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OFFICIAL REPORT
(HANSARD)

Tuesday, February 19, 2002

THE HONOURABLE DAN HAYS
SPEAKER

CONTENTS

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THE SENATE

Tuesday, February 19, 2002

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

Prayers.

THE LATE H.R.H. PRINCESS MARGARET ROSE

SILENT TRIBUTE

The Hon. the Speaker: Honourable senators, before any other matters come before the Senate, I announce that we were saddened to learn of the passing of Her Royal Highness Princess Margaret on February 9, 2002. I am writing to Her Majesty the Queen on behalf of all honourable senators and Canadians generally to express the sympathy of the Senate on this sad occasion.

I now invite honourable senators to rise and observe a minute of silence in memory of Her Royal Highness.

Honourable senators then stood in silent tribute.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

February 19, 2002

Mr. Speaker,

I have the honour to inform you that the Honourable Jack Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, will proceed to the Senate Chamber today, the 19th day of February, 2002, at 2:55 p.m., for the purpose of giving Royal Assent to a bill.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the House of Commons
Ottawa

[*English*]

SENATORS' STATEMENTS

HEART AND STROKE AWARENESS MONTH

Hon. Wilbert J. Keon: Honourable senators, the month of February is devoted to heart and stroke awareness, a disease that imposes significant hardship and a diminished quality of life for some two million Canadians and accounts for 36 per cent of all annual deaths and $20 billion a year in health care expenditures.

Despite all our efforts to educate our population on risk factors, to implement preventive measures, to collaborate on more research and to simply adopt healthy choices, there is still a long way to go.

In its annual report card, the Heart and Stroke Foundation identified a group that is currently treading in a minefield of risk factors, namely, "tweens"; that is to say, young kids between the ages of 9 and 12 who could develop heart disease as early as in their thirties.

Honourable senators, it is a terrible irony that during an age that has accomplished research on the underlying pathophysiology of heart disease and stroke, as well as the effectiveness of prevention interventions, our young people are likely to encounter heart disease at a significantly earlier time than their parents.

Not surprisingly, young people across North America are succumbing to an increasingly hazardous lifestyle owing to hours of sedentary inactivity spent in front of computers, TVs and video games, eating fast food in cafeterias and being exposed to second-hand smoke. The rate of childhood obesity is skyrocketing.

The formula to get back on track is simple and starts at home. Despite the new pressures parents and educators face today, children must learn the fundamental laws of health through education and, most important, by example — no smoking, healthy eating and an active lifestyle.

Yesterday, representatives from the Heart and Stroke Foundation of Canada, the Canadian Cardiovascular Society and the Canadian Society of Cardiovascular Nurses visited many honourable senators. This was a combined effort to raise awareness and to urge the federal government to invest heavily in research, public education and especially in the prevention of this largely preventable disease.

I hope all honourable senators will support this cause.

HERITAGE DAY

Hon. Elizabeth Hubley: Honourable senators, on Monday of this week, Canadians throughout the country celebrated Heritage Day. Heritage Day is an opportunity for all to look backwards, down the path of history, to bring into focus as we go the people, events and circumstances that have shaped us. Looking back from where we have come is increasingly difficult in today's world where change occurs quickly and the present demands so much of our attention. Without a knowledge and understanding of our heritage, we are lost in the labyrinth of today without the wisdom to face and choose the future.

All of us share a national heritage and identity. However, language, ethnicity, region and local community give each of us a badge of cultural distinctiveness. I am so proud to live in a country where not only shared values are cherished, but where cultural differences are also celebrated and protected. It is this cultural diversity and continued ability to forge a nation based upon mutual respect and dignity that is our greatest strength.

As we look back along the heritage path, let us celebrate and rejoice in our achievements.

• (1410)

On this Heritage Day, I wish to acknowledge in particular the vitally important work carried out by museums, archives and heritage groups across Canada, for it is these institutions that acquire, assemble and preserve our collective historical record.

In my own province of Prince Edward Island, the P.E.I. Museum and Heritage Foundation has been doing a tremendous job of preserving and interpreting the human and natural history of the Island. A second important provincial organization, the Community Museums Association of P.E.I., takes a leadership role in training and development.

Honourable senators, these living museums tell stories of early rural life in Prince Edward Island, of the development of the fisheries and agriculture, of 19th century wooden shipbuilding and of the Acadian people.

On Monday evening, the P.E.I. Museum and Heritage Foundation presented its annual Heritage Awards in Summerside to groups and individuals who have made special contributions to Island heritage over the past year. The Award of Honour was presented to Mr. David Webber, a visual artist, historian and former Ddrector of the Confederation Centre Art Gallery and Museum.

Honourable senators, each one of us has a heritage to preserve and celebrate in our homes and our communities. It is all around us — in the architecture of our buildings, in the natural beauty of our forests and farmlands, in the wisdom and experience of our seniors.

I wish all Canadians a somewhat belated happy Heritage Day 2002.

TRANSPORT

AVIATION SECURITY FEE

Hon. Pat Carney: Honourable senators, I should like to draw your attention to the devastating impact on small communities in Canada of the proposed aviation security fee. Under pending legislation, starting in April, airline passengers in Canada will be required to pay an extra $12 every time they board a one-way flight. A round trip will cost an extra $24. For small aircraft carriers that fly people short distances on the West Coast, this air traveller security charge can represent, in many cases, a 25 per cent increase in the price of a ticket. To fly to my island from Vancouver, which is approximately a $60 one-way fare, the $12 will represent a 20 per cent increase. One can imagine the problems this creates.

According to the B.C. Aviation Council, which serves aviators and the public, the additional charge could be devastating. In a very fragile market, this new fee will reduce the number of airline passengers to many communities without alternative forms of transportation.

Adding $24 to a discount carrier's short-haul fee is exorbitant and will come at a cost to small aircraft carriers on the West Coast and their customers. Shouldering even a part of this $2-billion tax could collapse the industry and any activity associated with it. Coastal communities will lose not only a vital link up and down the coast, but also the economic benefits that come with it.

I have received a host of calls, e-mails and letters from British Columbians who are very concerned about the fee increase. There is no evidence that short-haul flights on the B.C. coast face a security threat or pose a risk to travellers. This fee should be eliminated for such flights, and a positive decision should be immediately relayed to the concerned communities.

NEWFOUNDLAND AND LABRADOR

TWENTIETH ANNIVERSARY OF CAPSIZING OF OCEAN RANGER OFFSHORE OIL RIG

Hon. Ethel Cochrane: Honourable senators, I rise today in recognition of the twentieth anniversary of the Ocean Ranger disaster that was marked last Friday. For most Newfoundlanders and Labradorians it was as they turned their radios on in the early morning of February 15 that they heard the unthinkable news. The Ocean Ranger, then the world's largest drill rig, and said to be "unsinkable," had capsized. All 84 men on board the platform were lost — more than 50 young men from our own province and another 15 from other parts of Canada.

News of the loss of the Ocean Ranger touched every life in the province. It is the tragedy that defined an era for us.

In the wake of February 1982, we vowed, in honour of every young man who perished that day, to do what we could to ensure that a similar event would never again happen. I believe that we have remained true to that pledge.

In response to the disaster, a joint federal-provincial commission found that engineering and design flaws, along with poorly enforced regulatory regimes, contributed to that tragedy. In the years since those findings, we have demanded and observed significant changes. Indeed, there have been major improvements that further protect the lives of all offshore workers.

Recently, as part of the Standing Senate Committee on Energy, the Environment and Natural Resources, I travelled to Atlantic Canada where we met with oil industry stakeholders and others. At that time, I asked the CEO of the Canada-Newfoundland Offshore Petroleum Board about the safety of rigs in our waters. He confirmed for me that in light of the Ocean Ranger tragedy there have been substantial changes — changes spurred by government.

Today, we have higher standards with regard to design and construction and we place greater emphasis on inspection requirements. Perhaps more important, the standard has also been raised for vocational skill and survival training for all those who work offshore.

Today, basic survival is viewed as a top priority, and with it is a requirement that there be 200 per cent capacity coverage for such things as survival suits and lifeboats. These devices must not only be present but must be located at critical locations on all platforms.

These measures were not in place to protect the 84 men who died in the worst offshore drilling accident in North American history. They cannot bring these men back to their wives, children, families and friends. However, the improvements we demanded in light of the Ocean Ranger tragedy have, to this day, protected the people who continue to work offshore, and they are many. The lessons learned 20 years ago were not lost; those men did not die in vain.

[*Translation*]

THE LATE THÉRÈSE DAVIAU

TRIBUTE

Hon. Lucie Pépin: Honourable senators, we were greatly saddened to learn of the death of Thérèse Daviau on February 1.

Passionately involved in municipal politics, Thérèse Daviau always distinguished herself by her charisma, courage, generosity and ability to mobilize people around great causes.

In 1974, at the age of 28, Thérèse Daviau was elected to the Montreal municipal council under the banner of the Rassemblement des citoyens de Montréal, of which she was a founding member. Her entry into municipal politics was shared by two other women, which was a considerable shock to the conservatism of Montreal municipal politics of the day.

In 1978, Thérèse Daviau returned to school, earning a law degree from the Université de Montréal. Admitted to the bar in 1984, she practised for four years, returning to the political arena in 1986. She was re-elected in 1990 and occupied a number of important positions within the municipal team. In 1998, she left behind politics, and the trials and tribulations of heading the RCM, for a position as vice-president of a public relations firm, where she remained until shortly before her death — in all, a very full career.

Thérèse Daviau will also be remembered for her commitment to combating violence toward women. After the École Polytechnique de Montréal massacre in 1989, in which her own daughter was one of the fourteen young women killed, she joined forces with a number of like-minded women in the December 6 Victims Foundation Against Violence to achieve tighter gun control in Canada.

Herself a symbol of women's involvement in municipal politics, Thérèse Daviau did a great deal to attract women to political activity. She remains a source of inspiration for a whole generation.

[*English*]

ROUTINE PROCEEDINGS

CRIMINAL LAW AMENDMENT BILL, 2001

REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, February 19, 2002

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FOURTEENTH REPORT

Your Committee, to which was referred Bill C-15A, *An Act to Amend the Criminal Code and to amend other Acts*, has, in obedience to the Order of Reference of Tuesday, November 6, 2001, examined the said Bill and now reports the same with the following amendments:

1. Page 2, clause 5: Add after line 37 the following:

"(2.1) Section 163.1 of the Act is amended by adding the following after subsection (3):

(3.1) A custodian of a computer system who merely provides the means or facilities of telecommunication used by another person to commit an offence under subsection 163.1 (3) does not commit an offence.

(3.2) In this section, "telecommunication" has the same meaning as in section 326 and 327 of this Act.".

2. Page 3, clause 5: Add after line 7 the following:

"(4) Subsections 163.1(6) and (7) of the Act are replaced by the following:

(6) Where the accused is charged with an offence under subsection (2), (3), (4), or (4.1), the court shall find the accused not guilty if the representation or written material that is alleged to constitute child pornography has artistic merit or an educational, scientific or medical purpose.

(7) Subsections 163(3) to (5) apply, with such modifications as the circumstances require, with respect to an offence under subsection (2), (3), (4) or (4.1).".

Respectfully submitted,

LORNA MILNE
Chair

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

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

[*Later*]

CLAIM SETTLEMENTS (ALBERTA AND SASKATCHEWAN) IMPLEMENTATION BILL

REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Thelma J. Chalifoux, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, February 19, 2002

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

SIXTH REPORT

Your Committee, to which was referred the Bill C-37, An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act, has examined the said Bill in obedience to its Order of Reference dated Tuesday, December 17, 2001, and now reports the same without amendment.

Respectfully submitted,

THELMA J. CHALIFOUX
Chair

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

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

[*Translation*]

STUDY ON MATTERS RELATING TO FISHING INDUSTRY

REPORT OF FISHERIES COMMITTEE TABLED

Hon. Gerald J. Comeau: Honourable senators, I have the honour of tabling the fifth report of the Standing Senate Committee on Fisheries, on the themes chosen regarding freshwater fishing and northern fishing.

On motion of Senator Comeau, pursuant to rule 97(3) of the Rules of the Senate, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1420)

[*English*]

NATIONAL ANTHEM ACT

BILL TO AMEND—FIRST READING

Hon. Vivienne Poy presented Bill S-39, to amend the National Anthem Act to include all Canadians.

Bill read first time.

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

On motion of Senator Poy, bill placed on the Orders of the Day for second reading two days hence.

CANADA-CHINA LEGISLATIVE ASSOCIATION

FOURTH ANNUAL MEETING, OCTOBER 2001—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Jack Austin: Honourable senators, pursuant to rule 23(6), I have the honour to present to the Senate, in both official languages, the sixth report of the Canada-China Legislative Association regarding the fourth bilateral meeting held in Canada in October 2001.

