow afternoon. I move the adjournment of the debate.

Hon. Douglas Roche: Honourable senators, I was seeking the floor a moment ago to ask permission to ask a question of Senator Murray. Is that agreeable?

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

Hon. Senators: Agreed.

Senator Roche: This question concerns Senator Murray's excellent address, for which I thank him. I go back to the point I raised with Senator Kirby in Question Period concerning the extraordinary communication received today written by two ministers of the Government of Alberta, a letter dated yesterday. That letter refers to and enlarges upon an earlier letter the Alberta government sent on November 16 to the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology. The letter of yesterday was circulated widely on Parliament Hill. Virtually every person of any importance on Parliament Hill has received a copy of this letter. It is quite a strong letter of protest against Bill C-6. I will not read the letter, although I am prepared to make it available. I do not have it in both languages, but I am prepared to make it available if any senator has not yet received it.

In short, Alberta is urging that this bill be reconsidered and that there be stricken from the bill those sections that intrude upon the jurisdiction of provinces to enable small- and medium-sized businesses to adequately prepare for the legislation and to enable a consultative process to be renewed to achieve the goal of privacy protection. That, in essence, is what Alberta is seeking.

The normal process is to appear before a committee while it is reviewing the bill in question. I do not want to get into any protracted discussion here about why Alberta did or did not appear before the committee. It appears that they might have assumed that the letter of November 16 was being taken into consideration by the committee, and, indeed, it may well have been. Does the Honourable Senator Murray feel that the amendment that he has just introduced — and I listened carefully as he outlined the limiting quality of the amendment — responds in an adequate manner to the points raised by the Government of Alberta? If not, what should we do about it at this stage? We have a province that has a key interest in this bill, such that their views should not be overridden by not giving sufficient consideration to them before this bill is passed by the Senate for a third time.

• (1450)

Senator Murray: Honourable senators, I received the same letter that Senator Roche received. However, I do not have it in front of me. First, I do not believe that the Government of Alberta focused on the particular clause that I seek to have deleted from the bill.

Second, I should tell my friend that, during the second reading debate, I expressed a layman's opinion, for what it is worth, that the bill represents a valid and legitimate exercise of the federal government's trade and commerce power.

Third, a more authoritative view on that matter was expressed before the committee the other day by Mr. Tassé, a former deputy minister of justice who is of the view that the bill is *intra vires* the federal Parliament.

Fourth, there is in the bill a provision that the bill will not apply to intraprovincial commerce in any province that, within the next three years, has passed a privacy bill that is "substantially similar."

Fifth, while I am aware that all the attorneys general of Canada, some considerable time ago, asked that the bill be withdrawn for the reasons outlined by the Government of Alberta, that has not been done. The Government of Ontario came before the committee to express their reservations about various aspects of the bill, but the officials declined to express a view or to state that there is an Ontario view as to the constitutionality of the bill. When asked specifically about this, they simply said it was a matter for debate.

One witness before the committee said that it is inevitable that there will be a constitutional challenge to this bill, and, I suppose, he will probably be proven right.

Senator Roche: I thank Senator Murray for that reply. He referred to an approach to resolving this difficulty through provincial legislation that would be substantially similar to the federal legislation. That is one of the points that Alberta makes in the letter, namely, that because "substantially similar" is not defined in the federal legislation, it is too wide for relevant, responding legislation to be made.

I ask Senator Murray again: Is there any way in which, at this stage, we might be able to accommodate the deep concerns expressed by Alberta and take positive action?

Senator Murray: Honourable senators, I do not disagree with the point that the Government of Alberta has made about the fact that the phrase "substantially similar" could have a rather broad meaning. However, I should point out that the only province that has a law which is comparable is Quebec. The government, through the Minister of Industry, has already indicated that, so far as the government is concerned, the Quebec law is substantially similar. As for the others, three years is provided for consultation and discussion. I understand that Alberta is drafting a bill, as we speak. They are not left simply to guesswork. They can and do discuss these matters extensively with the federal government. My recollection, from another life, is that Alberta has extraordinarily able public service advisers in the field of federal-provincial relations. I would think that it would not be beyond imagination and goodwill for Alberta to draft, and for Ottawa to accommodate, a bill tailored to Alberta's needs, but substantially similar to the federal legislation.

