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(HANSARD)

Monday, October 16, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Monday, October 16, 2000

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

Prayers.

SENATORS' STATEMENTS

THE LATE VINCENT PATRICK TOBIN

TRIBUTE

Hon. George J. Furey: Honourable senators, I rise today to inform you of the recent passing of Vincent Patrick Tobin, father of Brian Vincent Tobin, who today resigned as Premier of Newfoundland and Labrador.

Vincent Patrick Tobin was an exemplary individual whose outstanding qualities cast him as a role model for members of his family and his community. He was a quiet and unassuming man, respected and loved by family and friends; an outstanding husband, father, grandfather and great-grandfather. Never one to impose his views, his wisdom and advice were sought often by his fellow Newfoundlanders and Labradorians. He gave freely and generously of his time, always displaying a willingness to help through his community work and through his devotion to family.

During a lifetime of diligent and conscientious work, he celebrated his responsibilities and duties as an ordinary human being and thereby shaped an extraordinary contribution to his family, his friends, his community and, indeed, to the province he so dearly loved. While waging a brief battle with cancer, he demonstrated a dignity and courage which exemplified his life.

Honourable senators, I wish to offer my condolences to his wife, Florence, and to the entire Tobin family. He will be missed.

THE LATE CLAUDE BISSELL
THE LATE MURRAY ROSS

TRIBUTE

Hon. Lowell Murray: Honourable senators, on September 20 and 21, Senator Grafstein recorded the passing of two distinguished educators, Dr. Claude Bissell and Dr. Murray Ross. I associate myself with his tribute.

Dr. Bissell, a World War II veteran, edited three books and wrote six others, three of them winners of literary awards. He was a former chairman of the Canada Council and member of the Council of the Arts of Ontario. Dr. Ross published 10 book-length treatises on educational and sociological history and trends.

When Dr. Bissell was president of Carleton University in the mid 1950s, there was a lecture series that examined the contribution of seven eminent Canadians from politics, journalism, poetry and fiction. What a series it must have been! Frank Underhill lectured on Edward Blake; Malcolm Ross on Goldwin Smith; Donald Creighton on Sir John A. Macdonald; Munro Beattie on Archibald Lampman; Mason Wade on Sir Wilfrid Laurier; Wilfrid Eggleston on Frederick Philip Grove; and Robertson Davies on Stephen Leacock. When it was all over, Dr. Bissell, happily for posterity, edited the lectures in a small book entitled *Our Living Tradition* and wrote the introduction. In it he celebrated the fact that the lectures "attempted to break down the traditional barrier between our politics and our literature" and quoted one of the lecturers who said that "our living tradition is revealed to us not only in Hansard and Royal Commission briefs but also in the wars of the spirit."

In 1952, Dr. Bissell read and reviewed the first novel, published that year, of the Nova Scotia writer Ernest Buckler. He liked the book so much that he went to Nova Scotia to meet the author. There began a friendship of 30 years, ended only with Buckler's death in 1984. A few years later, Dr. Bissell published a memoir, *Ernest Buckler Remembered*, a warm friend's discerning portrait of a great talent.

I will not try to add to Senator Grafstein's erudite commentary on the "dumbing down" of political debate on so-called values. It is possible that the two late educators would have treated this as a joke. Once, at a St. Andrew's Night dinner in Cape Breton, Dr. Ross said that the conscience of the Scots "allows us a great deal of latitude and flexibility in behaviour without the feelings of guilt that seem to possess so many other nationalities."

Dr. Ross was an illustrious son of Sydney, Nova Scotia, where he was born in 1910 and earned the first of his many university degrees at Acadia. Dr. Bissell, a native of Meaford, Ontario, spent the last 40 summers of his life in northern Cape Breton, and he was warmly regarded and will be warmly remembered by his neighbours there.

YWCA WEEK WITHOUT VIOLENCE

Hon. Sharon Carstairs: Honourable senators, I rise today to draw your attention to the fact that October 15 to 21 is the fifth annual YWCA Week Without Violence. An international campaign first instituted by the YWCA in the United States, this Week Without Violence has spread rapidly and is currently organized in over 50 countries, including Ireland, Palestine, Nigeria, Taiwan and Latvia. YWCA's Week Without Violence aims to unite all Canadians against the violence that exists in our communities by emphasizing healthy alternatives.

• (1410)

With a special emphasis this year on reaching young people, the YWCA will be collaborating with Boys and Girls Clubs of Canada, National Youth in Care Network and YouCan! in coordinating activities across the country.

Each of the seven days of this campaign will address a different violence-related theme. Yesterday marked a day of remembrance for all victims of violence. Today, October 16, is devoted to protecting our children. Tuesday, October 17, will focus on increasing safety of our schools, and Wednesday will be dedicated to confronting violence that women face. On Thursday, Canadians will be encouraged to raise their awareness of how men's lives and relationships are affected by anger, aggression and stress. The focus of Friday, October 20, will be the elimination of racism and hate crime. Finally, on Saturday, October 21, the goal will be to illustrate how we can replace violence through positive activities such as sports, recreation and fun.

More than 30,000 people across Canada participated in hundreds of activities organized by local member associations during last year's campaign. Three point five million Canadians were reached with anti-violence messages as a result of these efforts.

Honourable senators, our society has taken many positive steps toward peace and equality during our history, but violence, unfortunately, is still pervasive in our country. Fifty-one per cent of Canadian women over the age of 16 have been victims of at least one act of physical or sexual violence. In 1998, over 28,952 cases of sexual offence were reported in Canada, including 25,000 sexual assaults, of which 85 per cent were perpetrated on women. Over 22,254 cases of spousal violence were reported in 1997, and in 1998, 57 of the 70 persons aged 18 and over who were killed by a spouse were women. Thirteen were men.

Honourable senators, I encourage each and every one of you to become involved.

FIGHT AGAINST POVERTY AND VIOLENCE

Hon. Erminie J. Cohen: Honourable senators, yesterday I was proud to march with thousands of Canadian women from every province and territory who, together with hundreds of thousands of other women from 147 countries, were on the move to call the attention of the world to poverty and violence. I joined 120 women from my home province of New Brunswick who travelled to Ottawa, from where they will journey to the United Nations and meet another busload of women from our province.

Tomorrow, October 17, they will place our issues on the political agenda. The date is significant because October 17 is designated by the United Nations as the day we call for the eradication of poverty.

Tomorrow, in Ottawa, our marchers will meet with MPs and key cabinet ministers to address the 13 demands for change and to ask for concrete commitments to implement their recommendations. Last evening, a small group of representatives of the Canadian Women's March Committee met with the Prime Minister. According to the media, the response to their demands did nothing to offer hope and left the leaders frustrated and upset.

Tomorrow, in New York, the women will present 10 million signatures, 30,000 from my home province of New Brunswick, to the Secretary-General of the United Nations, Kofi Annan.

Tomorrow, in Washington, they will meet with representatives of the World Bank and the International Monetary Fund. Tomorrow we will ask citizens and governments across the globe to confront poverty and violence, to eradicate fear of hunger and hurt, to say, "Enough. It has to stop."

Tomorrow we will proclaim that we will not accept continuing poverty in our midst, just as we will not tolerate violence. Society must understand that violence in any form is unacceptable in a civil society and that poverty is one of the greatest barriers to equality.

In a newspaper column last week, Moncton's Rosella Melanson quoted a 19th century Saint John politician who, when faced with the steadfast efforts of New Brunswick women to gain the vote, said, "It would be easier to damn Niagara than to stop this agitation."

Those women won, and so will we, because we have the numbers and the determination. This has been ably demonstrated by the World March of Women, which began and grew globally with the Fédération des femmes du Québec. To them, I say, "Merci beaucoup."

[*Translation*]

UNITED NATIONS

CANADA'S VOTE IN SUPPORT OF SECURITY COUNCIL RESOLUTION NO. 1322

Hon. Marcel Prud'homme: Honourable senators, I wish to support the five members of Parliament who released the following communiqué.

> We the undersigned welcome and support Canada's affirmative vote in support of United Nations Security Council resolution 1322.
>
> We as well applaud Foreign Affairs Minister Axworthy's October 4 criticism of Likud Leader Ariel Sharon's provocative September 28 visit to the Al-Haram Al-Sharif site and the violence against unarmed civilians particularly children.
>
> We have noted that the gravity of Israeli excesses is such that even the U.S.A. refrained from its customary veto of criticism of Israel and abstained.

Canada's international reputation for fairness and balance would have been severely compromised, had Canada not joined the U.K., France and the remaining members of the Security Council, in condemning Israel's use of live ammunition against unarmed civilians protesting Israel's military occupation.

We are particularly pleased that resolution 1322 invites the United Nations Secretary-General to continue to follow the situation and to keep the Council informed and that the Security Council has decided "to follow closely the situation and to remain seized of the matter."

We encourage support for United Nations Security Council Resolution 1322's call for "the immediate resumption of negotiations within the Middle East peace process on its agreed basis with the aim of achieving an early final settlement between the Israeli and Palestinian sides."

Honourable senators, I offer my hearty congratulations to Colleen Beaumier, Mark Assad, Sarkis Assadourian, Joe Fontana and Yvon Charbonneau on taking this stand. This is an extraordinary communiqué in support of their government.

I am pleased to join with these five MPs in supporting the government which, last week, was harshly attacked by three of their colleagues, including Irwin Cotler, the member for Mount Royal.

[*English*]

PRINCE EDWARD ISLAND

SUMMERSIDE—SLEMON PARK CORPORATION

Hon. Catherine S. Callbeck: Honourable senators, I am pleased to rise today to recognize what has truly been a wonderful success story in my home province, that is the growth and development of the Slemon Park Corporation. This corporation was formed to manage and develop the assets of the former Canadian Forces Base Summerside and has just celebrated its tenth anniversary.

The announcement in 1989 that the base would be closed sent shock waves through the entire province, particularly through the town of Summerside and the surrounding area. Military presence in Summerside had become very important, not only to the economy of the region but also to the community in general. Countless community groups and organizations benefited from the tireless volunteer efforts of the men and women posted to CFB Summerside, and the loss of the base was seen at the time as a devastating blow.

However, what has occurred there over the past 10 years has been very impressive. The total number of jobs at the former military base, which contains more than 1 million square feet of hangar space alone, is estimated at 700, with the number continuing to grow. At its peak, CFB Summerside employed 1,400 people, but when it closed in 1989 there were just 800 jobs at the facility, a number that I am confident Slemon Park will surpass in the near future. The major thrust of this job creation has been in the aerospace field, which is now one of the leading exports of my home province.

If the past decade is any indication, I am sure the people of Summerside and area will continue to see great things at Slemon Park in the years to come. On this tenth anniversary, everyone involved should be very proud of what has been accomplished to date and of the groundwork that has been laid for the future.

UNITED NATIONS

CANADA'S VOTE IN SUPPORT OF SECURITY COUNCIL RESOLUTION NO. 1322

Hon. E. Leo Kolber: Honourable senators, I had not intended to speak and have not prepared a text to do so, but I am shocked at the statement made by Senator Prud'homme.

Hon. Marcel Prud'homme: Make your speech!

Senator Kolber: I didn't interrupt you and I would ask you to be quiet.

Senator Prud'homme: I did not name you.

The Hon. the Speaker: Honourable senators, I must remind you that Senators' Statements are not matters for debate. Statements are made on matters of fact and are not debatable.

Senator Prud'homme: Go ahead!

• (1420)

Senator Kolber: If the senator means to suggest that only one side is to blame in the Middle East conflict, then he is either foolish or badly informed. I do not intend to get into debate today. Perhaps I will prepare a statement for tomorrow.

Senator Prud'homme: Good.

Senator Kolber: Does the speaker understand that Mr. Arafat gives bonuses to children who go into the line of fire? Does he understand that martyrs get a $3,000 bonus if they are killed? Does he understand that Mr. Arafat does not want peace but war? Does he understand that the Israelis do want peace and not war?

[*Translation*]

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual report of the Information Commissioner of Canada for 1999-2000, pursuant to section 38 of the Access to Information Act.

[*English*]

PRIVILEGES, STANDING RULES AND ORDERS

TENTH REPORT PRESENTED

Hon. Jack Austin: Honourable senators, I have the honour to present the tenth report of the Standing Committee on Privileges, Standing Rules and Orders concerning the disclosure by committee members of the existence of any private financial interests when dealing with an order of reference.

Monday, October 16, 2000

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

TENTH REPORT

In order to provide for additional transparency through the disclosure of private financial interests in certain circumstances, your Committee recommends that the *Rules of the Senate* be amended by adding the following:

94. (3) Where a select committee considers that it would be in the public interest in respect of its consideration of an order of reference, the committee may order its members to disclose the existence of their private financial interests, whether held directly or indirectly, in respect of the matter.

(4) Subsection (3) does not apply where the order of reference concerns an amendment to the *Constitution of Canada* or a public bill.

(5) A member may comply with an order made under subsection (3) by signing and filing with the clerk of the committee a declaration or update that discloses the source and nature, but not the value, of the member's private financial interests in respect of the matter.

(6) A committee that makes an order under subsection (3) shall also establish time frames for present and future members to file declarations and updates, and members who must file shall do so within the required time.

(7) A member who does not file a declaration or update under subsection (5) within the required time is deemed to declare that the member has no private financial interest and is bound by the deemed declaration until the member files an update.

(8) A member who does not file a declaration under subsection (5) and who has no private financial interest to disclose is deemed to have complied with an order made under subsection (3).

(9) The clerk of a committee with whom a declaration or update is filed under subsection (5) shall make it available for public consultation during business hours.

(10) The validity of a decision of a committee on a matter is not affected by the fact that a member had a private financial interest, whether or not disclosed in compliance with this rule, unless the Senate or a committee decides otherwise under subsection (1).

Respectfully submitted,

JACK AUSTIN
Chair

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

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

PRIVACY COMMISSIONER

APPOINTMENT OF MR. GEORGE RADWANSKI—
MOTION TO RECEIVE IN COMMITTEE OF THE WHOLE
AND TO AUTHORIZE ELECTRONIC COVERAGE ADOPTED

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

That the Senate do resolve itself into a Committee of the Whole at 4:00 p.m. today in order to receive Mr. George Radwanski respecting his appointment as Privacy Commissioner; and

That the Cable Public Affairs Channel, CPAC, be authorized to bring television cameras into the chamber to broadcast the Committee of the Whole with the least possible disruption of the proceedings.

Motion agreed to.

[*Translation*]

BILL TO AMEND THE STATUTE LAW IN RELATION TO VETERANS' BENEFITS

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-41, to amend the statute law in relation to veterans' benefits.

Bill read first time.

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

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

ILLEGAL DRUGS

SPECIAL COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Pierre Claude Nolin with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

> That the Special Committee on Illegal Drugs be authorized to sit today at 3:00 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

[*English*]

[*Later*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWELFTH REPORT OF COMMITTEE PRESENTED

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

Monday, October 16, 2000

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

TWELFTH REPORT

Your Committee wishes to inform the Senate that, in accordance with Rule 130(1), it has agreed to incorporate on a trial basis links on the Senate Website to allow internet users to listen to live debates of the Senate and its Committees.

Your Committee will monitor this project and will report back on its success.

