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Tuesday, May 30, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, May 30, 2000

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

Prayers.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I call for Tributes, I should like to draw your attention to some distinguished visitors in our gallery. We are honoured to have the presence of His Excellency Mr. Dieng Boubou Farba, Speaker of the Senate of the Islamic Republic of Mauritania, accompanied by the Ambassador and two honourable senators,

On behalf of all honourable senators, I wish you welcome to the Senate of Canada.

[*English*]

• (1410)

THE UNKNOWN SOLDIER

TRIBUTES

Hon. B. Alasdair Graham: Honourable senators, there is a place called Passchendaele in southwest Belgium that is today marked by a pastoral, prosperous serenity and that is difficult to imagine as a killing ground of indescribable horror a little over eight decades ago. The large number of war cemeteries that encircle it belie the magnitude of the slaughter, a slaughter on a killing field which can best be described as a malevolent swamp. It was there, on what was a relatively small battlefield, that the Great War reached its nadir of horror.

It was there that the grandson of Louis Joseph Papineau, Talbot Papineau, who had signed up with the Princess Pats in 1914 and served with the greatest valour through the awful carnage on the Western Front, died tragically as his company went over the top to face the final battle.

On the eve of his death, and perhaps in anticipation of his own mortality, he wrote more lightheartedly than ever — because his habit was to reveal none of the horror to those close to him. He wrote to a dear friend back home, “I never felt better in my life,” he assured her. “This morning we had a church service and sang ‘Nearer My God to Thee’ ...similar to how we used to sing as kids at Montebello.” He went on, “...we will find a fund of buried affection again after the war.”

Less than a week after his reminiscences, on October 30, 1917, Talbot Papineau was blown up by an enemy shell. No one saw him fall. No one knew if he had drowned. No one knew where his body lay. No one ever found even his small identity disk or his puttees or the brass buttons with the Maple Leaf that adorned his uniform.

[*Translation*]

The country mourned the death of Talbot Papineau, a passionate man, a brilliant man, representing the very spirit of a bilingual and bicultural Canada.

[*English*]

Tributes poured in from across the then Dominion of Canada. Perhaps the *Daily Mail* of London put it best. Saluting him as a “Lost Leader,” the editorial said, in part, “May Canada learn from his death the lessons he would have taught had he lived.”

Talbot Papineau spelled out these lessons in an open letter to the eloquent Henri Bourassa a year before his death.

[*Translation*]

As I write, French and English Canadians are fighting and dying side by side.

[*English*]

He continued, “Is their sacrifice to go for nothing — or will it cement a foundation for a true Canadian nation, a Canadian nation independent in thought. Independent in action?”

Honourable senators, I quoted from this wonderful letter to Bourassa several years ago in this chamber as we commemorated yet another Remembrance Day. I thought of them and their eloquent author, so sadly lost, no one knew where, many times over the moving and historic events of the last week. I thought of the Unknown Soldier, as we all did: A young hero we had lost; a young hero we, as a nation, have now properly put to rest; a young, nameless hero whose address for 80 years had been simply Northern France, Grave 7, Row E, Plot 8; an unknown soldier who likely died as one of the 3,598 Canadians lost at Vimy Ridge, although even this we do not know for certain, for he was known only unto God.

He was one of almost 28,000 Canadians who perished in wars in the last century with no known grave; one of the 66,000 Canadians of World War I who paid the highest sacrifice, the best and brightest of that war to end all wars — bodies blown away, mere fragments buried, sometimes an ankle bone and a gas mask hurriedly interred, sometimes beneath a simple wooden cross, as young Talbot may have been. But unknown, a corpse washed up in the ghastly spring of Flanders in 1918, known only unto God.

Who is to know the lost dreams of those who only days before had lived, felt dawn and saw sunset glow; of dreams abandoned; of families never raised; of children never known; of lives never lived; of lost promises and friends and lovers and wives; of pianos and fiddles never again played; of skates never again tied; of parents never again known; of fields never again tilled; of poetry never again read; of lonely woods never again explored; of rivers never again fished or crossed; of mountains never again climbed.

Over the past week, Canadians welcomed the exhumed body of the nameless soldier who died on the French battlefield far from home. With the deepest solemnity, they approached his casket just down the corridor in the Hall of Honour. With the deepest passion, many prayed and cried and spoke of a past too many had forgotten. They brought their children and their children's children to honour this ordinary Canadian who had died too young, and they remembered.

Over 20,000 lined the streets of Ottawa on Sunday to pay their respects to the former resident of Grave 7, Row E, Plot 8. They paid their respects as well to the sacrifice of generations. The deep silence and pathos that filled the air of the parade route to the final resting place of the Unknown Soldier was broken as the first row of veterans came walking, came striding, came marching along behind the flag-draped casket. The intermittent clapping of the crowd broke into a thunderous and sustained ovation as row upon row of veterans — the march of those who have fought so hard to bring this unknown son back to a people who so desperately needed to be part of him. That thunderous applause would have made the late Chuck Murphy's eyes well with tears because, as Dominion President of the Royal Canadian Legion, Chuck Murphy worked so hard to bring this momentous event to reality.

With the entombment of this lost leader, son, friend and hero, a nation wept with quiet pride at a new miracle of discovery that now a part of us has returned from a lonely grave; that now, this vital, this tragic and this ever so meaningful part of us, the remains of an unnamed soldier, signifying the ultimate sacrifice of 116,000 of our country men and women, yes, that ever so meaningful part of all of us, in one of our proudest moments, has been returned to all Canadians, forever.

Hon. J. Michael Forrestall: Honourable senators, General Sir John Hackett, renowned soldier and scholar, once said in an interview that “the whole essence of the military profession is not to be the slayer, but to be the slain. You offer yourself up to be the slain rather than set yourself up as a slayer.”

Canadian society, like others, takes its youngest and brightest minds and welcomes them into the Armed Forces to serve where and when Canadian society tells them to serve and to sacrifice themselves when necessary for the greater good of Canadians. In return, they get — or at least they are supposed to get — their own very special society, public support and veneration when they die. It is a contract of unlimited liability that very few are inclined to sign.

• (1420)

Today I wish to join my colleagues in paying tribute to Canada's Unknown Soldier who has been, after 80 years, brought home to his native land and given what I consider to be a very fitting and apt ceremony here in our nation's capital. As has been mentioned, he represents the 20,000-plus souls who remain unidentified and lost to their families' embrace forever, due to their untimely loss in Canada's wars.

This blessed Unknown Soldier comes to us from Vimy, where he and many other Canadians sacrificed themselves for their

fellow men and women in mortal combat. It is the greatest gift that one person can give to another. Through that gift — a selfless gift of life — our lost children granted us a nation to honour, to nurture and to protect. It is a point made in the Gospel of John 15:13, which reads:

Greater love hath no man than this, that a man lay down his life for his friends.

It is a soldier's requiem. It is appropriate. Now it is time to live up to our portion of the long-hallowed contract between the soldier and his employer, the people.

We have brought one Unknown Soldier home to the heart of Canada and Canadian society to cherish and protect our lost sons' and daughters' memories. It is a debt of honour that all Canadians must pay, and by the crowd that gathered on Sunday and the many, many children in that crowd, I believe in my heart that it will be repaid in full year after year. As long as there is a Canada, we will remember them. May his soul, and all the souls of the eternal dead, rest in peace through God.

Hon. Raymond J. Perrault: Honourable senators, we have at long last received the body of our slain son. It is a time of sadness and reflection for the entire nation — for mothers and fathers who lost sons and daughters in wars, for mothers and fathers who have sons and daughters yet to be introduced to the horrors of war, God forbid, and for every Canadian citizen who can conceive of the sacrifice our slain son made on our behalf.

We may wonder what he and others like him endured in those final minutes. Was he able to use his weapon in attack or defence? How old was he? Where in Canada did he live? Did he understand the causes for which he died? Did he suffer, or was his death mercifully swift?

We can wonder about these things, but we can be absolutely certain that he died before he had even begun to live. We can be sure that his potential for good was never realized. How many outstanding potential prime ministers and leaders in every section of society were left on that battlefield?

We can be certain that he never enjoyed his share of sunrises and sunsets; that he was denied his share of loving and being loved. We know that his dying brought unrequited grief to those who knew him, a grief made even more intense by the obliteration of his identity on the battlefield.

Honourable senators, we have received our slain son back to the land of his birth. We can agree that he represents every man and woman who died and went missing fighting in Canada's wars, people with ethnic backgrounds in many communities and different political backgrounds, but I submit that we must regard our unknown Canadian soldier in a larger context. He stands as a tragic symbol of all those who die and are obliterated in the conduct of wars, wherever they occur. Even as we meet here, young men and women are being rendered dead and unknown in conflicts now occurring on this planet. Genocide is taking place. With them, surpassing their numbers, are men, women and children, all innocents, slain and extinguished by the juggernauts of war that play no favourites in their death dealing.

At this precarious time in our history, our concern for those caught in battle must extend beyond national boundaries. In the best of all possible worlds, there would be no unknown dead soldiers or civilians. In our supposedly advanced state of civilization, we do not seem to have evolved to a point where we can see the ultimate futility of war, where we can dispense with political wars, territorial wars, religious wars, wars triggered by unscrupulous potentates.

We do not seem to have evolved to a point where we are united in our conviction that the only war worth fighting, the only war in which we all survive and thrive, is a common, international war against poverty, ignorance, starvation, disease and all the insidious forces that create disparity and despair.

The United Nations places this objective at the top of a formidable list of priorities, but the diminution, if not the elimination, of war continues to elude us and to remain the greatest challenge with which mankind must contend, at a time when our technological ability to destroy appears to surpass our ability to build a world in which all of its inhabitants survive in peace and dignity.

I believe that Canada's Unknown Soldier died hoping that the world would become a better place. Let his death, and the death of all those rendered unknown by the total brutality of war, be our challenge to volunteer for the real war in which the world emerges as a better place, in which every inhabitant is a proud survivor. It is a challenge to be accepted, a challenge worth fighting for in every sense, and a challenge that the Unknown Soldiers of the world would espouse if they were here with us again and had that opportunity.

**THE LATE HONOURABLE
E. DAVIE FULTON, P.C., O.C., Q.C.**

TRIBUTES

Hon. Lowell Murray: Honourable senators, I rise to record with considerable sadness the death on May 22, in Vancouver, of the Honourable Edmund Davie Fulton. At the time of his death, Mr. Fulton was the senior Progressive Conservative Privy Councillor in the land, having been sworn into the cabinet of Prime Minister Diefenbaker on June 22, 1957.

Davie Fulton was a member of the House of Commons for Kamloops from 1945 to 1962 and again from 1965 to 1968. In the great debates of the post-war parliaments, which often turned on the rights of Parliament, Mr. Fulton honed his skills and made his mark as an outstanding parliamentarian. He served as Minister of Justice and Attorney General, Minister of Citizenship and Immigration, and Minister of Public Works in the Diefenbaker government.

Prime Minister Diefenbaker, whose lifelong passion was for a Canadian Bill of Rights, was generous in his acknowledgement of Mr. Fulton's strong hand in its drafting and in its progress through Parliament.

Mr. Fulton will also be remembered as chief Canadian negotiator of the Columbia River Treaty, as co-author of what later became known as the Fulton-Favreau constitutional amending formula, and for far-reaching reforms in criminal justice and correctional policy initiated under his leadership.

[Senator Perrault]

The Honourable Davie Fulton belonged to a generation of post-war parliamentarians, most of them veterans like him, whose service to Canada is one of our most cherished legacies. He was one of British Columbia's and Canada's most illustrious sons, and his country is in his debt.

Hon. Raymond J. Perrault: Honourable senators, I should like to join my remarks with those of the Honourable Senator Murray.

Davie Fulton was an outstanding Canadian and a great British Columbian. He made a major contribution to our nation and our province — a man of impeccable high standards of conduct. He suffered physical disabilities from time to time, and he was criticized most unfairly by a section of the media at one time in his career. Nevertheless, he overcame all of these negative influences and became a person who served this province almost to the end of his days in his work on behalf of Canada in the international commission and many other appointments.

He was also a member of the bench in the province of British Columbia. He was a great man, a great politician and a great leader. We were opponents in one provincial election out there, but he was a good campaigner who fought a great campaign.

• (1430)

At times like this, it is nice to remind ourselves that virtues are not held by one party alone, that there are good people in all political parties. Despite the bonny battles that we had with Davie Fulton when he was in British Columbia, he was a thoroughly worthwhile opponent and an outstanding Canadian. We grieve his loss and extend condolences to his family.

**THE LATE HONOURABLE
MAURICE (ROCKET) RICHARD, P.C., O.C.**

TRIBUTES

Hon. Francis William Mahovlich: Honourable senators, I rise to speak on the passing of the Honourable Maurice Richard, P.C., C.M.

How many people in this world can start a riot? Rocket Richard could. How many people can win a hockey game when the manager predicts the player who will score the goal? Mr. Richard did.

When asked whether there was a strategy for this, Mr. Richard said, "I never planned a play in advance. Whenever there was a break, a chance at the net, I tried to pick a spot or tried to beat the goalkeeper. Everything I did was spontaneous, and every play I made seemed to be different than the one before."

Starting a riot or winning a hockey game was a natural happening for Maurice Richard. The "Punch Line" was the name of the great threesome: Elmer Lach, "Toe" Blake and the Rocket. This line was formed by coach Dick Irvin. Later, Toe Blake would coach Maurice to five more Stanley Cups and seemed to understand Maurice Richard better than anyone.

Mr. Richard was the first player to score 50 goals in a season and the first to score 500 goals in a career. Maurice did not only lead the Montreal Canadiens, he led all the NHL alumni and he set the standard. We will all miss him.

As I reminisce about Maurice, my mind goes back to the first game that I played in the NHL. It was in 1957 and the Canadiens were at their best. The Toronto coach was Howie Meeker. He gave me strict orders not to let the Rocket get away. Honourable senators, I found out why they called him the Rocket. He was beginning to break away from me so I grabbed hold of him. It was like trying to hold on to a rocket that was just launched at Cape Canaveral. When I would not let go he turned and looked at me and, with those eyes gleaming like headlights, said, "Let's go, kid," and I said, "Yes, Mr. Richard."

In my son's book, *The Big M*, he tells of an experience that occurred during a warm-up at a hockey game at which Maurice Richard was the referee.

The team was skating around, firing shots on goal from the slot; I was doing just that when a crisp pass hit me on the fly. I can't remember my shot, or where it went, but from across the ice I saw that it was Rocket Richard who gave me the perfect pass. I get chills when I think about it.

In January, the *Winnipeg Free Press* voted the all-star team for the millennium. It was Bobby Hull, Wayne Gretzky and Gordie Howe for the first team. The second team was Frank Mahovlich, Mario Lemieux and Maurice Richard. I can hardly wait until the year 3000 for the next millennium all-star game in heaven. It will surely be Maurice Richard, in overtime, who will score the winning goal. That is my prediction.

Rest peacefully, Maurice. Au revoir.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, it is with some sadness that I rise today to speak on the death of someone I have considered my hero since early childhood.

The Montreal Canadien's Number 9 is no more. The notice of his death plunged millions of Canadians into mourning. Since Saturday, the many personal remembrances about the man known as "the Rocket" bear witness to the great mark he made in history and on the collective memory of Canadians of all generations.

The oldest will remember evenings spent following his exploits on *Hockey Night in Canada* on the radio or television. The youngest will have known him as a legend in professional hockey when players played the sport for the love and pleasure of it and not for money, a poor motivator.