[Senator Murray]

On motion of Senator Kirby, debate adjourned.

CRIMINAL RECORDS ACT

BILL TO AMEND—THIRD READING

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

She said: Honourable senators, we are by now quite familiar with the content of Bill C-7, which is an important bill. It was before us in the last session and it is again before us. It has benefited in the interim tremendously by the work of the Standing Senate Committee on Legal and Constitutional Affairs, which found some serious flaws in the original version of the bill. The Solicitor General responded with admirable openness and rapidity in accommodating amendments to improve the bill. As it now stands, I think it is a very valuable addition to Canadian law.

This bill will essentially help to protect Canadian children and other vulnerable persons from finding themselves in positions where they might be prayed upon by sexual offenders. It will not guarantee however — nothing will ever guarantee — that sexual offenders will never be able to prey upon such people, but this bill is one contribution to the effort to protect those people who need protection. The form of protection that it provides is that it will allow organizations to which pardoned sexual offenders apply for employment to screen the criminal records system to determine whether or not these persons do have a criminal record for a sexual offence.

Honourable senators, it is important to note that there will be major safeguards for the pardon-holder's rights. We take the integrity of the pardon system very seriously. Access to the offender's information will be limited to authorized police officers and to law enforcement personnel. The applicant for the position will have to sign a consent form, even to check whether a notation exists in the general criminal records section. That consent form will point out that this person is in the section that is normally sealed that refers to pardoned offenders. Discovery of that special notation will be possible only if a special code is entered into the computer terminal. If the applicant does give consent, the authority of the Solicitor General will still be needed to unseal the record and notify the employing organization of a criminal record and the applicant's consent would, again, have to be given for that disclosure. These are serious safeguards.

In addition, thanks to the work of the Standing Senate Committee on Legal and Constitutional Affairs, the bill specifies now that it applies only to persons pardoned for sexual offences. Pardons for all other offences will remain sealed. Definitions which are now in the bill have been greatly improved. Definitions of "children" and "vulnerable persons" are now in the bill.

Given that this bill has been supported by all parties in the other place, by provincial and territorial ministers of justice and law enforcement authorities throughout Canada, I believe it merits our support.

Motion agreed to and bill, as amended, read third time and passed.

• (1500)

THE ESTIMATES, 1999-2000

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on National Finance (Supplementary Estimates "A", 1999-2000), presented in the Senate on December 2, 1999.

Hon. Anne C. Cools, for Senator Murray, moved the adoption of the report.

She said: Honourable senators, I should like to speak briefly to this most important motion and, in essence, to the second report of our National Finance Committee, being the report on the consideration of Supplementary Estimates (A), 1999-2000.

Honourable senators will find that this report is thorough and contains significant detail on our committee's deliberations. I would say that this report is the committee's best commendation. The National Finance Committee is the Estimates committee of the Senate, that committee which assists the Senate in fulfilling its parliamentary obligations in respect of the Senate's examination of the government's proposed and revised proposed expenditures.

The committee met on Tuesday, November 23, 1999, to hear from Treasury Board officials Mr. Richard Neville and Mr. Andrew Lieff. These two gentlemen were most forthcoming in their testimony and answered senators' questions with enormous care and attention.

I should like also to note for honourable senators that this particular meeting was the last appearance of Mr. Richard Neville. Mr. Neville informed us that he is moving on from his present position to assume the duties of the deputy comptroller general. He also informed us that he would be assuming these new duties around the beginning of December. I believe that I speak for all senators on the committee and for all senators in the chamber when I express our gratitude and our appreciation for his contributions and assistance to our committee during these past years, and I think I speak for all senators when I wish him success in the future.

Honourable senators, I should like also to take the opportunity to thank all the honourable members of the committee for what I consider to be their diligent attention to Supplementary Estimates (A), and I thank them for all their hard work. I should like also to thank Senator Lowell Murray for his steady, balanced and practised hand in guiding the committee during its deliberations.