THE SENATE

MOTION TO AUTHORIZE VIDEOTAPING OF ROYAL ASSENT CEREMONY ADOPTED

Hon. Richard H. Kroft: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*i*), I move:

That the Senate authorize the videotaping of the Royal Assent ceremony scheduled today, for the purpose of making an educational video.

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

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY ON EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

Hon. Lowell Murray: Honourable senators, I give notice that on Wednesday next, February 20, 2002, I will move:

> That the date for the presentation by the Standing Senate Committee on National Finance of the final report on its study on the effectiveness and possible improvements to the present equalization policy, which was authorized by the Senate on June 12, 2001, be extended to March 22, 2002.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY CANADA'S ADHERENCE TO INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

> That the Standing Senate Committee on Human Rights be authorized to examine and report on the status of Canada's adherence to international human rights instruments and on the process whereby Canada enters into, implements and reports on such agreements; and
>
> That the committee report to the Senate no later than March 31, 2003.

QUESTION PERIOD

NATIONAL DEFENCE

MINISTERS ELIGIBLE FOR BRIEFINGS ON AFGHANISTAN

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. Should we believe *The Globe and Mail* this morning when it reports that a secret document written last November names Defence Minister Art Eggleton as the only civilian eligible for regular briefing on the action of Canada's special military force in Afghanistan?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, quite frankly, I do not have enough information. Since I did not read the article, I do not know specifically what the honourable senator is addressing.

PRIME MINISTER'S OFFICE

CABINET COMMITTEE ON DEFENCE AND SECURITY

Hon. Pierre Claude Nolin: Honourable senators, when the Prime Minister announced the cabinet shuffle last January, he issued a press release in which he listed the totality of the cabinet and the various committees of the cabinet. Can the Leader of the Government inform me which committee of the cabinet is responsible for security and intelligence, who chaired the committee and who the members are of such a committee of cabinet?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there is no such committee. A special committee established on defence and security, not a regular cabinet committee, came into being as a result of the September 11 tragedy. That committee was chaired by Mr. Manley and had Mr. Eggleton as one of its members.

Senator Nolin: Does the Prime Minister sit on such a committee?

Senator Carstairs: The Prime Minister does not sit on any of the committees.

CONVERSATIONS BETWEEN PRIME MINISTER AND LEADERS OF FOREIGN STATES—BRIEFING PROCESS

Hon. Pierre Claude Nolin: When the President of the United States calls the Prime Minister of our country to talk about the security of the world, and when the President specifically asks your Prime Minister — my Prime Minister — about the way the Canadian military is handling its responsibilities in Afghanistan, does the Prime Minister refer the question from the President of the United States to the Minister of Defence or does he answer it himself?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator must know, given his experience in political life, that conversations between prime ministers and presidents rarely take place without advance briefings on the issues upon which discussions will take place. Obviously, the Prime Minister would be given up-to-date briefing information by the staff of the Privy Council Office as well as by individual ministers on the details of their portfolio, if those details were to be under discussion.

NATIONAL DEFENCE

AFGHANISTAN—BRIEFING OF PRIME MINISTER

Hon. J. Michael Forrestall: Honourable senators, this question is by way of supplementary. We learn, through a memo signed by the Minister of National Defence, the Chief of the Defence Staff and the deputy minister, that the Prime Minister is not advised. I am a little concerned as to where the foundation in law comes that gives these three gentlemen the power to deny information of this nature to the Prime Minister.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Honourable Senator Forrestall has spent a great number of years in political life. There is a structure in place. The military reports to the Minister of Defence. The Minister of Defence, as a minister of cabinet, does what each minister of cabinet does: He reports issues to the Prime Minister that he thinks are of particular importance or, if in fact he is questioned by the Prime Minister about a particular issue, then clearly he gives that information.

I think the honourable senator recognizes that as the minister responsible for the operations of the Senate, I do not brief the Prime Minister on a daily basis upon all the activities that take place in this chamber.

• (1430)

Senator Forrestall: Honourable senators, I would not think he had that much time.

I am trying to find out what foundation in constitutional law — or is it precedent or custom — staff would use as the basis for restricting the flow of information. I assume someone does not simply say, “We will not let the old fellow know about this. The less he knows the better.” We all live with that once or twice in our lives, but this seems to be deliberate, routine almost, and it prompts me to wonder if the minister could find out just how many other areas of information the Prime Minister does not have access to. Is it possible to have a list of these restricted areas of information so that we know precisely how inadequate the poor fellow must feel sometimes?

Senator Carstairs: Honourable senators, to the contrary, it always amazes me how informed the Prime Minister of this country is on every issue before the Government of Canada. However, with respect to the issue to which I think the honourable senator is referring, because he has not quite defined it, if members of the military are, in fact, in operations somewhere in the world and they are following all of the procedures, rules and day-to-day practices that would normally be within their mandate, there would be no reporting because none of those circumstances would be unusual.

It became critical for a minister to inform the Prime Minister — and for this reason, Mr. Eggleton apologized and indicated he should have informed the Prime Minister — when there seemed to be some question about whether the incident in question went beyond the mandate of the particular group.

Senator Forrestall: Honourable senators, I do not like getting up and asking questions about helicopters. I got more satisfaction in the United States last week about seaborne helicopters than I get here.

Where does the authority come from? Who makes this decision? If the deputy minister and the Chief of the Defence Staff can make that kind of decision, is the Prime Minister being denied information by the Minister of Justice or the Minister of Public Works because one does not want any evil to flow past the Prime Minister’s eyes or ears? Are there any other situations that we should know about so we will not be surprised? We must be careful here because the minister either misled, accidentally or deliberately, or did not know how to handle this awesome power and authority he has. Are there any other incidents we should be looking for?

Senator Carstairs: Honourable senators, I am glad that the honourable senator learned more about helicopters on his trip to Washington, although I understand he learned interesting things on his trip to Shearwater as well.

In regard to the issue he has put before the Senate this afternoon, clearly, that is a judgment decision on the part of a minister. In this case, the minister has said he should have informed the Prime Minister. However, I think the honourable senator would have to concede that it is not possible for a minister to inform the Prime Minister about every single operation taking place in a ministry, any more than I would inform the Prime Minister, as government leader in the Senate, about every single thing that we do in this chamber. It would be ludicrous for me to burden the Prime Minister with the day-to-day details. What is critical is that ministers recognize when there are significant matters that must be shared with the Prime Minister, and that is what Mr. Eggleton did in cabinet. I think he then said that perhaps he should have done it a few days earlier.

Hon. Pat Carney: Honourable senators, I listened carefully to the answer of the Leader of the Government in the Senate to Senator Forrestall’s query, and she might want to correct the record. She used the word “ludicrous” as an adjective to describe telling the Prime Minister, as a cabinet minister, things that go on in her department. We all agree there are day-to-day operational details that a minister does not feel required to tell a Prime Minister, but a minister has a responsibility to tell the Prime Minister and cabinet colleagues about things of significant importance.

The minister might want to clarify the record that she did not consider it a ludicrous decision on behalf of the cabinet minister in failing to report to the Prime Minister.

Senator Carstairs: Honourable senators, I used the word “ludicrous” specifically in relation to the day-to-day operations, and the honourable senator herself said they should not be forwarded to the Prime Minister. This was an important issue. It should have been forwarded to the Prime Minister. There is no question about that particular issue. The information was given at the cabinet table, and it is fair to say that there was a considerable amount of unease among a number of the ministers who learned it for the first time at that moment, including the Prime Minister.

[*Translation*]

JUSTICE

FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—INTENTION OF GOVERNMENT

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate and it has to do with Justice Blais’ decision to the effect that the government has one year, that is until March 23, 2002, to correct its mistake. What will happen if the government does not comply with Justice Blais’ decision? What will happen to those who get ticketed by local police forces in the six Canadian provinces, on federal land, namely airports, parks and everything that has to do with fisheries? This is an important issue. It is not a money issue, but a matter of principle. Could the minister ask the Minister of Justice what will happen on March 24? Will we go back to the old system or will we proceed differently?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator has indicated, a deadline was established in the Federal Court ruling of March 23, 2002. The government is doing everything it can to come up with a response and is extremely hopeful that it will. Under some circumstances, the judge who makes the ruling can be asked for an extension. However, it is my understanding that the government hopes it will not have to do so in this case.

Senator Gauthier: Honourable senators, in the old system, the RCMP would give a ticket, and that would block the courts in the area, and there would be a backlog of cases. That is why there was an agreement between the federal government and the provinces to give it, by devolution, the responsibility of issuing tickets on federal lands. Are we going back to the old system on March 24 of this year, and, if not, please tell me what will happen?

Senator Carstairs: Honourable senators, as the honourable senator knows, I have been receiving updates on the progress of this case. I cannot give him more information today, but I will urge the government to provide, as soon as possible, that information to him and to citizens across the country.

• (1440)

FOREIGN AFFAIRS

CASE OF RUSSIAN DIPLOMAT CHARGED WITH CAUSING DEATH WITH MOTOR VEHICLE WHILE UNDER INFLUENCE OF ALCOHOL—REQUEST FOR UPDATE

Hon. Norman K. Atkins: Honourable senators, could the Leader of the Government in the Senate give us the status of the Russian diplomat who caused the accident on Dufferin Street in Ottawa?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I wish to thank the honourable senator for his question. The case was originally set for February 12. At that time, however, the case was delayed for one month. One assumes that it will be heard on March 12. The administrator of the judicial system in Moscow made that decision.

Senator Atkins: Was the delay requested for the defence of the diplomat?

Senator Carstairs: That is not my understanding, but I will get that clarified. My understanding was that the prosecutorial team asked for the delay.

UNITED NATIONS

IRAQ—REOPENING OF BORDERS TO DETERMINE COMPLIANCE WITH RESOLUTIONS

Hon. Douglas Roche: Honourable senators, many Canadians — and I am one — support Prime Minister Chrétien's refusal to support the United States in expanding the war against Afghanistan by attacking Iraq.

My question is: What political and diplomatic steps is Canada taking to get Iraq to reopen its territory to UN inspectors? Iraq has opened its borders to inspectors from the International Atomic Energy Agency, who have found no evidence of the production of weapons of mass destruction. However, for the past three years Iraq has refused UN inspectors, although it is now contemplating their return. If UN inspectors are allowed back in, there will be no grounds for a unilateral U.S. attack. Can Canada work with Arab leaders such as Saudi Arabia's Crown Prince and de facto ruler, Abdullah bin Abdul Aziz, to get Iraq to open its borders so that the UN can determine if Iraq is complying with UN resolutions?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am pleased that the honourable senator addressed the necessity for Iraq to respect the decisions made by the United Nations and to open its doors to that kind of investigation. Iraq has placed itself in a difficult situation in the view of the international community as a result of its failure to expose itself to these inspectors so that we can either prove or disprove the concerns that many nations have about weapons of mass destruction being located in Iraq. The Government of Canada is concentrating on trying to get Iraq to respond to what it had originally considered an agreement.

Senator Roche: I wish to thank the minister for that response.

FOREIGN AFFAIRS

IRAQ, IRAN AND NORTH KOREA—EXPANSION OF WAR AGAINST TERRORISM—CONSULTATION WITH UNITED NATIONS SECURITY COUNCIL IN ADVANCE OF TAKING ACTION

Hon. Douglas Roche: Honourable senators, I have another question for the minister. Will Canada hold to the policy that any military action against Iraq or the other two countries named in the "axis of evil" statement, namely North Korea and Iran, must be taken only with the consent of the Security Council of the United Nations?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Prime Minister has been clear on this position. He does not believe that there is anything at the present time that would justify such action.

THE SENATE

IRAQ, IRAN AND NORTH KOREA—EXPANSION OF WAR AGAINST TERRORISM—POSSIBILITY OF STUDY BY FOREIGN AFFAIRS COMMITTEE

Hon. Marcel Prud'homme: Honourable senators, I am very pleased at my colleague's question and the answer that was given to him. I, too, am happy that the Prime Minister of Canada has shown his experience by not stampeding to a final conclusion. Some members here may remember that in December 1990 and in January 1991, there was an acrimonious debate in the House of Commons within the Liberal Party. We all know that in the morning of that day, the Liberals were opposed to participation. All kinds of events took place during the day. At the end of the day, Mr. Turner, having split with his caucus, made an acrimonious statement in favour of participating. The Liberals decided to vote in favour of the proposal, with the exception of four Liberals, namely, Mr. Allmand, myself, Ms Catterall and

Mr. Stewart. This is the same kind of debate that is taking place here.