Your Committee believes this is an important communication initiative to inform Canadians of the important work of the Senate and its Committees.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

QUESTION PERIOD

THE SENATE

ABSENCE OF LEADER OF THE GOVERNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, the Leader of the Government in the Senate is not here at the moment. I expect he will be here later in the day. In his absence, it is not possible to have Question Period; however, I would be happy to take notice of any questions that may be put.

NEWFOUNDLAND

RESIGNATION OF PREMIER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, could the Deputy Leader of the Government make inquiries as to the position of the premier, if he is still premier, of the Province of Newfoundland and Labrador on whether or not —

Hon. Fernand Robichaud: This is out of order. This is not the Senate's business.

Senator Kinsella: Perhaps he could enquire whether it is the view of the government that the necessity of bringing former premier, if he is former premier, Tobin into the government is because the Leader of the Government in the Senate, if he is still Leader of the Government in the Senate, was not successful in delivering whatever it was he was to deliver in Nova Scotia.

Hon. Dan Hays (Deputy Leader of the Government): I will take notice of that question, honourable senators.

Senator Lynch-Staunton: Is that your final answer?

THE SENATE

ABSENCE OF LEADER OF THE GOVERNMENT

Hon. J. Michael Forrestall: Honourable senators, I wish to inquire whether or not the Leader of the Government will be here tomorrow.

Hon. Dan Hays (Deputy Leader of the Government): Yes, he expects to be here for the balance of the week.

Senator Lynch-Staunton: And next week?

Senator Hays: If necessary.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS

Hon. J. Michael Forrestall: In the event that the Leader of the Government is here tomorrow, may I ask the deputy leader to advise him I would very much like to have an answer as to the government's intentions with respect to the matter of the helicopter replacement program that has been now referred to the international tribunal.

Hon. Dan Hays (Deputy Leader of the Government): I will take notice of that question and ensure that it is drawn to the attention of the leader.

• (1430)

ORDERS OF THE DAY

SALES TAX AND EXCISE TAX AMENDMENTS BILL, 1999

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Grafstein, for the third reading of Bill C-24, to amend the Excise Tax Act, a related Act, the Bankruptcy and Insolvency Act, the Budget Implementation Act, 1997, the Budget Implementation Act, 1998, the Budget Implementation Act, 1999, the Canada Pension Plan, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Act, the Income Tax Act, the Tax Court of Canada Act and the Unemployment Insurance Act.

Hon. E. Leo Kolber: Honourable senators, I spoke at some length on the second reading of this bill and will, therefore, keep my remarks today brief.

Bill C-24 is designed to continue the government's efforts to make our tax system simpler and fairer for all Canadians, both individuals and corporations, while also promoting federal-provincial cooperation and harmonization. The main focus of this bill is the application of the goods and services tax, known as the GST, and the harmonized sales tax, known as the HST. This bill helps Canadians in a number of areas and I would like to briefly highlight them today.

The first area involves tobacco products. As part of the government's commitment to reduce smoking in Canada, in particular among our youth, Bill C-24 introduces an increase of 60 cents in federal excise tax per carton of 200 cigarettes sold in Ontario, Quebec, Nova Scotia, New Brunswick and P.E.I.

Excise taxes on tobacco sticks are increased in Ontario, Quebec, New Brunswick and P.E.I. to re-establish a uniform national tax rate on tobacco sticks.

Bill C-24 implements a reduction in the annual exemption threshold for the tax on exported tobacco products. This is intended to reduce the supply of Canadian-made tobacco products in export markets that could potentially be available to minors.

The second area involves health care and education. Among its health care related provisions, Bill C-24 exempts respite care services for individuals with limited capacity as a result of an infirmity or disability. It also maintains the exemption for speech therapy services and ensures that osteopathic services are exempt from the GST/HST. Bill C-24 further provides for a rebate of the GST/HST for specially equipped motor vehicles for persons with disabilities. These provisions will help to ease the financial burden on Canadians dealing with disabilities.

With respect to education, Bill C-24 ensures that the existing exemption for second-language training applies equally where the training is provided by vocational schools.

The third area involves charities. Bill C-24 restores the exemption for the supply of food, beverages and short-term accommodations by charities in the course of relieving poverty, suffering or distress of individuals. Also, charities operating bottle return depots will be able to claim a reimbursement for the tax component of the amount refunded by the charity.

The next area involves business. The amendments set out in Bill C-24 have been developed in consultation with the business and tax communities. An example of this is how Bill C-24 streamlines the operation of the GST/HST with respect to the energy sector. The bill simplifies compliance with the GST/HST and ensures that exports and sales to unregistered non-residents would not bear unrecoverable tax.

Next, Bill C-24 helps promote the tourist industry by making it more attractive for visitors to come to Canada. This is accomplished by extending exemptions from GST/HST provisions. For example, the visitor rebate for short-term accommodations is extended to campsite rentals. Furthermore, Bill C-24 allows a 50 per cent rebate on the food and beverage component of convention fees for conventions attended by non-residents. As well, Bill C-24 aims to provide consistent tax treatment between tax-free international transportation services and various separate charges that relate to such transportation.

The last area involves First Nations. Bill C-24 introduces a number of technical amendments designed to enhance the harmonization of First Nations sales taxes with the GST on specific products such as alcoholic beverages, fuel and tobacco products. This is consistent with the government's willingness to put into effect taxation arrangements with First Nations interested in exercising tax powers.

In conclusion, honourable senators, I could go on and on to describe the many areas where this bill has improved the tax system, but, as I stated at the outset, I promised to keep my remarks brief. Bill C-24 refines, streamlines and clarifies the application of our tax system. I therefore urge honourable senators to support this bill at third reading.

Hon. Noel A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on behalf of Senator Stratton, I move the debate be adjourned, assuming that he will have the opposition 45-minute time period to make his speech tomorrow.

The Hon. the Speaker: Honourable senators, regarding the 45-minute time period, that is up to the Senate to decide. The rule is otherwise, but the Senate can decide that tomorrow when the matter arises.

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

CANADA NATIONAL PARKS BILL

THIRD READING—DEBATE ADJOURNED

Hon. Isobel Finnerty, for Senator Banks, moved the third reading of Bill C-27, respecting the national parks of Canada.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, travel time changes being what they are, Senator Banks is not here. I wish to make a few comments at the beginning of debate on Bill C-27 to observe that Senator Banks will be here perhaps in time to speak today but, if not, tomorrow. If other honourable senators have anything to say about this legislation at this time, I would encourage them to speak now.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Adjourn the debate, then.

The Hon. the Speaker: Are there any other honourable senators who wish to speak at this time? If not, I need an honourable senator to move the adjournment.

On motion of Senator Hays, for Senator Banks, debate adjourned.

MANITOBA CLAIM SETTLEMENTS IMPLEMENTATION BILL

SECOND READING

Hon. Thelma J. Chalifoux moved the second reading of Bill C-14, respecting an agreement with the Norway House Cree Nation for the settlement of matters arising from the flooding of land, and respecting the establishment of certain reserves in the province of Manitoba.

She said: Honourable senators, I rise to address the Senate on Bill C-14, the Manitoba Claim Settlements Implementation Act. I am pleased to speak in support of this proposed legislation, which will address outstanding commitments to Manitoba First Nations and pave the way for greater economic self-reliance.

• (1440)

My fellow senators will recall that when the government unveiled "Gathering Strength: Canada's Aboriginal Action Plan," a commitment was made to renew the relationship with the aboriginal people of Canada. That new relationship is being built on a foundation of trust and cooperation between Canada and First Nation governments and communities.

One of the first steps in building that trust is fulfilling our historical obligations to aboriginal people. Bill C-14 will help us do that for a number of Manitoba First Nations. Although this legislation is technical, its overriding objective is simple: to facilitate the implementation of a number of claim agreements in Manitoba. In doing this, Bill C-14 will support a number of specific commitments set out in "Gathering Strength." In particular, it will strengthen the capacity of Manitoba First Nation governments to make decisions about lands and monies being provided under claim settlements in a way that is effective, timely and accountable to their First Nation communities.

By overcoming obstacles that have slowed progress in the past, Bill C-14 will foster economic growth and development.

Honourable senators, this bill consists of two important parts. Part 1 deals with certain elements of the Master Implementation Agreement signed by the Norway House Cree Nation in 1997. This agreement, in turn, complements implementation activities stemming from the 1997 Northern Flood Agreement through a greatly clarified and minutely described assignment of roles and responsibilities, as well as a compensation package including enhanced commitments of the federal and Manitoba governments and Manitoba Hydro respecting lands and monies. Part 2 relates to the establishment of reserves in Manitoba under claim settlements, including treaty land entitlement as well as the Norway House and other such Master Implementation Agreements.

Honourable senators, I should like to review the key elements of Bill C-14 for those who may not be familiar with the proposed legislation. As I have said, Part 1 is specific to a single Manitoba First Nation, the Norway House Cree Nation. Specifically, Bill C-14 will ensure that any lands provided to Norway House in fee simple title under its Master Implementation Agreement will not become special reserves under section 36 of the Indian Act. This will enable the people of Norway House to use and control these lands as they see fit, without the often burdensome administrative requirements of the Indian Act and other federal legislation when managing reserve lands.

In a similar vein, Bill C-14 will ensure that compensation monies owed to Norway House under the Master Implementation Agreement will not be administered as Indian monies under the Indian Act. Instead, these monies will be paid to and administered by a trust that has been established by the Norway House Cree Nation and is operating under its direction, with proper safeguards and accountability mechanisms in place. Again, the Department of Indian Affairs and Northern Development will have no role in managing these monies.

Honourable senators, these exemptions from the Indian Act will have two strategic outcomes. Most important is the fact that they will increase the Norway House Cree Nation's self-reliance and decision-making capabilities. At the same time, they will lighten the administrative load for the Department of Indian Affairs and Northern Development.

Part 1 of this legislation will also give the locally administered claims administration an arbitration process found in the Master Implementation Agreement precedence over its counterpart in the Northern Flood Agreement for claims that could be dealt with under either agreement. The improved adjudication process in the Master Implementation Agreement will thus be a direct benefit in resolving these claims.

Finally, Part 1 of Bill C-14 will ensure that Canada and other parties have access to the Manitoba Arbitration Act, which is necessary when dealing with disputes under the Norway House Master Implementation Agreement.

Honourable senators, the Norway House Cree Nation will also benefit from Part 2 of this bill, which is intended to advance the implementation of claim agreements in Manitoba by facilitating the transfer of lands to reserve status. This First Nation will benefit from Part 2, both in respect of the reserve creation commitments contained in its Master Implementation Agreement and in terms of similar commitments extended to it and other Manitoba First Nations under the Manitoba Treaty Land Entitlement Framework Agreement.

"Gathering Strength," the government's response to the Report of the Royal Commission on Aboriginal People, calls for the development of vibrant on-reserve economies. In order to help these economies develop, we need to speed up the process of establishing reserves. Part 2 of Bill C-14 will empower the Minister of Indian Affairs and Northern Development to set apart as reserves any of the lands selected by Manitoba First Nations under a claim agreement. This will replace, for these claim settlements, the lengthy and cumbersome process of obtaining an Order in Council, which is the approach currently used to establish reserves.

However, the main benefits of Part 2 of this bill will be to establish more effective mechanisms for accommodating third-party land interests that are identified during the process of selecting lands for potential reserve creation pursuant to a Manitoba claim settlement. It will also significantly reduce the time required to add lands to reserves. We expect that this will improve First Nations access in a reasonable manner to a broader range of lands that have development interests or potential.

The sooner third party interests in lands can be resolved to the mutual satisfaction of the third party and the First Nation through a legally binding process, the sooner these lands can be added to reserves and, in turn, the sooner they and the revenues they generate can contribute to economic and social progress in the community. The key to achieving this is to allow a First Nation to consent to a third-party interest on lands it wants to add to a reserve before those lands have actually been granted reserve status.

Honourable senators may be surprised to learn that the wording of the Indian Act simply does not allow for that. A First Nation can only consent to the creation of interest on land that is already part of a reserve, not on land that is simply being proposed for reserve status.

Honourable senators, we should seize this opportunity to remove this obstacle from the path of Manitoba First Nations. Bill C-14 addresses this issue by giving Manitoba First Nations a pre-reserve designation power as well as a power to ask the Minister of Indian Affairs and Northern Development for, and for the minister to then issue, before reserve creation, a land use permit — both powers being aimed at accommodating different kinds of third-party interests.

Honourable senators, these pre-reserve powers will not only apply to existing interests but will also allow a First Nation to negotiate new rights that will come into effect upon reserve creation. This will ensure that First Nations can take advantage of emerging development opportunities on their selected lands even before reserve status is granted.

As I noted earlier, it has been the shared desire of Canada, the Government of Manitoba and the First Nations to expedite the settlement of treaty land entitlements. At the same time, these mechanisms will, on the initiative of individual First Nations, be made available to facilitate implementation of all other Manitoba claim settlement agreements, existing or future, that involve additions to reserves.

Honourable senators, this proposed legislation does not create new entitlements for First Nation governments. It does not impose new obligations on Canadian taxpayers. In fact, it will do the opposite by speeding up the process of reserve creation.

• (1450)

It also establishes clear-cut legal mechanisms for accommodating both third party and First Nation interests in lands selected for addition to reserves pursuant to claim settlements in Manitoba.

This bill will move Canada forward in fulfilling its obligations to aboriginal people, strengthening the capacity for First Nation decision-making, respecting settlement lands and monies and improving socio-economic conditions on reserves. It deserves our support.

Hon. Charlie Watt: Honourable senators, might the Honourable Senator Chalifoux permit some questions?

Senator Chalifoux: Yes.

Senator Watt: The honourable senator talked about additions to existing reserve land. Could she expand on that subject? What does it mean? Would it enlarge a reserve from its present size?

If the honourable senator does not feel comfortable answering my questions today, and if the bill is to be referred to committee, then I will await the committee's study of this bill.

Senator Chalifoux: I thank Senator Watt for his questions. I would prefer that his questions be asked in committee. The honourable senator's questions are interesting and important, and I would not want to reply with something that may not be quite right.

Hon. Janis Johnson: Honourable senators, it gives me great pleasure as a senator from Manitoba to speak to the second reading of Bill C-14.

This bill has been a long time in the making. It was before Parliament in the last session as Bill C-56 but died on the Order Paper when the session ended. We now have it before us at a critical time. The call of a federal election looms, and unless we push the bill along, it will again die on the Order Paper, and I will have to get up and speak to it again. Thus, perhaps it is a good idea to pass it at this time. I, for one, do not want to see that happen. The bill should be referred to the Standing Senate Committee on Aboriginal Peoples. We must be diligent in protecting the role of the Senate and its right to give this legislation sober second thought. At the same time, if this bill deserves to pass, and I believe it does, then we should be practical and ensure its passage before an election call, for we owe this to those who are affected most, the Norway House Cree.