However, despite the generation gap, all agreed that Maurice Richard personified determination, passion, courage and the very essence of hockey.

This prodigious player was born on August 14, 1921. He wore the tricolour Montreal Canadien's Number 9 sweater from 1942 to 1960. And why Number 9? Because his oldest daughter weighed nine pounds at birth. Today, the idol of young hockey fans is Number 99. In my day — and no doubt yours — it was Number 9. As a boy, I dreamt of wearing a Montreal Canadien's Number 9 sweater.

Quick and powerful, he had no match in the National Hockey League on offence. His style of game and his personality made

the Canadiens a real institution, which today is a symbol of national pride for many of us.

When he retired in 1960, the captain of the Canadiens held some thirty NHL records, with more than half of them being achieved in playoff games. You will recall, honourable senators, that the playoffs did not last two months in those days. There were four teams, two series.

Five times he was named top scorer in the regular season. In the playoffs, he took part in 133 games, accumulated 126 points, scored 82 goals, 18 of them winning goals, and, finally, racked up seven hat tricks.

In the hearts of French Canadians, Maurice Richard was one of the greatest hockey players of all time. In effect a national hero, he was associated with the vibrant history of French Canadians at a time when the idols with whom we could identify were few and far between, and, unfortunately, not well known.

However, when the public discovered Maurice Richard's talent and unassuming but very warm nature, it identified with him spontaneously. For one of the first times, a French Canadian was making it in a sport few francophones had managed to break into. So it was that the Rocket became an all-time hockey hero and idol in the eyes of the public.

Thanks to him, hockey became the second religion of French Canadians, with Maurice Richard its god. The Forum riot of March 17, 1955, provided an indication of how strong this attachment was.

For many, this event signalled the beginning of the Quiet Revolution, which had been building since the mid 1940s. I think it fair to say that the name of Maurice Richard belongs quite naturally alongside those of Jean Lesage, René Lévesque, Félix Leclerc, Georges-Émile Lapalme, Paul Sauvé, and Daniel Johnson Sr. who, in their own way, laid the foundations of the Quiet Revolution.

Therefore, honourable senators, I would be remiss if I did not mention the legacy that Maurice Richard left us. From a purely sports perspective, he led the Canadiens to eight Stanley Cup wins, five of them in a row, a record unsurpassed to this day. This man forever transformed the relationship of Canadians and Quebecers with hockey, which has since become our national sport.

• (1440)

Thanks to him, public interest in hockey skyrocketed in Canada. In transmitting his passion for hockey to others, he opened the door to francophones in the NHL, which led to the careers of other French Canadian greats who followed in his footsteps.

Still today, he is a source of inspiration to many NHL players, as well as to tens of thousands of young Canadians who head off to ice rinks every week, often with fathers or mothers in tow, to follow their idol and one day, they hope, to end up in the National Hockey League. This is probably why the news of his death affected the entire hockey community in Canada, in the United States, even in Europe. Despite his passing, the legend of "the Rocket" is not fading, far from it. It is stronger than ever.

Maurice Richard was invested as an Officer of the Order of Canada, then as a Companion of the Order of Canada, and he was also made a member of Her Majesty's Privy Council.

I wish to offer my sincere condolences to his family. I count myself among the thousands of Maurice's fans who have so many unforgettable memories from throughout his career. Thank you, Maurice.

[English]

Hon. Jeremiah S. Grafstein: Honourable senators, hockey first introduced me to the French fact in Canada. Let me explain.

Born in southwestern Ontario in the midst of the Depression, sports was the only way to bring together kids in our ethnically rich neighbourhood. The dialects I first heard in my neighbourhood were Polish, Yiddish, Hungarian, Italian, Ukrainian, Russian, Czech, Dutch and others, but not French. Hockey made the difference. It was hockey that made me curious about one shelf of old French red-morocco-leather-bound books crammed in a corner of my father's library next to a thick Polish-French dictionary with names like Zola, Maupassant and Hugo. My father explained that the Montreal Canadiens were named after the first Canadians, who were French.

One of the biggest stories I remember from my early years was seeing a picture of Turk Broda in uniform when the great Toronto "Leaf" goalie joined the army and was replaced by Frank McCool, whose pictures I laboriously pasted in my most precious possession, my hockey scrapbook. The greatest news of all was about the "Punch Line," which pummelled our beloved Maple Leafs, and the biggest hero of all was the Rocket — Rocket Richard. On Saturday night, everyone in my hometown huddled around the radio to listen breathlessly to *Hockey Night in Canada*.

In 1944, an uncle living in Toronto invited me to visit and took me to my first game at the Maple Leaf Gardens as a birthday present. What a gift! It was a game between the Leafs and the Habs. I saw the Rocket for the very first time. Shorter, wider, even faster up close in person, the Rocket was simply poetry in motion. And he was tough. Nobody could push him around. I could not take my eyes off him. I remember his flashing eyes so wide open as he crouched low and raced over the blue line to score.

All that we as kids could do was pretend that we were him on our home rinks. He was the magic of hockey. Later, when I met him, he was still all about hockey. He was a simple man interested only in hockey.

This week, Maurice "the Rocket" Richard died after yet another valiant battle. His family insisted that no flag adorn his coffin. He did not need a flag. He was his own star. He was our hockey star. In my time, he was the greatest. He was Canadian. He was Canadian.

[Translation]

Hon. Fernand Roberge: Honourable senators, a few words — as "the Rocket" would have so aptly put it — to offer my condolences to the family of Maurice Richard. The Rocket had a passion for hockey and a desire to win. He hated losing so much that it was a sickness for him. He inspired a generation of

Quebecers to surpass and believe in themselves. He was a sort of pope in a way for us.

I had the honour of meeting Maurice several times. The last time, two months ago, was at a luncheon organized by the Club des Quinze, when we honoured the five greats of the Canadiens who never let us down. There was the Rocket, the Pocket Rocket — Henri Richard, Big Jean Béliveau, Dickie Moore and "Flower" — Guy Lafleur. The sixth, who never let us down, but who unfortunately was unable to join us that day, was Frank Mahovlich.

I sat beside Maurice. He never changed. He spoke little and was very humble. He saw himself as just a hockey player. For us Quebecers, he became a legend: the god of the arena.

Thank you, Maurice, for showing us the way.

[English]

Hon. Edward M. Lawson: Honourable senators, I should like to make a brief intervention as one who admired and respected Maurice Richard. In my other life, I am a director of the Vancouver Canucks, as was Senator Perrault. The Montreal Canadiens have beat us so many times, that, I must admit, I am not a fan.

People speak of the commitment and passion that Rocket Richard had for his game. The best illustration of that occurred after he was retired and Senator Mahovlich was still playing for the Toronto Maple Leafs. The directors of *Hockey Night in Canada* asked him to pick the three stars of a Montreal-Toronto game. They knew that it would be difficult because of his passion for Montreal, but they thought he would be impartial and objective. The Rocket agreed that he could do that.

He said, "The first star is my brother Henri. What a hockey player! The second star is Jean Béliveau. What a great play maker! The third star is Yvan Cournoyer. He skates like the wind! I would like to give an honourable mention to Frank Mahovlich who got three goals and two assists. They were lucky to beat us five nothing."

Maurice Richard was a wonderful human being. I offer my condolences to his family on the loss of a great Canadian.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, Senator Nolin told me just now that Maurice Richard was the only hockey player to have been named first, second and third star in one game. That was the Maurice Richard we loved.

I must add, however, that although almost everything has been said, one of the great moments in his life has been passed over. It is something that involves me and is the reason I feel a little bit closer to him and his family. When I saw him not long ago on the train from Ottawa to Montreal, I told him that, while I was not a great sportsman — it would not be truthful to say otherwise — I had one thing in common with him. On July 1, 1992, he was appointed a member of the Privy Council by Her Majesty Queen Elizabeth II, Queen of Canada, on the recommendation of my friend, the Right Honourable Prime Minister Brian Mulroney. I have never hesitated to say my friend Brian Mulroney, any more than I hesitate to say my friend Jean Chrétien. I told him about our having this in common. His reply to me, someone who

[Senator Nolin]

knows little about sports, was simply, "Yes, I thought that was really nice." This is just what Senator Roberge was trying to tell us. Maurice Richard was a man of few words. For him, however, those few words meant: It was really great; I am very happy; it was a great honour. That is why all the flags in Canada today are at half-mast.

[English]

• (1450)

Sometimes, people have a strange notion of history and background. It has not been mentioned that he was a member of the Queen's Privy Council. Had that been known, I am sure the Canadian flag would have been at half-mast on the Hill today, but I want you to know that it is at half-mast across Canada because of that great honour that was bestowed on him on July 1, 1992.

[Translation]

He was, and this term has been back in use in the past three days on Radio-Canada, a great French Canadian, the great term I often use to designate the people that helped to build this country, and a word which seems to so upset people in so many places in our country, in our province, in Ottawa and in Parliament.

One need only to have listened to what has been said on television these past three days, to what the common man has had to say. You great intellectuals, great constitutional experts, if only you had listened to French-language television in the past three days, you would have heard terms like great Canadian, great Quebecer, but the ordinary people said, "He was one of us, a great French Canadian." This is not taking anything away from the tributes. I wish to take advantage of this opportunity to again salute a man who considered himself a true French Canadian, a man who brought honour to Canada and to all those who loved him.

[English]

Hon. Sheila Finestone: Honourable senators, as I was listening to all the worthwhile and well-merited remarks about that great hockey player Maurice Richard, it brought to mind how many wonderful nights we had as a family, with our children, sharing *Hockey Night in Canada*. It was de rigueur that six or seven people would battle for the four seats we had. At first, I was able to go, and then I was out of the scene. Certainly my children all went, and those who could not go watched the famous Canadiens on *Hockey Night in Canada*. It provided such wonderful continuity. My family has dispersed across this land and to other parts of the world but they still like to watch *Hockey Night in Canada*. Thank you, CBC; they do watch.

They are still Canadiens fans. Le Canadien, c'est pour eux. I thank Maurice Richard, and all the wonderful players who surrounded and supported him, for his strength, his particular goal orientation and his desire to win. Having a desire to win is not wrong. Having a desire to win and working for it is what he showed us. I hope all Canadians who will miss this wonderful man, and the role that he played and the role model that he was, will keep that in mind tomorrow as we watch the funeral procession for an outstanding Canadian, un Canadien français de grande marque.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to introduce two distinguished groups in our gallery. In the centre or the Governor General's gallery is a parliamentary delegation from Croatia. The delegates are members of the Croatia-Canada Women Parliamentarians Network.

On behalf of all honourable senators, I wish you welcome here to the Senate of Canada.

Hon Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, in the left-hand or Speaker's gallery, we have six guests from Ghana. They are here in Canada for a three-week forest conservation program undertaken jointly with Lakehead University. They are the guests of Honourable Senator Wilson, who is the Chancellor of Lakehead University.

On behalf of all honourable senators, I wish you welcome here to the Senate of Canada.

Hon Senators: Hear, hear!

SENATORS' STATEMENTS

THE HONOURABLE BILL ROMPKY

CONGRATULATIONS ON RECEIPT OF HONORARY DOCTORATE
DEGREE FROM MEMORIAL UNIVERSITY

Hon. Joan Cook: Honourable senators, last week was spring convocation at Memorial University of Newfoundland and Labrador. The university celebrated its fiftieth anniversary, and my friend and colleague Senator Bill Rompky received an honorary doctorate of laws.

Some Hon. Senators: Hear, hear!

Senator Cook: Bill entered Memorial University in 1953 when enrolment was in the 300 to 400 range, graduating in 1957. Today, the enrolment is some 20,000.

As an educator, he and his wife, Carolyn, spent their years primarily on the coast of Labrador. Their children, Hilary and Peter, were born there. In the early 1970s, Bill entered politics, winning seven consecutive federal elections, serving the people of Newfoundland and Labrador in the House of Commons.

Honourable senators, from president of the students representative council, to educator, to the House of Commons, to the Senate, he has served and continues to serve what he terms "my people" with distinction and dreams of the time when the land claims for the Innu and Inuit people are settled.

It is indeed an honour for me to stand in this place today to offer my sincere congratulations to you, Senator — now Doctor — Bill Rompky.

THE HONOURABLE DAN HAYS

CONGRATULATIONS ON RECEIPT OF THE GRAND CORDON OF THE ORDER OF THE SACRED TREASURE OF JAPAN

Hon. Catherine S. Callbeck: Honourable senators, I should like to congratulate Senator Hays for being the recipient of the Grand Cordon of the Order of the Sacred Treasure, one of the highest decorations of Japan.

As many of you are aware, Senator Hays has been involved in Canada-Japan relations for many years. As a member of the Senate, he has been a participant in our Canada-Japan Friendship Group since he became a senator in 1984. However, his relations with Japan date further back than even this date.

He first became acquainted with Japan and its customs in his early childhood, when he developed a close friendship with the sons of a Japanese-Canadian family whose father worked on his father's farm. In 1970, as a rancher, he visited Japan in his efforts to expand the trade of agricultural products between the two countries. He has been a prominent member of the Asia-Pacific Parliamentary Forum ever since its inception in 1993, serving as the chairman of its Canadian section. In 1997, Senator Hays undertook a mission to Japan as Special Envoy on Landmines. Furthermore, last September, Senator Hays was a key participant in Team Canada's visit to Japan.

I have had the pleasure to travel to Japan with Senator Hays as a member of the Canada-Japan Friendship Group, so I know firsthand how hard he works to further the ties between the two countries, and how highly respected and regarded he is in that country.

Last night, these accomplishments were formally recognized in a ceremony at the Japanese ambassador's residence where Senator Hays was awarded one of the highest decorations of Japan, the Grand Cordon of the Order of the Sacred Treasure. This honour was given to Senator Hays as a token of appreciation from the Japanese government for the pivotal role our colleague has played in shaping Canada's relations with Japan, and for his invaluable contribution to friendship between the two nations.

This is a great honour, and I should like to offer Senator Hays my sincerest congratulations.

• (1500)

ONTARIO

WALKERTON—TRAGIC DEATHS RESULTING FROM POLLUTED WATER

Hon. Lorna Milne: Honourable senators, I pay tribute today to the adults and children of Walkerton, Ontario, who have lost their lives in an outbreak of *E. coli* contamination over the last week.

As of this morning, five people have died from drinking contaminated water. Over 1,000 people were taken ill; 11 children remain in hospital, six of them on dialysis; three adults remain in hospital. Most tragically of all, according to the local medical officer of health, it could have been prevented.

On Thursday, May 25, Dr. Murray McQuigge stunned the country with his revelation that the Walkerton Public Utilities Commission knew there was a problem with the water before they told the public.

Honourable senators, Walkerton is a quiet, decent little community of 4,800 people along the Saugeen River in southwestern Ontario. It lies just a few miles upstream from the area where my husband's ancestors settled almost 150 years ago and where his brother and my niece and nephew still farm. It is surrounded by fertile, smiling fields, the heartland and some of the best farmland and farmers in Ontario, and therein may lie the problem.

Recently in this place, I spoke of Canada's fortune in having the world's largest supply of fresh water. Governments across this country — federal, provincial and municipal — have a duty to ensure that Canadians continue to have safe access to this most basic and fundamental resource. The people of Walkerton, like all Canadians, have the right to clean and safe water, but even while I was speaking in this place, the people of Walkerton were drinking foul, contaminated water.

This tragedy is one which we would all like to think could never happen in Canada. Infection through a public water supply is something which we often associate with other parts of the world. Honourable senators, last week, we witnessed in our own country the magnitude and the rapidity of the tragedy that contaminated water can produce. I hope I speak on behalf of all senators in echoing Prime Minister Chrétien's words, "We must ensure that situations like this do not occur again in our country."