The chairman of the Foreign Affairs Committee is not here at the moment. I know what the Leader of the Government's answer to my question might be, but could she use her great power on the chairman, since this is such an important issue, so that the Standing Senate Committee on Foreign Affairs — as we used to do in the House of Commons — could call in certain ambassadors to give us a briefing? It is easy to organize that outside of their actual work. Perhaps we could then call on officials from the Department of External Affairs for a private briefing, as well as some of the ambassadors who are attuned to the developments there, as well as ambassadors who hold various opinions, including the Ambassador of Israel, in order to be in a position where we are more informed.

The President of Israel will be here in the first week of March. Apparently, he will address the House of Commons. Will we be invited to hear his speech? If he is to speak to the House, does that include the Senate? At the moment, I have read that only the House of Commons will be invited. That is against every tradition of which I am aware. Either he speaks to both Houses or he speaks to a few.

Would the government leader use her strong capacity to convince the Chairman of the Standing Senate Committee on Foreign Affairs that it is important that we be briefed? Everyone who would be beneficial to such a process is located here, in Ottawa. We could hear from them without incurring extra costs and, in so doing, be up to date on the matter.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there are clearly two parts to the honourable senator's question. He knows the answer to the first one. The activities of the Standing Senate Committee on Foreign Affairs are mandated to the committee through references to the Senate. It would be up to the committee to decide what they will do. I received a briefing earlier today from the Chair of the Standing Senate Committee on Foreign Affairs on the work they have been doing — excellent work, in fact — on their study of Russia and the high-powered witnesses that they had before that particular committee in the course of their study. The honourable senator attends a number of meetings of the Standing Senate Committee on Foreign Affairs, and I am sure that they would be interested in his proposal.

Regarding his second question, the honourable senator is quite correct. I have never known a minister of state, president or prime minister who would address only one chamber of Parliament. I would assume that if there is to be an address to the House of Commons, it would be a joint sitting of the Commons and the Senate. If that is not the plan, I will try to make it the plan.

Senator Prud'homme: That is why we should have a good briefing.

VETERANS AFFAIRS

FEDERAL COURT RULING GRANTING VETERANS STATUS TO CITIZEN OF PRINCE EDWARD ISLAND

Hon. Gerald J. Comeau: Honourable senators, my question concerns a Federal Court justice ruling that granted veteran status to a P.E.I. man who crossed the Northumberland Strait ferry on his way to a recruiting office in Halifax but failed the medical. The court ruling provides eligibility for federal allowance for health benefits such as drugs and dental care. The federal response to date has been that it may appeal the ruling. Would the minister provide assurances to this house that the government will appeal the ruling?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to the best of my knowledge the government has not yet decided whether or not to appeal the ruling. When I receive clarification about that, I will share it with the honourable senator.

Senator Comeau: Lord knows how this case could have reached this stage. I am quite sure the legislation was not meant for this kind of activity. I think most Canadians would agree with the premise that we must give the benefit of the doubt to veterans. This case makes a mockery of the War Veterans Allowance Act and it demeans the sacrifice of the men and women who proudly served their country in its time of need, both in the military and in the Merchant Marine. I am asking the minister to convey to her colleagues that we should not dishonour the memory of those fighting men and women who served their country and continue with this kind of mockery.

Senator Carstairs: Honourable senators, I thank the honourable senator for his intervention. I will share his passionate concern about the act with the Minister of Veterans Affairs and the Minister of Justice.

• (1450)

THE ENVIRONMENT

RATIFICATION OF KYOTO PROTOCOL—PUBLICATION OF IMPACT ANALYSIS AND REGULATIONS

Hon. Ethel Cochrane: Honourable senators, my question relates to the Kyoto protocol. The reduction of greenhouse gas emissions is an essential element of any sustainable development plan. However, the policy instruments Canada will choose to meet this goal will have significant implications for key sectors of Canadian industry as well as for provincial governments. Canadians deserve a proper debate on our climate change strategy, one that considers not only the objectives but how best to reach them.

In this regard, can the Leader of the Government in the Senate inform us whether her government will commit to publishing its own impact analysis and regulations relating to Kyoto's implementation prior to its ratification?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, the Government of Canada is committed to the Kyoto protocol, but it is also committed to discussions with all interested groups, and that includes the provinces, environmental groups and industry, particularly the oil and gas industry. No process of acting on this protocol will commence until those discussions have taken place.

Obviously, some of those discussions are taking place in the more public venue of the media. At the present time, some are taking place at press conferences in Moscow. The reality is that the government is committed to the objectives of the Kyoto protocol, it is committed to its agreement, and it is committed to a dialogue with the Canadian people.

The Senate adjourned during pleasure.

[*Translation*]

• (1540)

ROYAL ASSENT

The Honourable Jack Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

> An Act in respect of criminal justice for young persons and to amend and repeal other Acts (Bill C-7, *Chapter 01, 2002*).

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

• (1510)

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table a deferred answer to the oral question raised by the Honourable Senator Robertson, on February 5, 2002, on the Atlantic salmon fish farm industry and the competition in the United States with Chilean salmon.

FISHERIES AND OCEANS

ATLANTIC SALMON FISH FARM INDUSTRY—COMPETITION IN UNITED STATES WITH CHILEAN SALMON

(Response to question raised by Hon. Brenda M. Robertson on February 5, 2002)

Canadian producers of farmed salmon are suffering financial losses as a result of unprecedented growth in the world supply of salmon, forcing prices down. Low prices are now entrenched in Japan and the United States, the two key markets for salmon, and are likely to continue until global production levels stabilize or product demand rises.

In the short term, Fisheries and Oceans Canada is working with other federal departments and the aquaculture industry to explore the full range of options that may be available to assist concerned salmon producers during this particularly challenging period in the global marketplace.

In the longer term, through Fisheries and Oceans Canada's Aquaculture Action Plan, the department is undertaking a number of specific actions aimed at helping to increase industry competitiveness in global markets and public confidence that aquaculture is developing in a sustainable manner.

These actions include improving the efficiency and effectiveness of Fisheries and Oceans Canada's regulatory framework so as to help reduce the cost to producers, while upholding Fisheries and Oceans' important regulatory responsibilities relating to environmental protection and navigational safety. The Minister of Fisheries and Oceans has asked the Commissioner for Aquaculture Development to advise him on the appropriate federal role to help the Canadian aquaculture sector achieve its potential. He will report to the Minister of Fisheries and Oceans next year on a range of issues, including federal support programs.

ORDERS OF THE DAY

CANADIAN COMMERCIAL CORPORATION ACT

BILL TO AMEND—THIRD READING DEBATE ADJOURNED

Hon. Céline Hervieux-Payette moved that Bill C-41, to amend the Canadian Commercial Corporation Act, be read the third time.

On motion of Senator Stratton, on behalf of Senator Meighen, debate adjourned.

[*English*]

STATISTICS ACT
NATIONAL ARCHIVES OF CANADA ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Lorna Milne moved the third reading of Bill S-12, to amend the Statistics Act and the National Archives of Canada Act (census records).

She said: Honourable senators, it is with some frustration and concern that I rise this afternoon, once again, to implore you to pass this bill on third reading. If Bill S-12 is passed, individual census records for the 1906 and subsequent censuses will be released to the public through the National Archives after a 92-year waiting period, and our historic Canadian practice will continue in line with that of the rest of the westernized world.

It has taken over three years and the written support of more than 20,000 Canadians to get the bill to this stage. Those dedicated Canadians — genealogists, historians, medical researchers and families — are counting on you to unlock a substantial part of Canadian history by passing this bill.

I want to ensure that each senator knows exactly what this bill does. I will also explain to you why I passionately believe that Statistics Canada's Chief Statistician, Ivan Fellegi, should have released the records long ago. You will also hear that the legal effect of this bill is to tell Statistics Canada explicitly to take steps that it is already legally and morally required to do.

From the outset, I want honourable senators to know that this is not the course of action that I would have preferred to take. This is a question about how Canada will record its history. It is a decision that deserves the leadership and the attention of the government. There is nothing I would like more than to have the government announce that it will take the necessary steps to best balance the interests of all concerned. I still hope that this issue will be taken out of my hands. In the meantime, I feel the issue must be properly debated and addressed in both Houses of Parliament, whether or not the government will take the lead.

While the issues surrounding the release of individual census records are profound, the nuts and bolts of Bill S-12 are straightforward. The first section of the bill amends the Statistics Act by ordering Statistics Canada to preserve and store individual census records for all censuses that it takes and then to transfer control of the records to the National Archives no more than 30 years after the census date.

The second part of the bill sets out a scheme under the National Archives of Canada Act to allow for the release of that information. The National Archivist is given the power to release individual census records to the public 92 years after the date of the census. Any person who does not want their personal information released may register such a request with the National Archivist at any time during the last year before the release of the information.

Finally, the National Archivist is given the power to set up whatever specific rules and terms for the release that he believes are best.

Honourable senators, this issue first came to my attention in the fall of 1998 in what I thought was a fairly innocuous newsletter that I received from the Upper Ottawa Valley Genealogical Society, of which I was a member. The newsletter raised a small red flag about a decision by Statistics Canada not to release the 1906 census returns after the standard 92-year waiting period. The newsletter noted that, for many years, historians and genealogists had used individual census returns for research purposes and that this essential source of information was about to be shut off.

My first reaction was a mild concern. As a genealogist, I knew full well that census records are vital for the research of families and that to lose that source of information would cripple historic research in this country. I have used census records in my own research many times, and I have spent hours peering at blurred and scratched images on microfilm to find the critical missing links in my analysis. Census records can only be described as mountainous haystacks of microfilm full of millions of golden needles. One cannot measure their importance to Canadian history; they are invaluable.

• (1520)

This mild concern was tempered by my instincts as a parliamentarian. This seems, at first glance, to be a classic example of a government oversight, just a hiccup in the workings of government. It simply appeared that one section of a law had been misinterpreted and that the error could easily be corrected. I believed then, as I still do today, that this problem could be corrected by the government introducing a bill that explicitly sets out the relationship between Statistics Canada and the National Archives as to the census records. From a policy perspective, the cabinet should be the body to take the lead in clearly defining this relationship.

What I could not anticipate was, first, the lack of motivation on the part of the government to deal with how Canada will record its history, and, second, the complete and utter intransigence and inflexibility of the present Chief Statistician, Dr. Ivan Fellegi.

I must take the time to detail the responses of the government and Dr. Fellegi, in order to explain to you why I believe that without further action by Minister Rock there is no choice but to pass this private senator's bill. This bill should pass immediately, as there are no reasonable barriers to release individual census returns in our historic manner.

While the position taken by Statistics Canada is untenable, it is at least clear. From the outset, Dr. Fellegi has argued that the instructions given to census takers in 1906 clearly stated that Statistics Canada employees were prohibited from releasing census information. In his opinion, this constituted a perpetual promise of absolute secrecy on all Statistics Canada employees from then on. Furthermore, Dr. Fellegi argues that in 1918 the Statistics Act was amended to specifically provide for the secrecy of census information. On that basis, Statistics Canada has steadfastly refused to release the 1906 census returns, and has indicated that no other returns will ever be disclosed.

I was not convinced that the explanation provided by Statistics Canada was rational or even correct. I looked at the documentation that was provided to me, and I did a great deal of research on my own. I concluded that, at best, the legislation was unclear. There certainly was never a clear policy decision made by Parliament that would prevent the census returns from being kept as a historic record in the National Archives. All of the references to privacy were made in the context of regulations to cover the country's concerns at the time the census was taken. In fact, the same 1906 regulations that called for secrecy by the census takers of the time also announced that the documents would be stored in the archives, which were then completely public. No decision was ever made to end access to census information. Furthermore, in 1906, when the census was taken, Canadians had access to census information dating back as far as the 1666 census taken in New France by Louis XIV. If Parliament had intended to eliminate this source of historic research, it would have done so explicitly. This did not happen.

Canadians deserve clear laws that outline how the government will record the nation's history. Since I concluded that the law is vague, I introduced Bill S-15, the first incarnation of this present bill, to explicitly delineate the relationship between census information and the National Archives. Since introducing that bill in December 1999, I have been flooded with letters, e-mails and tens of thousands of petitions, a fact that all senators are well aware of by now. The debate that followed led Minister John Manley, the minister in charge of Statistics Canada at that time, to appoint an expert panel to research the issue. I thought it was leading to a compromise solution that seemed to bring Statistics Canada and the Privacy Commissioner on board.

The expert panel appointed by Minister Manley included former Supreme Court Justice Gerard La Forest and the Honourable Lorna Marsden — who is well known to most honourable senators, judging by the number of times I am called her name. The analysis and recommendations that were provided in the panel's report were crystal clear. It stated that there is no legal impediment to releasing the census information, even without amending current laws. Specifically, the panel said:

> — we are persuaded that the perpetual confidentiality was not likely either assumed or intended by lawmakers ...While we find the legal situation ambiguous, we find no convincing evidence that Parliament intended to create perpetual confidentiality.