I should like also to take the opportunity to welcome to the committee two new senators — Senator Finnerty and Senator Finestone. Senator Finestone informs me that she had not intended to stay on that committee but, since she attended her first meeting, she concluded that it was a good committee on which to serve.

Having said that, honourable senators, I recommend this report for your adoption.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*Translation*]

MEDICAL DECISIONS FACILITATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Pépin, for the second reading of Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.—(*Honourable Senator Lavoie-Roux).*

Hon. Rose-Marie Losier-Cool: Honourable senators, with leave of the Senate, I wish to speak to the second reading stage of Bill S-2, standing in the name of Senator Lavoie-Roux.

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

Hon. Senators: Agreed.

Senator Losier-Cool: Honourable senators, I should like to begin by congratulating my colleague Senator Carstairs on the presentation of Bill S-2, entitled An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.

The health demographic is, without a doubt, constantly changing. Since 1997, 40 per cent of Canadians under the age of 30 are caregivers to at least one family member. In Canada at this time, the average time an adult will spend on caring for a relative is longer than the time spent on child-rearing.

Given our constantly ageing population, honourable senators, it is time for an initiative such as this bill to be undertaken in Canada.

Today I would like to call your attention to clause 6 of this bill, which is aimed at coordinating, with provincial authorities and associations of health care professionals, the establishment of national guidelines for the withholding and withdrawal of life-sustaining medical treatments, for the controlling of pain, and for palliative care; and at promoting and encouraging public education regarding the controlling of pain by medical means and increasing the training of health care professionals in controlling pain and in palliative care.

Honourable senators, it is the duty of the federal government to establish standards on the quality of palliative care, as well as accessibility for all Canadians requiring such care. Palliative care should be integrated with other health services, and, ideally, should be more or less the same from one region to another.

As Dr. James McGregor of the Ontario Palliative Care Association pointed out to the Special Senate Committee on Euthanasia and Assisted Suicide:

> It is society's responsibility through government, health care planners, professional organizations, and health professions to provide the resources to ensure a system of intensive caring for dying patients and their families. This necessitates the development of the field of palliative care to ensure that the appropriate expertise is widely and readily available as well as accessible to all... It is unfortunate that Canadians continue to die in pain because this expertise is not available to them.

Honourable senators, the establishment of national palliative care standards would meet the needs of the sickest members of our society. I wish to underscore the importance of Senator Carstairs' initiative, which would promote a comprehensive approach and would make palliative care services effective and accessible throughout Canada.

The purpose of palliative care is to address not just the physical needs, but also the psychological, social, cultural, emotional and spiritual needs of individuals and their families. Palliative care helps the terminally ill live out their remaining days in comfort and dignity. It is invaluable at the end of people's lives and in the earlier stages of illness.

[*English*]

A *Globe and Mail* article published on December 7, 1999 stated that four out of five Canadians believe home care should be a free universal health care program.

• (1510)

The poll also stated that one-quarter of patients already pay significant expenses and that one in nine patients needing help say that they have no home care because they cannot afford it. Most respondents to this poll said that the level of care fell short because of government-imposed caps on the number of paid care hours allowed and because they could not afford supplementary help.

[Senator Losier–Cool]

[*Translation*]

That having been said, we should develop quality palliative care that meets people's needs and make it as widely available as possible. I should like to cite Dr. Ferguson, chief of the New Brunswick extra-mural hospital program, in order to illustrate the need to institutionalize palliative care as part of health care in Canada. He said:

> In many provinces, homecare has been developed more or less as a project or program. With us [in New Brunswick], it is part of the system. We like to think that we have a different approach to it, and we are encouraging it to be used more effectively. That is our objective, at any rate.

I am proud that my province of New Brunswick is a leader in the development of palliative care in Canada.

I hope that, with the support of the Senate and of the House of Commons, we will be able to adopt such standards Canada-wide.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this item will stand in the name of Senator Lavoie-Roux.

[*English*]

CANADIAN DISTRICT OF THE MORAVIAN CHURCH OF AMERICA

PRIVATE BILL TO AMEND ACT OF INCORPORATION— THIRD READING

Hon. Nicholas W. Taylor moved the third 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.—(*Honourable Senator Corbin*).