Having said that, I believe the government must explain to the committee why it joined together in this bill two completely different concepts. Some in the other place have called it an omnibus bill, and would have preferred the two subjects to be separate so they could receive scrutiny on their own merits. What are these two disparate concepts or issues? In Part 1, the bill sets out the legislation necessary to implement the master agreement negotiated among the government and four of the five affected aboriginal groups when the Churchill Falls hydroelectric project began in 1970 and aboriginal lands were flooded. I have seen those lands. The hydroelectric project flooded approximately 12,000 acres of northern Manitoba First Nation reserve land and 525,000 acres of non-reserve land used by First Nations.

The second part of the bill addresses the federal government's commitment to increasing the First Nations reserve land base in Manitoba. When a First Nations group of Manitoba agrees, this part facilitates the implementation of a land claims settlement in which the federal government increases the reserve land base. The minister is able to confer reserve status and the First Nation is able to create or accommodate existing third-party interests on the reserve land. The key here is to allow a First Nation to consent to a third-party interest on land it wants to add to the reserve before those lands have actually been granted reserve status.

The current wording of the Indian Act does not allow for such agreements. The legislation will aid everyone in bringing some creativity to the land acquisition process, as the land can be acquired for a reserve even though a third party still occupys part of it. The First Nations group knows it can acquire the land for a reserve and the third party knows it can still continue to live there.

Therefore, on the surface, this seems like a good law in the making. However, after some research and discussion with those aboriginal groups concerned with Part 1, I have some questions concerning the adequacy of the amounts of money to be paid under the Master Implementation Agreement. Also, concern has been raised as to the ratification process used to secure approval for the agreement that underlies this proposed legislation.

With regard to Part 2, honourable senators, I wish to be sure that the land that will be provided is suitable for use as a reserve. I also want to know how close we are to the achievement of self-government for all aboriginal nations in Manitoba. I believe in the concept of self-government for Canada's aboriginal peoples, but self-government works best when a viable, productive land base can be secured for our aboriginal people. This bill is an attempt to achieve some certainty in the process, but does it bring us any closer to self-government for all land-based aboriginal peoples in Manitoba?

Since we will be talking in the committee hearings about aboriginal people in Manitoba, I will want to put some questions regarding the problems faced by urban aboriginals, especially those resident in Winnipeg, for I know it is a subject that our own committee will be addressing in the future.

I look forward to the committee discussion. I believe we should be able to report the bill to the Senate in time for it to pass before the end of this Parliament. I ask for the cooperation of all honourable senators.

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 Chalifoux, bill referred to the Standing Senate Committee on Aboriginal Peoples.

• (1500)

THE SENATE

MOTION TO CHANGE *RULES OF THE SENATE* TO ACCOMMODATE CLARITY ACT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), pursuant to notice of October 4, 2000, moved:

That:

1. Rule 26 of the *Rules of the Senate* be amended:

(a) by adding the following before section (1):

Constitutional Business

(1) Orders of the Day under rule 26.1

(b) by renumbering sections (1) and (2) and all cross-references thereto accordingly.

2. The *Rules of the Senate* are amended by adding the following after rule 26:

QUESTION CONSIDERED

26.1(1) Immediately after the government of a province tables in its legislative assembly or otherwise officially releases the question that it intends to submit to its voters in a referendum relating to the proposed secession of the province from Canada, motions to refer the question to Committee of the Whole for consideration and report may be moved without leave at the next sitting of the Senate, and, if moved, must be considered and disposed of in priority to all other orders of the day.

CLEAR MAJORITY CONSIDERED

(2) Immediately after the government of a province, following a referendum relating to the secession of that province from Canada, seeks to enter into negotiations on the terms of which that province might cease to be a part of Canada, motions to refer the subject of the clarity of the majority achieved in the referendum, to Committee of the Whole for consideration and report may be moved without leave at the next sitting of the Senate, and if moved must be considered and disposed of in priority to all other orders of the day.

ORDER OF BUSINESS

(3) Notwithstanding rule 23(8), the Speaker shall call for motions under this rule as the first item of business after question period.

PRIORITY

(4) In Orders of the Day, motions shall be considered and disposed of in the following order: a motion, if any, by the Leader of the Government; a motion, if any, by the Leader of the Opposition; motions, if any, by other Senators.

DEEMED DISPOSITION

(5) Only one order of reference at a time may be made under subsections (1) and (2), and as soon as an order of reference is adopted, with or without amendment, the remaining motions fall from the order paper.

TRANSMISSION OF FINDINGS

(6) When the Senate adopts a resolution in respect of a report received and considered under subsection (1), which shall be within 15 days of the commencement of proceeding under subsection (1), the Speaker of the Senate shall transmit copies of the resolution and of all proceedings held under this rule in the Senate and in Committee of the Whole, including an integral copy of every representation made under this rule, to the Speaker of the House of Commons and to the Speakers of each provincial and territorial legislative assembly in Canada.

PROVINCIAL REPRESENTATION

(7) Where an order is made under subsection (2), the Clerk of the Senate, immediately following the adoption of the report, shall invite the government of every province and territory to make verbal or written representations to the Committee of the Whole, and every province and territory that replies in the affirmative shall be given reasonable opportunity to do so.

MINORITY REPRESENTATION

(8) Where an order is made under subsection (2), the Committee shall decide which representatives of the Aboriginal peoples of Canada and of the English and French linguistic minority population of each province and territory should be invited to make verbal or written representations to the committee, and every representative who replies in the affirmative shall be given reasonable opportunity to do so.

TRANSMISSION OF FINDINGS

(9) When the Senate adopts a resolution in respect of a report received and considered under subsection (2), which shall be within 15 days of the commencement of proceedings under subsection (2), the Speaker of the Senate shall transmit copies of the resolution and of all proceedings held under this rule in the Senate and in Committee of the Whole, including an integral copy of every representation made under this rule, to the Speaker of the House of Commons and to the Speakers of each provincial and territorial legislative assembly in Canada.

He said: Honourable senators, I am sure that it is not necessary to revisit in detail one of the most historic debates ever held in this chamber, namely, the debate on Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference, a debate that concluded with the adoption of legislation earlier in this session of Parliament.

Honourable senators will recall that one element of the debate which seized the attention of all honourable senators in all parts of the house dealt with the manner in which, in our bicameral system, the Senate of Canada would be called upon to express its view on the clarity of a reference question brought forward by a province or the clarity of the result of a referendum on that question and the matter of negotiations.

Many honourable senators were uncomfortable with that part of the bill. I believe all honourable senators had concerns about that question. The fact is that Bill C-20 is now the law of the land, and everyone in this house accepts it as such. That does not leave members of this house without a margin of manoeuvrability in ensuring that the exigencies of the bill as it relates to the Senate would be responded to by the Senate with the greatest degree of seriousness. It seems to me that we should use our rules, of which we are masters, to ensure that the opinion of the Senate is taken into consideration by the House of Commons, should a resolution from a legislative assembly come forward as envisaged by Bill C-20.

Focusing for a moment just on the referendum question, as you will recall, honourable senators, from the time a resolution is brought forward by a legislative assembly, the House of Commons has 30 days to make a determination on the clarity of the question. The law does not envisage a requirement for the Senate to exercise its judgment; rather, the law provides that the House of Commons shall take into consideration the views of the Senate. This motion attempts to ensure that we not lose any time in the Senate in formulating our view so that our view will be before the members of the other house with sufficient time for them to seriously consider it.

This motion is quite simple. It would be deemed to be an order of the house that a resolution on the clarity of the question is subject to debate immediately. There would be no delay. It would have priority in procedure. Within 15 days the Senate will have adjudicated on the clarity of the question and will have sent to the other place, by formal message, the Senate's view on the clarity of the question. In other words, we will have ensured that the Senate's view on the proposed referendum question is in the hands of the members of the other place a full 15 days before they have to conclude their deliberation.

This is not our preferred approach, honourable senators, but we have the law and we can use our rules to ensure the next best thing — that is, to have the opinion of the Senate formulated, expressed and formally sent to the other place within sufficient time that the other place will be able to seriously consider the opinion that the law requires them consider. That model would apply not only to the referendum question but also to the clarity of the referendum vote.

In terms of process, should this motion find favour, I would envisage it being referred to the Rules Committee for study in detail.

Hon. Jack Austin: Would the Honourable Senator Kinsella permit a question?

Senator Kinsella: Certainly.

• (1510)

Senator Austin: Could the honourable senator explain two items? What is the rationale for the system of priority in motions under Orders of the Day outlined there? How do you require the Senate to adopt a resolution within 15 days or at any time? How do you require the Senate to do that in advance of the debate and its own process for coming to a conclusion?

Senator Kinsella: I would hope that the provisions that are laid out in the motion would achieve that objective. If there is a technical difficulty in doing that, then this matter should be referred to the Rules Committee so that it can answer that question. The objective that I was trying to achieve is that which I have outlined.

Four priorities have been mentioned. In Orders of the Day, motions shall be considered and disposed of in the following order: a motion, if any, by the Leader of the Government; a motion, if any, by the Leader of the Opposition; motions, if any, by other senators. The motion would be a priority motion. In other words, the Senate would be seized of the matter to get the debate started immediately. The objective is to have the Senate take into consideration, immediately, a referendum question, to reach a conclusion within 15 days and to make that conclusion, namely the opinion on the referendum question, available. That is what is intended. Technically, if it does not achieve that purpose, I know the Rules Committee would find the right words to have that objective achieved. That is the objective.

Senator Austin: My understanding of subclause (4) — and I should like to be corrected if my understanding is wrong — is that the government would have the first opportunity to propose the terms and text of the motion. It would be dealt with in priority to any proposals from the opposition side or from any other senator. Following that, the procedure would be that the first vote would be on the government motion. If there were a successful vote in this chamber, then all others would be stood aside.

Senator Kinsella: Yes.

Senator Austin: Is that an explanation of the proposal?

Senator Kinsella: Yes.

Senator Austin: On the other question, I wonder why the honourable senator sees the need to anticipate the circumstances. If this situation actually were to arise, does he not believe that the Senate of the time would move expeditiously? Why does the honourable senator want to set an order at this stage to bind a future Parliament as to when the Senate might deal with this question?

Senator Kinsella: That is an excellent question and does indeed speak to a major part of the motivation, that the Senate not have to accept a process that excludes the Senate or has emasculated the Senate, in the views of many. This rule would make it perfectly clear that the Senate is part of the bicameral Parliament and that we will use our rules to protect the rights of the Senate without offending the statute that now forms part of the law.

In my judgment, that is extremely important in terms of the standing of the Senate in our bicameral system. We all understand the difficulties of amending a piece of legislation and the dynamics that surround the process. We all could probably envisage, under circumstances different from the circumstances that we faced months ago on that bill, that it might have been amended. To answer the question, the motivation is principally to re-establish the place of the Senate in our bicameral system.

Hon. Nicholas W. Taylor: Honourable senators, I should like to continue the process further. I have been interested in past debates in the place of the Senate with regard to action under the clarity bill. Senator Austin's point is a good one, keeping in mind the mechanics that we now have in the House and that a motion for secession coming from a province would likely be opposed by the government of the day. Senator Austin's point that it might be gilding the lily is well taken.

I thought of another possibility that is not altogether impossible, namely that the government of the day might favour the province that wants to separate. We have heard that from some of our political parties recently, and two arguments make it whole. The first is that if you do not like it here, goodbye and good riddance, and the second is that we would like a loosely constructed confederation.

However, if the government of the day is supportive of the referendum idea put in the bill, is there any way that the Senate minority can, under present-day rules, without the honourable senator's motion, force a debate on the matter in Parliament and push it through in time? That might be an argument in favour of the motion.

Senator Kinsella: I believe the act currently provides that the minister in the other place must table some sort of resolution dealing with the clarity of the referendum question put by whatever legislative assembly. That is why I envisage that it would be the Leader of the Government in this house who would table a parallel motion. I am not sure how it would actually be drafted.

The act requires the House of Commons to express an opinion as to whether or not they think the question is clear enough for them to say to the government, "Yes, and if step two and three are followed, then you can negotiate." If it is not clear, then they will say, "It is not clear," and there will be no obligation to negotiate secession.

The resolution tabled here by the Leader of the Government would be the same as the resolution that the minister would have already tabled in the other place. They will have our views as senators, and not at any old time. It is sort of like pre-study. Pre-study only makes sense if the pre-study is done before the committee stage has been concluded in the House. The technical intent here is to find a way in which we will express our view in sufficient time that it will be meaningful.

The Hon. the Speaker: Honourable Senator Kinsella, I regret to interrupt you, but your 15 minutes has expired. Are you requesting leave to continue?

Senator Kinsella: I will request leave, yes.

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

Hon. Senators: Yes.

Senator Taylor: Honourable senators, I am still not sure that I have an answer to my question. I am concerned about a situation where, through negotiations or through discussions between the government of the day and the government of the province that wants to put forward a referendum about secession, they have reached agreement before it even gets to the House.

• (1520)

That is not impossible with some of the political parties on the scene today and the government. They may already have agreement, and they will then also control the government in the Senate. As Senator Austin points out, if the government of the day opposes the referendum, my honourable friend's motion would be redundant because the government could place the question on the agenda the next day. However, the government of the day may be asleep at the switch or stupid, or maybe it has made a deal with the government of the province that is talking about seceding. That is what I wanted to know, namely, whether this motion is any better than what we have now to bring a clarity debate to the Senate floor.

Senator Kinsella: As the honourable senator might recall, during the debate on Bill C-20, we heard some argue — and, if the record is checked, the Leader of the Government in the Senate argued — that the Senate did not have to be included. Many honourable senators on both sides did not agree. The intent of this motion is to have the Senate seized of the proposed referendum question in a timely fashion and ascertain whether or not it is clear as provided by Bill C-20, which is now the law. Subclause 9 of the motion is the key clause, namely, that the Senate adopt its resolution within 15 days of the commencement of proceedings. To commence the proceedings forthwith, we give priority to the motion either brought in by the Leader of the Government, the Leader of the Opposition or another honourable senator, in that priority, in order that it is dealt with and placed on the Order Paper. That is the intent and the drafters of the motion have captured it. I did not draft the motion, as most of us do not do technical drafting, which is why we go through these motions in committee with a fine-tooth comb.

Senator Austin: Honourable senators, speaking for myself, I question the need for the rules to be changed in this fashion at this time. I also question the process, but I have no objection to the reference to the Rules Committee. It will certainly provide us with interesting discussion if the Senate so decides.

The Hon. the Speaker: Does any other honourable senator wish to speak? If not, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

REFERRED TO COMMITTEE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I move that the motion be referred to the Standing Committee on Privileges, Standing Rules and Orders.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, pursuant to an order of this house, the Senate will resolve itself into Committee of the Whole at 4 p.m. We have completed the business of the Order Paper. Accordingly, I request leave that the Senate adjourn during pleasure. The difference between adjourning during pleasure and suspending is that if we suspend, someone will have to sit in the Chair. If we adjourn during pleasure, then Senator Moore will not have to stay in the chamber. Perhaps I could ask for leave to adjourn during pleasure until 3:50 p.m., at which time the bells will ring for 10 minutes to call senators back to the chamber.

The Hon. the Speaker: The bells will ring at 3:50 p.m. until 4 p.m., at which time the Senate will resolve itself into Committee of the Whole.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned during pleasure.

• (1600)

The sitting of the Senate was resumed.