Let this tragedy be a lesson to all levels of government. If it means abdicating their assigned responsibilities to maintain health and safety, budget cuts and tax rebates can go too far. Balanced budgets can leave too high a price to pay.

The Government of Ontario gutted its own Ministry of the Environment and then cut the ministry's budget to the bone. The ministry now admits that it knew about a potential problem in Walkerton at least two years ago.

Spare a thought or a prayer, my friends, for the good people of Walkerton and what has happened to their town and their water supply, that precious resource of which I spoke in this place a few weeks ago when it was already endangered.

Honourable senators, spare a thought for the people who are presently on dialysis, particularly for those six children, innocent children whose futures I hope are safe and secure and healthy, but that I cannot predict. In fact, I cannot bear to think about what they and their parents are going through right now.

HUMAN RESOURCES DEVELOPMENT

DISMANTLING OF LONGITUDINAL LABOUR FORCE FILE

Hon. Roch Bolduc: Honourable senators, the Minister of Human Resources Development Canada, the Honourable Jane Stewart, announced today that, following discussions with the Privacy Commissioner, HRDC's information databank or labour market program called the Longitudinal Labour Force File is being dismantled.

With the dismantling of LLFF, HRDC has eliminated the computer program used to link its information with information from the Canada Customs and Revenue Agency and data on social assistance from provincial and territorial governments. Honourable senators will be happy to learn that the information has been returned to that agency.

UNITED NATIONS REPRESENTATIVE CHRISTOPHER WESTDAL

2000 REVIEW CONFERENCE OF THE NUCLEAR NON-PROLIFERATION TREATY—CONGRATULATIONS ON NEGOTIATING AGREEMENT BETWEEN IRAQ AND UNITED STATES

Hon. Douglas Roche: Honourable senators, from time to time, we hear nostalgic references to the golden age of Canadian diplomacy in the 1950s and 1960s. The golden age is presumed to belong in the past. However, we have a modern example of golden diplomacy exercised by an outstanding Canadian ambassador, Christopher Westdal, a 52-year-old professional diplomat who has served as Canadian High Commissioner in Bangladesh and Ambassador in South Africa and Ukraine.

In his current capacity as Permanent Representative to the United Nations for Disarmament, Ambassador Westdal led the Canadian delegation to the month-long 2000 Review Conference of the Non-Proliferation Treaty at the UN in New York, which concluded May 20.

To his surprise, Ambassador Westdal found himself drafted by the president of the conference, Ambassador Abdallah Baali of Algeria, to chair a special committee to break the Middle East deadlock over contentious issues involving both Israel and Iraq. Middle East issues have proved intractable at previous NPT conferences.

The reason Ambassador Westdal was chosen was because of Canada's even-handed approach to Middle East issues and the work of Ambassador Westdal's predecessor, Ambassador Mark Moher, in presenting reasonable compromises at preparatory meetings over the past three years.

This time, the stand-off between the United States and Iraq was like a brick of cement: It could not be moved. With every other issue at the NPT conference resolved, the conference ground to a halt while overtime negotiations continued for 30 hours. Since neither protagonist would move, the NPT conference, which operates by consensus, was in danger of collapse. At two o'clock in the morning, it seemed all was lost, but Westdal, ably assisted by David Viveash, insisted on maintaining his shuttle negotiations between the Americans in one room and the Iraqis in another.

Chris Westdal refused to give up, and his persistence paid off when he secured a breakthrough — and an agreement — several hours later.

The issues of the conference were complex and they are explained in my complete report available on the Project Ploughshares Web site at www.ploughshares.ca/.

In brief, the Non-Proliferation Treaty Review Conference was able to achieve a landmark in the long struggle to rid the world of nuclear weapons. Ambassador Westdal, a Canadian diplomat who knows how to negotiate, made a signal contribution to the well-being of the world community. He showed the golden side of Canadian diplomacy and he deserves our congratulations.

SOUTH KOREA

TWENTIETH ANNIVERSARY OF PRO-DEMOCRACY MOVEMENT

Hon. Lois M. Wilson: Honourable senators, last Sunday, Canada proudly remembered the contribution of the Unknown Soldier to the ongoing struggle for democracy in the world.

In mid May, I had the privilege of being one of two Canadians invited back to South Korea to participate in the twentieth anniversary commemoration of the pro-democracy movement in that country.

On May 18, 1980, in the city of Kwang-ju, there took place a massacre of university students who were in the vanguard of the pro-democracy movement. It is a date etched in South Korea's history. The country was under martial law, curfew and national security laws under dictator Chun Doo Hwan's regime at the time, but word had leaked out of the courageous opposition by students and by ordinary citizens to the repressive government policies and gross violations of human rights.

In January, 1981, therefore, I went to South Korea as part of a four-person international team from the World Council of Churches on a pastoral visit to the bereaved relatives of the massacred students. I went illegally to the Kwang-ju cemetery where I counted far more graves than the government acknowledged and, as a result, was able to make that news known internationally.

At the same time, the now President of South Korea, Kim Dae-Jung, was in prison and his spouse under house arrest, but the strong resistance to dictatorship by citizens turned out to be definitive in South Korean history. The pro-democracy movement was so strong that politicians had to respond. The tide was turned and resistance opened up a new road for South Korea.

This past Sunday, the Governor General of Canada, Her Excellency the Right Honourable Adrienne Clarkson, referred to the courageous actions of Canadian soldiers in successive wars as events that cemented a nation. The Kwang-ju massacre was just such an event for South Korea.

• (1510)

Canada had a special role. On November 21, 1980, the now President Kim Dae-Jung was in prison and under the death sentence for giving sterling leadership to the movement for democracy. In the Canadian "other place," Bill Clarke, sitting member for Vancouver, moved that:

We express serious concern over the action of the military court in South Korea sentencing to death Kim Dae-Jung, and that we implore President Chun to use his ultimate executive power to secure the release of Mr. Kim.

The motion passed unanimously. The Canadian government did intervene, to be followed by other countries.

At the memorial service at the cemetery on May 18 of this year, and at the special reception for international allies, the President spoke eloquently of the long struggle that turned him from a prisoner into a president. He also spoke of his recent Berlin declaration on "Reconciliation and Co-operation for Peace and Reunification of the Korean Peninsula," calling for talks between North and South Korea, such talks to take place on June 12 to 14 of this year.

Honourable senators, this may well herald the beginning of a long struggle for peace and stability on the Korean peninsula, and end the last vestiges of the Cold War situation, so strongly hoped for by the international community. We will watch Canada's unfolding foreign policy concerning North Korea with more than passing interest.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

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

We have Paul El-Meouchy, who is studying International Management at the Faculty of Administration of the University of Ottawa. Paul is from Montreal, Quebec.

[*Translation*]

Anna Weier is a student in the Faculty of Social Sciences at the University of Ottawa. Anna is majoring in psychology. If I may be permitted to show a bit of hometown pride, she is from Winnipeg, Manitoba.

[*English*]

On behalf of all honourable senators, I wish you welcome here. I hope that you will find your week with us pleasant, interesting and instructive.

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

SPECIAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the Special Report to Parliament of the Information Commissioner of Canada, pursuant to subsection 39(1) of the Access to Information Act, being report cards on compliance with response deadlines by the following

[Senator Wilson]

federal departments: Human Resources Development Canada, Transport Canada, Citizenship and Immigration Canada, Canada Customs and Revenue Agency, Foreign Affairs and International Trade, National Defence, Health Canada and the Privy Council Office.

[*Translation*]

LIBRARY OF PARLIAMENT

SECOND REPORT OF JOINT COMMITTEE PRESENTED

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

Tuesday, May 30, 2000

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

SECOND 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 including a Member from the Opposition as well as a Senator from the Opposition whenever a vote, resolution or other decision is taken, and that Joint Chairs be authorized to hold meetings to receive evidence and authorize the printing thereof as long as (4) Members are present including a Member from the Opposition as well as a Senator from the Opposition.

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. 2*) is tabled.

Respectfully submitted,

LOUIS J. ROBICHAUD
Joint Chair

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]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NINTH REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, May 30, 2000

The Committee on Internal Economy, Budgets and Administration has the honour to present its

NINTH REPORT

Your Committee wishes to inform the Senate that it has adopted a policy on Employment Equity and Diversity and has directed that a self-identification exercise be undertaken by Human Resources.

The objective of this policy is to achieve equality in the workplace for women, aboriginal peoples, persons with disabilities and members of visible minorities, so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability.

In adopting this policy, the Internal Economy Committee acknowledges its interest to increase the participation and representation in the Senate administration of qualified people from the four designated groups and has decided that action must be taken to facilitate their participation in greater numbers. This entails both the identification of and removal of systemic and other barriers to employment opportunities that may adversely affect women, aboriginal peoples, persons with disabilities and visible minorities. It also involves the implementation of special measures and the application of the concept of reasonable accommodation when these are necessary to achieve and maintain a representative workforce.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

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

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

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, on Tuesday at this time I normally ask for leave to revert to this item at the end of the Notice Paper for purposes of the adjournment motion. I would request leave now to give notice of two motions that I wish to move without notice. However, I should like to read the motions so that there will be an opportunity for the Deputy Leader of the Opposition to raise a question, since we do have an unusual day tomorrow in that we have scheduled a vote by order of this place at 5:30 p.m. Wednesday is also normally a short day.

The Hon. the Speaker: Is leave granted, honourable senators, to proceed as the Honourable Senator Hays has indicated?

Hon. Senators: Agreed.

Senator Hays: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I propose to move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, May 31, 2000, 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 suspend the sitting until 5:00 p.m.;

That at 5:00 p.m., pursuant to the Order of May 18, 2000, the Speaker shall put all questions necessary to dispose of third reading of Bill C-2; and if a standing vote is requested it will take place at 5:30 p.m., following which the Speaker shall suspend the Senate;

That all Committees be authorized to sit tomorrow, during the suspension of the sitting of the Senate, until 4:45 p.m.; and

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

Honourable senators, I suggest that this motion would accommodate the sitting of committees, which is our purpose on Wednesdays, from 3:30 until 4:45, at which time the sitting committees would be required to adjourn to allow senators to come to the chamber for a voice vote at 5 p.m. and, if necessary, a standing vote at 5:30 p.m.

Honourable senators, assuming that Bill C-2 is passed by the Senate, it is also anticipated that we will have Royal Assent for Bill C-2, as well as for Bill C-10, which has been given third reading.

I would be pleased, honourable senators, to deal with any questions concerning this proposal. If there are other suggestions as to how we might handle our business for tomorrow, I would be pleased to entertain them.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the only suggestion is that perhaps honourable senators would find it more convenient if the vote that has been ordered to be held at 5 p.m. were held at 3:15 p.m. The bells could ring at 3 p.m. If honourable senators agree, it would open up the time for our committees to continue.

• (1520)

Senator Hays: Honourable senators, perhaps I could ensure that there are no others questions. If there are none, I will attempt to deal with Senator Kinsella's question and determine whether there is a will to accommodate a change.

[Translation]

Hon. Marcel Prud'homme: Senator Kinsella's suggestion makes a lot of sense, but that is not what I will be discussing.

[English]

If this were the wish of all senators, I would not have difficulty with the suggestion as put forward. Perhaps negotiations are unnecessary. My honourable friends can negotiate in front of us. It seems that we could get approval from every quarter. It makes sense because then senators may proceed to their committees. However, I am in your hands.

[Translation]

Hon. Lucie Pépin: Honourable senators, I wish to point out that a number of senators will be attending the funeral of Maurice Richard and that the bus cannot be back before 3 p.m. or 3:15 p.m.

[English]

Hon. Lorna Milne: Honourable senators, is the Honourable Senator Hays aware that the Standing Senate Committee on Legal and Constitutional Affairs will be sitting, I hope, tomorrow afternoon? We have scheduled our witnesses in order to have a break at five o'clock for the vote and then to carry on again in the evening. I am in the hands of the Senate. It does not matter. We have scheduled the witnesses to fit around either scenario.

Senator Prud'homme: Do what you want.

Senator Hays: Honourable senators, unless there is a strong reason to change the order, I hesitate to do so. Some senators tend to object. If there were a good reason, we might approach this differently. However, in light of what Senator Pépin has said about the funeral of Maurice Richard and what Senator Milne has said — and she chairs the only committee affected by this proposed motion, I suggest that we leave the motion as is. Accordingly, I should like to deal with this matter now.

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

Hon. Senators: Agreed.

Senator Hays: 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, May 31, 2000, 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 suspend the sitting until 5:00 p.m.;

That at 5:00 p.m., pursuant to the Order of May 18, 2000, the Speaker shall put all questions necessary to dispose of third reading of Bill C-2; and if a standing vote is requested it will take place at 5:30 p.m., following which the Speaker shall suspend the sitting of the Senate;

That all Committees be authorized to sit tomorrow, during the suspension of the sitting of the Senate, until 4:45 p.m.; and

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

In order to be clear, honourable senators, at 5:30 p.m., following the vote, the Speaker shall suspend the sitting of the Senate, not adjourn the Senate, so that we may proceed with Royal Assent.

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

Hon. Senators: Agreed.

Motion agreed to.

PRIVACY COMMISSIONER

APPEARANCE BEFORE COMMITTEE OF THE WHOLE—MOTION TO AUTHORIZE ELECTRONIC COVERAGE ADOPTED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, the second matter to which I referred concerns the other order that we have before this place, which is to go into Committee of the Whole at 4:30 p.m. today in order to receive as a witness before the Senate Mr. Bruce Phillips, the Privacy Commissioner, as we was done approximately one year ago.

I will read the motion that I should like to propose and deal with any questions from the Deputy Leader of the Opposition or other senators. With leave of the Senate, and notwithstanding rule 58(1)(f), I move:

That the Cable Public Affairs Channel (CPAC) be authorized to bring television cameras into the Chamber today to broadcast the proceedings of the Committee of the Whole on the work of the Office of the Privacy Commissioner, Mr. Bruce Phillips, with the least possible disruption of the proceedings.

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

Some Hon. Senators: Agreed.

Hon. Fernand Robichaud: No.

Senator Hays: I think I hear a dissenting voice.

[English]

The Hon. the Speaker: I did not hear a dissenting voice.

Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

The Hon. the Speaker: I did not hear any “nays.”

Senator Robichaud: I said “no” twice. It should have been heard by now.

Hon. J. Michael Forrestall: Stand up and be counted.

The Hon. the Speaker: I did not hear any “nays.”

Senator Forrestall: I did.

The Hon. the Speaker: Would those honourable senators in favour of the motion please say “yea?”

Some Hon. Senators: Yea.

The Hon. the Speaker: Would those honourable senators opposed to the motion please say “nay?”

Senator Robichaud: Nay.

The Hon. the Speaker: In my opinion, the “yeas” have it.

Motion agreed to, on division.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN DELEGATION TO MEETING OF THE
STANDING COMMITTEE AND THE SECRETARIES OF NATIONAL
DELEGATIONS TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the sixth report of the Canadian NATO Parliamentary Association, which represented Canada at the meeting of the Standing Committee and the Secretaries of National Delegations, held in Brussels, Belgium, on April 8, 2000.

[Translation]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

REPORT OF CANADIAN DELEGATION
TO MEETING IN BAMAKO, MALI, TABLED

Hon. Rose-Marie Losier-Cool: Honourable senators, pursuant to rule 23(6), I have the honour to present, in both official languages, the report of the Canadian Branch of the Assemblée parlementaire de la Francophonie, and the related financial report. The report deals with the meeting of the Committee on Co-operation and Development held in Bamako, Mali, from February 21 to February 23, 2000.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTINGS OF THE SENATE

Hon. Mira Spivak: Honourable senators, I wish to reintroduce a motion that was withdrawn in my absence on Thursday last.