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

POINT OF ORDER—SPEAKER'S RULING

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, before we move to the adjournment motion, yesterday I raised a point of order with Senator Kinsella regarding the acceptability of a committee report being presented by a member of a committee who, it appears, was not authorized to do so on behalf of the committee. I understood that His Honour would be ruling on that because the Foreign Affairs Committee has already called a meeting to discuss the matter contained in that report. I want to ensure that the issue is settled before that committee gets involved in the study of a report that has been sent to it.

The Hon. the Speaker: Honourable senators, actions within committees are outside of my responsibility. What committees do is up to committees. However, insofar as reporting, I refer you to rule 97(1), which states:

> A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

When a report is presented, I have no authority to question whether the senator presenting has been designated. I must depend upon the committee chairman to have done that.

Senator Lynch-Staunton: The exchange yesterday with Senator Tkachuk, the deputy chairman, revealed that Senator Hervieux-Payette was not designated by the committee to present the report.

Hon. Leo E. Kolber: Honourable senators, I was to present the report last week but then was told to wait. I could have done it today, but not yesterday. The desire was to have it done yesterday. Therefore, I delegated, as I believe is my right, Senator Hervieux-Payette to do so.

Senator Lynch-Staunton: The rule is quite clear. It is not the chairman who delegates, but the committee. His Honour just quoted rule 97(1).

The Hon. the Speaker: The rule states that the designation is made by the chairman. Again, it reads:

> A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

The chairman has said that he gave his authorization, and I have no authority to go behind that.

Senator Lynch-Staunton: Honourable senators, I do not wish to delay the study of this bill. I apologize to Senator Kolber for suggesting that his committee had perhaps not proceeded properly.

The second question raised was how a report could be transferred, during Routine Proceedings, from this chamber to another committee without the chamber having any say in the matter.

If senators would prefer that I be entertained by the Speaker outside of these deliberations in order that we can proceed to other work at 3:30, I would be happy to ask Senator Hays to proceed with the adjournment motion. However, I feel it is important for all honourable senators to know exactly the procedure that is being followed and an explanation for it when we show, like I do, some confusion over it.

• (1520)

The Hon. the Speaker: If honourable senators are prepared to hear me, I will attempt to clarify the second element of the point of order.

This goes back to last week, and I read from the *Journals of the Senate* of November 24 respecting the Senate's decision with regard to Bill S-3:

> The Bill was then read the second time.
>
> The Honourable Senator Hays moved, seconded by the Honourable Senator Mercier, that the Bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

There was then some debate, following which:

> With leave of the Senate and pursuant to Rule 30 the motion was modified to read as follows:
>
> That the Bill be referred to the Standing Senate Committee on Banking, Trade and Commerce and to the Standing Senate Committee on Foreign Affairs.
>
> The question being put on the motion as modified, it was adopted.

Honourable senators, I must say that this is a most unusual procedure. Certainly, to send one bill to two committees is not good practice. After all, how is that done?

Therefore, it was sent, as I understand it, to the Standing Senate Committee on Banking, Trade and Commerce. The committee studied the bill and no amendments were proposed.

The bill was reported back. I must refer you, then, to rule 97(4), which states:

> When a committee reports a bill without amendment, such report shall stand adopted without any motion, and the Senator in charge of the bill shall move that it be read a third time on a future day.

However, there was an instruction from the Senate, which I have just read to honourable senators, that the bill was to be referred to the other committee. Thus, having been reported by one committee without amendment, I concluded that it should not then proceed to third reading because it still had to go to the other committee. That is what the Senate decided. There had to be a mechanism to move it to the other committee, and that is what was stated in the motion.

I do not know how else the report could have been handled in view of the decision of the Senate the previous week. I was locked in by the decision of the Senate to send the report to two committees. I do not know what other vehicle could have been used to achieve the decision of the Senate.

Senator Lynch-Staunton: Honourable senators, I do not argue with what happened. I only question how it happened. I would have been more comfortable had the report been tabled and, when third reading was called, the Senate would have decided, to be consistent with its decision, to then say, "No third reading. We have decided to send it to committee." I felt that the Speaker bypassed the Senate. To some, it may be technical and it may be petty, but I think it is important that we, as senators, continue to be masters of the direction of a bill or a report.