[*Translation*]

PRIVACY COMMISSIONER

APPOINTMENT OF MR. GEORGE RADWANSKI—
CONSIDERED IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate put into Committee of the Whole in order to receive Mr. George Radwanski on the matter of his appointment as Privacy Commissioner.

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

[*English*]

The Chairman: Before we begin, may I bring your attention to rule 83, which states the following:

> 83. 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 Commissioner Phillips appeared before us, this rule was waived. Is it your pleasure, honourable senators, to waive rule 83?

Some Hon. Senators: Agreed.

Senator Prud'homme: No!

The Chairman: Rule 83 stands, then, honourable senators.

Senator Prud'homme: No one told me that there was a preference to proceed otherwise. If you were to revert back to the question now, I would agree because it changes a few projects.

The Chairman: Is it agreed, then, that the rule is waived?

Hon. Senators: Agreed.

Pursuant to Order of the Senate, Mr. George Radwanski was escorted to a seat in the Senate chamber.

[*Translation*]

The Chairman: Mr. Radwanski, I welcome you on behalf of all the senators.

[*English*]

Mr. Radwanski, do you have an opening statement?

Mr. George Radwanski, Interim Privacy Commissioner: Honourable senators, I thought I would make some brief remarks to allow the maximum possible time for a discussion and questions.

First, I would like to tell you briefly about myself. Some of you may have seen my biography but one takes nothing for granted. I am originally a Montrealer and spent the first part of my life there. I studied at McGill University, where I obtained a B.A. and a law degree.

[*Translation*]

I speak French fairly well, although I have forgotten it a bit with my years in Toronto, but it is coming back quite quickly now that I am here. For the time being, I will speak English. If you wish to put questions to me in French, I understand French perfectly.

[*English*]

During my studies — and more or less by accident — I drifted into journalism as a reporter at the Montreal *Gazette.* Consequently, by the time I was in law school I was the senior staff writer on the Montreal *Gazette* so I decided to stay at it for a while and see where that particular train would take me. As a result I became a columnist on national affairs for the Montreal *Gazette* in Ottawa and then Ottawa editor and national affairs columnist for the *Financial Times* of Canada. Following that, I went to *The Toronto Star* as editorial page editor and subsequently became editor-in-chief. After that, I had occasion to do several policy studies for the Government of Ontario. The first was the Ontario study of the service sector looking at the whole issue of the post-industrial economy; the second was a review of education in Ontario and, by extension, in Canada. I have also written a couple of books in the intervening years since I left *The Toronto Star.* I worked as a consultant. Several years ago, I had the privilege of heading the Canada Post mandate review.

A common theme throughout these years has been an involvement in public policy and in the issues touching on our country. In everything I have done throughout these years, I have tried to make a contribution to this country and to make a difference on the issues.

That brings me to the present and to the great privilege I have had, since September 1, of serving as Interim Privacy Commissioner. I use the word "privilege" very advisedly. It is very much my view that privacy is fundamentally important in international life. It is a fundamental issue of human freedom. If people have occasion, either literally or metaphorically, to feel that someone is looking over their shoulder and that their private actions are being observed or are in danger of becoming public, it constrains freedom of choice. Violations of privacy have had increasingly severe consequences. As important as privacy has been, I believe that it will become a vastly more important issue in the years ahead and, in particular, in the coming decade. I say that because, in many respects, until recently, privacy has been protected somewhat by default in the sense that the means to violate privacy were comparatively limited. Now, however, with new means of surveillance and with all the advantages and advances in digital technologies, in science pertaining to DNA, ethics, and so on, the issues are rapidly multiplying and the fundamental human value of privacy can only be protected by a conscious effort to do so and by real vigilance every step of the way.

It is in that context that I feel an enormous sense of privilege in being able to make a contribution on this issue. If it is the will of Parliament, the will of the Senate, that I continue in that role as the permanent, full-time Privacy Commissioner, you can be assured that it is an issue that I regard with the utmost importance, and I will deal with it in an ongoing way to the utmost of my abilities, conscious that it is a trust that is fundamental to human values and human freedoms in this country.

• (1610)

That being said, I would be happy to answer your questions or engage in any discussion. I would ask honourable senators to keep in mind that I have been at this job for barely over a month. On some issues the learning curve is steep and there may be things at which I am not fully expert yet, although I fully intend to be in a short time.

Senator Murray: Mr. Radwanski, did you apply for the job of privacy commissioner?

Mr. Radwanski: I did not, senator. The question was put to me whether it would be something of interest and eventually I was offered the position.

Senator Murray: The question was put to you by whom?

Mr. Radwanski: The people whose role it is to put such questions.

Senator Murray: The government, the ministers. This is not your fault, but there is some considerable concern that the consultation process was, to put it mildly, inadequate. I will not ask you to comment on that. As I say, it is not your problem but it is ours, and I want to have that on the record.

I am rather bemused by the fact that you are the second former journalist in a row to be nominated for the post of Privacy Commissioner.

Mr. Radwanski: The third, actually.

Senator Murray: The right of people to their privacy is not necessarily at the top of the list of priorities of people in your profession normally and, that being said, I think it is generally agreed that your predecessor, also a former journalist, did a good job.

I wish to ask you about something in particular. A few months ago we passed Bill C-6 — I believe you are familiar with that act as it is now — to protect the privacy of personal information that is collected for various commercial purposes. In that act, the government — Parliament eventually — provided an exemption for personal information collected for journalistic purposes; indeed, journalistic, artistic or literary purposes. Can you explain the principal justification for that exemption? Do you agree with that exemption?

Mr. Radwanski: I would be happy to answer that question. Let me first go back to your previous remark about the interrelationship between being a former journalist, since I have not been one since 1985, and this position. I wish to assure you that the fields of journalism in which I was engaged had no interest in invading anyone's privacy. Those fields dealt with informing Canadians, to the best of my ability and through my leadership at the newspaper I headed when I was editor of *The Toronto Star*, about the issues of our country.

Is journalism a good background for this position? Speaking for myself, it probably is. The experience I had as a journalist was in getting to the bottom of things one might otherwise not know much about, asking the right questions, and hopefully coming up with answers that made some sense. The information was then communicated to the public at large in a way that could be readily understood and would hopefully have some impact on the public consciousness. I believe that is closely related to the kind of job that the Privacy Commissioner — being essentially an ombudsman function, not an enforcement function — should be carrying out. Therefore, I do feel that this part of my background, as well as my involvement in public issues, has been good training.

On your question about the exemption for journalism, frankly, yes, I agree. Obviously, I had no hand in drafting the legislation, but I do not believe we could have a free press without that provision. Otherwise it becomes too easy to say that a great many things that are of public interest from the point of view of understanding what is going on in this country are personal information in the broad sense of the word. Speaking not as a journalist but as someone concerned about public policy, without that provision we would have a controlled and constrained press that would be inimical to a fully functioning democracy and subject, I might add, to the fact that we do have libel laws that provide a measure of protection.

Senator Murray: Libel laws provide protection if a complainant has been effectively lied about or slandered in the media. Do you agree that there is a balance to be struck between the right to freedom of the press and the right to privacy?

Mr. Radwanski: There is in every realm that touches on privacy. In fact, I would argue that there are balances to be struck in every realm of life in our society. There are other self-disciplining mechanisms that are not always perfect. For instance, there are press councils. In this country there is also the issue of public opinion. This is a country that does not place a high degree of enthusiasm on egregious violations of personal privacy by the media, broadly speaking, so there are disciplines.

Could there be discipline beyond trusting the media to strike the right balance? I would be worried about that, frankly, because freedom of the press is fundamental. I cannot say that I see anything that has occurred that would justify a need for legislative constraints of any kind.

Senator Murray: Would you agree that to support the entrenchment in the Charter of a right to privacy, thus putting the right to privacy on the same basis as the right to freedom of the press and freedom of expression, that the right balance would need to be struck?

Mr. Radwanski: As I said, senator, there are always balances. Personally, I would be uncomfortable with legislated constraints of any kind on a free press.

Senator Murray: What about a right to privacy in the Charter? It has come up before.

[Mr. Radwanski]

Mr. Radwanski: You used the word "balance" yourself. In my view the right to privacy is a fundamental right, like many other rights in the Charter.

Senator Murray: The point is that it is not in the Charter. Would you favour its entrenchment in the Charter?

Mr. Radwanski: Oh, I do. I believe Senator Finestone's legislation is an excellent initiative. The senator has been a good friend to privacy. Noting the importance of privacy as a fundamental right would be, if anything, long overdue. My office has argued for that in the past and I fully support it, but it is not a right that transcends all other rights.

Senator Murray: No, and neither does the right of freedom of the press. This is the problem.

Mr. Radwanski: That is correct.

Senator Murray: Some people act as if freedom to collect and disseminate information trumps all other rights.

Does a person's right to privacy die with him or her?

Mr. Radwanski: I knew we would get to that issue. Let me answer obliquely in the first instance. I would say that a person's right to have a formal legislated commitment made by the Government of Canada does not die with them.

Senator Murray: Mr. Radwanski, I come back to a provision in Bill C-6 that allows for the disclosure of information, which is collected for commercial reasons, 20 years after one's death.

Mr. Radwanski: Right.

Senator Murray: This information might concern one's credit card, one's mortgage, or any information collected for personal reasons and which may be disclosed, subject to certain broad guidelines, 20 years after one's death. I was not able to get anyone to provide a principal justification for that provision other than to say that, "Well, we have that kind of provision in the Privacy Act with regard to government information." That is another issue. I am talking about information that is collected on you and me for commercial purposes.

• (1620)

I am appalled to think that such information can be disclosed 20 years after one's death, because of a provision in the act. What I want to know is what you think of it and whether you are prepared to urge the removal of that provision from the law.

Mr. Radwanski: Let me put it this way, senator. I would want to be a little careful in making a categorical statement, simply because I do not know at this time what the rationale was for putting in such a provision, and I would want to know that. If you ask my general opinion, then I agree with you. There are not too many instances that come to my mind as to why it would be socially important or in any way desirable to be able to release that kind of information 20, 30, or whatever number of years after.

A general principle which I think is a good one with regard to privacy is that incursions into privacy or violations of privacy should be only to such an extent as can be justified by an explanation or a reason for them. In principle, yes, I agree with your concern, senator.

Senator Murray: Then I invite you to discuss Senator Milne's Bill S-15.

The Chairman: Honourable senators, I should like to remind you of rule 84, which states that during debate in Committee of the Whole no senator shall speak for more than 10 minutes at any one time. I shall try to adhere to that rule as much as possible.

Senator Milne: Mr. Radwanski, to be fair to you, I shall try to repeat pretty well what I asked your predecessor when he appeared before us on several occasions. I wish to talk about historic censuses.

Over the course of the past 100 years there has been a balance in Canada between the right to privacy and the right to use personal information for historical research. I am very certain that the original position of your predecessor, Mr. Phillips, was based on an opinion by lawyers in the Department of Justice that was, I believe, fundamentally flawed. Statistics Canada had asked for this opinion. It is too bad that the Department of Justice lawyers were in too big a hurry, because if they had read just another few pages 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 public. Nothing was sequestered.

It is quite clear that the lawmakers and legislators of that time meant that to be a permanent and, eventually, a public record. The implicit intent was that the census would eventually be open to the public. This balance between a right to privacy and the right to historic census data was debated again in 1983, when the act establishing your position was set up.

I have reason to believe that Mr. Phillips' position on the release of the historic census had recently changed. It had been changing over the past two appearances that Mr. Phillips made before us, and I believe over the summer it was still changing. I want to know your position on the release of historic census data. Do you hold the same position as Mr. Phillips originally held; or do you intend to change the position of your office on this issue as he was in the process of doing?

Mr. Radwanski: Thank you for that question, senator. I imagine you will forgive me if I do not respond in terms of my predecessor's position but simply confine myself to telling you my own thoughts on the matter.

First, with regard to the point you raise about the 1906 precedent and so forth, I think a case can be made for the censuses up to 1916 on that basis. However, speaking for myself, my concern is that post-1916 there was an explicit legislated promise of confidentiality, and —

Senator Milne: Again, in the instructions to the census takers —

Mr. Radwanski: Senator, I am sure we could have a good debate on that point. My own sense is that Canadians filled in those forms on the basis of a belief that they were confidential and that the government had promised confidentiality. I have a concern in principle about the Government of Canada's giving its word and then breaking it.

Is that a narrow privacy concern? No, it is not. Speaking as an individual, and regardless of the passage of time, it simply bothers me that people could be induced to take a certain course of action and then have the Government of Canada, the highest authority in the land, say, "Well, the commitment we gave does not really hold, whether years have passed or not." That is my fundamental difficulty with that issue.

As to my position in my office, I believe, as certainly has my predecessor, that the compromise position that was worked out is a reasonable compromise. I met at some length with the Chief Statistician, Dr. Fellegi, and he, by virtue of his responsibility for the census, also believes that that is a good and reasonable compromise. Frankly, I was also quite impressed with his concerns that a different position could compromise the integrity of future census data collection.

That is my position. My position is in support of the compromise arrangement.

[*Translation*]

Senator De Bané: Regarding Senator Murray's question to the effect that we could, under the present circumstances, release the personal information on someone 20 years after the death of that person, I thought you agreed with Senator Murray that information of a personal nature should not be made public even 50 years or more after a person's death.

Do you not think that historians have an interest in telling us about an anonymous person who is deceased, for example, a prime minister of Canada who died 50 or 100 years ago and who failed to pay his creditors? Do you not think that this is something that may be of interest to historians? While it may be of no interest in the case of anonymous people, it may be of great interest in the case of such a person to know that this person did not honour his or her personal commitments.

I find it hard to agree with Senator Murray's opinion — which you share — that the details of people's private lives, regardless of the role they may have played in society, are of no interest, even decades after their death.

Mr. Radwanski: That is a very good question.

[*English*]

I think that is a very legitimate question. That is why in some parts of the legislation, as Senator Murray mentioned earlier, there are exceptions drawn for literary works, for journalistic activities and so forth. Certainly, the work of an historian could qualify in those cases under some of those headings.

I do not have an absolute view on this very fair question. It is a matter of balance. I will not purport to have a final answer on it after a month on the job. However, I think it is fair to ask even then: Are some details of a person's personal life really historically interesting or is dirt, or private information that should remain private, still that 20, 30 or 50 years later? There is a balance to this, and whether, for instance, a former leader's credit card information would be any more important as an historical record 20 or 50 years after his death than earlier, I would have to be persuaded, to be honest with you.

• (1630)

We are not talking about general information, and there are so many sources of information in the world these days. Does data that is by its nature personal become less personal if you are famous? I am thinking out loud here and would not want to be held to a final position on this, but if you go that route, how famous do you have to be for that to be the case? Does being a senator expose you to that degree of posthumous scrutiny, or does being a successful business person? Does having once written a famous letter to the editor have that effect?

Very complex questions are raised the moment one starts saying that, if you are well known, your fundamental privacy rights are somehow diminished. There is a legitimate question of public interest that is raised as a defence, as I said earlier, in libel cases, and the courts have been quite good at drawing that distinction. However, does every bit of otherwise private information about an individual become fair game? My honest answer is that I would have to think about that.