In its conclusions, the panel recommended the immediate release of the 1906 census, and the release of the 1911 census in due course. Finally, the panel noted that for all censuses taken after 1918 there should be legislation put into place "for greater clarity" to allow the release of information.

While the expert panel was doing the work that led to the release of its report in December 2000, at Minister Manley's request I was working with the National Archivist, the Privacy Commissioner, the Access to Information Commissioner and Dr. Fellegi to come up with a compromise solution. In August 2000, an agreement was cobbled together. Unfortunately, that agreement was heavily bureaucratic. It involved peer reviews of research projects and the signing of a waiver form every time a researcher wanted to review reels of census film. It left ownership of the census in the hands of Statistics Canada, not the National Archives. The compromise left doubt about the breadth of access that genealogical researchers would have to the census information. It received my grudging support and the rather qualified support of the National Archivist simply because it got something accomplished. Any person willing to cut through some red tape would be allowed to complete their research. At the time, I believed that Dr. Fellegi had made a move, and that move was better than nothing. I left that meeting in August 2000, confident that the government and Statistics Canada would take steps to get the ball rolling on a compromise.

In September 2000, Parliament was dissolved and along with it went the compromise solution and my hopes for government legislation.

After the election, Dr. Fellegi was no longer interested in following through with a compromise solution and announced that the issue needed more study to determine what Canadians really thought. As a result, I reintroduced my bill, which is now before the Senate. For months, I did not hear one word out of Dr. Fellegi, and it was not until this bill was before the Standing Senate Committee on Social Affairs, Science and Technology that he finally resurfaced. That resurfacing lasted only long enough for him to say that he would be out of the country and that he would send his deputy to testify at the committee.

During the hearings, the Assistant Chief Statistician, Michael Sheridan, announced that Statistics Canada would be holding town hall meetings and focus groups on the issue of the release of census information, and implored the Senate to defeat this bill and allow Statistics Canada to go about its own affairs.

Some Hon. Senators: Hear, hear!

Senator Milne: I was somewhat surprised to hear this announcement. I certainly had not heard about any town hall meetings or focus groups beforehand, nor had any of the members of the expert panel who studied this issue or any of the members of the Census Canada Committee that had been campaigning for the release of the information.

The town hall meetings were conducted fairly and properly by Environics Research this past December and January. These sessions were held in 10 cities across Canada; 157 people took part. Even by Olympic standards, the score was decisive: 151 people argued for the release of census records; 6 argued against.

Some Hon. Senators: Hear, hear!

• (1530)

Senator Milne: Fully 96 per cent of those participating in the hearings called for the release of the records. Even a figure skating judge could see that Canadians want the records released. One privacy expert, Mr. Murray Long, co-author of the *Canadian Law Privacy Handbook*, supported the release of post-1901 census records in his presentation to the town hall meetings. Mr. Long said:

> In the case of the 1906 and the 1911 census information, I am satisfied that there is no privacy or confidentiality issue that would stand in the way of the release of this information to the National Archives and to the public.

I note that Environics Canada specifically invited Mr. Long to take part in the town hall meetings as an expert on privacy. Even those who were invited to express the opposing view agreed that the information should be released.

Honourable senators, we do not yet know what happened in the focus groups that were commissioned by Statistics Canada, but the information that resulted went, I assume, to Statistics Canada and has not been released. However, the documents that Statistics Canada used to tender the contract suggest that the feedback from the focus groups may be deeply flawed. In those documents, Statistics Canada made the following three assertions:

> 1. An important change occurred starting with the 1906 census. Indefinite confidentiality protection of identifiable census records was promised to Canadians when census information was collected from them.

Wrong.

> 2. To release the 1906 or subsequent census records at this time would mean changing retroactively the conditions under which information was provided by Canadians.

Wrong.

> 3. Even when a person is deceased, the provisions are still in effect.

Honourable senators, none of these three assertions have ever been accepted by Canada's historical, genealogical or legal communities. To the extent that the focus groups were based on this false information, the process will not add anything to the debate on this important issue.

The announcement of the town hall meetings caused quite a stir, but it was nothing compared to the land mine that the Social Affairs Committee unearthed as a result of the requests for information that it made as part of its study of Bill S-12. The committee asked that Statistics Canada provide to it copies of the legal opinions that it has been relying on to prevent the release of the 1906 census. Those opinions show that Statistics Canada has been told that in order to comply with the law as it exists today, they must release the 1906 census records. Furthermore, the documents show that Statistics Canada has been intentionally disregarding the will of Parliament by withholding this crucial component of Canadian history.

I wish to take a moment to share with honourable senators some of the legal advice that Statistics Canada has received on this issue. The bulk of the legal opinions were written by the Department of Justice for Statistics Canada. In a report to Statistics Canada in August 2000, Ms Ann Chaplin of the Department of Justice was quite clear in her conclusions. She said:

> — it is difficult to reconcile the existence of provisions dealing with the transfer of historic information in the *NACA* —

— the National Archives of Canada Act —

> — and the release of census information under the Privacy Regulations with the notion that post-1918 census information must remain forever in the custody of Statistics Canada.

She goes on to note:

> The rational approach to the various pieces of legislation at play here seems to be one which would prohibit census workers from giving anyone access to individual returns but which would allow census information to be transferred to the Archives and, after 92 years, released in accordance with the Privacy Regulations.

Statistics Canada has had this legal advice, and they have refused to act on it.

The key difference between the legal analysis of August 2000 and those of the other reports that date as far back as 1979 is the consideration of the provisions that referred to the census as a permanent record to be deposited in the National Archives. All 10 analyses found that the regulations for the 1906 census and the 1911 census have the force of law today and that under the Interpretation Act those regulations were still in effect. It is only the most recent report of August 2000, however, that includes an analysis of those statutes and regulations that suggest that Parliament's intent was to have the census information stored in the National Archives. The only conclusion that I can draw from that fact is that the legal authors of the earlier reports did not find, or were not told, of that important section of the regulations. As such, one cannot conclude that the pre-2000 legal opinions are relevant, as they are not based on all of the relevant regulations. The only complete legal analysis that has been undertaken advises Statistics Canada to release the 1906 and the 1911 census information.

The legal reports also show that as early as May 1981, more than 20 years ago, Dr. Ivan Fellegi was informed by the Department of Justice in that year that Statistics Canada should release the 1906 census and the 1911 census. In fact, while debate on the new Privacy Act was ongoing in the House of Commons, Dr. Fellegi was briefed on the impact that the legislation would have on the release of census information. Dr. Fellegi was told:

> The bill is designed to give greater access to government records and the government has taken the position that the spirit and intent should be followed by government departments... By not relying on section 19 of the Access to Information Act, and giving full weight to the permissive exceptions in section 8 of the Privacy Act, Statistics Canada would be showing the utmost good faith in carrying out the will of Parliament.

There can be no doubt that Statistics Canada was informed that once the principles of the new Privacy Act were enshrined in law, it should follow them by allowing for the release of the census.

After analyzing the 10 different opinions, I have no doubt that the individual census returns for 1906 and 1911 should be released to the public. There is no credible legal opinion that has been released by Statistics Canada that can justify withholding these records from the National Archivist. As the National Archivist has already made a request for the records, the only conclusion that can be drawn is that Statistics Canada is breaking the law by failing to release the information. Bill S-12 attempts to bring the matter to a head and to force Statistics Canada to comply with the laws of the land.

Honourable senators, notwithstanding all of the legal reports and the different interpretations of what kind of guarantees were given to Canadians in 1906 and subsequent years, the overriding issue in this bill is this: How will Canada record its history? The lives of Canada's politicians, entertainers, scientists and sports heroes, like our own Senator Mahovlich, are all well documented. I believe, though, that Canada's history is about all of us — ordinary people. Each Canadian has contributed in his or her own way to make this country great, and past Canadians' contributions are no less important simply because they were not famous. The only record that we have of all Canadians in their family groups is the census. It is crucial that the National Archives have access to these records so that it can fulfil its responsibility to record the history of Canadians.

Honourable senators, there are two places where the institutional memory of this country is kept: one is the National Archives and the other is this place. I know that all honourable senators believe that even though we may not share the media spotlight with our colleagues in the other place, we still make vital contributions to the greatest debates of our time.

I implore all honourable senators to reflect on how our collective institutional memory enhances Canada's public life.

• (1540)

Honourable senators, I hope you will see that all this bill asks is that you give individual Canadians the same safeguarded spot in Canada's institutional memory, and indeed, in our country's history, by transferring the only record that exists of Canada's families to our National Archives.

Hon. John Lynch-Staunton (Leader of the Opposition): If I may, I have one question, and depending on the answer, a comment.

Did I understand Senator Milne to say that in her bill all information given in censuses will be made public after a certain period of time? Is that correct?

Senator Milne: That is correct. Information will be made public after 92 years.

Senator Lynch-Staunton: Honourable senators, that bothers me because the long form continues to grow and to ask for more and more information of a delicate nature, shall we say, such as sexual orientation, certain financial information and other information that I do not think is essential to genealogists and historians for whom the honourable senator is pleading.

Second, on the long, as on the short form, the word "confidential" appears repeatedly. I have always assumed that meant perpetual confidentiality. Nowhere does it say on either the short form or long form of the last census that confidentiality will be limited or that Parliament reserves the right to intervene and challenge it, or, in effect, erase it.

I have trouble with Senator Milne's bill. First, there is more and more information being given in the census that is far beyond the traditional census of name, address, number of children, and so forth. Second, the word "confidentiality" appears on the forms. Senator Milne's bill will, in effect, negate that "confidentiality. "

That would make some of us less enthusiastic to complete parts of the long form, knowing that eventually embarrassing or delicate information will be made public to the possible embarrassment of family members, no matter how many years later that information is released.

Senator Milne: If the honourable senator has posed that as a question, I would be delighted to respond.

Senator Lynch-Staunton is quite right. Statistics Canada now asks very intrusive questions. They are probably not any more intrusive than is already released to private companies through your credit card. They are certainly not any more intrusive than that released by the law of the land when a will is probated and made public. Every single penny that a person owned and passed on is always made public.

Any transaction that has to deal with land transfer is made public at record offices in the country. Information regarding the size of a mortgage on your house, when you paid it, to whom you paid it and when you finally paid it off is also available.

The questions on the census were basically unchanged until the long forms and the short forms were created in the 1960s. The 1961 census information would not be released until 2053. I strongly suspect that long before the year 2053 there will be further census bills that will deal with that issue.

I am basically concerned at this point with the census records that were taken and written in a ledger. When the census changed to being an individual form for each household, it became a much different matter, and it will require a different solution. That is a long time in the future.

The census records about which I am concerned for release contain the names of family after family written line after line in an old ledger. These are the ones that I believe should be released and should continue to be released in our historic fashion.

If we took this retrogressive step to make census information secret forever, Canada would be the only country in the westernized democracies of the world to take such a step. Every other democratic country in the world is moving in the other direction to make their records available. The people of the country have bought and paid for the census. They own the right to ensure that they remain in the public record and that that information is eventually opened to the public.

Hon. Gerald J. Comeau: Honourable senators, when I answer the census questions that I am asked, I answer them all to the best of my ability because I think that that information is important to Statistics Canada to make important decisions on behalf of Canadians.

To date, I have been given the impression, from what I read in the instructions and from the assurances provided by census takers who come to my home, that this was confidential information not to be made public.

I have just heard Senator Milne make the case that the census information should be made public because it is a taxpayer-funded operation. This is not the impression to date that I have been given either by the forms or by the census takers.

I was listening carefully as the honourable senator was going through the bill. As I understand it, we could only object to the release of information in the year of the release of the census. That is, we could only object in 92 years.

Why not amend the bill in order that people who wish to provide this information to Statistics Canada could indicate on the form that they object and do not want the information to be made public. Provide people the option to put on the form right now that their census information not be made public. Otherwise, the promise that the government made at the time of the census, and has been making to all of us over all the years of our filling out census forms, becomes absolutely worthless. It is a paper promise, and since Senator Milne wants this information to be made public, the promise that this will be kept confidential is to be lost.

I am suggesting to you that Senator Milne's bill should be amended so that those of us who object can say to the government, "No, this information is to be kept confidential. We do not wish this information to be made public."

Senator Milne: Honourable senators, I have a great deal of sympathy with what Senator Comeau has said. I am not a legal drafter. I have done the best that I could in an effort, I think as I have told honourable senators, deliberately to force the government's hand. I believe that this matter is so important that the government should be bringing in a government bill. This should not be left to a private member's bill, neither in the House of Commons nor in the Senate.