Hon. Dan Hays (Deputy Leader of the Government): Perhaps Senator Spivak could simply give notice of her motion, in order that we might debate it at the next sitting of the Senate.

Senator Spivak: Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources have power to sit at 5:30 p.m. on Tuesday, June 6 and June 13, 2000, for the purpose of hearing witnesses on its study of Bill S-20, to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

• (1530)

QUESTION PERIOD

NATIONAL DEFENCE

REPORT ON RESTRUCTURING RESERVES—VIABILITY OF
MILITIA—RESPONSE OF GOVERNMENT

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. It goes back to questions I asked on March 28, 2000, about the militia restructuring and the viability of the reserve units.

As the minister is probably aware, I received a response to my question in this chamber. That response stated:

Reserve restructuring is a complex matter with many factors to consider and no decision concerning restructuring — including whether units would be assigned new roles — has been made.

I repeat that this was in response to a question that I posed on March 28, 2000.

On March 30, 2000, the Monitoring Committee chair, the Honourable John Fraser, sent a letter to the Minister of National Defence based on this group's collection of evidence, which states:

The Army Commander issued a directive concerning the creation of new capabilities within the Army Reserves on March 2nd....Yet, the new funding model cuts Reserve pay by approximately \$30 million. The Vice-Chief of the Defence Staff has reported to me that he has "made available an additional \$30 million for the Army Reserve Programme beginning the FY 2001/02. These funds will be used to provide equipment and training to units undertaking new roles and tasks.

As I said, in reply to my question in this chamber on March 28, 2000, I was told that no decision was made. Yet, in a letter on March 30, 2000, based on gathered evidence from one Privy Council member to another, I find that the army commander issued a directive on March 2, 2000, stating that \$30 million had been assigned for new roles and tasks.

I would not want to indicate that the minister misled this chamber intentionally or in any other way. Will the minister inform us as to the big secret or what is the difficulty? With respect to the militia, would the minister tell us whether the facts are seen properly in the eyes of the Honourable John Fraser or in the eyes of someone else? Obviously, someone is either not talking to someone else, or the worse possible scenario is a deception.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I will attempt to get an update with respect to the status of any reserve reorganizations. I think that the earlier request had to do with specific reserve units and their future.

Honourable senators, I will go back to the Minister of National Defence. In view of the new information the honourable senator brings here today, I will ask for an update so that I can provide it to him.

Senator Forrestall: I am having some difficulty understanding. Either I have not learned to read yet or the minister does not understand what I am talking about. I have here a written answer upon which I should be able to rely as being accurate. I never questioned it at the time. I thought that it was accurate and true. The answer states:

Reserve restructuring is a complex matter with many factors to consider and no decision concerning restructuring — including whether units will be assigned new roles — has been made.

The correspondence from John Fraser, chair of the minister's advisory committee, tells us that decisions had been taken a month earlier. How does one spend \$30 million without a decision, without some change taking place, or without something having been accomplished?

The reserves of this country have been held in disregard and contempt for their capacity to plan and organize the training schedules that are before them for too long now. Perhaps they deserve something a bit better. My hope is that the minister can obtain from the Chief of the Defence Staff, the Minister of National Defence, or someone, a straight answer.

[Senator Forrestall]

Senator Boudreau: As I indicated previously, I would have assumed that the response given at that time indicated that no specific decisions had been made with respect to certain units and with respect to reorganization of the reserves in general. Rather than speculate on that, I will simply go back to the minister and ask for further clarification of the information.

I feel obliged to say that I have had an opportunity, in the brief time that I have been in this present role, to visit a number of reserve units, and I was impressed with them. One of those visits was in Sydney, where we were opening a very impressive new facility.

Senator Forrestall: Honourable senators, to make the point, if we cannot rely on the accuracy of a written response, what are we to do with a contradictory reply? How are we to handle these?

YUGOSLAVIA—ROTATION OF PEACEKEEPING SOLDIERS—
PROBLEMS OF RETURN FLIGHT—RESPONSE OF GOVERNMENT

Hon. J. Michael Forrestall: Honourable senators, I have had, as well, a written response to a question raised in the Senate on April 7, 2000, about the abandonment of Canadian peacekeepers returning home from Kosovo. That response does not mention that the senior officers checked into hotels, while their soldiers and junior officers were left stranded at the airport. Those troops, as one can understand, felt somewhat abandoned.

Honourable senators, the people to whom my staff have spoken do not know anything about the arrangements, absolutely nothing about the national command element that were tucked into their hotel rooms. Can the minister tell us why these discrepancies keep arising? Why do they exist? Do problems arise at the drafting of his advice to the chamber? Indeed, it is becoming a little difficult, not just for senators, but for anyone who follows closely. Many people follow closely the events pertaining to national defence in this country.

That is yet another example, all within a month, of receiving inaccurate correspondence. The minister knows that I can go back and dredge up a dozen examples, if he were to want to hear about them.

What is the response to my comments?

Hon. J. Bernard Boudreau (Leader of the Government): I am not sure that I understand the point honourable senator is making. The response did not indicate that there were certain officers staying at a hotel and other officers staying in the airport. Senator Forrestall's complaint, I suspect, is that the answer was not complete enough and that it left out some information.

Honourable senators, I will review the original question and answer. If upon review it appears that there is any information that should have been forthcoming to the questions, I will certainly raise that with the Minister of National Defence.

Senator Forrestall: Perhaps then I could make it simple for them. Would the minister please explain why Group 4 got home before Group 3?

Senator Boudreau: Did the honourable senator say that Group 3 got home before Group 4? Would they be going numerically, by any chance? That is another question I can ask.

Senator Forrestall: That is the point. Would an answer in written form be provided? The honourable leader gave a different answer when responding to my questions.

[Translation]

- (1540)

ORDERS OF THE DAY

CANADA ELECTIONS BILL

THIRD READING—MOTIONS IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Moore, for the third reading of Bill C-2, respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 375, on page 154,

(a) by replacing line 27 with the following:

“375. (1) A registered party shall, subject to”;

(b) by replacing line 32 with the following:

“registered party shall appoint a person, to be”;

(c) by adding the following after line 36:

“(3) The registration of an electoral district agent is valid

(a) until the appointment of the electoral district agent is revoked by the political party;

(b) until the political party that appointed the electoral district agent is deregistered; or

(c) until the electoral district of the electoral district agent no longer exists as result of a representation order made under section 25 of the *Electoral Boundaries Readjustment Act*;

(4) Outside an election period, the electoral district agent of a registered party is:

(a) responsible for all financial operations of the electoral district association of the party; and

(b) required to submit to the chief agent of the registered party that appointed the person to act as the electoral district agent an annual financial transactions return, in accordance with subsection (5), on the electoral district association's financial transactions.

(5) The annual financial transactions return referred to in subsection (4) must set out

(a) a statement of contributions received by the following classes of contributor: individuals, businesses, commercial organizations, governments, trade unions, corporations without share capital other than trade unions, and unincorporated organizations or associations other than trade unions;

(b) the number of contributors in each class listed in paragraph (a);

(c) subject to paragraph (c.1), the name and address of each contributor in a class listed in paragraph (a) who made contributions of a total amount of more than \$200 to the registered party for its use, either directly or through one of its electoral district associations or a trust fund established for the election of a candidate endorsed by the registered party, and that total amount;

(c.1) in the case of a numbered company that is a contributor referred to in paragraph (c), the name of the chief executive officer or president of that company;

(d) in the absence of information identifying a contributor referred to in paragraph (c) who contributed through an electoral district association, the name and address of every contributor by class referred to in paragraph (a) who made contributions of a total amount of more than \$200 to that electoral district association in the fiscal period to which the return relates, as well as, where the contributor is a numbered company, the name of the chief executive officer or president of that company, as if the contributions had been contributions for the use of the registered party;

(e) a statement of contributions received by the registered party from any of its trust funds;

(f) a statement of the electoral district association's assets and liabilities and any surplus or deficit in accordance with generally accepted accounting principles, including a statement of

(i) disputed claims under section 421, and

(ii) unpaid claims that are, or may be, the subject of an application referred to in subsection 419(1) or section 420;

g) a statement of the electoral district association's revenues and expenses in accordance with generally accepted accounting principles;

(h) a statement of loans or security received by the electoral district association, including any conditions on them; and

(i) a statement of contributions received by the electoral district association but returned in whole or in part to the contributors or otherwise dealt with in accordance with this Act.

(6) For the purpose of subsection (5), other than paragraph (5)(i), a contribution includes a loan.

(7) The electoral district association shall provide the chief agent of a registered party with the documents referred to in subsection (5) within six months after the end of the fiscal period.”; and

(d) by renumbering subsection (3) as subsection (8) and any cross-references thereto accordingly,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 405, on page 166, by replacing lines 36 and 38 with the following:

(3) No person, other than a “chief agent, or a registered agent or an electoral district agent of a registered party, shall accept contributions to a registered party.

(4) No person, other than a chief agent of a registered party, shall provide official receipts to contributors of monetary contributions to a registered party for the purpose of subsection 127(3) of the *Income Tax Act*.”,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 424, on page 174, by replacing lines 14 to 16 with the following:

“(a) the financial transactions returns, substantially in the prescribed form, on the financial transactions of both the registered party and of the registered party's electoral district associations;”;

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 426,

(a) on page 176, by replacing lines 36 to 38 with the following:

“shall report to its chief agent on both its financial transactions return and trust fund return referred to in

section 428, and on the annual financial transactions returns on the electoral district associations' financial transactions referred to in paragraph 375(4)(b), and shall make any”; and

(b) on page 177,

(i) by replacing line 11 with the following:

“electoral district agents, registered agents and officers of the regis-”, and

(ii) by replacing line 20 with the following:

“electoral district agents, registered agents and officers of the party to”;

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 473, on page 202, by replacing lines 37 and 38 with the following:

“registered party or to a registered agent of that registered party in the”;

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 477, on page 203, by replacing lines 30 to 31 with the following:

“477. A candidate, his or her official agent, and the chief agent of a registered party, as the case may be, shall use the prescribed forms for”;

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Prud'homme, P.C., that Bill C-2 be not now read a third time but that it be amended, in clause 560, on page 246,

(a) by replacing line 18 with the following:

“ceipt with the Minister, signed by the chief agent or a registered”; and

(b) by replacing line 25 with the following:

“(a) by the chief agent or a registered agent of a registered”.

Hon. Gérald-A. Beaudoin: Honourable senators, in my opinion, clause 18.1 of Bill C-2 needs to be amended so as to fully recognize the role of the Senate as a legislative chamber.

The Senate plays an essential role with respect to legislation. Its consent is required for bills to be passed.

Here we are dealing with a bill which amends the Canada Elections Act, and which specifically includes as clause 18.1 the possibility that the Chief Electoral Officer may carry out studies on an electronic voting process with the prior approval of the House of Commons.

This clause leaves out the Senate. The Honourable Don Boudria, Leader of the Government in the House of Commons, wrote on May 3 to the Chair of the Standing Committee on Legal and Constitutional Affairs, the Honourable Senator Lorna Milne, conceding that the Senate had been omitted, and proposing to add it in a future amendment.

We now have an opportunity to correct that omission. Otherwise, the Senate is relegated to the role of a mere onlooker who, in the case of Bill C-2, is not even consulted. This constitutes an erosion of the Senate's powers.

I agree with what Senator Joyal told the Standing Committee on Legal and Constitutional Affairs on March 30 of this year:

...I could not agree with excluding the Senate from a provision of such great importance. As I said, we have amended bills from which the Senate had been excluded.

Every time a bill from the House of Commons excludes the Senate, I or someone else would move amendments.

This provision is from a private member's bill. The fact remains, however, that it excludes one of the essential chambers of the Parliament of Canada on a fundamental decision, namely, one that changes the way we vote. This may have tremendous repercussions in the rural regions or in areas of the country that are not so familiar with electronic voting. Accordingly, this pertains to the exercise of a basic democratic right. I cannot accept the exclusion of the Senate from a provision like that.

I support my colleague and that is why, honourable senators, I am of the opinion that we should amend Bill C-2.

MOTION IN AMENDMENT

Hon. Gérald-A. Beaudoin: Honourable senators, I move, seconded by the Honourable Senator Keon, that Bill C-2 be not now read a third time but that it be amended, in clause 18.1, on page 13, by replacing lines 12 and 13 with the following:

“committee of the Senate and the committee of the House of Commons that normally considers electoral matters, or by the joint committee of both Houses of Parliament designated or established for that purpose”.

The Hon. the Speaker: Honourable senators, leave of the Senate is required when more than three amendments are moved. We now have seven amendments. Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Pierre Claude Nolin: Would Senator Beaudoin accept a few questions?

Senator Beaudoin: Certainly.

Senator Nolin: During consideration by the committee — obviously, this is an addition that was made in the House of Commons — this clause was not part of the original bill, was it?

Senator Beaudoin: Yes, I do believe it was proposed later.

Senator Nolin: What are the government's comments on this addition? Has the minister made any comments about the matter of adding the Senate, or the fact that only a House of Commons committee would have to consent to such an experiment by the Chief Electoral Officer?

Senator Beaudoin: Senator Joyal will surely have the answer to that question. I was present at the Standing Committee on Legal and Constitutional Affairs, and it was stressed that in such a case, a report would be made to the House of Commons.

My colleague did indeed point out, as did I, that the Senate was omitted and the minister came and spoke before us. As I explained in my speech, he sent a letter to the Chair of our committee clearly stating that the Senate had been omitted in the bill and that he proposed to add the words “the Senate” in a future amendment.

The minister is right in his desire to amend this bill to include the Senate. I congratulate him, but I believe it must be done immediately. I do not want to go back to Bill C-20, but omission of the Senate is one of our problems.

Even if this is a bill relating to elections, the Canadian Senate, a legislative chamber, is also interested in elections. All of us vote, and if there is a desire to change the way votes are cast, and if the House of Commons is consulted, then so must the Senate be consulted, or a joint Senate and House committee. I am taking this opportunity to submit this amendment immediately. It is both easy and necessary.

• (1550)

Hon. Serge Joyal: Honourable senators, I should like to continue the debate on the amendment moved by Senator Beaudoin. I thank Senator Beaudoin for kindly raising this question since, in fact, it concerns all of us as lawmakers and, more particularly, it concerns us as members in this house with our full legislative powers shared with our colleagues in the other house.

When the minister and government House leader appeared before the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-2, Senator Beaudoin and a number of other senators were present, and I raised the fact that at clause 18.1, the permission or approval given the committee of the House to agree to testing an electronic voting process omitted the Senate.

The minister pointed out that this amendment had been made by a committee of the House of Commons during debate of the bill. It therefore had not appeared — and Senator Nolin was right in this — in the government's original bill. However, the government could have amended it at third reading stage since it had been amended at committee stage.

I pointed out to the minister that we had recently amended bills or required amendments to bills that omitted the Senate. I would remind the honourable senators that since the first session of the 36th Parliament, five bills have been amended since their introduction in the other place, because they omitted the Senate.