Senator De Bané: Thank you very much. I agree with those who say that the right to be left alone is a very important thing and that each of us is entitled to privacy. We all know that governments and large corporations today, particularly with computers, et cetera, can have access to the records of every trip we have taken, every phone call and every financial transaction we have made where we have not paid cash.

Did you have time, Mr. Radwanski, to look into the extent that the federal government and the provincial governments match their information in order to have a more comprehensive view of the personal data of each Canadian?

Mr. Radwanski: I have not made an exhaustive study of that personally to this time. However, my office has been very concerned with that issue for some time. As you know, the whole HRD situation was a classic illustration of that. My predecessor publicly raised the concern precisely about data matching. You are quite right that different parts of government, different governments, and different outlets in the private sector have pieces of information. Most of these pieces are legitimately gathered for a specific purpose because a given service could not be provided without them. For instance, if you are going to get certain benefits, the benefit-issuing authority has to know who you are, what your situation is, and so forth. The fundamental danger to privacy arises when the information gets put together in ways that were not justified by the original purpose and that become a comprehensive database about an individual, which was the case, at least to a very considerable degree, with HRD.

As a result of the intervention of my office prior to my being there, and as a result of the fact that we have a vibrant privacy commissioner function, that problem was brought to light and the base was dismantled. The information has been returned to the originating departments that have legitimate uses for it.

I believe that is the kind of issue that we will encounter more and more with regard to both the government and the private sector. It is a crucial part of the responsibilities of the privacy commissioner to be vigilant in ensuring that information is used only for the purposes for which it was gathered, that only such information as is needed legitimately for identified purposes is gathered, that it is stored in ways that protect the integrity of the data, and that we do not get into forms of data matching which, by their very nature, are intrusive on an individual's privacy and can cause no end of serious problems.

I do not know whether I have fully answered your question, but I certainly share the concern you have expressed.

Senator Kinsella: Mr. Radwanski, did you ever apply for the editor's position at the *McGill Daily*?

Mr. Radwanski: I do not know that it would be correct to say that I applied. I was more or less, shall we say, railroaded into being a candidate for election to that position. I took the view that it should not be an elected position and did not run, but some people campaigned on my behalf. It is my eternal good fortune that I lost, because, had it been otherwise, I might not have had the opportunity to do various other things that I have done in my career.

Senator Kinsella: Given that we are now in the sphere of academia, what is your view on plagiarism and privacy?

Mr. Radwanski: Could you be a little more specific? I am not sure I see the connection that you are making.

Senator Kinsella: Let that be a question. Do you see any question between privacy and plagiarism as an attack on privacy?

Mr. Radwanski: Not off the top of my head. I would have to reflect on what connection there might be, but off the top of my head I would say that plagiarism certainly is a form of misrepresentation, if you will, and it may be a form of information theft. I do not know how plagiarism would directly relate to privacy, but I am certainly open to being informed or persuaded otherwise.

Senator Kinsella: When you were in the practice of journalism, did you ever reveal the identity of a confidential source? Did you ever report on something that, in retrospect, should have been a private matter?

Mr. Radwanski: Did I ever reveal the identity of a confidential source?

Senator Robichaud: That is a private matter.

Mr. Radwanski: I will answer the question. I never revealed the identity of a confidential source. There was an instance when I was at the *Gazette* where I did a lengthy investigative article with regard to a judge who behaved in such extraordinary ways on the bench that lawyers were refusing to appear before him. I looked into why that was the case and did an extensive article on the matter. In the course of that work, I did obtain some confidential information. The judge subsequently sued the *Gazette* and me. The confidential source was one that I protected to the end. The *Gazette*'s lawyers persuaded that source that in the interest of the administration of justice, particularly ensuring that the behaviour of the individual in question was not vindicated, there was a greater good in his allowing himself to be identified, and that individual gave his consent.

I personally never violated confidentiality. I would have gone to prison, if need be, rather than do so. It did not arise in that instance, but, no, my word on any matter is good.

Senator Kinsella: So do you think that privacy is a little more than a relativistic analysis?

Mr. Radwanski: I am troubled by the way you went from that previous question to "So do you think."

Senator Kinsella: Wait until you hear my next questions.

Mr. Radwanski: In answer to your first question: relativistic, no. Are all rights in a society relative to some extent? Yes, of course. The only way to be absolutely private is to live alone on a mountaintop. Even then, with aircraft flying overhead there is no guarantee of privacy. Yes, rights must be balanced against other rights in a free and democratic society.

Senator Kinsella: On page 48 of the 1999-2000 annual report of the Privacy Commissioner, it is pointed out that the privacy commissioner has no legislative mandate to educate the public about their informational privacy rights.

• (1640)

What is your view as to the importance of the Privacy Commissioner in exercising a public educational role as Privacy Commissioner?

Mr. Radwanski: I think it is of fundamental importance, senator. In fact, the situation has changed because, under the private sector legislation, Bill C-6, there is an explicit education mandate. In fact, my first act literally as interim Privacy Commissioner was to create a new branch of the operation. The first week I was there, I brought in a new director general of communications and created strategic research for the Office of the Privacy Commissioner. We are working hard at present on finalizing guidebooks regarding the private sector legislation, both for industries that will be affected and for the general public. We are planning advertising campaigns, information campaigns, conferences — you name it.

More broadly, I think it is an absolutely fundamental role of the Privacy Commissioner, particularly because this is an ombudsman function. It is a function that relies on moral authority in being able to bring abuses to light and, by the response that that evokes, hopefully having those abuses corrected. For that to be the case, there must be a public constituency. The public needs to understand the importance of privacy issues and their nature and their role. Communications is absolutely fundamental to that.

The short and the long answer to your question is: Yes, education is critical.

Senator Kinsella: Approximately what percentage of the Privacy Commissioner's budget in the present fiscal year is for public education in matters of privacy?

Mr. Radwanski: Until now, it has been a very small proportion. As you know, the Privacy Commissioner's Office was allotted substantial additional funds, in the order of more than $5 million, for the first year of dealing with the private sector legislation. We have not finalized our allocation of those funds, and certainly a large increase in the investigative function must be carried out, for research and so forth, but a very substantial commitment will be made to public education and information.

I should add that I want to do that in the most cost-effective ways possible, and not all of those require spending huge sums of money. For instance, I believe a crucial role of the Privacy Commissioner is that education or information function which can be addressed through public speaking, through availability to the media and through involvement in conferences. Certainly, were I to be confirmed in this position, I would anticipate devoting a very considerable portion of my energies to that education, communication and consultation function; but I would also devote substantial resources to making sure that we heighten public awareness.

Senator Kinsella: In your view, sir, how far behind do you think government legislation, policy and regulations are in terms of the current press of electronification of information today?

Mr. Radwanski: I would be hard pressed to try to quantify it. I think that certainly the private sector legislation is an important step forward. There are very important new issues arising literally every day.

As the Privacy Commissioner, my challenge, were I to be in that role, would be to ensure that we, first of all, do everything necessary to have a good understanding of those issues as they are emerging. That is why I am also considerably enhancing the research and analysis function of our office. I certainly would look forward to providing advice to this chamber, to honourable senators and to the other House, to Parliament as a whole, on an ongoing basis on what gaps and needs we identify. I certainly would never be shy about so doing, because I think that is a fundamental part of this role.

Senator Kennedy: Mr. Radwanski, I am interested in the privacy aspect of our health records. Traditionally, I think our health records have been quite properly guarded by the medical people with whom we deal. They have often felt that those records are indeed theirs, although they may be records that pertain to you and your health.

As we go along in this information age, it is certainly not beyond the realm of possibility that within the very near future you and I will have medical cards that contain our medical records, and I hope that that will be the case. Quite recently, in a case that I know of, a person in hospital was given a medication which he should not have been given, simply because they had not gone back through his old records. The result was the necessity for blood transfusions and so on.

What I am getting at is, when we can have that kind of consolidated information that is about us, will we own that, or will the institution or the medical profession own that? Whose right of privacy will we be looking after in that instance?

Mr. Radwanski: You are touching on what I think is one of the priority privacy questions of the period ahead. Like you, I start from the premise that there certainly are advantages to some of the advances that can be made in managing health information, both from the point of view of individuals and with respect to having a collective picture of the health of Canadians, vis-à-vis emerging problems, and so forth. The critical issue, and I think it has to be built into these systems from the beginning, is the protection of privacy. How exactly you do that, I think, requires some more work.

My office had a meeting just two weeks ago with some leading experts in the health care field, including several leading academics from the United States who are very active on this whole issue of privacy and health data. We are working on coming up with the best recommendations on how to address it. Certainly, as a point of departure, my premise is that the crucial issue is that the information serve individuals from the point of view of their specific information and that aggregated data serve the system for providing the best possible care. However, safeguards must be built into the systems right from the beginning to ensure that the information in fact remains private in the truest sense and cannot be used for inappropriate purposes. For instance, information that is available to one's health practitioner should not automatically end up being available to third parties, to employers, or whomever. That would be a gross violation of privacy, let alone should it find its way into commercial hands for uses that could be very intrusive of privacy.

How you achieve that is something that, as I say, my office is working very hard on, and I certainly would anticipate reaching conclusions and perhaps having opportunities in this venue or others for me to keep you and other senators apprised of our thinking as it develops.

Senator Lynch-Staunton: Mr. Radwanski, when Mr. Phillips' name was put forward by the government of the day, there was strong opposition from our friends opposite, who were then in opposition here and in the other place, on the basis that he was tainted politically because he had held an office with the Prime Minister and had been named to Washington as a counsellor on information. That gave him a political tinge that was unacceptable to an office which should certainly have the appearance of independence.

In your c.v., which I have before me, you have been identified on a number of occasions with the Liberal government and Liberal party activities. I have no objection to that whatsoever, and it is not the point of my remark. However, is the objection raised at the time by our friends opposite still valid today? Should anyone who has been identified as fairly active with a government party, particularly, have his qualifications questioned for this position, or for that of any officer of Parliament, of which I think there are six others?

Mr. Radwanski: Well, senator, I was not among those who in any way questioned my predecessor's appointment, and I would not be among those who would ever argue that service to this country in whatever form, as long as it is honourable service, should be disqualification for continuing to make a contribution to the life of this country.

• (1650)

I certainly would not identify myself as a partisan in any ongoing, active sense, nor has that formed the bulk of my activities, not that I would apologize to you if it had. What I have tried to do throughout my career is make a difference and uphold the values that I believe in and, in some instances, fight for the issues that I thought were important to fight for. In several limited instances, that did mean becoming directly involved in the political process.

Those were quite limited political instances. One particular event where I did involve myself was the 1988 election campaign. I assisted Mr. Turner at campaign headquarters. I was invited to do that. Having been in journalism, it was the first time I was in a position to make a contribution in that way. I had a strong sense that there were important issues before the country in that election. I had a strong view regarding some of those issues and the direction in which the country was heading. Frankly, I also had a concern going into that election that a very important political party was in some danger of being wiped off the face of the political map and I did what I could to be helpful.

My other major involvement was helping Mr. Chrétien during his leadership campaign and providing some limited advice on an ongoing basis from Toronto for a year after that when he was opposition leader. That was based on my view that this was an individual for whom I had very high regard. I had known him since my days as a journalist. I believed that it would be beneficial to the country to have him as leader of the Liberal Party for a variety of reasons, not least of which was his views on the national unity issue, and I did what I could to help.

As a partisan, I have not been involved in the last several elections in any significant way. I knocked on doors for a few friends and I make no apology for that either.

I would almost feel that I had to apologize to you or to this chamber more if I were an individual who had not concerned himself with public issues or had not tried to make a contribution to this country over the years. If I had reached my current age without ever trying to contribute to the political process or to advance some of the causes in which I believed, then I think you could legitimately ask me how I would purport to care enough about anything to be taken seriously in this position. My short answer is that in general I do not believe political involvement should disqualify anyone from office. The question is, is the individual qualified and is political involvement the only reason for which a position is being tendered or provided? In my own particular case, I do not think my involvement either qualifies me or disqualifies me. I would rather be considered on the basis of my own qualifications and contributions to the life of this country.

Senator Lynch-Staunton: If we were able to hold up this nomination or appointment to November 20, would you be available until then to help another party which is trying to save itself?

Mr. Radwanski: Well, senator, I would still be Interim Privacy Commissioner so I would have to be as avowedly non-partisan until then as I am determined to be throughout my involvement.

Senator Lynch-Staunton: I am sure you will be and I have no objection. I am glad you gave us an outline of the political activity you were involved in, and I hope you will agree with me that the objections that were raised against Mr. Phillips were as unfair, invalid and uncalled for as they would be today if I raised them. That is the point I wanted to make.

I do not apologize for using you to make that point but it has been on my mind for some time. I have been reading the transcripts here of what was said about Mr. Phillips. The fact that the same people who objected to him extended his mandate twice speaks very highly for the standards we set.

I have another question. You did not get all-party support in the House of Commons. I have not read the transcripts of the debates there, but I understand that some members questioned your qualifications for this job. I do not know if you appeared before the House of Commons committee because, again, I did not have a chance to read the transcripts. You are here today. Can you give us your qualifications directly?

You say you were asked to take the job. It is not an easy one, particularly because many people do not believe privacy exists. Computers can be tampered with. We all know the challenges to privacy that exist. We know the weakness of the Privacy Act. Mr. Phillips wanted to strengthen it and had little success. We know the efforts of Senator Finestone, which you mentioned earlier, to put some teeth into the privacy statute. So far she has met with little success.

How do you qualify to reassure Canadians that, in the next few years, the issue of privacy will not only be looked after but that it will be even better protected? Hopefully, at your next appearance, we can continue this discussion.

Mr. Radwanski: To answer the first question, I did appear before a committee of the House of Commons for about an hour or 90 minutes and answered all their questions. Second, to my knowledge — and I stand to be corrected — no member of the other chamber questioned my qualifications for the position. Remarks were made about my so-called political affiliation. I have given you my comments today as indeed I made comments before the Commons committee. I provided them with the same information.

At the end of the day, it is for this chamber and for Parliament to determine whether or not I am in fact qualified. If you want my own view of my qualifications, let me begin by saying that I would not have accepted this position even on an interim basis, let alone be putting myself before you for a full-time appointment, if I did not feel fully qualified.

Why do I feel qualified? First, I have a degree in law, which is frankly more than the predecessors who performed very elegantly in this position have had. Second, I have had an extensive career in dealing with important public policy issues whether as a journalist, a consultant or an author. My whole public career, my whole life as an adult, has been devoted to seeking to understand, to analyze, to reach conclusions about and to comment on or provide advice on, if you will, important policy issues. Of course that is the crux of the work confronting a privacy commissioner.

I have senior management experience. I have headed three major policy-and-issue studies, as I mentioned, two for the Ontario government and the third being the Canada Post mandate review. I am skilled — if I may say so, an expert — at communicating. I am good at getting a message across to the public.

If one looks at all the required components of this job, I believe I meet them certainly as well as any of my predecessors. Whether I meet them to your satisfaction, only you can determine.

Senator Fairbairn: Thank you and welcome, Mr. Radwanski. I have a comment before my question. I would support your nomination as Privacy Commissioner based on the qualifications and the experience you have for exactly the same reasons that I supported the nomination of your predecessor, Mr. Phillips, with the qualifications that he had.