This is an important issue. It should be properly debated. The bill should be properly drafted and developed.

However, the honourable senator spoke of a promise that is given to Canadians of confidentiality. That never, ever was mentioned on any of the census takers' information that I have come across up until the time that the individual form was introduced. That was the first point at which a person had a form in hand to be read. Before that it was always someone sitting down at your kitchen table writing things down. They never volunteered that information unless they were specifically asked. They were, themselves, sworn to secrecy so that they would not go down the street and tell your business to your neighbours.

The original intent, I am sure, of the secrecy provisions was to ensure that the census takers of the time did not go discussing your private business up and down the road with all of your neighbours. That confidentiality provision was not intended to be, I believe quite firmly, in perpetuity. That was why the 92-year provision came in. Confidentiality is provided for in the Privacy Act and in the Access to Information Act.

Honourable senators, it is important that this issue be debated here.

Senator Comeau: Agreed.

• (1550)

Senator Milne: It is very important that this issue be debated in the House of Commons and I am hoping that the government will act as it should. This is an issue of vast importance to the future of Canada. It is an issue of importance to how we record our history and how that history is seen in the future. It should not be up to a private member of either House of this great place to have to bring in this kind of bill. However, due to the lack of action by the government, I am doing so. I ask honourable senators to pass this bill so that we can get it to the House of Commons so it can be debated on the floor of the House of Commons. This is very important.

Senator Comeau: I was told last week that there is a form being passed around at this time of year that is supposed to be completed by the end of February. It deals with the revenues and expenses of Canadians over the past year so that Census Canada can provide advice to government on buying trends and so on. I was approached by a local constituent in regard to filling out the form and whether he was required to fill it out, and I advised him that he absolutely should fill it out because it is important for Canada to be able to have this kind of information to make proper decisions.

If Bill S-12 were to pass, I would seriously reconsider the type of advice that I give to Canadians on this important information that is being requested from Canadians. I am concerned about the kind of confidentiality that is being offered to Canadians if, with passage of this bill, the government can unilaterally and retroactively break promises made back in those days. I have read the legislation. It is quite clear that the undertaking was that this information would not be made public. I invite honourable senators to read the legislation because that is quite clear.

If we are now telling Canadians that it is unclear, that those Canadians are all dead now and cannot complain so we can break the promise, that is not the way we should be conducting our census. We must be very careful what we do with this. Breaking a promise retroactively can hurt us in the future for collecting proper information because Canadians will simply not want to provide any information. I would be among those Canadians who would not provide the information if an undertaking made to me by my government were to be broken in the future.

Senator Milne: Statistics Canada is constantly doing surveys. My bill applies only to the census information. The survey is now done every five years — back then it was every 10 — and it identifies every single family and every single person in Canada. I am not concerned about all the studies and statistical compilations that they are constantly doing.

Senator Comeau: I am.

Senator Milne: I agree with the honourable senator that Statistics Canada is probably one of the finest statistics organizations in the world. It has a wonderful reputation. I do not for one single minute wish to interfere with people answering those questions. It is important that Canadians do so. In the past, there has never once been a complaint about the release of historic census information.

Senator Comeau: They are all dead.

Senator Milne: In the United States, where the information is released after 70 years, and Great Britain, not one complaint has been received over all these years. Canadians deserve to have their history kept.

Hon. Joan Fraser: First, I should like to congratulate Senator Milne for her extraordinary tenacity on this matter, and her very impressive work. As I have been listening to the questions put to her, it has occurred to me to think about the case of Great Britain. The questions that are being raised go to serious issues of confidentiality and intrusiveness. I suspect it would probably be true to suggest that the British are as cherishing of their private lives as any people anywhere, certainly in the Western world. Yet, the British census results recently went up on the Internet for anyone, not just someone who went to the national archives, not just a citizen of Britain, to look up. Apparently it has been a wild success. There have been enormous numbers of requests for information.

I am wondering if the honourable senator knows what kind of debate might have preceded that decision on the part of the British statistical authorities and whether there was any objection to it, or did the privacy-loving British just say it was a wonderful thing to do?

Senator Milne: I thank the honourable senator for her question. I must say that I am not aware of the debate that went on in the United Kingdom. The British release their results after 100 years, always have done so, and intend to carry on in that fashion. This information has been released in the form of microfilm. They have taken it one step further and put the information on the Internet. The British were expecting, I believe, something like one million hits a day. Just to make absolutely certain that they had enough background capacity built into the system, the system was set up to deal with 1.5 million hits a day. They have been getting 30 million hits a day. That means that 30 million people are looking for their ancestors in Britain in one day. The site was overwhelmed and had to be closed down. The British are redoing the entire site, which will soon be open again to handle 30 million requests a day.

Hon. Nicholas W. Taylor: My question follows on the comments of Senator Comeau and Senator Fraser.

I am somewhat bothered that we have a contract with the dead, you might say. I was interested in the honourable senator's answer that most people are interested in their ancestors. The large number of hits to the site might indicate that everyone is interested in the other guy's ancestors; you never know. I do not know what they will do with the information.

The fact of the matter is that I believe, as Senator Comeau said, there is an implied contract at least. As you say, 90 years is a long time even for a senator to wait to complain. Was there an amendment suggested to your committee that the present census could be split into two — those things you want people to learn about 90 years from now and those things you do not want people to learn about 90 years from now? In that way, the contract would be more or less honoured in the way Senator Comeau has suggested.

Senator Milne: I strongly suspect that the honourable senator means the long form versus the short form. Every long form — and I have been praying to get a long form and have never yet received one — contains the same questions at the beginning. I suspect that long before 92 years after the first long forms came out there will be some sort of provision made that the rest of those questions will be removed. It would not bother me a bit.

Hon. Gerry St. Germain: Senator Milne spoke about the lists and the ledgers. I imagine these were handwritten. Can the honourable senator tell us whether the confidentiality aspect was given to those people at that time? If that is the only group my honourable friend is really concerned about, why not restrict it to that group?

• (1600)

Senator Milne: I am not sure which group Senator St. Germain is speaking of. The writing was always done by the census takers, not by the person giving the information. They sat down at the kitchen table and the census taker asked the questions and filled in the form. The census takers were specifically told to ensure that their handwriting was legible because this information would be stored in the National Archives of Canada. That is all I am asking.

Hon. Lowell Murray: Honourable senators, before proposing the adjournment of this debate, I should like to make a few comments.

I share Senator Fraser's admiration for Senator Milne's tenacity on this matter. I am glad to see that the issue is coming to a head here in the Senate. I will not delay it unduly, but I will return to the third reading debate in due course.

I trust that Senator Milne will respect and understand the concern of people, not only on this side of the chamber but elsewhere in the country, that this bill goes far beyond what is necessary for its stated purposes and, in my view, far beyond what is desirable in terms of public policy. I will return to this matter later.

Reference has been made to the practice in other countries. Senator Fraser raised the question of what is done in the United Kingdom. I cannot enlighten her in that regard. I can tell her, however, that Australia, our sister country in the Commonwealth, a country we both know, having visited there together last spring, provides exactly what Senator Comeau was talking about earlier — that is, a consent form on the census form through which the person being enumerated may sign off that he or she has no objections to the release in due time of the personal information contained therein.

It is not my responsibility to defend the Chief Statistician, Mr. Fellegi. That will be the responsibility of the government. Nevertheless, he is an able and respected senior public servant and, as Senator Milne has properly noted, he runs an agency that is admired and respected all over the world.

Senator Milne has delivered quite an indictment of Mr. Fellegi, questioning his good faith, if not his integrity. I simply want to flag that factor for the benefit of honourable senators. I believe that Mr. Fellegi must be given an opportunity to reply to the statements made in this third reading debate by Senator Milne about him, and we should consider how that should be done. We may want to spend some time in Committee of the Whole in order to give him the opportunity to reply, if he wishes, to her allegations.

A number of points came up in the interesting questions from several honourable senators and replies thereto. Apropos the reference by both the Leader of the Opposition and Senator Comeau to whether a promise of confidentiality is perpetual, eternal, et cetera, or whether it is just a temporary matter, the Privacy Commissioner had something to say about that when he appeared before the Standing Senate Committee on Social Affairs, Science and Technology. Referring exactly to the point that Senator Comeau and Senator Lynch-Staunton raised, he said:

> Senator Milne also appears to agree with the expert panel on access to historical census records that the promise of confidentiality can be disregarded because, in the words of the panel, words like "perpetual," "eternal" or "forever" were used neither in the legislation nor in the more colloquial instruction to enumerators and are never found in the debates.
>
> What this amounts to is saying that a promise should be assumed to be temporary unless it is specified to be permanent. I consider this premise to be untenable in both law and common sense. A promise is perpetual unless it is specified not to be. No system of contracts — and what we are talking about is a contract between the government and the governed — could survive without this basic principle.

Somewhat later in his testimony, Mr. Radwanski said:

> Most importantly...this bill would make a mockery of the principle of consent, imputing consent retroactively where it cannot possibly be considered to have been given either implicitly or explicitly.

That is one of the points that Senator Lynch-Staunton raised.

I will stop there, honourable senators, because I think that gives you something of the flavour of the testimony before the Social Affairs Committee when it considered this bill.

My friend Senator Milne referred to various views, and I believe I followed her carefully, but she made no mention at all of the testimony of Mr. Radwanski. I presume that she was waiting for me or some other senator on this side to do so, and we will, of course, oblige her.

Before I sit down, I should mention, apropos the statement I made when I began — namely, that this goes well beyond what is necessary for the stated purposes of the bill — that the Privacy Commissioner and the Chief Statistician of Canada have signed off on a compromise proposal. As the commissioner observed in his testimony, this bill goes well beyond that.

My view is that we should not pass this bill as it stands, but I, for one, am very open to a compromise proposal of the kind to which Mr. Radwanski referred.

Honourable senators, I will continue my remarks on another day.

On motion of Senator Murray, debate adjourned.

FIRST NATIONS SELF-GOVERNMENT RECOGNITION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Gerry St. Germain moved the second reading of Bill S-38, declaring the Crown's recognition of self-government for the First Nations of Canada.

He said: Honourable senators, it gives me great pleasure to rise today to begin the debate at second reading of Bill S-38. I must begin by giving credit to the late Senator Walter Twinn who, a number of years ago, introduced a bill in the Senate that provided a mechanism for certain First Nations to achieve a measure of self-governing authority. This bill builds upon the basic idea at the foundation of Senator Twinn's initiative in a way that I believe is positive for all First Nations with a land base who seek an alternate route to becoming self-governing. This is the foundation only. It is all about the enabling aspect and the affordability.

Bill S-38 provides a route that does not involve the protracted negotiations we witnessed recently with the Nisga'a and other First Nations who wish to become self-governing but have only the Constitution to follow, the route followed by the Nisga'a.

This is an important point to recognize and acknowledge. If one were to look at every agreement concluded in recent times, one could not escape noticing one simple fact of reality — the fact of time. Agreements cost too much money and they take far too long to conclude. This is time and money that could be put to far better use in meeting the needs of education, housing, health, poverty, clean water, et cetera, for our native peoples.

• (1610)

Simply put, Bill S-38 provides for First Nations with a land base, being those with a reserve or those who have settled a land claims agreement or possess and occupy treaty lands, a method to achieve self-government in a timely fashion through a process controlled by First Nations themselves.

Before I get into some of the details of this bill, I wish to acknowledge the work that has preceded this bill on the subject of First Nations self-government. With the inclusion of section 35 in the Constitution Act, 1982, and with the constitutional amendment of 1983, which added sections 35(3), 35(4) and 35.1, it became clear that governments at all levels in Canada would have to acknowledge the reality of Aboriginal self-government as an "existing Aboriginal right which was recognized and affirmed" in the Constitution of Canada.

The Aboriginal right of self-government exists by virtue of the fact that Aboriginal people were living in self-governing communities before the arrival of the Europeans. The constitutional amendment was quickly followed by an in-depth study by a House of Commons committee chaired by Keith Penner, M.P., on the subject of Indian self-government. That committee was remarkable in a number of ways. It included *ex officio* or liaison members, representatives of both status and non-status Indian groups, as well as a representative of the Native Women's Association of Canada.

While the committee recommended full constitutional recognition of self-government and that Indian First Nation governments would form a distinct third order of government in Canada, it also recommended that, until that occurred, alternative methods of achieving self-governing status be explored by governments and by Indian nations.