Bill C-52, the Comprehensive Nuclear Test-Ban Treaty Implementation Act, had to be amended because it omitted the Senate. In November 1998, Bill C-25, to amend the National Defence Act and to make consequential amendments to other acts, had to be amended. Bill C-3, respecting DNA Identification and to make consequential amendments to the Criminal Code and other acts, had to be amended because it omitted the Senate — Senator Nolin remembers this very well because we shared this debate. Bill C-43, to establish the Canada Customs and Revenue Agency and to amend and repeal other acts in consequence, had to be amended. Then Bill C-32 had to be amended at the other place after the Deputy Leader of the Government on this side of the House pointed out to the other House that, if it were not amended at the appropriate time, it would be amended in the Senate.

These then are five recent cases where senators on both sides of the chamber had to intervene to correct this omission in bills coming to us from the other place. Senator Beaudoin is quite right in saying that we drew this matter to the minister's attention. I recall that the Deputy Leader of the Government, Senator Hays, was present at the time.

In particular, we, and I, asked the government House leader and minister of State responsible for electoral reform whether he was prepared to consider an amendment that would restore the status of the Senate. The minister recognized this chamber's privilege of amending the legislation as it saw fit and it does not misrepresent him to describe his answer in these terms.

In a letter he sent me on April 10, the minister mentioned that there were parts of the proposed electoral legislation that did not come under the authority of the Senate, specifically the appointment of the Chief Electoral Officer, and that he saw this as a sort of precedent to explain — I would not say justify — omitting the Senate from clause 18.1. I responded to this letter from the minister with another two days later, on April 12, addressed to the minister responsible for electoral reform, in which I said as follows:

I remind you that the Senate has a vital interest in the manner in which elections are held in Canada. In 1994 and 1995, the Senate refused to pass Bills C-18 and C-19, with the result that the 1981 electoral boundaries were maintained for the coming election.

Is there a topic in which members themselves have a greater interest for their re-election than riding boundaries? Changing those boundaries can, in many cases, mean the difference between re-election and defeat. But the Senate intervened, because at stake was the democratic right of citizens to choose their representative fairly and in accordance with the spirit of the law.

I therefore do not agree, honourable senators, with the statement that, in electoral matters, because we are not elected,

[Senator Joyal]

we have no business in matters that concern election to the other place. On the contrary, I believe that anything concerning the exercise of the democratic right to choose one's representatives is part of the obligations we have to ensure that bills that come before us respect the fundamental rights and freedoms of Canadians.

Following on the letter from the minister dated April 10, in which he refused in a way to give his agreement on the amendment to clause 18.1, I again argued my case to get the minister to reconsider. I reminded him that there were certain cases before the courts of Canada, that there still are cases pending, which challenge the Canada Elections Act, particularly *Figueroa v. the Attorney General (Canada)*, which might eventually require amendments to election legislation, if the allegations by the applicant were confirmed. Consequently, the Elections Act would have to be amended again to reflect the provisions of the decision, and Parliament again informed of planned amendments. The role of the Senate might at that time again be discussed within the framework of the planned amendments, in order to avoid having to involve the six-month deadline which, as honourable senators are aware, is included in Bill C-2.

In the same letter, I pointed out to the minister responsible for electoral reform that the Solicitor General of Canada had made a commitment in a letter to the Chair of our committee, Senator Milne, on December 1, 1998 — when our committee had been informed of Bill C-3, from which the Senate had also been excluded under much the same circumstances — that he would bring in amendments re-establishing the status of the Senate in Bill C-3 at the very first available opportunity. This the minister did, in a timely fashion, with the complete approval of those of us in this chamber.

Consequently, in connection with my proposal to the minister on April 12, the minister responded to Senator Milne on May 2 in a letter, which she had recorded in the proceedings of this chamber, at the time third reading debate was beginning. I should like to quote the paragraph directly relating to the concerns of Senators Beaudoin, Nolin, Hays and Murray:

[English]

I have noted the proposal made before the Committee and I am fully disposed to offer amending section 18.1 the next time the government revises the *Canada Elections Act* to add the obligation for the Chief Electoral Officer to seek the approval of the Committees of both Houses before testing an electoral voting process.

• (1600)

[Translation]

In so doing, the minister — and Senator Milne had the entire letter read into the record — as the Solicitor General had done in December 1998, made a similar commitment to table an amendment re-establishing the status of the Senate so that we do not have to delay putting into effect the law, which, as you know, requires some six months to enable the Chief Electoral Officer to put into place the process the new legislation involves.

Accordingly, I should like to reiterate to the honourable senators our determination to ensure that each time the Senate is omitted, we can obtain the necessary amendment, or a formal written commitment from the minister to introduce an amendment as soon as possible so that the bill may do justice to the status and rights of both houses.

I point out that in the case — and Senator Nolin will remember this — of Bill C-3, there was some urgency to proceed in order to immediately authorize RCMP officials, specifically, to establish the DNA data bank. We were facing a similar time frame for putting the law into effect.

Honourable senators, I should like to express our determination, and I think all senators share the same viewpoint. I would just reiterate it here in this chamber. Senator Carstairs expressed it well in remarks she made about a former bill that had to be amended as well. Each time this chamber has before it a bill excluding the Senate, we will hold the necessary debate and take the appropriate measures to re-establish the rights of the Senate in accordance with the Constitution's expectation of us, which is that we all exercise our responsibilities as legislators for the benefit of all Canadians.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should simply associate myself with the thrust of Senator Joyal's comment with respect to why I do not support the amendment proposed by Senator Beaudoin. I would add that we have the opportunity to deal with this legislation now in a timely way. The bill has a provision which delays its coming into effect for six months after Royal Assent. It is quite possible that if we were to amend it now, it would not be possible for the House of Commons to deal with it prior to its planned summer recess.

We have the commitment of the minister responsible and a very good explanation from Senator Joyal as to why we might soon expect the opportunity to remedy what many in this place consider to be a deficiency in the legislation; that being, the absence of a requirement to involve the appropriate committee of the Senate in determining whether or not Parliament should approve an electronic voting process, which, as the bill provides, is to be investigated and tested.

I would agree more with Senator Beaudoin if, in fact, there was no undertaking from the minister, or if there were indications that the Senate would be ignored or would not be included in the approval process at the next opportunity to open this act. Accordingly, I oppose the amendment and ask honourable senators to support the bill as is.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion in amendment moved by the Honourable Senator Beaudoin?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those in favour of the amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we have a house order to proceed with the recorded vote on this matter tomorrow.

The Hon. the Speaker: Honourable senators, we will do that tomorrow, then.

**CANADA TRANSPORTATION ACT
COMPETITION ACT
COMPETITION TRIBUNAL ACT
AIR CANADA PUBLIC PARTICIPATION ACT**

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Perrault, P.C., seconded by the Honourable Senator Fitzpatrick, for the second reading of Bill C-26, to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence.

Hon. J. Michael Forrestall: Honourable senators, I wish Senator Perrault was here because I am about to say one or two nice words about him.

Senator Fairbairn: I will tell him.

Senator Forrestall: Would the honourable senator tell Senator Perrault that I am just now getting over my mad reaction to what he did with my naval veterans' private member's bill.

I rise today to say that I listened with interest to Senator Perrault's comments on the bill and fully appreciate the fact and the reasons why he would like to see the bill sent to committee as soon as possible.

Honourable senators, the process which brought us to this point began almost a year ago. During this period, we witnessed the failed attempt by Onex to take over both national airlines and the Minister of Transport scrambling to devise a policy to deal with the changes to the airline industry, a policy that perhaps he should have placed before Parliament two years ago. We also witnessed committee studies of the restructuring of Canada's airlines in both the Senate and the House of Commons, the emergence of Air Canada as the dominant force in air travel in Canada and, finally, now, Bill C-26. This has been quite a ride and it is not over yet by a long shot.

Some honourable senators will know that I come to this debate with assorted baggage accumulated over the years as parliamentary secretary to the Minister of Transport during the period of economic deregulation, particularly the freedom to move. I also approach this subject as Chair of the Subcommittee on Transportation Safety. I have been privileged to be the chair of this subcommittee for some time now, and we are about to release our report on air safety. I am also concerned about the impact this bill and the resultant air monopoly will have on safety for the transportation of workers and the travelling public.

I wish to commend the work done by the House of Commons transportation committee on this bill. I believe significant improvements were made. These originated, though, it is interesting to note, as opposition suggestions, and they were implemented through government amendments.

Honourable senators, I believe we should be careful in what we are about to do now. We should review this bill carefully because it sets the structure for air services in Canada for many years to come. We must be sure that the power over air transport that is shared among the Canada Transportation Agency, the Competition Tribunal, and the minister is indeed the right mix for the most appropriate group doing what they do best. From our point of view — and I believe this was echoed by many in the Standing Senate Committee on Transportation and Communications — we would like to see as much authority as possible vested in the Competition Bureau because it is there that we will get balance.

The National Transportation Agency, in my personal view, has a role with regard to the hardware, but it is the Competition Bureau that Canadians, particularly in the absence of vigorous air competition, will rely upon for protection. I believe the commission has a good feel for the problems in the airline industry and, as those of you who participated will recall, was most helpful to us when we did our study of the air mergers last fall. No longer can we afford the luxury of allowing ourselves back into the business of regulating the airline industry per se. There may be exceptions where some government intervention is worthy of keeping a hand in, but we cannot allow ourselves to go back into full-scale regulation. We have successfully moved away from that, and a widespread return to regulation would have disastrous effects on Canada's global competitiveness in this area.

• (1610)

I listened attentively to the remarks of my colleague, and I agree with him.

The idea of creating an office of air travel complaints is a good one. However, I believe we should go further and ensure the release of all of this type of information from the airlines on a regular basis. There should be a requirement for reports to be made public, whether through Parliament or by some other vehicle.

We should also again carefully study the divestiture of regional air carriers. We initially believed that it was reasonable for the national carrier to divest itself of the regionals. If that still makes sense, we should ensure, among other things, the job

security of all those presently employed by regional carriers. The same assurances received by employees of the main carriers should be given to employees of regional carriers, even if the regional carrier is sold.

We must also consider the relationship of Air Canada to the international carriers that serve Canada. Due to the significant presence of international carriers, the cost of overseas flights has always remained reasonable for Canadian travellers. These international carriers have unique requirements and they should be accommodated in order to keep overseas travel competitively priced. I look forward to hearing suggestions from representatives of Cathay Pacific, BAC, and others, on how their needs can be accommodated.

I believe that there is some urgency to get on with this and that the matter should be referred to the Standing Senate Committee on Transport and Communications. Once there, the committee will have the responsibility of examining the difficulty that the Canadian travelling public has had in some centres.

We appreciate the difficulties Air Canada has experienced in implementing the changes that had to be made, but these problems must be ironed out, and they will be ironed out gradually. I personally have had excellent service from Air Canada and Canadian since the merger began, but that has not been the experience of everyone.

The airline needs good and sound legislation to be developed in consultation with professionals in the industry. This side believes that matter should be sent to the appropriate committee for study before the summer adjournment.

Hon. Nicholas W. Taylor: Honourable senators, as an old-time westerner, I know that the development of the Prairies has very much depended on transportation. Those of us who live in the more densely populated strip in the south of Canada worry about plane reservations, lost baggage, and so on. This bill touches upon, but not in sufficient detail, the historical significance of transportation in the development of Canada in any area outside the temperate zones, particularly near the Arctic. Perhaps we can learn more about that at committee stage.

We need only think back to the beginnings of Canada when that great Liberal Conservative, John A. Macdonald, put together a national transportation policy. If we had taken the approach to transportation then that we do now, with the bottom line being getting rid of subsidies, we would not have a Canada. British Columbia would not have joined us and the Prairies would not have been developed.

If you have any doubt about that, at your first opportunity spin a globe. You will notice that North America is the only continent with any development at its centre. There is no development in the centre of Asia, Africa, or Australasia. North America is the exception because our forefathers had the foresight to subsidize an east-west transportation network. In the United States of America, they are fortunate to have the Mississippi River running north-south through the middle of the country which provides a transportation route. However, in Canada we had to fight natural forces, and we must give the credit to John A. Macdonald for forming that band of pink from coast to coast.

Today, we are facing the same challenge as John A. Macdonald faced. We need to build a link from the North to the South, with little in between. This cannot be done with a balanced budget. The people in the North depend on air transportation.

This bill deals with unimportant details such as whether meals are hot, rather than providing an incentive such as that provided to the Canadian Pacific Railway and the Canadian National Railway.

• (1620)

The whole central part of Canada — the Prairies, really — was developed over the last 100 years because the government put money into it. The East and West and settled portions of Canada put money into transportation so that we could transport our grain, beef and hogs out to the markets of the world and bring settlers in. The same thing has to happen in the North. To sit back and leave it to the odd little diamond mine or to fur trapping and to tell northerners they have to rely on an airline that has no competition from roads or rail is very unfair indeed. We are ignoring our greatest frontier — a frontier which might be just as important 80 to 100 years from now as the Prairies are to today's Canada. After all, 100 years ago, the Prairies were considered just as far out and out of the way as our North is today.

I think we need some great imagination from both sides of this house, and from both sides of the other place, for our national transportation policy to develop our North and bring northerners in to be equal partners in Canada. Of course, they need a little help, but just look at what has happened on the Prairies. We are now withdrawing subsidies, because they have developed and can stand on their own. Why should we deny the people who live in the high Arctic and the middle Arctic the same opportunities that John A. Macdonald and others like him gave to the Prairie provinces to develop when they were no man's land — or no person's land?

Just look at any other continent on the globe. They have not developed their centres because they did not have a political tie-in on either side to put in the subsidies to develop the centre. I arrived back home from Kazakhstan recently. It might as well have been Alberta in 1905. My point is that the centres of other continents have not been developed, and they will not be developed if everyone relies on the laws of so-called free enterprise where the bottom line counts for everything. Development will only occur where the people are numerous, and the other areas will be left out.

As to this bill, as far as I can see, we can rectify problems where the airlines may be shafting the consumer, but we will not be doing anything in the way of actually putting in a subsidy or a grant, or some sort of integrated system, to help with the transportation costs of the people in the Far North in order to bring them close to equalling what we pay ourselves.

Hon. Roch Bolduc: Will the honourable senator accept a question?

Senator Taylor: Certainly.

Senator Bolduc: Senator Taylor talked about Africa and the United States. What about South America?

Senator Taylor: That is another continent on which there is no development in the central core. Sorry, I overlooked that. I thank Senator Bolduc. That is another continent where nothing has happened because they have done nothing on their transportation policy, except on the fringe.

Hon. Raymond J. Perrault: Honourable senators —

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to inform the Senate that if Honourable Senator Perrault speaks now, his speech will have the effect of closing debate on second reading.

Senator Perrault: Honourable senators, I thank the eloquent spokesman for the opposition in this chamber, Senator Forrestall, for his constructive remarks.

Some Hon. Senators: Hear, hear!

Senator Perrault: Air travel is of immense importance to all Canadians. This measure, Bill C-26, deserves the closest possible study. I am in total agreement with the honourable senator on that point.

Those senators who are not actual members of the Standing Senate Committee on Transport and Communications may nevertheless want to interest themselves in this legislation. Honourable senators know that it is possible to attend the committee's meetings, although they may not have voting privileges. I suggest to honourable senators that air travel is of immense importance to all of us, wherever we live, and it is our responsibility to ensure that the best possible legislation is passed to help people with their travel challenges in our very large country.

Honourable senators, I will not get into a long discussion of the bill. It is better that we get it to committee as quickly as possible. I thank Senator Taylor for his interesting and always useful observations. He might wish to develop them in committee.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Perrault, bill referred to the Standing Senate Committee on Transport and Communications.