I want to just tag a question onto that asked by Senator Kennedy on the issue of health. As you may or may not know, the Senate is engaged at the moment in a special study on health care in Canada through our Social Affairs Committee. That study will be ongoing through the next year or so. Already the question of privacy of health information has come up. Indeed, you may very well become a witness before that committee.

Added to the health issue, though, is another issue with which I think we are only just coming to grips: the question of genetic information.

• (1700)

Mr. Radwanski: I am sorry, senator, I had some trouble hearing you with some of the cross-talk here.

Senator Fairbairn: I will repeat the last sentence. In addition to interest and concern about privacy of health information for individuals in our new scientific and technological society, the other issue coming to the fore is the question of genetic information. I believe there have been efforts in the United States to form regulations in this area. I am not aware how far we have gone in our studies.

Do you have particular views on the degree to which privacy should extend to the issue of genetic testing as it affects the individual?

Mr. Radwanski: This is a huge issue, senator. It is of great concern to me and something that I was fascinated with and concerned about even before this position loomed on the horizon for me. It raises some crucial questions about privacy and the rights of the individual.

As science advances, there can be great benefits from genetic testing in terms of being able to head off certain diseases, prolong life and so forth. How that information is handled is of enormous importance. One of the questions is whether insurers have the right to information not only about one's current health but about one's potential health, which is, in effect, what genetic information provides. If they do, where would that leave the individual and the right to keep information about his or her health private? Complex arguments could be made on that issue.

There are also employment issues. If I could find out that an employee is predisposed to a condition that has not yet occurred but that could leave the employee disabled or unreliable in terms of attendance, would I have the right to discriminate against that employee on that basis?

This is where it gets very interesting. There are questions not only about the right to protect one's genetic data but questions by some experts about the right not to know. If my DNA is sampled in the course of a medical procedure, do I have a right not to know that I am prone to some life-limiting condition? What about a third party? If a genetic-based ailment runs through my family, in the instance of a parent or sibling, do I have a right not to know, or does a medical practitioner or a third party have an obligation to inform me?

These are huge questions. I would not pretend that I or my office have the answers, but they are priority areas for examination. We are examining and researching them. My overall disposition on this, as on other matters, is that the privacy of the individual must be protected. For instance, confidentiality is critical in individuals feeling free to go to their physicians. If one had to fear that one's medical information could be spewed all over the place, one might not go to a practitioner if it were important to do so. Advantages to DNA testing and future genetic manipulation may be lost to individuals if they are afraid to obtain the information for fear of having their privacy, and possibly the future course of their life, their employability, insurability and so forth, violated.

These are complex issues, honourable senators. It is not enough to say we will just keep it all secret because who knows what that means? We are looking at these issues very carefully. Again, at the right time, I would welcome the opportunity to appear before a Senate committee and give, certainly not definitive answers — I doubt that anyone will have them — but the best advice of myself and my office.

Senator Fairbairn: We shall put your name on the list.

Senator Lynch-Staunton: I have a point of clarification, if Senator Fairbairn will allow me. On April 17, 1991, the vote for Mr. Phillips was 38 and against Mr. Phillips was 30. Senator Fairbairn is shown as voting against Mr. Phillips' nomination.

Senator Fairbairn: That would be inaccurate.

Senator Lynch-Staunton: Then the debates are inaccurate, so we will have to have a correction nine years later.

Senator Carney: Mr. Radwanski, I am not questioning your journalistic experiences or your policy background, but I would be interested in knowing how computer literate you are. Do you personally use the Internet?

Mr. Radwanski: I do, senator.

Senator Carney: Would you or do you use the Internet to order goods and services from retailers using your charge card?

Mr. Radwanski: I do not, senator.

Senator Carney: Why not?

Mr. Radwanski: I do not for several reasons, the most prominent being that I have not found it a particularly useful way to conduct transactions. I have used the Internet to book hotel reservations, for example, and I have used my charge card in those instances. If you are asking whether I am conscious of hazards in that regard, yes, I am.

Senator Carney: Privacy matters in the use of the Internet and information technology can be of practical concern to you, Mr. Radwanski. It is one thing to say that your office is studying it, but I want to know how technically skilled you are in assessing the problem of privacy on the Internet. Then I will have another question.

Mr. Radwanski: I do not know if I am technically skilled. I think I am sufficiently intellectually skilled. You might ask as well if I have a medical degree. No, I do not, nor do I have a degree with regard to genetics or a host of other issues that will arise. I certainly have sufficient knowledge to understand the nature of the issues and sufficient sense to employ people who have expert knowledge and expert understanding and who can explain them to me in ways that I will be able to understand.

Senator, you will appreciate that, as part of my journalistic training, if someone can explain something to me in a way that I can understand and I can then explain it in a simple enough way that another person who does not have knowledge of these issues can understand, I have made a contribution. I am not concerned about my ability to cope with the issues, if that is the question you are asking.

Senator Carney: When I attend conferences on these issues, I am told that there is a question of whether regulations, legislation or policies in this area are useful because technology and consumer response are changing so quickly that any time regulations or legislation are brought in, they are obsolete before they are even mandated. There is some argument for that. In addition, since so many of these technologies are international — and you would appreciate this as a lawyer — there are clear restrictions on a country's ability to act on these matters. I would be interested in your views.

You have mentioned that your office would be vigilant, but do you think there is any practical way to bring in legislation and regulations in a technological era that is changing so quickly? Consumers are reacting to these changes in an international system. Is your office in fact obsolete or ineffective in this area?

Mr. Radwanski: I would argue the contrary, senator. Precisely because regulation and legislation have their limitations in an area that is so quick-moving, an office like mine that operates not by regulation, not by legislation, but by public disclosure and by moral suasion and by information has an all the more critical role to play.

• (1710)

My office and the incumbent in my position are charged with upholding certain basic privacy principles with regard to the collection of information, the correlation of information, the storage of information and the dissemination of information. Those principles remain valid for the protection of privacy. Whatever the technology or whatever the innovation, they have to be applied on an ongoing basis. That is precisely what an office like mine is able to do, namely, look at a given situation and say that as a result of this technological invasion, a principle of good privacy protection is being violated. It does not take all the time of the legislative process to deal with that. We have the authority to report to this house or to make public disclosure any time an abuse of privacy comes to light that the public should know about. I would argue the opposite of your hypothesis. I would argue that, far from being obsolete, this office is essential.

Senator Carney: I changed the word to "ineffective."

Mr. Radwanski: I hope not. We have not had the mandate in the private sector until now, so I cannot tell you whether or not we are effective. I certainly hope — that is, if I am confirmed in this position — that when I report to you and this house a year from now, I will be able to give you some evidence that we are beginning to be effective. I see no inherent reason why this approach should not be effective.

Senator Carney: For the purpose of the debate, could you give us your definition of "privacy"? You must have an operating definition that would be useful to put on the record during this discussion.

Mr. Radwanski: To be truthful, I have not sat around trying to formulate the exact wording, but I will try to give you a working definition at this time. No one has asked me that question directly. I have a sense of what privacy is, but I have not tried to put it into words.

Senator Kinsella: The right to be left alone!

Mr. Radwanski: Certainly, that is a fair definition. I do not know if it is a complete definition, though. I am making this up as I go along, so I would not want to be held to it for years to come. Nevertheless, it will give you a sense of intellectual direction, perhaps.

I would say that privacy is the right to have information that pertains to oneself remain within one's own control, except and unless there is a demonstrable justification for doing otherwise; in most instances, except and unless one gives consent to other uses or other availability of that information.

Senator Carney: Are you telling us that there is no definition of "privacy" in your terms of reference?

Mr. Radwanski: I do not believe that the word "privacy" has ever been legally defined, but I stand to be corrected. There are many definitions, but most of them are either philosophical or theoretical. There are also dictionary definitions. You can shoot a hole in the definition I just gave you, but someone else could raise another definition and I could probably shoot five holes in it, too. It is a notional concept. It means different things to different people.

Senator Carney: It is not notional to me if the argument is that technology and practices are changing so quickly that regulation and legislation are not effective. If your answer to that question is that your office gives you the mandate to be free of regulation and free of legislation and to operate on the basis of certain principles, then I would argue that having a definition of "privacy" is vital. Otherwise, your office is unconstrained in its potential action and your own views as Privacy Commissioner are very important. You might wish to address that issue.

Mr. Radwanski: I certainly will take that under advisement, senator. Thank you.

[*Translation*]

Senator Beaudoin: In your presentation, you stated that the right to privacy is fundamental and I totally agree with you on that.

I realize that "the protection of privacy" per se is not in the Charter of Rights. However, section 7 of the Charter speaks of freedom and security of the person. I am also aware that there are no absolute rights. They may be limited if it can be proven that this is reasonable within a free and democratic society.

The debate we have this afternoon is basically about that. What is reasonable within a free and democratic society such as ours? How far can historians, journalists, writers in general, and the public servants go? Do you consider it really a fundamental right? I believe so, but I would like to hear what you have to say on this.

Mr. Radwanski: I would say so as well.

[*English*]

I am trying to show off that I have not forgotten all my French, but I will accept your invitation in that regard.

I do think it is a fundamental right on par with other rights enumerated in the Constitution, subject to the usual qualification of such limitations as are reasonable in a free and democratic society. Yes, I do think it is a fundamental right. I think it touches on the freedom of individuals right across the span of their lives. For instance, if you hesitate to go to a physician when you are concerned about some symptoms because you are worried about the way that information might be used, then you are not as free as you should be. If you are concerned about making a given purchase because some form of data matching could conceivably reach a wrong conclusion and attribute to you flaws or characteristics that you do not have, again, you are not as free as you should be. You can get into potentially Orwellian situations.

I have heard examples concerning data matching and identity cards that are absolutely frightening. I will give you a hypothetical example. Let us say that you have an elderly shut-in relative who likes to have a certain amount to drink and that you, as a good deed, begin stopping every day at the liquor store to pick up a bottle of her favourite libation. With certain data matching and the way some of that stuff can and in some cases is being accessed, a potential employer or someone doing a character check could end up concluding that you have a serious drinking problem. Without you ever knowing about it, your future could be circumscribed. Before making a simple transaction, if you have to stop and think about whether the information could somehow be misconstrued or used against you, again you are not free. I could give 50 examples of the ways in which not simply convenience but also fundamental freedom to live our lives unconstrained except by the dictates of a civilized society is compromised and privacy is violated. My answer to your question is: Yes, I do regard it as a fundamental human right.

Senator Beaudoin: There is also the question of the purpose.

[*Translation*]

If medical or other information is provided, this is done for a specific purpose. Is this not where it needs to be stated that such information is provided for a specific purpose and that it cannot be disclosed for any and all purposes?

• (1720)

Senator De Bané's question is more difficult. Historians who write the biography of famous people, outstanding individuals well beyond the average, have access to the archives. In political terms, I do not think that represents much of a problem. We will always write about the lives of famous people. However, how far can we go into their personal lives if there is no connection between their personal remarks and their public lives in the service of their country? Is this not the very test of non-disclosure of information?

[*English*]

Mr. Radwanski: Again, senator, I agree with everything you are saying, so we cannot have much of a debate. It is the difficult issues that are always the test of privacy, and there is a balancing act in every instance. It is a matter of what is information relevant to an historical understanding and what is information of a private nature and should remain private.

For the most part, I would draw an analogy to day-to-day media reporting. I do not want to get drawn too far into this subject or we will get into a discussion that would not serve me well and would have me defending some media that I would not always want to defend.

We have done a pretty good job in this country — certainly the media has — of separating what is private and what is public. For instance, in this country, unlike some others, we do not have a steady diet of reading about the extramarital affairs of political figures because that is not the Canadian way. Our Canadian values militate against that kind of invasion of privacy. Broadly speaking, that has been the case with historical research as well. Can difficult instances arise? Certainly.

Again, there is a distinction perhaps between archival information, which is the information that public figures provide to the archives about their tenure and so forth, and private information, which is their credit card receipts and so on, which do not normally go into the archives. Yes, there is always a balance to be drawn between what is in the private interest and what is in the public interest, and you are putting your finger on one of the issues in which that is always a difficult choice.

[*Translation*]

Senator Prud'homme: My first words will be to sincerely thank Mr. Bruce Phillips for his remarkable work.

[*English*]

I supported him. I know that our colleague Senator Lynch-Staunton keeps good records, so Senator Lynch-Staunton can attest to that. If you look at the records you will find that I always supported Mr. Phillips. My correspondence with Bruce Phillips is a good testament to that fact. I found him to be highly competent, and I feel that it would be unfair for me to begin my questioning without saying that he has been a fair person, as I believe a privacy commissioner should be.

That being said, I am not concerned at all that Mr. George Radwanski, who is the government nomination, may have a Liberal past. I feel that this should not enter into our deliberations. If we are to exclude all those who devote some of their time to defending democracy, we may lose a great talent. His political background does interest me, but it does not trouble me at all.

I have only one question for the moment, but I will reflect on what Mr. Radwanski has said today. During the full debate, I will emphasize the fact that the position of Privacy Commissioner is a sensitive one. I wish to be assured that the person who becomes the next Privacy Commissioner will be fair to all Canadians. That is essential. That is what I must agonize over before I make my decision. When I say "all Canadians" I include every Canadian.

[*Translation*]

I include French Canadian and Quebec nationalists, the members of the Parti Québécois or those of the Bloc Québécois. I know your views are very clear on the subject.

[*English*]

As a matter of fact, your views on this subject are well known to some of my peers who attended McGill with you. I was surprised. I am interested in your views, then, and I believe you have retained them throughout your life. You have a very strong view about nationalist French Canadians. That is your right, but my objection is that you will be our next Privacy Commissioner.

There is another concern of which I am sure you are well aware. I thank you for phoning me last week. The reason I did not return the call is because I did not want to have a pre-emptive strike. I wanted to come here and have a discussion with you without our having had a discussion before today. I was taught by my father to be courteous and that if someone phones me I should return the call. However, I purposely did not return the call.

Mr. Radwanski has written extensively, but there is one article that is of great concern to me because I was directly referred to by him when he was editor-in-chief of *The Toronto Star*. There is no doubt that I was torn to pieces in that article, and that was his right, except I paid the price because I had to be protected. That was in 1983, when I showed up in Algeria for the National Palestine Council for the first time ever. Strangely, I was with a Conservative Party member, but the name of that Conservative was never mentioned — only mine.

Tomorrow I will read Mr. Radwanski's editorial for the record because he once told me he wrote it personally. I thought it was one of his juniors. However, he did great damage to me in 1983. Mr. Radwanski held very strong views then.

Coincidentally, I discussed that matter with Mr. Trudeau, who I think Mr. Radwanski knew very well. Since 1970, Mr. Trudeau always encouraged me in my views concerning the creation of a State of Palestine. As you know, we have more and more of these people in Canada.

As Privacy Commissioner, I want to be assured that Mr. Radwanski will be fair to all Canadians despite any strong views he may possess. I cannot deny a man of his competence and talent, and I do bow to that. I read almost everything available to come to these conclusions today. Mr. Radwanski is a man of great talent and competence. I do not deny that. The only difficulty I have, and I must say that it is a great difficulty, is the question of fairness to all Canadians regardless of their views on world affairs — views that he combatted vigorously when he was editor-in-chief of *The Toronto Star*.