The first attempt at achieving this goal came in the form of a bill, Bill C-52, which was introduced in June, 1984, by John Munro, then Minister of Indian Affairs and Northern Development. Bill C-52 was entitled: "An Act relating to self-government for Indian nations." In many aspects, Bill C-52 was remarkably similar to the one we are now dealing with at second reading stage. The last whereas clause of Bill C-52 touched on that similarity. It stated:

> And whereas Parliament and the Government of Canada are committed to continuing and strengthening Indian governments on lands reserved for the Indians by providing for the recognition of the constitutions of Indian nations and the powers of their governments.

This is the basic premise of Bill S-38 now before us. Bill C-52 died on the Order Paper with the prorogation of Parliament for the 1984 general election.

Throughout the latter period of the 1980s, a number of self-government agreements were entered into with various native groups with delegated legislative authority as their basis. As most of us are aware, had the Charlottetown Agreement been brought into effect in 1992, a new section 35.1 of the Constitution would have recognized that the Aboriginal peoples of Canada have the inherent right of self-government within Canada. However, prior to both the rise and the fall of the Charlottetown Agreement, the Mulroney government established the Royal Commission on Aboriginal Peoples, which presented its report in October 1996.

In its volume on governance structures, the Royal Commission stated:

> It must be recognized that Aboriginal peoples have a right to fashion their own destiny and control their own governments, lands and resources. They constitute nations, with an inherent right to self-government. The federal government should undertake to deal with them as such. This would pave the way for genuine reconciliation and enable Aboriginal people to embrace with confidence dual citizenship in an Aboriginal nation and in Canada.

To its credit, this Liberal government has attempted to act on these words. For example, even prior to the release of the RCAP report, the Minister of Indian Affairs and Northern Development, in conjunction with the Federal Interlocutor for Metis and Non-Status Indians, released a policy paper entitled, "Aboriginal Self-government: The Government of Canada's approach to implementation of the inherent right and the negotiation of Aboriginal self-government." This paper includes the subjects for negotiation and law-making authority, matters that are remarkably similar to those contained in Bill S-38. A detailed review of this document illustrates that while the vehicle chosen by the government to enable self-government to come into effect is different from the methods set out in Bill S-38, the end result is virtually the same.

The same can be said of this Liberal government's response to RCAP, the government's document entitled, "Gathering Strength: Canada's Aboriginal Action Plan."

I spent some time, honourable senators, on the historical foundation of Bill S-38 because I believe it is important to show that both the present Liberal government and the previous Conservative government moved in the same direction on this matter. They moved toward a mechanism under which Aboriginal self-government could be realized. The genius of the bill before us today is that while it builds on all of the work done since 1982 in the area of self-government it offers to the First Nations who wish to use it — and, I repeat, for those who wish to use it — an alternate route to virtually the same end — self-government.

As I travel across this country meeting with Indian groups, and especially as I travel throughout my home province of British Columbia, I am told of the frustrations faced by them with the present method of achieving self-government. Long, protracted negotiations create resentment in Aboriginal communities.

Bill S-38 offers an alternate route to self-government. The bill contains a detailed purpose clause, which is to recognize the inherent rights and the powers of the indigenous peoples of Canada to govern themselves and their land and to enable those peoples to exercise the jurisdiction and powers inherent in their status as self-governing entities.

Bill S-38 establishes a process for the achievement of self-government, controlled by First Nations themselves. It applies to those who have a land base, land acquired through the reserve system, lands acquired after the First Nations come under this bill, or treaty lands or lands acquired in a land claims settlement.

A First Nation elects to come under this bill by way of a referendum put before its electors. The referendum includes the constitution of the First Nation, which provides for a number of matters, including accountability and law-making authority. The bill sets out in detail the legislative powers of the First Nation. Generally speaking, federal and provincial laws not inconsistent with the First Nation laws are applicable. This is not unlike previous agreements.

The self-government proposal to be voted upon must contain, among other things, details of the lands, the treaties and agreements and the resources of the community. It must include a constitution that outlines a citizenship code, governing body, how laws are to be made, the financial reporting system, process of amendment, rights of interests in lands and other relevant matters, including any restrictions on the law-making jurisdiction of the First Nation's governing body. A vote of more than 50 per cent of all the electors brings the community under this bill.

The First Nation has perpetual succession and the capacity of a natural person.

The First Nation is recognized as having the power to make laws in relation to the autonomy, protection and stewardship of the First Nation and its territory.

Under this bill, absolute ownership of reserve land would pass to the First Nation.

The newly installed governing body of the First Nation may ask the federal government for a full accounting of all land transactions involving the First Nation and all monetary transactions with the First Nation.

Also, all moneys within the First Nation are to be accounted for by the governing group to the people of the First Nation. The tax-exempt status is preserved and extended to Indian corporations.

Also, any transactions to pass title to property that is on the lands of the First Nation, or any interest in this property, is void unless consent of the First Nation is obtained or there is an arrangement between the citizens of the First Nation.

The bill has a draft constitution attached to it that can be used as a template for First Nations. It deals with all the matters one would expect to find in a constitution for such a group.

When this bill is studied in committee, we can determine whether any matters have been left out or whether the matters included need further refinement. This is not cast in stone. We must do what is right for the Aboriginal peoples of this country.

Schedule 2 of the bill lists the powers that a First Nation may wish to exercise. In many Aboriginal communities across Canada, a number of these powers are already being utilized under various agreements.

• (1620)

The drafting of this bill began in earnest last summer. I was able to assemble a first-class group, many of whom hold senior positions in the Aboriginal community across Canada. I am especially grateful to Professor Patrick Macklem of the University of Toronto Faculty of Law for his guidance on all these matters.

What we achieved, I believe, is self-government for Canada's First Nations people, which lies somewhere between constitutional entrenchment and delegated authority. Last year, during the summer and fall, I met with many First Nations groups who were enthusiastic in their support of this alternative means to achieve self-government.

I look forward to discussions of this bill in this chamber and its review by the Standing Senate Committee on Aboriginal Peoples. Honourable senators, if we do nothing, we will continue to err as we have in dealing with our Aboriginal peoples. This is an enabling, less costly and less cumbersome vehicle with which they can regain their dignity, pride and rightful honour in our society.

On motion of Senator Tkachuk, debate adjourned.

LOUIS RIEL BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Gill, for the second reading of Bill S-35, to honour Louis Riel and the Metis People.—(*Honourable Senator St. Germain, P.C.*).

Hon. Gerry St. Germain: Honourable senators, I am pleased to rise in my place to speak on Bill S-35. A great deal has been written about the Metis people, and, particularly, one of our most acknowledged leaders, Louis Riel.

While I have been reading about the Metis people, the struggles they endured and still endure, and lived the struggles as a Metis, I learned much of what I know about the region and the people while growing up there, listening to the oral history and the stories passed down to me from my Metis ancestry. It is an absolute necessity that I rise to speak about this great Canadian hero.

The bill says its purpose is to honour Louis Riel and the Metis people by commemorating Riel's unique and historic role in the advancement and development of Confederation. It recognizes his contribution to the rights and interests of the Metis people and the people of Western Canada.

The bill also seeks acknowledgement of the arrowhead sash as the recognized symbol of the Metis people. Further, it encourages government departments to honour Riel by using his name for appropriate commemorative purposes. It is only proper that we install mechanisms to remember, praise and learn from the contributions of the Metis in building our great country.

I believe it is right to establish a day of recognition. It is right to establish symbols, and it is right to recognize and remember those individuals who played a political role in protecting the rights of their people, our heroes. Honestly, I do not believe Canada does enough to educate its people about our history, our culture and what makes us truly unique in the world.

One thing that makes this country unique is its leaders. People need leaders. They need heroes. People need leaders who have the ability to see what is going on around them, apply their knowledge and surmise what the future will bring. Leaders seek to move their people forward. They help to steer them down better roads.

The Metis were not a small and isolated group of people. They were involved throughout North America in its development. They have been brought up and created through the fur trade. The Metis established the rules of the game, so to speak, with the buffalo hunt, in which my ancestors participated. They established the Northwest Company. The Metis were the trailblazers who led explorers, missionaries and traders westward and inland. They acted as middlemen between the advancing European settlement and the native bands. They acted as interpreters when treaties with Indians were negotiated, and they fought against the annexation of the Northwest Territories to the United States of America. They existed with the other indigenous peoples long before either Canada or the United States were organized into countries.

The Metis share a claim through Aboriginal title with many Indian nations in Canada and the United States. That claim is reaffirmed in Canada through the Manitoba Act of 1870, the Dominion Lands Act and the Canada Act of 1982.

The Metis nation was instrumental in the formation of Canada and deserves special recognition for its huge contribution to the evolution of Canada. Often, these contributions have been ignored.

The Metis seek restitution and the recognition due to them for their role in building the nation. Bill S-35 seeks to accomplish part of this by recognizing one of its people's most memorable figures: Louis David Riel. Why is Riel an appropriate figure to commemorate for the Metis people? To answer this question, we must look to just before Riel came to be a public figure.

In the 1800s, the Metis were becoming a forgotten people. They were overlooked, exploited, exterminated or marginalized out of their rights. The White community was shunning them. However, the Metis were distinct in their behaviour, attitudes and their choice of defining themselves. The Metis Nation centred in the Red River colony had become anxious about the pending annexation of Rupert's Land with the Dominion of Canada. Riel understood that the Dominion of Canada wanted to expand the country west to the Pacific. He also recognized that the original settlers of Rupert's Land were the Metis and that the new White settlers were changing their way of life. He saw that the Metis and the Indians were treated as savages and had become unwanted people on their own land. That was even prevalent when I was a young person in the province of Manitoba. Believe me, I should like to reflect further on this, but time does not allow.

Riel resolved to dedicate his life to the plight of his people. He stood up to be heard by the encroaching Canada and established a provisional government because he felt the Metis lot would be better served by uniting with Canada than with the U.S. Riel struck a deal and negotiated the entry of Manitoba into the Dominion of Canada, which culminated in the Manitoba Act of 1870.

Riel's sense of fairness for all individuals around him can never, ever be questioned. His bill of rights for the people of the Red River settlement was ahead of its time. It established a guide for peaceful, harmonious treatment of diverse individuals within the same area. The Manitoba Act provided that the land titles of those, mostly Metis, who had occupied lands in Manitoba before Confederation would be confirmed under Canadian law. It also set aside 1.4 million acres of land in Manitoba to be distributed "to the children of the half-breed heads of families." They were my ancestors.

The Metis had expected to select their children's shares of the 1.4 million acres from the vacant wooded territory fronting the rivers and streams near the occupied lands on the Red and Assiniboine Rivers. Individual entitlement was to be a quarter section of 160 acres per head. Many believed, and still do, that the Macdonald government really wanted to unlock the territory for "actual settlers."

My allotted speaking time does not allow me to recount the succession of facts, but we do know that the policy for allocation of public lands in the province of Manitoba ultimately came to include much of the original occupied territory lands of the Metis.

• (1630)

What of the 1.4 million acres held in trust for the children of heads of families? This land was supposed to be held "en bloc;" none could be sold to outsiders. To unlock this land sale to new settlers, the government devised what was called the McMicken scheme. They changed the land policy and introduced "script certificates." That is no different from what happened to the Chickasaw, the Choctaw, the Creek Nation and the Seminole Indians in the State of Oklahoma — civilized nations, where whitey stole all the land. The government said:

> Let script be issued to each for their respective shares — representing at the standard rate at which the public lands are held for sale...script shall be transferable.

In reality, none of the land was to be held in trust.

By 1873, there was not one promised patent to a river lot and none of the 1.4 million acres was allotted. The script resulted in hundreds of half-breed heads of families selling their shares of land for as little as $25.

The government's administration of the Manitoba Act did not resolve the problems of the Metis people. It was felt that the government had deliberately deprived the Metis of their lands. With the decline of the buffalo hunt, the fur trade, poor agricultural farming results and general marginalization of the Metis, the Metis were moved further west. They had migrated to central and northern Saskatchewan, where several Metis families had settled after 1869. There, the Metis had resumed their traditional way of life.

The Canadian government policy of western expansion soon caught up to them there again. Once again, the influx of settlers and immigrants threatened their way of life. Their borders were again disappearing, their rights were no longer being respected, their lands were being taken and the government was not listening. The Northwest Rebellion of 1885 has been seen as the Metis response to the administrative policies of the Canadian government — a policy of a government insensitive to the needs of the Metis people.

The federal government's maladministration and neglect of Western grievances had caused the rebellion. The Northwest Rebellion resulted in the Metis nation being almost annihilated, scattered in all directions for many years.

Louis Riel believed in his native rights and held strong convictions on the land issue. A few days before he lost the Battle of Batoche, Riel wrote in his diary as follows:

> The spirit of God made me realize the extent of the rights which the Indians possess to the land of the northwest. Yes, the extent of the Indian rights, the importance of the Indian cause are far above all other interests. People say the native stands on the edge of a chasm. It is not he who stands on the edge of a chasm; his claims are not false. They are just. The land question will soon be resolved, as it must, to his complete satisfaction. Every step the Indian takes is based on a profound step of fairness.