• (1630)

[Translation]

PRIVACY COMMISSIONER

RECEIVED IN COMMITTEE OF THE WHOLE

The Senate in Committee of the Whole in order to receive the Privacy Commissioner, Mr. Bruce Phillips, for the purpose of discussing the work of this office.

The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Rose-Marie Losier-Cool in the Chair.

The Chairman: Honourable senators, before hearing the witness in Committee of the Whole, allow me to draw your attention to rule 83, which states, and I quote:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

The last time Canada's Privacy Commissioner appeared before the Committee of the Whole, it was decided to dispense with this rule. Is it your pleasure, honourable senators, to dispense with rule 83?

Hon. Senators: Agreed.

[English]

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

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

Hon. Senators: Agreed.

[Translation]

The Chairman: On behalf of all senators, I welcome Mr. Phillips, Canada's Privacy Commissioner.

[English]

Mr. Phillips, do you have an opening statement?

Mr. Bruce Phillips, Privacy Commissioner: Honourable senators, thank you very much for having me back. I think the most enjoyable thing I have done since I took on this job was

coming to a session of the Committee of the Whole about a year and a half ago. I am not trying to flatter you; I mean it. It is kind of fun to come to a committee where people are actually talking to the witness instead of to each other most of the time. That is no reflection on any other place.

Second, this may well be my valedictory to the Senate since, unless some miracle intervenes, I will be packing my bags in a few months to take retirement. Well deserved? Well, some other people will have to decide that.

Last year, I gave you, at the outset of my presentation, a 10-minute disquisition on the philosophy and ethics of privacy. I do not propose to repeat it in any great detail. I want to remind you of one or two basic points.

First, with respect to my position, for those of you who may not have been here last year or heard me speak on other occasions, the Office of the Privacy Commissioner is one of a very few number of offices in the entire federal establishment that exists and requires a vote of approval for the nominee by both Houses of Parliament. The reason for that is to certify their independence of any particular government department or agency since all of us are involved in matters that require an arm's-length relationship. Some others are the Information Commissioner, the Chief Electoral Officer and the Auditor General. It is a wonderful position to occupy because it keeps the incumbent focused on the issue that he or she is there to serve. There is no other consideration in a good commissioner's mind than serving that issue and protecting the credibility and the independence of the office.

The issue of privacy is frequently misunderstood. People think it is essentially denoting "a means of hiding things." Privacy is not the business of hiding things. Privacy is a shorthand word that covers a very complex and comprehensive set of rights which touch almost every aspect of human life. If you think of privacy in the context of being able to control matters concerning yourself and what it is that you wish the world to know about you, you begin to come closer to the notion of privacy.

Privacy has its origins in the very beginning mists of human history. The ancient British notion of a man's home being his castle — now a person's home being his or her castle — very much expresses the idea. If you really respect someone, you will grant that person a right to privacy. If that person respects you, that person will give you a right to your privacy. Supreme Court Justice Gerard La Forest expressed it best when he said, "Privacy is the concept that lies at the heart of freedom." I think that is right. "Privacy" is just another word for freedom.

I will quickly review some of the issues that arose during the past year. Quite apart from one or two more recent events, we have had an extraordinary year in this field. The most important development in the privacy field in the last 15 or 20 years in this country occurred in the course of last year, partly and significantly due to this particular chamber. I am referring to Bill C-6, the Protection of Personal Information and Electronic Documents Act.

The genesis of Bill C-6 goes back some distance to the publication of privacy guidelines by the Organization for Economic Co-operation and Development, issued roughly 20 years ago, which set forth principles for government to govern themselves by in the collection, use and disclosure of people's personal data.

- (1640)

The privacy guidelines were accepted by the Government of Canada. Departments of the government were urged to follow them, as was the private sector. The government had more success with the public sector than it did with the private sector, which largely ignored them. However, the government acted by passing the Privacy Act that has governed, for many years, the collection, use, disclosure and retention of information by the Government of Canada.

The private sector, with the advantages of modern technology, was leaping ahead with ever more massive collections and use of data. It essentially became an information jungle, where there were no rules. All of the jaw-boning and arm-twisting that was attempted by people such as myself had very little effect. Some institutions — notably financial — responded by passing voluntary codes of privacy practice, which helped, but only a little.

The Canadian Direct Marketing Association and others were, I think, outstanding in the field of policing their activities during that period. However, it became evident three or four years ago that if businesses were to continue to enjoy the confidence and trust of the clientele and consumers of Canada, something more had to be done.

Another compelling reason was the adoption by the European Community several years ago of common data protection principles that were applicable to all states of the European Community. That set of principles essentially authorized them to withhold data transfers to states where, in their view, adequate data protection did not exist. At that stage of the game, Canada certainly was one of those countries.

Partly in an effort to defend Canada's trade abroad and to guarantee continuing rational data flows from country to country, and partly because of the increasing clamour in Canada, Bill C-6 was born.

Those honourable senators who were not directly involved at the legislative end of the process must realize that Bill C-6 was not an easy exercise. It was strenuously opposed — sometimes publicly, while on other occasions not so publicly — by many special interests groups. I must say, in as non-partisan a way as possible, that it took a good deal of resolve on the part of the government of the day, with the help, I am sure, of people on all sides, to ensure that Bill C-6 came to pass. It will become law at the end of the year. Three years hence, unless the provinces act in conformity with the principles in Bill C-6, it will cover provincial informational traffic, as well as that which now falls under the jurisdiction of the Parliament of Canada. That is almost

akin to a revolution. Canada is the only country in North America that has such a comprehensive statute covering the private sector.

There are continuing issues, such as the problems in respect of the social insurance number. We are aware of the opinion of the Auditor General on that issue. In spite of the efforts to fix the issue, the underlying problem of the social insurance number has not been addressed. When the social insurance number became a card to certify eligibility for certain government programs in the 1960s — I was present in the galleries listening to those debates — fears were expressed that the card would be used as an everyday working identification card. Qualified assurances were given that such a thing could not happen, but it did. Everyone now knows that you can hardly get on a bus and go to a store without your social insurance number.

The problem is that the government has never stipulated in law that it would be unlawful to demand the production of that card for other than specified uses. Although I believe that was recommended again during the course of the last study, it has not been acted upon. As a consequence, the social insurance number will continue to be as much a nuisance as a help to us.

I am aware that the Senate is seized of the whole debate about privacy and its relationship to health information. That is probably the next privacy battleground, although I can think of one or two others that we might discuss this afternoon.

We, in our office, are baffled, to a certain extent, by the health privacy debate. That is largely because of the immensity of the volume of information involved, and the very large number of players that are in the field, both in the public and private sectors. We must candidly admit that we do not know how all of this information is managed. We have much anecdotal evidence and information from a variety of sources. Many doctors tell us that they are terribly concerned because they feel that the historic, Hippocratic oath-bound principles of patient-doctor confidentiality are no longer alive because the information is now used by too many hands for payment purposes, verification purposes, government studies and so on. Even the doctors cannot tell you with any assurance where all of the information is used.

The first problem in dealing with health information is to find out where it originates, who has it, and where it goes. The committee of the Senate that proposes to study this issue will be pioneering in this field. I believe that if, as some people advocate, health information is to be treated by a separate statute, other than Bill C-6, the kind of thing that you are about to do is absolutely *sine qua non* — a prerequisite — to that exercise. We will be as interested as anyone else in the evidence that is given to that committee.

I do not know whether to venture into the minefield of the census data now or later. It arose at our meeting one year ago and continues to be a concern of mine. I was treated gently by the Senate, much more gently than I was in other quarters, with respect to the census issue.

My first concern is with the confidentiality issue. No one has been able to satisfy me on this point in respect of census information. There are two regulations on the books covering the 1906 and 1911 censuses that state that census data shall be kept confidential and not used for any other purpose. There is a 1918 law on the books that states essentially the same thing. Information printed on each of the millions of census forms distributed to the Canadian public states that they are enjoined to fill out the form, no matter how intrusive they might feel it is, under pain of the penalty of the law. However, that form also provides an unqualified guarantee of secrecy and confidentiality.

The case could be presented by someone — and I have never disputed the legitimate interest of historians and genealogists in this type of information, although I may feel differently about their right to it — to get rid of that guarantee because the information is extremely valuable to them. What then becomes — and I do not speak alone because the Chief Statistician would say this more emphatically than I — of the confidence and the trust of the Canadian public in the given word of its elected government? If, having given all of this information with that undertaking clearly before it, the public is now told, “Well, things have changed, so retroactively we will wipe out the information,” then that raises an ethical question that must be addressed and answered by those people who would seek to set the guarantee aside.

The question of the merits of the case for access by historians and genealogists is something else. I appeared before the expert panel that was appointed by the Minister of Industry to look into this question of what to do about census records in response to the strong representations that were made by the historical and genealogical committee. Whatever they may make about the confidentiality guarantee, I suggested to them that, if they still wish to recommend access to this census data, then surely a distinction must be drawn between census data and other types of personal information.

• (1650)

The long form on the Canadian census since 1971 is the single most comprehensive gathering of intimate personal data about Canadians ever conducted. It includes all kinds of information that people normally might be extremely sensitive about disclosing. I am talking about sex, sex preferences — which was asked in the latest one I saw — family histories, income and lifestyle. There is an enormous amount of data on that census.

It is no longer simply a census of the population. It is a socio-economic study of the most comprehensive kind. No one would fail to understand why that would be of interest to historians and academics.

My point, therefore, is that if they are to make more census data public, surely it must be restricted to census data, that is, a count of the population, name, address, and so on, as is contained in the earlier censuses. That distinction has yet to be drawn. I did not hear it made at the expert panel on this subject. It is possibly the beginnings of a compromise answer to this problem.

[Mr. Phillips]

I would now defer to honourable senators.

If the honourable senator from Fredericton is here, I am sorry that I do not have your star pupil with me today. He is out of town giving a speech. I know you wanted to single him out because he is a very bright fellow.

I thank honourable senators.

Senator Lynch-Staunton: Welcome, Mr. Phillips. I am sorry to hear you say that this may be your farewell appearance. If it is, I wish you well. I thank you for the great efforts and commitment you have made to privacy, in an environment which is not the most easy and where privacy is more and more difficult to secure. Your efforts are exemplary. I hope that your successor will carry on in the way that you have set up your office and that is in favour of that important element in our society which is privacy.

You made reference to the census, a subject on which I wished to focus my questions. However, I think you have already expressed your views on that subject.

“Common law” refers to two people of the opposite sex or of the same sex who live together as a couple but who are not legally married to each other. The final question which was published in the *Canada Gazette* is a little less direct. It states that “common law” refers to two people who live together as a couple but who are not legally married to each other. The definition may change, but the intent of the information sought is the same. First, this is the sort of information which I have difficulty in accepting as necessary in a census. Second, if the law is changed, it is information which may well be revealed in the years to come, and it is not information that many people answering that question would want revealed.

The other question which I find very intrusive is Question No. 51, which asks for a detailed report on income, employment, government income, other income, dividends, and so forth. The explanation given for that question is that, while most Canadians file income tax returns, many Canadians do not, so this is to supplement the information that the Department of Revenue does not have available. When we file our income tax returns, whether we send them electronically or by mail, we like to think that they go directly to the person to whom they are intended. However, this information is not guaranteed to have the confidentiality it deserves.

You have pointed out in your report on the challenge to privacy that, in rural areas in particular, the enumerators are friends and neighbours of the persons who are given the long form to fill out, and they have been responsible thus far in checking the answers to ensure, not that they are accurate, but that they have been answered. In many cases, therefore, neighbours and friends who are enumerators have available to them what the individual who filled out the form has felt has been confidential all along, but within a week his neighbour has secured this information. You do say in your report that there have been attempts to bypass the local enumerator, but that, so far, those efforts have not proven to be foolproof.

After that introduction, sir, my question is twofold. First, do you believe that some of the information asked for in the census is of value to the census takers? Second, what advice would you offer the government in order to guarantee as much as possible the confidentiality of the census information?

By the way, the common law question also applies in the short form. All Canadians have to answer that question, not only those who answer the questions on the long form.

Mr. Phillips: By “census taker” do you mean the canvasser or Statistics Canada?

Senator Lynch-Staunton: The canvasser, the person who delivers the form and to whom it is returned.

Senator Finestone: They are obliged to do that.

Senator Lynch-Staunton: If you fill out the long form, you must give it to someone. That person has to check that the questions have been answered. That person may be your next-door neighbour.

Senator Finestone: I do not disagree with you, senator. I am saying it is an obligation under the law.

Senator Hays: Perhaps we might hear from Mr. Phillips.

Mr. Phillips: That is a process question, honourable senators. We have received a substantial number of complaints on that very point concerning the census and the fact that, in the verification of the filling out of the forms, neighbours and friends frequently become involved, particularly in small communities. People get very upset by that, which I think attests to the sensitivity of the information. People are not nearly so upset if they feel that it is going to a secure place in Ottawa, which is behind very carefully guarded doors. We have taken that up with Statistics Canada. They responded by putting in place, on an experimental basis, a process by which the form could circumvent the local verification process and go directly to Ottawa. However, my recollection is that they did not like the results. I think the reason was that it was too cumbersome and too slow. It has been discontinued, and they are now trying out something else.

I will say on behalf of Statistics Canada that at least they are aware of this problem and are trying to fix it. Thus far, they have not been able to do so.

The issue of the intrusiveness of questions is not something I can answer with anything more than a personal opinion. There is no doubt that the questions are intrusive. Of course, any disclosure of personal information to a government institution that is compulsory is intrusive — no matter what the information. This tends to be of an extremely intimate nature. You have just read off some of the questions, senator.

The Statistics Canada people have a very complicated process for deciding what goes on to the census form. They have a number of advisory committees, educational, socio-economic, medical and so on, composed of people from both the public and

private sector who submit to Statistics Canada a list of questions or issues which they think are of sufficient importance as to warrant inclusion in a census. Those are all mulled over, over a number of years, and finally they find their way on to the census form.

• (1700)

Senator Murray: Who must Statistics Canada convince at the end of the day that the information they are seeking from individual citizens is absolutely required for the purposes of the governance of the country as distinct from the purposes of the academy? Do they have to convince the cabinet?

Mr. Phillips: Yes, that is right. Once Statistics Canada has compiled its list of questions and developed its census form, that is submitted to cabinet for approval.

Senator Murray: What do you have to say about it? Does the Privacy Commissioner have the opportunity to say, “This is really not needed for the purposes of governance; it may be interesting for the academy, but it is not needed for the census?”

Mr. Phillips: No, the Privacy Commissioner is not consulted on the questions that are to be included on the form. Quite frankly, senator, I am not sure that the Privacy Commissioner should have such a role. Statistics Canada, which does that operation on behalf of a great many interests, has the responsibility of justifying its questions, and I think they have to be justified to persons other than myself.

Senator Murray: Who weighs in on behalf of privacy when the draft questionnaire is placed before the cabinet? Is there anyone who says “no” to a particular question?

Mr. Phillips: No one from my office.

Senator Milne: Mr. Phillips, I want to talk about the historic census, not today’s census.

For the past 100 years, there has been a balance in Canada between a right to privacy and a right to use personal information for historical research. Of course, you have anticipated that I would ask you this question. You have also written quite a section in your report about the historic census records. I have read your presentation to the expert panel.

I am fairly certain that your position, and the position you have taken in your report, is based on an opinion by lawyers of the Department of Justice which is, I believe, fundamentally flawed. Statistics Canada requested this opinion. It is too bad that the lawyers were in such a hurry. If they had just read a few pages further on, or even a few lines further on, they would have found in the 1906 instructions that the census takers were directed to write clearly because the census was intended to form a permanent record to be held in the archives of the Dominion. At that time, everything that was held in the archives was open to the public. It was quite clear that the lawmakers of that time and the legislatures of that time intended that to be a permanent, eventually public record. The implicit intent was that the census would eventually be open to the public.