I appreciate the situation in which the government side has placed His Honour, since it was their decision to send the bill to two committees. Senator Hays clarified the situation on the second day. Whenever the government side suggests to send the same bill to two committees, honourable senators can be sure that we will be the first to object.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, since we have a few minutes before we adjourn, I should like to take advantage of this opportunity as the person responsible for this novel procedure, one which I believe has the potential of working very well, to say a few words about it. I have been criticized constructively by my colleagues, by His Honour and also by the other author, shall I say, of this procedure, although I do not think he will accept credit for it.

The point I wish to make is that this circumstance is unusual. However, the instruction given by the Senate was clear enough that the Speaker's interpretation of it is appropriate. The real issue is: When does the Senate deal with the reports? I believe that is where the potential confusion lies. The way in which we in this chamber attempted to deal with that question, at my suggestion, was with the wording that the bill be sent to the Standing Senate Committee on Banking, Trade and Commerce, which was done, and upon completion of their review, which occurred, that it be sent to the Standing Senate Committee on Foreign Affairs for further review.

What was not done was to say how the matter could be dealt with by the Senate so as to avoid procedural difficulty by having successive reports. I think the solution that came from His Honour was a good one. It was that the instruction be characterized as a special order of the Senate that was moved with leave on November 24 and, notwithstanding rule 97(4), the bill stands referred to Standing Senate Committee on Foreign Affairs. This follows exactly the instruction the Senate gave to the two committees charged with the responsibility to deal with the bill.

Accordingly, honourable senators, I feel that this process is working and that it will work. I appreciate the concerns of Senator Lynch-Staunton and others about this not being a good practice. However, it is one that we have tried. I am not sure we will ever try it again.

In any event, based on what I have said and what His Honour has provided to avoid the problems of dealing with it in this chamber, I believe the process will work.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to draw your attention to rule 101, which states:

> The chairman of the committee shall sign or initial a printed copy of the bill on which the amendments are clearly written...

I cannot seem to find the rule, although I know it is the practice, that a bill that is reported without amendment is also signed. Indeed, yesterday, the bill arrived at the Table unsigned. We inquired about that, after which it was sent back to Senator Hervieux-Payette who signed it.

Does the principle of rule 101 that speaks to the chairman of the committee signing the bill apply also to a bill that is reported without amendment?

The Hon. the Speaker: In answer to the Honourable Senator Kinsella, I do not know at the moment if there is a rule which sets that out. My understanding is that the practice has been that the chairman of the committee signs the bill when it is deposited with the Table. I do not see the bills when they are presented. I am sure the Table checks to see if they are signed. If they are not, I am sure the Table contacts the chairman of the committee.

Senator Kinsella: The chairman was not here. Therefore, it was signed by another member of the committee.

Senator Kolber: Honourable senators, I will be happy to sign it.

Senator Hays: Senator Kinsella has noted what may be a deficiency. Senator Kolber's suggestion is a good one.

Senator Kinsella: My interest is to protect the rights of the minority in this place. Most of the chairmen of committees are senators on the government side. A few are on this side, as are the deputy chairmen. In the absence of the chairman, the deputy chairman of the committee should act in place of the chairman.

Senator Kolber: Rule 101 refers to a bill that has been amended.

Senator Lynch-Staunton: We want the government side simply to respect the minority.

The Hon. the Speaker: It might be useful if the Table were to clarify this matter and send a message to all committee clerks so that there is no confusion.

Now, I wish to address the point raised by the Honourable Senator Lynch-Staunton, who said that he would have preferred that the bill be called for third reading. If that were done, I think we would have been in contravention of the decision of the Senate, which was that the bill be sent to the two committees. When a bill is passed without amendment, there is no discussion. It must go immediately to third reading. Had that been done, we could not have sent this bill to the other committee, as the Senate had decided. That was the difficulty in which we found ourselves.

Honourable senators, pursuant to the order of the Senate, it being 3:30 p.m., I do now leave the Chair.

The Senate adjourned until tomorrow at 2 p.m.

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