History has maintained, honourable senators, one consistent comment about Riel: He was an energetic leader who was sincerely interested in the welfare of his people. There is only one aspect of Bill S-35 that causes me to think a bit and be concerned. It has been a subject of consternation among some groups of Canadians for many years and for different reasons, and that is whether Parliament should, 117 years later, vacate Riel's conviction for high treason.

I believe that we are each accountable for our actions, whether they are in our personal affairs or in the course of public affairs. No one disputes that Riel was the central figure ultimately responsible for the Northwest Rebellion skirmishes that led to the unwanted deaths of Indians, Metis, White settlers and soldiers of the government. We must all stand accountable for our actions.

Whether we should recommend a pardon by adopting Bill S-35 as is or amend it by expressing some form of forgiveness deserves some serious scrutiny by the committee examining Bill S-35. I say this simply because I believe a pardon may possibly mitigate against the importance of Riel as a real hero in the development of Canada. I never want to take away from anything that he has done.

The government of Sir John A. Macdonald martyred Louis Riel. By issuing a pardon, it may be possible that those who ignored the importance of Riel's work may now find a degree of exoneration in their mistreatment of this great Canadian hero.

The committee should spend some time reviewing Hansard — the spring and fall session of 1885 and the March 22, 1886, remarks made by Sir John Thompson, who was Attorney General, and the opposition bench.

Honourable senators, I believe Riel was a patriot for the Metis people. He was a visionary. He was compassionate and very generous. He was many things. Even when he was judged by the White community to have erred, he did so on behalf of his people. He was fighting no different than the Mandelas and the Martin Luther Kings of their day. We must recognize him for his accomplishments.

In this place, honourable senators, we must put forth a bill that properly establishes Riel's place in the making of Canada. In evoking his memory, this place must fulfil its functions as a protector of minorities and resolve outstanding matters with Canada's founding First Peoples, of which I have the honour of being a part.

It may sound strange that someone would stand, as I am, and be that proud. I am that proud. I know senators such as Senator Chalifoux, Senator Gill and others share that sense of pride in the great importance that people such as Riel played in the history of this great nation.

Hon. Jane Cordy: Honourable senators, I have a question for the honourable senator, if he is taking questions.

Senator St. Germain: Yes.

Senator Cordy: I thank Senator St. Germain for a very informative speech and for providing us with an historical perspective. During his speech, the honourable senator mentioned the term "script certificates" and suggested that this instrument led to the Metis people losing their lands in Manitoba. This is not a term with which I am familiar. Could the honourable senator clarify and expand upon this term for my information?

Senator St. Germain: Honourable senators, scripts were certificates that were produced by the Canadian Bank Note Company, which produced the currency at that time in Canada. A script certificate entitled the bearer to apply for a piece of land. The certificate could also be traded for a negotiable monetary amount. There were various denominations or acreages. Some were 160 acres in size, others were 240 acres. There was a variety of sizes. The script certificates were to be handed out to the children of the heads of families. This is where the breakdown came. This is what happened continually. This is why I was so opposed to the term "fee simple" in the Nisga'a agreement. I believe that native lands should be held in perpetuity for particular bands or a respective group of people.

In Manitoba at that time, there was a group of people who had traditionally lived off trapping and hunting. My ancestors were buffalo hunters. My father died in 1991 at the age of 86. I asked, "What is the most memorable thing, Dad, that you can tell me about your youth?" He told me about the time his mother's family went on the last buffalo hunt into Assiniboia, Saskatchewan, where Senator Gustafson now farms. He told me how they had the old Red River carts and the oxen. He remembered that, although he was very young.

By virtue of being hunters and gatherers, these script certificates were handed out. They were negotiable documents for land or they could be exchanged for currency, which allowed the heads of families to trade these items rather than maintain the lands for their children.

• (1640)

In the case of my grandfather, they did not trade on it. My grandfather farmed one of these pieces of land on the Assiniboine River that was granted by script.

I do not know if that fully explains the script process. I wonder whether it was done for the purpose of further settling the area, knowing that these people would sell their pieces of land rather than maintain them.

In the Oklahoma territory, when they discovered oil under that land, there was only one band, and I believe it was the Creek Indians, that refused to take allocations to individuals of land in fee simple. All of the other land was either fraudulently taken from them or indiscriminately sold. The rest is history. To this day, only the Creek Indians have land there. The actions of President Jackson and the exploiters and those who wanted access to the resources resulted in these people losing their lands, as did the Metis. There was huge pressure from the white settlement to move these people out.

It is quite complicated. It would be difficult to explain in one debate. Hopefully we will be able to further explore the history of our Metis people when the bill goes to committee. Many do not know the intricacies of this great contributing group of people who really settled the West, established the Province of Manitoba through Riel, and still carry on today in numerous parts of Canada.

In Senator Chalifoux's area of northern Alberta, there were special areas designated for Metis people. However, I am not sure whether the Metis or the Indians really fully benefit, as they should, from treaty lands.

On motion of Senator Stratton, debate adjourned.

[*Translation*]

NATIONAL ACADIAN DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Gerald J. Comeau moved the second reading of Bill S-37, respecting a National Acadian Day.

He said: Honourable senators, it is an honour for me to present Bill S-37, respecting a National Acadian Day. Allow me to congratulate the Honourable Senator Losier-Cool, who is in the Chair, for having taken the initiative to move this motion in the Senate to have August 15 recognized as National Acadian Day.

I joined a number of other honourable senators in support of the motion and I am happy that it has been carried.

Thanks to the actions of the Honourable Senator Losier-Cool, newspapers are now reporting that there are federal ministers and a number of parliamentarians from the other place who support the resolution. There is now a good indication of support by federal parliamentarians.

Bill S-37 is simply a step to reinforce the Honourable Senator Losier-Cool's initiative on this issue. I remind my colleagues that a motion from one of the Houses of Parliament is an expression of good intention. It is not binding. The motion has neither the authority nor the power of a bill. The government has no obligation to act on it. A statute, however, requires the government to carry out the will of Parliament.

I should like to point out, honourable senators, the importance of the fact that it is the Parliament of Canada rather than the cabinet or a minister that is designating in a concrete manner this special date of August 15. A cabinet proclamation does not become law, nor does it have the symbolic value of an initiative from the House of Commons, the Senate or the Crown. A bill would have the effect of setting this date in stone, which would prevent any future cabinet from reversing the proclamation without consulting Parliament.

All parliamentarians will agree that this initiative must be honoured by parliamentarians and not by the cabinet. I hope, honourable senators, that you will support this bill.

On motion of Senator Robichaud, for Senator Losier-Cool, debate adjourned.

• (1650)

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

ELEVENTH REPORT OF COMMITTEE WITHDRAWN

The Senate proceeded to consideration of the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration (Senate Supplementary Estimates 2001-2002), presented in the Senate on February 7, 2002.—(*Honourable Senator Kroft*).

Hon. Richard H. Kroft: Honourable senators, on Thursday, February 7, the day of our last sitting, I presented the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration. At that time, I asked that permission be granted for the report to be considered that day. Leave was denied, which senators have the perfect right to do. The report was then placed on the Orders of the Day for consideration today.

This report recommended the adoption of Supplementary Estimates of $6,165,000 for the fiscal year 2001-02 as a result of the applications of the provisions of Bill C-28, which senators may recall was the Parliamentary Compensation bill. The adjustment to the statutory appropriation was intended to disclose the estimated cost of the government's contributions to the pension account for both the current and previous fiscal year, as well as the cost of the three-month salary increase relating to the previous fiscal year.

Honourable senators, I should explain that the last day for submitting Supplementary Estimates, according to Treasury Board's printing schedule, was February 11. Honourable senators may be interested to note that this limited time frame results from the fact that it is expected that the government's Supplementary Estimates (B) will be tabled in the House of Commons on February 28, 2002.

It follows, then, that we have missed the opportunity to include our item in the Supplementary Estimates. I should like to underline, however, that not being included in the Supplementary Estimates is of no consequence, since the increase to the statutory appropriation was for purposes of transparency only and not to obtain spending authority. The spending authority was in effect granted in Bill C-28, passed by the House and the Senate in June of 2001. Transparency was provided at that time. In addition, the precise amount of the expenditures will be fully disclosed in the public accounts that will be tabled in the House in the fall of 2002.

Given that the window for applying for Supplementary Estimates (B) is now passed and that not being included in this set of Estimates is of no consequence, I will not be moving the adoption of this report. Therefore, I ask that, with leave of the Senate, the eleventh report be withdrawn and the order discharged.

The Hon. the Speaker *pro tempore***:** Honourable senators, is leave granted to withdraw this report from the Order Paper?

Motion agreed to and report withdrawn.

[*Translation*]

BUDGET 2001

STATEMENT BY MINISTER OF FINANCE— INQUIRY—DEBATE ADJOURNED

Hon. John Lynch-Staunton (Leader of the Opposition) having given notice on November 29, 2001:

> That, on Tuesday, December 11, 2001, he will call the attention of the Senate to the budget to be presented by the Minister of Finance in the House of Commons on December 10, 2001.

Hon. Roch Bolduc: Honourable senators, in connection with the budget speech of last December, I propose to evaluate the economic picture set out by the Minister of Finance, to analyze his proposals in connection with taxation and public expenditures, and to offer my opinion on the administration of the affairs of the State and the accountability it entails.

[*English*]

The minister, as is his wont, attributes the positive economic development of the last few years to the actions of his government. In fact, honourable senators, the growth in Canada's GDP from 1995 to 2000 was largely due to the growth of the U.S. economy during the same period and the resulting rise in our exports to that country under the Free Trade Agreement negotiated by the Mulroney government. Moreover, the budget surpluses vaunted by the minister are, to a considerable extent, the result of the prosperity to which I have just alluded, cuts in transfers to the provinces, and the excessively high taxes maintained by the Liberal government in the last eight years. These are facts that the minister has completely failed to mention.

Honourable senators, the Minister of Finance is anticipating an economic recovery beginning in the middle of the year. I fear he is too optimistic. To those who already see a recovery in the United States, I would point out that five of the six recessions experienced since the end of the 1950s, particularly 1957, 1960, 1969, 1973, and 1981 — as a matter of fact, in all of the recessions except the one in 1989 — were, as the analysts say, double-dip recessions. That is a real possibility again today, because individual and corporate debt is still very high. Moreover, there was a $200-billion over-investment in telecommunications in 1999 and in 2000; with rare exceptions, corporate profits in the last quarter were lower than they had been; and, according to economist Yves Rabeau, the North American manufacturing sector is operating at 73 per cent of capacity, the lowest utilization rate since the 1982 recession.

Stephen Roche, of the firm Morgan Stanley, aptly points out that in 2001 there were no pay awards at the end of the year: bonuses, profit sharing and stock options for employees.

Barton Biggs adds the following:

> The U.S. economy may be bottoming, but before a sustained expansion can unfold, the economic system has to purge itself of the excesses bred by prosperity. That process is underway. But it is far from complete either in the consumer sector or in capital spending.

Although those responsible for setting monetary policy have been able in the post-war period to avoid crises comparable to that of the 1930s, there is still a risk that inflation and threatened expansion may only be postponing the inevitable.

In 1933, Hayek wrote the following:

> To combat the depression by a forced credit expansion is to attempt to cure the evil by the very means which brought it about.

This assertion was later confirmed by Schumpeter:

> The recovery is sound only if it comes of itself.

Mr. Greenspan, a man capable of subtle distinctions, cautioned in 1996 against the danger of "irrational exuberance" with reference to the asset markets. Then, with the coming U.S. election, he fell silent and, in March 2000, seemed to fall back on the argument made by Bob Rubin, the Treasury Secretary, that perhaps the new technology had increased productivity to such an extent that "the bubble was a good one," and that the strong growth would not trigger inflation. For an economist of such vast experience, that conclusion was surprising, to say the least. Knowing the preponderant influence he has on those responsible for setting our monetary policy, I wonder how much room to manoeuvre is now left in Canada. With weak growth in 2002 and a higher unemployment rate, it will take more time for households to recover their liquidity and their confidence. Our exports to the south will continue to be lower than they were during the good years.

Since cycles do not occur at the same time here and in the United States, the negative impact was not really felt in Canada until the fall. Given the grimness of the situation, the Minister of Finance, after boasting about his accomplishments in recent years, decided that the solution was to increase public spending, in keeping with the pure Keynesian tradition of the 1960s that has long been discredited but is still so dear to the Liberals.