This balance between a right to privacy and a right to historic census data was debated again in the 1980s and reaffirmed in a modern context with the passage of access to information and privacy legislation. Speaking of privacy legislation, I thank you for your words about Bill C-6, because my committee dealt with that bill.

Why is there now such an urgent need to overturn this long-established, equitable and historic balance? What you are actually doing is retroactively seeking to overturn the stated intentions of the legislatures at that time. After 100 years, the defence of privacy rights is suddenly paramount and overriding the legitimate and intended use of personal information for research purposes.

Do you want to answer that question before I ask my second question?

Mr. Phillips: I might as well get the whole blast.

Senator Milne: I am being nice.

Why do you not accept the logic of the passage of three interrelated pieces of legislation — the Privacy Act, the Access to Information Act and the National Archives Act of Canada — as well as the formal interpretation of the European Parliament, whose tough privacy provisions were what generated the push to pass Bill C-6 in Canada? The archival retention of government records, whether they contain personal information or not, and their use for historical and statistical research is a use consistent with the purpose for which the material was originally collected and therefore does not require additional consent. Otherwise, why would the government have archives at all for its own records?

The Chairman: I wish to remind senators that, at the beginning, we passed a motion to waive rule 83, but we did not waive rule 84, which states that a senator should not ask a question for a longer time than 10 minutes. You also have the chance to ask a second question. You may ask many questions, but one question may not be more than 10 minutes in length.

Please, Mr. Phillips, perhaps you could respond to Senator Milne.

Senator Milne, you will have a chance to ask another question.

Mr. Phillips: Perhaps when we have lunch, senator. You have asked a number of questions, and it will take me quite a while to deal with all of them.

As a consequence, what do I make of the current Statistics Act, which states:

17.(1) Except for the purpose of communicating information in accordance with any conditions of an agreement made under section 11 or 12...

(a) no person, other than a person employed or deemed to be employed under this Act, and sworn under section 6, shall be permitted to examine any identifiable individual return made for the purposes of this Act;

[Senator Milne]

(b) no person who has been sworn under section 6 shall disclose or knowingly cause to be disclosed, by any means, any information obtained under this Act in such a manner that it is possible from the disclosure to relate the particulars obtained...

I am sure you read that.

You have also, I am sure, read the language contained in the last census guide, which states that the confidentiality of your census form is protected by law. All Statistics Canada staff take an oath of secrecy and only employees who work with census data see your form. Your personal census information cannot be given to anyone outside Statistics Canada — not the police, not another government department, not another person. This is your right. Every Canadian gets that guarantee with the census form.

With the current Statistics Act and that guarantee, plus the information that was contained in the regulations of 1906 and 1911 and the amendment in 1918, I can look at that as a layman. Senator, I was not guided in my interpretation of this matter by the opinions of the Department of Justice but by our own lay view of it, and the information and advice we received from our own legal staff. I do not think we want to get ourselves involved in that kind of debate anyway. I think we have to debate this issue on more philosophic and ethical grounds.

Let me put it to you this way: If I were to have lunch with you next week and ask you all of the questions on that form and then tell you that I want to write a book about you, I think you would say, "Just a minute." The argument, and I think there would be general agreement on this point, is that the modern census asks for so much intimate information that any disclosure in the near term should be absolutely prohibited. The argument, therefore, turns on whether there is any privacy right with the passage of time or whether it diminishes and finally is extinguished altogether.

Senator Milne: You agreed with that last year.

Mr. Phillips: I think I have to agree with the fact that the right to privacy might diminish to a certain extent. I do not have any objection personally to a lot of my information being divulged after I am dead, but I can only speak for myself. The real element of respect for privacy is choice and individual decision.

• (1710)

For any particular interest group to express and assert a right to my information is something that causes me great difficulty now, and will continue to cause me difficulty until I breathe my last breath. I may well make provision for the disposal of my personal information after my death, and I should like to have that respected. Some of that information might be contained in a census.

The question here is whether academics and historians, who have a special interest in this matter, have a special right to override my rights to protect the privacy and confidentiality of my papers. I have difficulty answering that question, and it is one that must be asked.

I feel a little differently about genealogists than I do about historians. There is a family interest frequently with real-time living consequences if people are unable to obtain genealogical information about their family backgrounds. It is not unreasonable to make adequate provision to take care of that problem.

I have the greatest respect, senator, for Canadian historians and Canadian academics. I read many of them. However, I do not think that they are on very good ethical ground if they are saying that, because it is there, they have a right to it, no matter what its value may be.

Journalists could make the same claim. They have a perfect right under a free press to gather what information they can, a constitutional right. However, there is nothing in the Constitution that transgresses or abrogates my right to say to a journalist, "No, I am not giving it to you," and "You cannot have it."

How will we make these distinctions between a person who describes himself or herself as an historian or a journalist, who may write for quarterly magazines, and who indicates that their work may be historical in nature as well? There is a real problem here on the issue of personal privacy rights and whether historians are a special group of people who should be allowed to set those rights aside.

I concede that the question of time is the basis of a good debate. Ninety-two years is the present allocation. I have looked at some of those early census forms and I do not think many people would object to that kind of data being made available for research purposes. However, let us fast-forward to 1971 and all the questions that are on that census form. I think many people would say that living, dead or otherwise, they do not want that information to be given out. We must also start considering that issue.

Some issues deserve a thorough public debate, and I am trying not to be dogmatic about this, but rather to make the best case I can.

Senator Milne: I believe there has never been a complaint about the release of historic census data. As far as I have been able to discover in my search and from the search done by others of the Canadian, British and American records — and over the last 92 years that adds up to about 160 million people — there has never been one complaint in any one of the three countries.

At present, in Newfoundland, the 1945 census information is available to the public and there have been no complaints whatsoever. Thus, I have some problems with lengthening the period of time. I think that 92 years is a perfectly reasonable and historically valid period of time in Canada. On the one hand, census data is time sensitive. On the other hand, if we were to be bound by the wishes of the dead, we would all be carrying stones up pyramids for some long dead pharaoh.

Mr. Phillips: Until somebody invented a better machine.

I understand what you say. However, there must be some more examination of these issues. That is the best case I can make.

It is not for me to ask questions here, so I will try to make my point otherwise. I ask myself: What is the point of writing a will in which I wish to make some disposition of my personal papers when half of the information is being let out anyway? Is there a complete extinction of a person's rights to privacy because of death? I think not; otherwise, we would not bother writing wills.

Senator Milne: Am I correct that the provisions of a will extend 25 years after death?

Mr. Phillips: The Privacy Act stipulates that information cannot be disclosed for 20 years after the death of a person. If I were drafting the bill, I would have changed that provision.

Senator Carstairs: Mr. Phillips, I should like to address a slightly different area. You mentioned the social insurance number. My sense is that people feel intimidated and do not want to provide information that they do not have to give, but they do because they feel a certain pressure to submit that information. I will give you an example.

Standing in line at Canadian Tire, I was among a group of people, all passing in their Visas or alternate credit cards, and underneath the line provided for their signature was another space where they were to provide their telephone number. Six people in the line all provided their phone numbers, but I refused to provide that information and, to be fair, the clerk did not question me when I did not fill in that space. Canadians feel that they must give information if it is requested. How do you deal with that as an issue?

Mr. Phillips: That is a very good point. The only way you can deal with that, senator, is to educate the public about the hazards involved in voluntarily giving out personal information. Companies will ordinarily ask for more information than is ever required to do a transaction because they want it for their files for marketing purposes. If you decline to give it, 99 times out of 100, it will make no difference to them. They will transact the business in any event. However, if you wish to provide the information, many inducements are offered, inducements such as lowered premiums. In a sense, they are offering to pay you, or at least give you a chance to get something for nothing.

The interest of Canadians in knowing what happens to their information is growing. I think recent events have probably demonstrated that more clearly than anything else to which I could point.

I do not want to reopen a discussion about the census here, but if people do not know — and if they are dead it is hard to know — then you will not get many complaints. That is why many institutions and companies do not make a point of telling the public what they are doing with the information.

We are now reaching a new age. Bill C-6 will see to that. Companies will have to disclose their informational practices. That is the way to develop a civilized relationship. You must have transparency so that both sides know what is going on.

Senator Carstairs: Do you know of any educational programs, particularly in high schools or of any junior high programs which explain privacy rights to young people?

Mr. Phillips: Yes, I do. Currently, the Privacy Commissioner of Ontario is developing a program for distribution throughout the Ontario school system, primarily at the secondary and post-secondary levels, dealing with these consumer issues.

My office has never had a public education mandate. However, under Bill C-6, we will be given one. If we are given some reasonable funds to do it, which is always the next important question, we will be doing that kind of work.

Senator Kinsella: Building on this point, commissioner, at page 48 of your report you mentioned that, heretofore, the commissioner has no legislative mandate to educate the public about information privacy rights. Are you satisfied that need will be responded to in the new regime?

• 1720)

Mr. Phillips: The answer to that question is both practical and theoretical. No privacy commissioner would ever be satisfied that enough funds were made available for that purpose because it is open-ended. That is to say, the more dollars you get, the more educational work you can do. If the question is whether we will have enough for it, well, it will not be of a Cadillac style. Our funding discussions are still going on and they will be ample, as far as I can see, for the introductory phases of Bill C-6. However, whether there will be enough left over for a serious public education mandate remains to be seen.

I have to grant the Treasury Board some slack here because it is very difficult at this stage of the game to know how much business Bill C-6 will generate by way of complaint investigations, audits, and so on, which can chew up resources in a great hurry. My hope is that the volume will not be great and that, in the beginning phases of Bill C-6, it will take a while to catch on so that we can get a good educational program going, but I just do not know.

Senator Kinsella: I should like to draw the attention of honourable senators to page 65 of your report, where you speak of the Longitudinal Labour Force File, which has been very much in the news this last little while. In the second paragraph, on page 65, you write:

Successive Privacy Commissioners have assured Canadians that there was no single federal government file, or profile about them. We were wrong...

When, commissioner, did your office come to the conclusion that you were wrong about that and there was a single government file on Canadians?

Mr. Phillips: I will try to give you the short history of the Longitudinal Labour Force File and our involvement. First, you must understand that we have limited audit resources. I had four people available at that time, in 1997. Given the colossal size of HRDC, and because it was responsible for supervising so many programs and originating programs that dealt with the personal lives of Canadians, we wanted to have a look at their personal information holdings and the management thereof. I wrote to the then deputy minister and asked if, rather than invoking our

formal audit authority, a team could come over and do a thorough sit-down review of all their databases to see what was in them and what was happening.

I had 100 per cent cooperation in that review. I want to make that clear. In the course of going over all these holdings, we encountered the Longitudinal Labour Force File. We asked what it was and they told us. My staff examined it and had some questions about it.

Senator Kinsella: When was that?

Mr. Phillips: It would have been in 1998 that we responded formally to the department, saying that we were very concerned about the Longitudinal Labour Force File.

Senator Kinsella: When was the first time that Canadians were made aware of the existence of a single file?

Mr. Phillips: In the broad sense of the general public at large knowing about it, this would have occurred as a consequence of this year's annual report. When we encountered the Longitudinal Labour Force File, we then engaged in a conversation back and forth, over the ensuing two years, in an effort to redress what I thought were serious problems. Having failed to get it done that way, I felt it was necessary, at that stage of the game, to inform Parliament.

The duty of the commissioner is to inform Parliament about significant developments in information management by the government. That is why it is there.

Senator Kinsella: Maybe other senators will be pursuing this matter.

[Translation]

Senator Bolduc: Mr. Phillips, today we heard Minister Stewart say that she was dismantling the file. Are you satisfied with the minister's decision, or are there still problems bothering you?

[English]

Mr. Phillips: I am not just satisfied with the minister's decision; I am delighted by it. I say this on behalf of Minister Stewart. In so doing, I realize that I may be treading into places I ought not to go, but it has been my experience from past dealings with this particular minister on privacy issues that when she has been fully informed and on top of the case, she has responded very quickly. The protocol they presented to me last week for discussions could not have been much improved upon if I had written it myself. It contains the ingredients for the proper management of data in a way that allows for transparency in public reporting so that people know what is going on. It has put in place a proper process for conducting research projects by which, first, you define the project and identify the information necessary for its completion, and then you go out and get the information. Second, it subjects all those research projects to a proper process of review by qualified experts, and it involves the Office of the Privacy Commissioner in a monitoring capacity. Third, the minister has agreed that the legal framework surrounding database usage needs to be improved and has obtained the concurrence of the Minister of Justice. I expect that will be addressed. That is one of the things we have been pressing for.

There are a couple of other issues there. An advisory committee will be established — not a review committee, which might have been a little better — and my office will be a member of that committee, which will look at database management in the department. Those are all things that were not present in the database as it was constructed originally.

Essentially, what we had there was an ever-growing mountain, lake, ocean — you name it. It was “ever-growing” because they kept dumping in more and more personal information for no defined purpose except “research,” which is a fairly elastic term. It stood the whole process on its head. First, we will get all this information; then we will all sit around and think of a way to use it. That was bad to begin with.

I have no doubt that the people who did this were well motivated. I do not have any problem there. As one of my staff said, doubtless those people thought they were doing the right thing, but were they asking the right questions? Yes, the minister was quite right when she said in her earlier responses that the database did comply with the strict letter of the Privacy Act. However, it did not, in my opinion, comply with the spirit of the act as expressed by the guiding principles that are at the forefront of that act, which are, as far as this database is concerned, that you do not use information for unrelated purposes without the consent of the person from whom you received it in the first place. You do not disclose it without the consent of the person from whom you received it. Those are the rock-bottom principles of respect for people’s privacy rights. This database did not comply.

There are no extremists in my office, and we recognize — and so does the Privacy Act — that there are occasions when governments, for good reasons, must collect information or use it or disclose it without getting consent. However, constructing a database of this nature for such a vaguely defined purpose did not comply with the spirit of the act. It met the test of the law, but when you are dealing with a rights issue, more than a lawyer’s view of the law matters. There are essential questions: What is the right thing to do? Does this reflect the spirit and the ethics as well as the letter of the law?

Senator Bolduc: Are you confident that the message is clear that the information contained in our tax returns will remain with the Department of Revenue?

• (1730)

Mr. Phillips: No, I cannot give you that guarantee. I can tell you that the income tax information that was contained in that database was, in fact, returned to Revenue Canada. That is because my staff was there to see that done. It is now back with Revenue Canada. That is not to say that Revenue Canada will not, at some future time, share it with somebody else.

There is a common misconception among the public at large that information given to Revenue Canada goes there, stops there, and goes nowhere else. That is quite wrong. Revenue Canada has hundreds of information-sharing agreements with other departments of government and other governments, both domestic and foreign, for the sharing of income tax information. Let us not all panic about that. Some of this is necessary sharing.

Senator Bolduc: I can understand that process when it is between revenue departments. It is reasonable. The federal service is doing its job. However, I was scandalized when I heard that our tax reform information was going outside of that department. I have been in the civil service for 35 years.

Mr. Phillips: There is one point I want to make about all of this. The essential element of transparency was absent here, and it is also absent with respect to Revenue Canada’s information-sharing agreements. I think it is high time that a lot more attention be paid to informing the public about what the government is doing. The more the public knows, the less alarmed the public will be.