I need to listen to all that Mr. Radwanski has to say today in order to find that out. Thus far I am not shocked by what has been said or exchanged because I know how things work. I am sure that by the end of this week you will no longer be the Interim Privacy Commissioner; most likely, unless something unbelievable happens, you will be the Privacy Commissioner.

• (1730)

If you are to be the commissioner, I want to have the confidence that I can trust you — but who cares about me? It is not I that I am concerned about. I am an old man now. I succeeded and I survived. However, I am concerned that the millions of other people who may not share your views on certain issues have confidence that when they go to see the Privacy Commissioner they can feel that they are in the right place and in the right hands.

Mr. Radwanski: You raise several points, senator, and I will try to address some of them. First, just for the record and lest it be misconstrued, I did telephone you. The reason was that I was told you had some concerns which I was given to understand you might welcome an opportunity to chat about. Thus I gave you that opportunity.

Broadly speaking, you raised my views on Quebec. You mentioned nationalism. I have views on nationalism, on federalism and on most anything you want to mention. The short answer to what you are implying is that I am a Canadian. I am a federalist, and I make no apology for that to anyone.

Senator Prud'homme: Same here.

Mr. Radwanski: That being said, I would not let my views on that issue or any other impinge on doing a given job that I am mandated to do. If people come before the Privacy Commissioner with regard to an issue in which their privacy has been violated, their ethnic origin, their religion, their race and their political beliefs do not matter. The only issue that is before the Privacy Commissioner is whether or not their privacy has been respected as it deserves to be under the laws of Canada.

I can tell you in all humility, senator, that no one to my knowledge in 30-odd years of career on one issue or another has accused me of being unfair or discriminatory to them on any matter. I pride myself on my integrity and my fairness. If that is the assurance you are looking for, senator, you have it.

With regard to the editorial to which you refer, I am afraid I will have to beg your forgiveness, because I simply do not remember it.

Senator Prud'homme: I can give you a copy.

Mr. Radwanski: I will be glad to review it, just to satisfy my own curiosity.

That being said, on general principle, I will stand by whatever I said at the time and tell you that, in any event, based on the information that was available to me at the time, and on my best judgment and my discussions with the editorial board of the paper and other people, whatever I said was what I believed to be right at the time. I can only tell you that whatever I said I said in full integrity with the discharge of my duties at that time. That is all I can undertake with regard to my current functions — I will carry them out honourably and honestly. Will I be right all the time? Not necessarily. Will I be fair? You have my word on it.

Senator Prud'homme: I just want to make a concluding remark.

[*Translation*]

The Chairman: We are now into the second round of questioning.

[*English*]

Senator Prud'homme: Keep the clock for everyone, then.

Senator Comeau: I would like to come back to Senator Milne's question regarding the 1908 census. You mentioned the fact that you supported the compromise as proposed by your predecessor. I noted that Senator Milne seemed quite happy with that compromise. I am not familiar with the compromise. Would you please explain it to us? It has to do with Bill S-15.

Mr. Radwanski: Without getting unduly technical, because it is a fairly complicated structure, the essential nature of the compromise is that the census data would be made available to qualified genealogists, or bona fide historians, for purposes that have been peer reviewed as being legitimate research. It would be made available in ways that involve basically requiring them to maintain the confidentiality of the information beyond the specific task for which they have been permitted to access it. It is more complex than that. However, in broad outlines, it is permitting the release only for very specific and constrained purposes to individuals who also in effect have to be sworn to secrecy.

Senator Comeau: Senator Murray raises a good question: Will the proposed legislation be amended to reflect that? I would like you to answer that question.

In the process, my understanding was that back in 1908 these individuals were promised by the government of the day that this information would not be divulged to anyone in any way, shape or form. It was a promise. That is my understanding. You might wish to correct me if I am wrong, but my understanding is that it was a promise by the government that this information would be kept confidential. Now, 92 years later, we are saying "Oh, well, they are dead now, we can do whatever we want." If we can now break a 92-year old promise as a government or as parliamentarians, will it soon be 5 years or 10 years? Breaking a promise is breaking a promise. I think it should stand the test of time. I think you are suggesting that we will now live with it because it was so long ago and that the information will be handed only to a few individuals of high integrity. I do not buy that at all.

Mr. Radwanski: Senator, you raise a very good point. I think I said at the outset of my response to Senator Milne on that question that for me the fundamental issue is: Is the government keeping its word? I think that is fundamental.

That being said, we live in an imperfect world in which there are competing interests. My predecessor, having examined this issue, was originally dead set along the same lines as you and I are saying. However, he came to regard a compromise position as being far from optimal, which he made clear all the way through. However, as the word implies, it was a reasonable compromise. Certainly, given the possibility that, absent a compromise, the original position of simply releasing the stuff outright might have prevailed, a compromise in this instance might be better than risking the alternative. Am I in love with that solution? I am not — and I repeat — predominantly because of the issue of the government's having given its word.

All that being said, if it is circumscribed in the way it is described only for limited purposes and only to very limited individuals sworn to secrecy outside those narrow purposes, it is certainly better than a wide-scale release. Compared with the original contemplation, I would say it is a qualified victory for the principle of privacy. However, it is a compromise. I do not know what more I can tell you.

Senator Comeau: It is like being one-quarter pregnant. Either you keep the government's promise or you break it. In this case, we are breaking it.

Senator Milne: The government did not make a promise.

• (1740)

Senator Comeau: We will get into a debate on that later.

If my government were to come to me and say that it wanted to know something private about me which would be used along with other information but would be kept confidential, I would like to be able to provide that information in order to assist in whatever study was being done. However, if I suspected that the government would start down the slippery slope of making that information public for various reasons, I would not divulge that information. I would like to be able to give requested information with the confidence that my government would keep it private.

Mr. Radwanski: Senator, I said from the outset that I agree with your view on the principle. The whole situation is imperfect. There was a real possibility that a different course might have been taken — that is, releasing it outright in response to a very strong lobby from historians, genealogists, and so forth.

Senator Murray: The compromise will require legislation, will it not?

Mr. Radwanski: I agree with you in principle. Sometimes one must put a little water in one's wine. I would certainly take the view that a commitment made by the government should be kept in all circumstances.

Senator Comeau: I will stick to my point. If you are prepared to compromise your principles on that, so be it, but I would not support any legislation that would do such a thing.

Mr. Radwanski: I do not want to be drawn into a prolonged debate on this matter, senator, but I would not characterize it as compromising my principles. We could debate whether that is a fair way to put it, but I will simply put on the record that I do not compromise my principles. I do believe that sometimes one must look at how privacy can be most efficaciously protected given all the realities of a situation and that a privacy commissioner who detaches himself from the reality of what is going on around him would not be doing a service to the cause of privacy.

Senator Comeau: I was harsh in suggesting that you are compromising your principles. I withdraw that.

Mr. Radwanski: Thank you, senator.

Senator Tkachuk: Congratulations on your appointment as Interim Privacy Commissioner. I want to follow up on what Senator Carney was asking earlier about your views on privacy. With the concentration of power in the executive branch of government, about which the media, political people, political scientists and legal scholars are now talking, and with the lessening of the role of Parliament, do you think the Privacy Act should be extended to oversee the power of the PMO and the executive branch?

Mr. Radwanski: That is an interesting question. I would have to review the question further and let you know, but without studying it I would have thought that, because the federal government is covered by the Privacy Act, it would be subject to it. I would have thought that all parts of the Government of Canada are subject to the Privacy Act, including the Prime Minister's Office. I do not believe they could violate the privacy of individuals with impunity. Therefore, I think the answer to your question is that it should be covered, and I believe it is.

Senator Tkachuk: Including cabinet secrecy?

Mr. Radwanski: No. Cabinet secrecy is cabinet secrecy, but that is not the same as the PMO. I do not know where you are going with that particular inquiry.

Senator Tkachuk: It does not matter where I am going. I am just asking the question.

Mr. Radwanski: Do I think that the Privacy Act can override cabinet secrecy? I would need legal opinion on that, because I suspect that cabinet secrecy is a constitutional convention that no regular law can override. If you want a legal opinion on that, I can certainly have my office look into it further and provide you with it.

Senator Tkachuk: I believe that what a person thinks about privacy is important and, considering the way the act is set, it does not necessarily include individual Canadians. Therefore, I want to get into a bit of a philosophical discussion on how much privacy a person has. I was a little confused by your answer to Senator Carney when she asked for a definition, and I want to follow up on that a little bit.

What privacy does a person have in his own home?

Mr. Radwanski: Full privacy, I suppose, subject to intrusion by warrant or in the case of emergencies. If your house is on fire, I suppose the fire department can violate your privacy by breaking in to ensure you do not burn to death. Privacy is always balanced, but, normally speaking, absent a compelling social reason, you are entitled to full privacy.

Senator Tkachuk: Do newspapers have the right to photograph people in their own homes and publish the picture in the paper?

Mr. Radwanski: I would say not. I would say they have that right in public, other than in Quebec where there is legislation prohibiting publication of pictures of people taken in public without their consent, but certainly not in their own home. I would say it is not illegal, but it would certainly be actionable.

Senator Tkachuk: Including public people, like the premier of British Columbia?

Mr. Radwanski: I would say it is not a violation of law, but it could be actionable on grounds of harassment or various other things. I am not here to give you a legal opinion on that, but I would think it could be actionable by the individual who is thus treated.

Senator Tkachuk: There has been much action by governments to photograph people as they are driving and on the streets. Is it an intrusion of privacy when people are photographed in public places without their knowledge for no reason whatsoever?

When you walk into a convenience store there is a sign alerting you that there is a surveillance camera, but do you agree with the use of surveillance cameras without informing people?

Mr. Radwanski: That is a very interesting question. I have read recently that someone calculated that the average person is photographed perhaps 200 times a day — I could be wrong about the figure but it was of a strikingly huge order — in the course of going about his or her business. Is that kind of violation of privacy a potential concern? Yes, it certainly is, but again it depends on how it is used and what is done with it.

For instance, if you are filmed on a store security camera on a continuous loop that is automatically taped over every five or six hours, as some of those cameras do, it may be unpleasant but I doubt that your privacy is being violated in a particularly serious, meaningful way. If you were filmed by government cameras for purposes of traffic control, photo radar, or whatever, and the pictures were kept and cross-referenced to your identity and data-matched in some way, that would be a gross violation of privacy.

There is a whole continuum of issues around surveillance. As I said in my opening remarks, the protection of privacy is becoming, if anything, more important, more sensitive, and more difficult as we go on. In the past, it was protected in some ways largely by default because the number of means of violating it were relatively limited. The first new developments I mentioned were new means of surveillance. I went on to speak also about the new digital technologies, sciences, genetics and so forth that are more and more threats to privacy.

• (1750)

Certainly, the whole issue of surveillance is very important. One cannot make a blanket statement that there should be no surveillance cameras anywhere, because they do serve some important purposes, but the issue is how the information is used, how it is stored, if in fact it is stored, and what extraneous purposes it could be put to. These are all very important questions from a privacy point of view.

Senator Watt: I would like to put two questions. One is supplementary to that of Senator Tkachuk in regard to violating individual privacy. I am going to try to connect this to a piece of legislation that already exists today so that you can understand exactly what I am driving at.

You answered Senator Tkachuk by stating the fact that the law enforcement officer would have to have a warrant to be able to enter into a household or violate individual privacy or group rights. Do we not already have a piece of law, Bill C-68, that already authorizes law enforcement officers to go in without holding a warrant? How do you deal with that?

Mr. Radwanski: To be honest with you, I am not familiar with the piece of legislation to which you refer, senator. What is it in relation to?

Senator Watt: Gun control.

[Senator Tkachuk]

Mr. Radwanski: I am not familiar with the legislation in question. I am familiar with the gun control legislation, but I have not looked at that particular provision. My office has been doing an extensive review of the administration of gun registration and so forth, and the work has not been fully completed.

With regard to the instance you are describing, my general view on these matters, very broadly stated, is that the authorities should not intrude on individuals, whether by entering their premises or through various forms of surveillance, whether it be electronic eavesdropping, mail interception or any of those other methods, without authorization from a court, with the notable exceptions, obviously, of crimes in progress and protecting public safety in a very urgent situation.

Generally speaking, warrantless intrusion is something that should be discouraged to the maximum. I do not want to argue that there are not special instances where a case could be made for a greater public good that requires it, but as a general principle I am against warrantless intrusion, subject to there being a demonstration that there are circumstances that justify it.

Senator Watt: My other question might be a little complicated in terms of answering and capturing what it really all means when it comes down to individual privacy requirements. How do you deal with differences on cultural issues? For instance, there may be a certain sensitivity related to cultural matters that are only important to a particular group, but that does not necessarily mean that that aspect has to be shared with anyone else. How do you deal with that?

Mr. Radwanski: As you said, it is quite a general question, senator. I suppose I could only honestly answer it by saying that you have to deal with it on a case-by-case basis, depending on the nature of the issue at a given time. I think the principles of privacy are fairly constant. Can there be issues of particular sensitivity to particular groups? Of course there can. Can there be instances of particular sensitivity to an individual which might not exist otherwise? A particular type of intrusion, which might otherwise be routine, might be extraordinarily harmful for a particular individual. It is legitimate, even in that case, to say, "Well, given that, privacy needs to be respected even more than usual."

I think the answer is in how you deal with it: on a case-by-case basis and with as much sensitivity as possible.

Senator Watt: Does that apply to a group of people such as I am describing, let us say the Inuit or the Indians or the Métis? This subject matter, the way you respond, could flow back and forth between the Supreme Court of Canada and the Parliament. It is something that needs to be worked on and developed.

Mr. Radwanski: To be able to go further, you would have to give me a specific example.

Senator Watt: There are so many that I cannot begin to start identifying one now.

Mr. Radwanski: I hear you.

Senator Watt: Time would not allow me to do that.

Mr. Radwanski: I hear you. I have to stand by my answer, though, that one can only address these issues one at a time. Certainly the Privacy Commissioner is mandated to address these issues on a case-by-case basis. You really have to look at the givens and the circumstances of a particular case, determine what privacy right is being claimed, to what extent action is taking place that appears to violate that right, and then whether in fact there is a violation and/or whether a course of action can be identified and recommended that would either remove the problem or strike the best possible balance between whatever legitimate social purpose is at play and the rights of the individual. There is no sweeping declaration that I could give you, I am afraid, that would cover all those contingencies.

Senator Watt: I am very happy with your response.

Senator Forrestall: I do not want to ask about what you will do, because I know of your integrity and the work you have undertaken in this country over many years.

I want to ask you how you will go about what must be the day-to-day plodding along. Recently, we have very obviously seen a new policy adopted by the present government using the principle of lowest cost as opposed to the principle, which I had always enjoyed and thought fairly useful, of best value for the dollar invested. I want to ask you whether or not you have a view with respect to your own office, as you embark upon new adventures and a very difficult path, laneway and roadway. How do you remain consistent? Indeed, can you tell us that you will be consistent? Could you identify whether your general attitude would be to give the best value for the tax dollar being extended to you, or would you opt for this new government policy of lowest cost?