There has been an extraordinary reaction to this labour force file. However, I think there should be a much better educated public about the necessity and uses of information and, by and large, the very responsible way in which it is handled. If that information were out, and if the government made a point of regularly informing the public, we would not have the kinds of responses that we got with this issue. We might not have the labour force file, to be sure, but trust and confidence depends on knowing what is happening. That is the bottom line.

Senator Andreychuk: Perhaps I could follow up in that area. A number of bills on taxation about the sharing of information with other countries have come through the Senate. It was a surprise to us to find out that, when we sign a tax agreement with another country, Revenue Canada, and its predecessor, would assess whether a certain tax system was viable and whether those other countries had processes and procedures of which we should be aware.

Does the Canadian public know that, when they work in another country where we have signed a tax agreement, their information will be processed by that government and that that Canadian will not have even the assurances, however minimal, we have in Canada? Have you looked at that area at all? It is a growing field because we are signing taxation agreements with a whole host of countries with which we did not anticipate signing such agreements.

Mr. Phillips: I regret to say that the answer to that, senator, is no. It is a darned good idea, and maybe sometime we will get around to it. We will certainly take note of what has been said here.

I must tell this committee that, early in my own time as a privacy commissioner, while considering the act and the very broad authorities that are given to the government for sharing information in a way that circumvents the basic principles of the act, I did try to get a handle on the scope of information sharing in the government. We circulated a questionnaire to all departments asking them to tell us the number of sharing agreements that they had, and the particulars of what they were sharing. I think it would be embarrassing to those departments if I were to drag that document out today because the return was, I knew on the face of it, “incomplete,” using the most generous word that occurs to me. I subsequently discovered that the reason for that was that they did not have a very good catalogue themselves.

Just two days ago I returned from a meeting of my provincial counterparts in Winnipeg. The subject of information sharing was on the agenda. They are all most anxious to see what kind of information sharing is being done between federal and provincial governments, for what purpose, and the details. I would include in that, senator, foreign governments. Yes, indeed, a lot of Canadian citizens' information does, I am sure, become involved in those transactions, and we should know about that.

I would like to return to the point I made a few moments ago. This is not to imply that there is necessarily anything wrong with any of this information sharing. On the contrary, I am sure most of it is necessary, and for the public's benefit. Nevertheless, I am not at all certain that the end users feel that they are under the same obligation as the Government of Canada of safeguarding the information and not misusing it. It is a field ripe for careful study.

Senator Hays: The long title of Bill C-6 is rather more helpful than its short title. The "Personal Information Protection and Electronic Documents Act" has the provision of not coming into force for a period of time. That time delay was extended by the Senate with respect to medical records with the hope that a consensus will develop and that there will be amendments to the act that will make it better in that respect.

Could I have your comment on how you see that playing out? Do you think a consensus will develop? What will happen if a consensus does not develop?

Mr. Phillips: As I understand the way that Bill C-6 was ultimately passed, all that has happened with respect to health information is that it has been exempted from the application of the bill for an additional year, beyond January 1, 2001. Unless something happens between January 1, 2001, and January 1, 2002, health information will be covered by this bill, no matter what else happens.

I expect that the Senate committee examining this will come up with some suggestions during the course of 2000-2001. We must wait to see where it goes from there.

There is a school of thought that says that health information should be looked at differently from all other kinds of personal information because it is sensitive. That is true, it is sensitive, but sensitivity is very much in the eye of the person to whom the information relates. Therefore, it is very difficult to make any kind of a case on those grounds. There may be a case on the grounds of the complexity of the health information field because there are so many players in it, both in the public and private sectors.

My own preference would be for medical information to be covered by a general privacy bill. I see no compelling case for why it should not be covered by such a bill, at this stage in any event.

We will just have to wait for the findings of the committee. Does that answer your request?

Senator Hays: That is helpful. A specific subject subset of that would be information on one's genetic code. There is a great

potential to use that to determine future health prospects. There is a desire on the part of many to gather information in that area. The insurance industry, for the obvious reason of selecting lower risks or higher risks for different treatment, is quite interested.

Would you comment on how you see that playing out?

Mr. Phillips: I think the misuse of such information as DNA coding for possibly discriminatory decisions being made about the individuals concerned by such people as insurers and employers, you name it, has got to be dealt with in a statutory way. We certainly have to face that issue.

That issue is upon us now because the human genome project is coming to completion much faster than expected. It will now be finished in a year, whereas the earlier projections were for several years to come. Unless there is a strict prohibition against the use of that information for determining a person's insurability or employment, and matters of that kind, it will happen. You can count on it.

• (1740)

A real problem of both law and ethics is now in front of our society. You have put your finger right on the issue.

Senator Hays: Do you feel good about what you expect will happen in Canada? Obviously, you have been advising the government on this issue and your expression of concern is heard here. Are you optimistic that we will have something to deal with this problem in the near future?

Mr. Phillips: I would be more optimistic if a Senate committee put out a strong report saying we had better do something about it.

Senator Finestone: Mr. Phillips, I am delighted that you are here. I am sorry to learn that you might be leaving. Your rational arguments and your sensitivity to human issues were the impetus for a standing committee on human rights and the disabled to come up with a report. That report has been the backbone of a large amount of work that has been done on privacy rights.

On the issue of privacy rights, where do you stop? You have given rational arguments and you have been sensitive to all the issues that are in the newspapers every day. They are on the Internet every day, with convergence and with technology. I believe we are all very concerned. I am glad that my colleague, Senator Hays, asked you the question about Bill C-6. The human genome and surveillance technology fall into that. Bill C-6 refers to implied consent. It does not refer to informed consent. Are you comfortable with that still?

Mr. Phillips: Bill C-6 contains a number of ambiguities, senator, and we could spend much time going over them. I have never been personally happy with negative consents, implied consents, comprehensive consents in perpetuity of the kind that you find on credit applications, and so on. However, I try not to be an absolutist and I try to see each case on its merits. I try to find a formula for consent and other privacy issues that will suit the case and make it possible to continue to do business.

[Mr. Phillips]

Bill C-6 is a new concept for Canadian business. It will not always be easy for them to put themselves in a position of compliance if the compliance involves major changes in longstanding ways of doing business and collecting customer information. I do not believe it was the intention of this Parliament, and certainly not the intention of this office, to behave in an impatient or arbitrary fashion that will force businesses to shut down and put people out of work. We must approach this issue with a good deal of care and give business adequate room and time to get itself into line.

I will, with your understanding, decline to get involved in a discussion of some of the minutia of Bill C-6. Our legal counsel, for example, confesses similarly to the point that the bill itself, given the unusual nature of the statute, is essentially a set of recommendations developed by a voluntary body. Those recommendations were simply taken holus-bolus and thrown into a statute, and laws are not often written that way. As a consequence, although the drafters of the act did try to make things a little clearer, there are still problems that require time and care. That is the best answer I can give.

Senator Finestone: It was important to note, in light of the rapidity of the change, that we cannot expect culture shock all in one shot. That is one of the things I have appreciated about your approach, which leads me to page 83 of the document. Mr. Commissioner, I notice with a degree of humility that you have mentioned a privacy rights charter, which I am hoping to bring into this house if I can ever finish the legal drafting and the translation. It has been almost a year of work.

I think a great deal about privacy rights these days. The census question demands personal information, and you believe — and I understand why you believe this — that we have made a contract with even those who are dead. Therefore, one cannot dishonour the dead. I agree with that.

How can we can dishonour the living so easily when we see 300 protocols signed by Revenue Canada with God knows who, and one's information is travelling all over the place? It is apparently okay for the census, and we should not explain and we should not interfere, but with my personal information and your personal information, Revenue Canada can go wherever it wants with 300 protocols. Do you not find that a little strange? Should we keep you on in your position so that you could investigate that?

Mr. Phillips: I will do what Parliament tells me, senator.

Yes, I think that is a good point. There is an enormous amount of information moving back and forth. There is an enormous amount of information that must move back and forth. The government needs that information in order to do its business. The whole thing turns on the way this is done. Is it done in a way that respects the principle of the Privacy Act? The only exceptions that are invoked to that act are in the cases of absolute, overwhelming public necessity. One can make no other argument for abrogating people's rights. Merely having a group of middle-level managers, for example, say that it will be a good

idea to do this is not, in my opinion, enough. We must buttress and fortify these information holdings with more clearly defined rules and a more rigorous process for overseeing what is done with that information. Minister Stewart's program that she brought forward the other day goes a long way to meeting those objectives. It could be a template, and I am anxious to see how it works out.

Senator Finestone: I hope that template is something you will want to put in the charter.

Mr. Phillips: I am glad you have drawn my attention to what I said about your charter in the report. In an effort to telescope my opening remarks, I overlooked mentioning that. That is a useful development because it cannot help but have the effect of increasing the profile of the issue and broadening public awareness.

I have been asked what is the main privacy problem in the country, and I would say it is ignorance. People simply do not know what is going on. They do not know their rights. If there are not a great many complaints, it is frequently because people do not know who to complain to or do not know what is happening and, as a consequence, cannot complain. Therefore, your charter has been a good piece of work and I was glad to have been a part of it.

Senator Stratton: Mr. Phillips, we shall miss you. I enjoy your presentations here each year. I am assuming you are leaving, I am not certain of that fact.

I should like to talk about the Canadian Firearms Registry, if I may. A few years ago, sir, you made 40 recommendations pertaining to the Canadian Firearms Centre. Eight of those recommendations addressed potential privacy problems in forms that gun owners must fill out to obtain their licences. Have all these recommendations been addressed?

Mr. Phillips: I cannot answer that because we are doing an audit right now. Sufficient public interest and a sufficient number of complaints were received to warrant going over to the firearms centre and saying we would like to have a look at the management of their data in relation to the Privacy Act before the thing gets up and running and too far down the road. If there are any problems there, we will try to fix them.

• (1750)

Senator Stratton: Are you in the process of doing that?

Mr. Phillips: Yes, and I will ask the staff to take note of your question and get you an answer as soon as possible.

Senator Stratton: I appreciate that.

There are 1,400 Canadians employed there now. How well do those people understand the privacy issues involved, or can you again not answer that question because of the audit process?

Mr. Phillips: That is right.

Senator Stratton: Finally, can gun owners access their personal file? If so, is this access governed by the Access to Information Act or the Privacy Act?

Mr. Phillips: If it is their personal information, it would be covered by the Privacy Act.

Senator Stratton: I believe I know the answer to this question, but can you guarantee that the information contained in those personal files will never be used or distributed elsewhere?

Mr. Phillips: I cannot give that guarantee. As I have said, Privacy Act rules do give government agencies a fair degree of latitude in using information for unrelated purposes. You need only look at the statute yourself.

Given the kinds of data involved, given the context in which the centre was created, given our ongoing interest in it and a number of other matters of that kind, I would expect staff to be particularly conscious of the sensitivity of the issue and to be very careful. However, that is only an expectation.

Senator Taylor: Mr. Phillips, it is my understanding that people can access information in the provincial tax base and, if there is any misunderstanding, it can be cleared up. However, one cannot access the federal tax information. What should be done or what are you recommending?

Mr. Phillips: My view is that any information that comes into the possession of the Government of Canada of a personal nature comes under the purview of the Privacy Act, unless it is information obtained from a provincial government under guarantees of confidentiality to the originating source. That is what we are trying to sort out here. That is my view and not necessarily the view of everyone in the office.

Senator Taylor: My understanding is that the provincial government will let you look at your file to see if it is correct. If you ask the federal government, they will not let you look at your own file.

Mr. Phillips: That is the problem with this. Is the file itself a meld of both provincial and federal information? If it is, the government would have the responsibility of severing out the information it obtained on a confidential basis.

Senator Taylor: Is there any possibility, since so much of the interest in census records seems to be tied to health, of splitting the census form into — I do not know what it would be called — data that was releasable and data that should not be released?

That form is huge now. Why do you have to take the whole thing under secrecy? Why could you not allow the person filing to do one thing or the other, similar to donating one's organs? Instead, one would donate one's medical history.

Mr. Phillips: Senator, I have got this good privacy award here in my pocket and I have just found the person I would like to pin it on. In that question, you have just expressed the whole issue of

privacy in the informational context, which is getting the consent of the person whose information is involved.

If, in filling out a census form, I could mark a little check-off box for the information I was prepared to have made public and the information I was not, and my wishes would be respected, that is the end of the issue.

In fact, with respect to the matter you just raised, there is a problem with the child disability issue. There is no consent involved in that transaction, quite apart from who has jurisdiction over the information. Section 7 of the Privacy Act states that information collected for one purpose will not be used for another purpose without the consent of the person concerned. Section 8 sets out a number of exemptions.

Senator Fairbairn: Welcome, Mr. Phillips. Our paths have crossed in interesting ways over the years.

I have been sitting here this afternoon with an increasingly sinking feeling. Since I came to this place 16 years ago, I have spent a great deal of my time working with and advocating for people with literacy problems and learning disabilities. As I listen to the questions and the answers, I am thinking of over 40 per cent of our adult citizens, maybe over 7 million adult Canadian citizens, who, right off the bat, are in an incredibly vulnerable position. These are people who, with respect to any of the forms that have been discussed, would have great difficulty in either reading them, understanding them or filling them out. As you say, one of the major difficulties is that they do not know their rights. This is a sizeable part of our population in what we think of as a prosperous and caring country.

In all of your work on the privacy issue, and with some of the enormous opportunities and fears that surround that issue, have you ever had occasion to look at that group of Canadians and their position, almost from the beginning, of having to share their private information with someone else even to get it on the record? It really is a Catch-22 situation, and I would like your thoughts.

Mr. Phillips: Senator, I will level with you. No, we have not done a special study or devoted any substantial part of our resources to that question.

Having said that, it is more because we do not have all that many resources. Handling the traffic that comes to us that we must deal with on a statutory basis just about chews up everything we have.

There is a privacy issue involved for people who are not literate, because they have no choice. You said it. They have to give up their information just so they can understand what information they have to give up, if you want to put it that way.

We should look at that issue. In the enlarged mandate of the office now, I hope we can find the personnel and the resources to take a good, hard look at it. It may not require a whole lot of hard research. I do not know. I can see someone here who can already tell us a lot about it. We will get in touch with you on that. It is something we will have to look at.

Senator Fairbairn: Maybe this would be a future project for you.

Mr. Phillips: That is what I am saying. I can see one good resource right here.

Senator Kinsella: Commissioner, have you appeared or have you been invited to appear before the Senate committee examining Bill C-22, the money laundering bill?

• (1800)

Mr. Phillips: Yes, we have, and we will be there, senator. Our intervention will be short. We do not have a whole lot to say about it, but there are a couple of important points we wish to make, yes.

The Chairman: Commissioner Phillips, I thank you very much for your availability to come to the Senate. As you can tell from all the questions that were asked, privacy is a very important issue for all senators and for all Canadians.

Mr. Phillips: Thank you, Madam Chair and honourable senators.

Senator Hays: I get the last word, Mr. Commissioner. I should like to add my thanks for your appearance today and also for your good service to Canada over the years that you have served

as Privacy Commissioner. If you do leave that position, given your activism, I am sure that we will see you here again in one role or another in the not too distant future.

In any event, honourable senators, I move that the committee rise, that the chair report, and that we conclude our deliberations.

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

Hon. Senators: Agreed.

The Chairman: Carried.

[*Translation*]

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rose-Marie Losier-Cool: Honourable senators, the Committee of the Whole, to which was referred the discussion about the work of the Office of the Privacy Commissioner, has directed me to report that the committee has concluded its deliberations.

The Senate adjourned until Wednesday, May 31, 2000, at 1:30 p.m.

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