Mr. Radwanski: Senator, I am not familiar with the new policy to which you refer. All I can tell you is that my commitment is, and would be, to doing the job that needs to be done. If we do not have sufficient resources to do it properly, and I think at the moment we have been given additional resources so we should be able to do it well, but if we do not have sufficient resources, we would come back to you and to the House of Commons. I would come back and say, "Hey, to do the job we have to do, we need more resources."

If your question is whether I intend in any way to compromise on my responsibility to carry out the duties of this office, the answer is no. Obviously, one has to do it in a cost-conscious fashion and not in an extravagant or wasteful way. Certainly, the office of the Privacy Commissioner, prior to my coming, has a long history of being able to do with very scarce resources, so frugality is well ingrained. I certainly intend to do the job that needs to be done, and it is not my disposition to compromise on quality. It never has been.

The Chairman: Honourable senators, I must advise you that it is six o'clock. Is it your pleasure that I do not see the clock and that we continue? I still have two more senators on the first round, and others may want to speak. Do you agree that I not see the clock?

Hon. Senators: Agreed.

[*Translation*]

• (1800)

Senator Prud'homme: Madam Chairman, could we have an indication of the number of senators who wish to speak? In return, we could reply yes or no to your question.

Personally, I am prepared to not continue the discussion. I am also prepared to pass my turn the second time around, but before deciding I would like to know how many senators want to ask questions the second time around.

The Chairman: Honourable senators, how many of you would like to have an opportunity to ask questions the second time around? I see that Senator Kinsella wishes to be heard. For the time being, I am giving the floor to Senator St. Germain.

[*English*]

Senator St. Germain: Thank you, Mr. Radwanski, for appearing before us. I guess it is a command performance.

Mr. Radwanski: It is a pleasure to be here.

Senator St. Germain: It is nice that we have the opportunity to scrutinize these types of positions, and hopefully Parliament will go through a reform process so that we can scrutinize a lot more of these important positions. You described yourself as educated, a lawyer.

Mr. Radwanski: I have a law degree. I have never practised law.

Senator St. Germain: You described yourself as thoughtful and intellectual, and that you have a certain amount of technological expertise that will hold you well in this position.

In light of what I see happening with technology in this country, I should like your views as to whether your position will become redundant. When I look at Bill C-68, for instance, as Senator Watt points out, the RCMP can enter and search any residence if they believe something is wrong. When someone applies for a firearm possession permit, the government literally inquires into your marriage, your common-law relationships, and anything and everything that relates to the privacy of Canadians.

Mr. Radwanski, you are sitting here today and have taken on this job. The issue of firearm permits is big in the country right now with our aboriginal peoples because it goes to the very foundation of the tools that they use for maintaining a livelihood; yet nobody says anything. All you intellectuals and all you bright people are from the epicentre of the world, as Torontonians and Montrealers describe themselves; the rest of us are just a bunch of bumpkins living out in the hinterland.

I ask you to look at the questions that are on those application forms. I filled one out. My wife, who has, bless her soul, maintained the high road in life by not getting involved in the political arena, was shocked. She could not believe that she had to sign this document. You talk about an infringement of privacy and yet you say, sir, that, at this stage of accepting this job, you are not aware of it.

In addition, this information can be tied into so many other things. As a former police officer in this country, I know what information does. Information is the lifeblood of investigations. Believe me, anything and everything that is held is maintained in police records, and the police will use anything — and often they have to — to solve crimes. Do you not think that your job is redundant because what is happening is that there is really no privacy in this country?

Mr. Radwanski: Senator, I must say parenthetically that you put so many words in my mouth that I did not say that I would take up far too much time in this chamber if I tried to clarify each one of them.

In one area pertinent to your question, I certainly did not say I was unaware of the firearms legislation — gun control legislation. I said I was not familiar in detail with the particular provision to which that senator had referred.

On the broad question of whether privacy is dead in this country, my response is: not by a long shot, senator. As I said, my distinguished predecessor very recently was successful in bringing about the dismantling of a database which would have seriously intruded on privacy.

Is there a multiplicity of challenges to privacy? Yes, indeed, and that is why this office is not redundant, but vital. Am I conscious of the many challenges that it must confront? Yes, I am, and I say that not with Toronto arrogance or the "je ne sais quoi" of a former Montrealer, but simply as incumbent in this position, subject to your further consideration. I say that it is fundamental to the protection of privacy in this country that we have a Privacy Commissioner who is active in protecting privacy.

Are there incursions on it? Of course. Are some of them justified? Perhaps, some are for sure; others are questionable; some are unacceptable. It is vital that there be ongoing focus on these issues and an ongoing effort to strike the right balance. That is why this position exists. Certainly to say that privacy is dead in this country would be a counsel of despair.

[*Translation*]

Senator Prud'homme: I rise on a point of order. At the beginning of the sitting, we authorized, exceptionally, the broadcasting of our debates. I agreed, but when we authorize something, it is from gavel to gavel. Now, I am being told that they have run out of film. I will not ask for the adjournment.

[Senator St. Germain]

[*English*]

Permission was granted, yes, but there is no more television. I do not mind for myself, but I will tell honourable senators one thing: If we want complete pictures, we have to be completely televised, otherwise we will not give permission next time. Senator Corbin is usually very attentive to that.

Some Hon. Senators: Hear, hear!

Senator Prud'homme: It is not your fault.

Senator St. Germain: On the same subject, then, is there any way that we can prevent this from happening again? The situation is unfair. It is as Senator Prud'homme said. It is a question of giving consent and then all of a sudden, when we decide we do not want to hear certain witnesses, we cut the TV off. I am not saying this is the case here, but what guarantees can we have, if we do give consent, that there will be consistency from gavel to gavel, as he points out?

The Chairman: I thank both senators for raising this issue. I hope that it does not happen again.

Were you finished, Senator St. Germain?

Senator St. Germain: Correct me if I am wrong, but I understood you to say, Mr. Radwanski, in reference to one of the other questions, that sometimes you have to put a little water in our wine. I find that really scary from someone in your position, from the position that you hope to assume here. I do not think there should be any water in any wine. It should be as pure as pure can be. As much as we are committed to privacy, water and wine certainly reduce the effectiveness, I think, of your role.

If you wish to comment, that is fine. I appreciate the fact that you have allowed yourself to be subjected to this scrutiny.

Mr. Radwanski: It is useful to take this opportunity to thank honourable senators for taking the time to meet.

The Chairman: I still have one more senator on my list.

Mr. Radwanski: I am not saying goodbye; I am just referring to the senator's remark about me subjecting myself to this scrutiny. I am making the point that I appreciate very much the opportunity to do so rather than viewing it as an imposition.

• (1810)

On the senator's question about water and wine, I appreciate a good glass of wine as much as the next fellow, but I certainly prefer it without water. I am of the belief that, in these positions, one must remain in close touch with reality. One must set out to be effective. Sometimes that means compromise.

The private-sector legislation passed by this chamber specifies that among the options open to the Privacy Commissioner are conciliation and mediation. That means this chamber itself has endorsed the principle that, in some instances, for the protection of privacy, a measure of compromise is valid and appropriate.

I am certainly not the least bit shy in standing up for what I believe as a matter of principle. Those who know me can attest to that, but there are also instances where one can do more good or be more effective by not being an absolutist but by being somewhat practical in trying to reconcile competing needs and visions. Case-by-case judgment decides where to dig in and say something is wrong and where to admit that the competing interests are legitimate and that a balance must be struck.

As a general statement, I will always err on the side of privacy because that is my mandate, but I will not deny that in some instances it is better to be realistic than to be absolutist. I do not want to be King Canute, telling the sea to roll back. In some instances, we will build a dike or a bridge or whatever it takes to achieve the desired results.

Senator Lawson: I have an observation before we start on Senator Prud'homme's concern about the film. I think there is a reasonable explanation as to why they ran out of film. All the surplus film has been seized by the various political parties to make television commercials for the upcoming election.

I do not know whether I am more nervous or less nervous, Commissioner, about your saying that you have a law degree but that you do not practise. I had to retain a lawyer the other week. He was recommended by my friend Senator St. Germain, who told me ahead of time that he was high-priced. I asked the lawyer up front what he would charge, and he answered that he charged $30 for three questions. I said, "That is a pretty high rate, is it not?" and he answered, "Yes, it is. What is your third question?" So if I appear a little nervous, that is why.

I have a question about the longitudinal labour force file. One should get a medal just for being able to pronounce that. I am one of those who requested their personal information. I was very disturbed by mine. I would not like my file to be made public, not because of all my evil deeds but because my life has been so boringly dull, according to them, for the last number of years.

When I read it more carefully, I was disturbed by several things. For the first third of the file, the vital statistics had me six years older than my real age. In the next third of the file, I was two years older. In the last third, my age was correct.

Here are two questions: How many ordinary Canadians have received benefits early — be it Old Age Security or other benefits — to which they were not entitled, because incorrect information was in their file? More important, how many ordinary Canadians have been denied benefits to which they were otherwise entitled because of incorrect information?

From a personal point of view, being made six years older, I wondered if I would be sitting here one day, thinking I had a number of years left on my term, only to have the Speaker or the Black Rod summon the Senate police to take me out of this chamber because my term had expired four or five years before.

Senator DeWare: A stranger in the house.

Senator Lawson: It may seem slightly amusing, but it is not. Such an error could be serious for many Canadians. It could cause irreparable harm and financial damage to people who are caught in this.

I know there is talk about scrapping the file, but what assistance could be put in place to protect ordinary Canadians from suffering as a result of the incompetence of the various agencies of government who gave this incorrect information?

Mr. Radwanski: Senator, that is one reason it is very important, in our privacy legislation, to protect the right of an individual to access and to verify any file or information recorded about his or her private life.

You said you were able to access your file and that is precisely because privacy law mandates that access. The government cannot withhold that information from you. The very fact that such information can be accessed means it can thereby be corrected.

Communication and public education are truly important in the Privacy Commissioner's role. People need to be aware that a great deal of important personal information is kept in files both in the public sector and in the private sector and that they owe it to themselves to take appropriate steps from time to time to access that information and review it. Inaccurate information of any kind can be potentially harmful to individuals who do not know it exists.

Our privacy legislation should uphold the right of people to know what information is being kept about them, to review it and also to demand changes to anything that is incorrect.

Senator Lawson: I see a flaw in that. We only came to know that such a file existed within the past year. For the many years before that, we were not aware that this type of information was being gathered. What steps can we take in the face of not knowing?

Mr. Radwanski: That is a very good question.

Senator Lawson: I thought so.

Mr. Radwanski: In the face of not knowing, there is not a heck of a lot one can do. This compiled joint file came to light. Most people do not think about such matters, and it is part of our job to ensure that they do think about privacy and personal information. Most people, if they did stop to think about it, would be aware that somewhere in government there must be some information about them regarding social security, revenue and the other branches of government. Citizens have a right to contact all those branches of government and find out what information is being held on them.

Not everyone will do that, unfortunately, but part of our mandate is to ensure that people are aware that it can be important to their well-being to find out what information is being held on them and to review its accuracy.

In the face of not knowing that a particular file has been compiled, granted, that is a problem. That is why we have investigators at the Privacy Commission. That is why we have an audit function. That is why we have the capacity to bring to light the existence of files or sources of information or compilations of information that people might otherwise legitimately have no way of knowing about.

Senator Lawson: Thank you, Mr. Radwanski. I wish you success in your new role.

The Chairman: Honourable senators, this completes the first round of questions. I am ready now to accept the questions of senators on the second round.

Senator Kinsella: I have just one short question. Are you aware of Canada's international human rights obligations for respecting the right to privacy? In particular, are you aware of the provisions of article 17 of the International Covenant on Civil and Political Rights, which is a treaty obligation to protect privacy that Canada has assumed under international treaty law?

Mr. Radwanski: I am, broadly speaking, aware of them. I am also aware of the OECD guidelines to which we subscribed and also the European Community's concerns about privacy.

Senator Kinsella: During our discussions this afternoon, some honourable senators have alluded to, and you made reference to it, the fact that in today's Internet world, the invasion of privacy of Canadians may be perpetrated in extraterritorial settings.

• (1820)

Therefore, would you agree that we as a country need to be very proactive in improving the global infrastructure for protecting privacy of rights on the global level, and would you, if you are confirmed as Privacy Commissioner, be a proponent of active Canadian participation in securing, promoting and protecting privacy rights under international instruments and through international collaboration?

Mr. Radwanski: The broad answer to your question is yes, senator, subject to the caveat that I would always want to be concerned that in doing this in an international arena, we are achieving the highest standard, not agreeing to lower our own protection measures to a lower international common denominator, which is always a danger. I would not want our sovereignty to be diminished.

This was one of the issues under discussion a couple of weeks ago at a meeting in Europe of privacy commissioners and data protection commissioners from around the world. In fact, that loose grouping is now in the process of trying to become an organization that, for instance, will take positions on privacy and data protection issues of joint concern, of mutual concern around the world, and will try to act in concert to press for the highest standards. The broad answer to your question is yes, indeed.

The Chairman: Mr. Radwanski, I thank you sincerely for your time and your availability. I think you can see the importance that the senators attach to the Office of the Privacy Commissioner, and I want to wish you good luck.

Hon. Senators: Hear, hear!

Mr. Radwanski: I should like to take a moment to sincerely thank honourable senators and members of this chamber, not only for their questions today but for their history of being good friends of privacy. I am well aware of the close relationship that my predecessor developed with this chamber, and I certainly regard the Senate as a good friend of privacy. If it is my honour and good fortune to be confirmed in this position, I would certainly want to have a very close working relationship with the Senate. I would welcome the opportunity to be of help in any way, both with this chamber and with your committees and your studies, and I would very much want the most open and collaborative relationship possible. I think you have demonstrated your commitment as a chamber to these issues, and collaboration would be most valuable. Thank you once again. This has been a great pleasure.

Hon. Senators: Hear, hear!

Senator Hays: Honourable senators, I join the Chair in thanking Mr. Radwanski and extending him best wishes.

I move at this time, seconded by Senator Louis Robichaud, that the Committee of the Whole rise and that the Chair report to the Senate that we have concluded our deliberations.

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

Hon. Senators: Agreed.

The sitting of the Senate was resumed.

[*Translation*]

REPORT OF COMMITTEE OF THE WHOLE—DEBATE ADJOURNED

Hon. Rose-Marie Losier-Cool: Honourable senators, in order to welcome George Radwanski, with respect to his appointment as Privacy Commissioner, the Committee of the Whole has asked me to report that the committee has completed its proceedings.

[*English*]

MOTION TO APPROVE APPOINTMENT OF MR. GEORGE RADWANSKI

On the Order:

> Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Graham, P.C.:
>
> That, in accordance with Section 53 of the Privacy Act, Chapter P-21 of the Revised Statutes of Canada, 1985, the Senate approve the appointment of George Radwanski as Privacy Commissioner.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I move adjournment of the debate on the motion standing in my name with respect to the confirmation of Mr. Radwanski as Privacy Commissioner.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, given that the honourable Deputy Leader of the Government has spoken to that motion, I would be happy to move the adjournment.

Senator Hays: I thank the honourable senator for his helpfulness, as usual.

On motion of Senator Kinsella, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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