First, let me say a word about the fiscal option, taxation. I see that the budget plan explains once again the tax cuts announced last year for the coming years and that the minister is staying the course while taking the credit for doing so in a period of recession without putting the finances in the red. The recession that began in the spring of 2001 in the United States started to be felt here only a few months ago, although in the automobile and a few other sectors it was felt earlier, owing to the global structural problems of overcapacity. Another example is the lumber industry, where there are obvious problems with the Americans, not to mention the aeronautics industry, which is reeling from the effects of September 11, and the telecommunications industry to which I referred earlier.

The fact remains that in 2000, at 38 per cent of the GDP, our tax burden was similar to that of the Germans and other Europeans with firmly rooted social-democratic traditions. We cannot aspire to emulate our neighbours under such conditions. In his budget plan, the minister tells us that in 2005 we will have a corporate tax rate of 34.6 per cent, therefore lower than the U.S. rate, while last year it was 46 per cent versus 40 per cent in the United States. The minister is forgetting one thing: He assumes a constant American rate. Such comparisons are nothing but smoke and mirrors. Incidentally, perhaps next year he can provide us with comparative figures for personal tax rates.

• (1700)

The latest information I received on this subject of personal tax rates is the following: As a percentage of the GDP, Canada ranks fourth highest, after Denmark and Sweden, among OECD countries. Also, as a percentage of GDP, taxes in Canada equal about 1.4 times that of the OECD average. In the 1999 statistics, the last ones available in Canada, personal income tax is about 14.1 per cent of GDP while in the United States it is 11.7 per cent.

In the meantime, I regret to say that no new tax reductions are planned for this year. Rather, we have a new tax on air travel, precisely at a time when the airline industry is in difficulty. Only a government can assume that increasing transportation costs will encourage people to travel more.

One last comment on tax relief. On pages 178 and 179 of the minister's budget plan, tables A1.2 and A1.3 set out the tax reductions from 2000 to 2005. I believe additional information is required for the discrepancy between various figures — for example, $5.7 billion versus $4.3 billion given for the same year, 2002. No doubt there is a technical explanation for this apparent variance.

With respect to microeconomic policy, the government is surprisingly silent once it steps outside areas under provincial jurisdiction, namely, health, education and municipal infrastructure. It claims to be doing a great deal in the area of research in order to promote innovation and stimulate productivity. In fact, its R&D efforts, which represent about 40 per cent of the total because 60 per cent is done by business, focus on universities and government or public research centres and are therefore confined to the federal or provincial bureaucracies. The figure for this year is $7.4 billion. Why are we sixteenth on the list of OECD countries? We account for 2.5 per cent of world production, but innovative output is about 1.25 per cent of the high tech total in the world.

With such a low rate of productivity increase, it is no surprise that the Canadian dollar has lost 20 per cent since 1993, when the Liberals were elected. When the government tells us that our cost index for producing in Canada is quite advantageous in comparison to other countries, it is because we are poorer. That is the simple solution.

The government, therefore, has no proposals to relieve business of burdensome regulations; nothing to increase our share of foreign direct investment, which is declining; nothing to reverse the Canadian brain drain, especially by eliminating the capital gains tax; nothing to raise our productivity, which is 19 per cent lower than the American one; nothing to increase competitiveness in the distribution of credit; nothing to make our monopolistic national airline more competitive, except counterproductive interference in its management; nothing to promote the culture of risk capital among entrepreneurs; and nothing to eliminate the underground economy, estimated at 17 per cent of GDP.

I should like to add an additional note about the GDP per capita. In 1990, we were third in the world; in 1999, we were fifth in the world; and, in 2001, we were seventh in the world. We are declining in terms of GDP per capita. In terms of world competitiveness, the same thing happens. In 1998, we were sixth; in 1999, we were eighth; and now, in 2000, we are eleventh. We are still declining in competitiveness, even with the low dollar.

The minister repeats that the economic fundamentals are good. In my opinion, they are not in personal and corporate taxation; they are not in the regulatory environment; and they are not in the spending program of the government. Moreover, the government is dragging its feet on the important issue of health reform.

In the meantime, the cost of doing business is higher in Canada than in the United States. One quarter of government expenditure goes to make interest payments or to fund programs that slow down economic performance. Government programs, which in the 1960s represented 30 per cent of the GDP, now represent 40 per cent. Taxes on capital are higher than in the United States, and investors and savers are taxed more than consumers.

If we were so competitive as a national economy, why is Mr. Rock's new innovative strategy debate taking place? Economic prosperity is not achieved by crushing the agents of production.

There are no major structural changes to compare with those instituted by the Mulroney government, namely the GST and the free trade agreement with the United States.

The table on page 41 of the minister's budget plan shows that from 1991 to 2000, Canada-U.S. trade rose from $200 billion to $600 billion a year, that is, from 35 per cent to 65 per cent of the GDP. Therefore, as a proportion of the GDP, the value of trade almost doubled. As we know, not every politician of that period had the same vision.

I should like to look at the public expenditure component of last December's budget. The government this year has responded to economic conditions in Canada, and political conditions worldwide, with a massive increase in federal spending.

That old Keynesian reflex, discredited amongst serious analysts, continues to hound the current government, as it did the previous Liberal government of the 1970s. During those years, Canada and Europe tried to revitalize the economy using that approach, and the result was higher unemployment and stagnant productivity. What we inherited was "stagflation." Japan has been using the same approach with the same results in the last 10 years. A recent study by Robson reveals that variations in public spending have no effect on employment. According to that theory, money was supposed to multiply as if by magic once consumers decided to spend. Even tax reductions were supposed to take this route in order to stimulate overall demand.

As Jean-Luc Migué so lucidly explained, this approach presupposes that spending comes before production and growth and stimulates them. In other words, he adds, people supposedly spend or invest only in response to variation in their disposable income, so that the yielding rate of their activities has no impact on prosperity. In reality, growth and prosperity occur when production and national revenue rise. Encouraging people to spend rather than to save more of their income does nothing to increase overall production.

Instead of looking at the demand side of the equation, we must look at the supply side. What are the determinants of production? They are the incentives that motivate the engines of production: to work, save, invest, innovate and take risks. That is why it is doubtful that the approach taken by the current government will lead us out of the recession.

Let us return to the 2001 budget. Ottawa's expenditures will increase by 9.7 per cent this year. While everyone is in agreement that more public money must be allocated to security this year because of the terrorist threat, a total increase of $11 billion seems excessive, especially since there is no clear proof that it will have a positive impact on Canadian society. This $11 billion is in addition to the $9 billion spent in 2001. That makes for a total of nearly $20 billion in two years. I believe the government has lost control of expenditure in view of the massive influx of revenue as a result of overtaxation.

I sometimes wonder whether this is not a trap that the Prime Minister has laid for his party's leadership hopefuls. It is as if he has taken revenge on candidates who were in too much of a hurry. He put money in health, but moved the minister. He put it in innovation, but the minister is gone. He forced the Minister of Finance to spend more than he probably wished. A single exception confirms the theory: the Minister of Canadian Heritage, who got more than she needed but kept her job. I know she is formidable, but an extra $300 million boggles the mind.

Every year, the government trots out new buzzwords, similar to what the socialists used to do. It seems to believe that these can take the place of ideas. In the past, we have been favoured with "innovative economy" and "inclusive society." This year, the term is "strategic investment." What does "strategic investment" mean? It means waterworks, sewers and sections of road.

[*Translation*]

The Hon. the Speaker *pro tempore***:** Honourable senators, I regret to inform Senator Bolduc that his time has expired.

Senator Bolduc: Honourable senators, I seek leave to continue.

The Hon. the Speaker *pro tempore***:** Honourable senators, is leave granted for the honourable senator to continue?

Some Hon. Senators: Agreed.

[*English*]

Senator Bolduc: The government should be ashamed to step into areas of provincial jurisdiction like that. After the mess created by the heating-oil refund last year, it might have shown more prudence or restraint. The government should be more equitable by making it possible for provinces to allow individuals to set up taxfree medical savings plans for themselves.

• (1710)

If we can have retirement savings plans to provide against a drop in income in old age and unemployment insurance to provide against the possibility of unemployment, then why can we not provide a medical savings plan and a real education savings plan?

Lastly, I should like to say a word about Africa. I have nothing against Canada's participation in the development of this continent, especially if this is done to meet our international commitments. However, over the last 30 years we have injected $2 billion to $3 billion per year into Third World countries through CIDA. I note that Southeast Asia, despite a 10-year recession in Japan, has performed better than Africa. It seems to me that before committing an additional half-billion dollars to that continent, as we are about to do, we should thoroughly review, on an urgent basis, the specific effectiveness of our program. We will certainly not solve the problem by increasing the GDP rate through aid expenditures. The reality of poverty in Africa is obvious, but the diagnosis of its causes is to be re-examined so that we can apply an effective solution.

Many members of the public wonder about the wisdom of certain types of public expenditures, such as funding for the National Film Board, which subsidizes films that have a clearly divisive message for Canadians; funding for the numerous CBC crews sent to cover the Winter and Summer Olympics; funding for additional RCMP officers hired to increase security, when a large percentage of those officers actually perform duties at the municipal or provincial levels, activities that could be justified in the past but are not federal priorities; and, to a very great extent, funding for marinas, pleasure boat wharves and endless other initiatives that owe their existence to the cross-Canada tours of one minister or another: the Minister of Justice, the Minister of the Environment and the Minister of Fisheries, among others. Then the Minister of Finance tells us that in 2002-03, expenditures will increase by only 2.6 per cent. It is easy to be virtuous when temptation is far away. We will talk about this some more at the time of the next budget. The minister says that three quarters of the $11 billion spent in 2001-02 will be for security, transfers and pensions. In that case, why not reduce the remaining quarter?

Honourable senators, the third part of my speech will address government administration. As a member of the Standing Senate Committee on National Finance for many years, I have observed a change in the role exercised by parliamentarians in the various phases of the budgetary process, as well as a change in the accountability of the government and its management agencies. I think these changes are not for the better.

For example, the Minister of Finance delivered his budget speech a few days before the adjournment of the House. It was as if the government had decided to silence the opposition. I do not believe that such a situation would occur under any other parliamentary regime. The budget speech is the major public decision-making event of the year in terms of domestic affairs, and the government closed the shop after a two-day debate. If that is not a display of arrogance, what is it?

Honourable senators, I wish to congratulate former Minister Duhamel for the leadership he displayed as Chairman of the Special House Committee on Parliamentary Review of the Budgetary Process. There has been considerable improvement in the Treasury Board documentation submitted to Parliament in respect of ministerial priorities for next year and the evaluation of results in the fall of the following year. Those two sets of papers, together with the Estimates and the budget speech, will facilitate the role of parliamentarians in the three phases of the budget review: planning, management and control.

That being said, the priorities set by the departments and by Treasury Board should be expressed more in terms of targets than in terms of general objectives; the administrators should be more specific. The same should occur at the assessment phase. Results should be better quantified so that we can measure the positive or negative impact of the various programs. Public servants have an obligation to objectively report the good and the not-so-good aspects of their work. Let us not forget that the purpose of the exercise is to allow parliamentarians to determine the pertinence of government activity and its efficiency in terms of resource allocation.

Honourable senators, my second remark concerns government accountability. We all know that 70 per cent of budget expenditures, such as transfers to individuals and the provinces, debt servicing, international commitments and pensions for public servants are statutory. Each year a smaller percentage of the budget is subject to a review as regards the discretionary decisions of ministers. It is then of the utmost importance that government structures and management processes be transparent. It is rather curious that the number of ministers should be increasing while the proportion of public expenditure subject to review is decreasing. A Sanhedrin of 40 ministers is not a good formula for a more efficient and responsible government.

Honourable senators, the fact of the matter is that we have observed over the Liberal years the gradual erosion of transparency. Fewer and fewer government expenditures are handled by the departments, while more and more are handled by grants councils, special agencies and foundations. Partnership management tends to obscure administrative processes, and is something the Auditor General is not comfortable with.

In the regular departments, there are well-established rules for the recruitment and promotion of qualified employees, and there are traditional codes of ethics. The Public Service Commission exercises control over the behaviour of employees, and clear rules are in place governing the supply of services, contracting out, purchasing and construction.

The new agencies established in recent years, including 10 foundations and even special agencies such as the Canada Customs and Revenue Agency, are specifically excluded from the jurisdiction of the government's central control agencies. How, then, is the public interest to be protected? The rules of the game are not part of their specific statute. The administrative histories of England, France, the United States and even Canada have shown that in the absence of these requirements there is an ever-present danger of patronage, arbitrary decision making and corruption. I am not comfortable with a two-tier public service. If we are not satisfied with a government organization because it is inefficient or its services are too costly, let us give it competition or have it privatized.

Last December, we described in this chamber the administrative detours taken by the government to inject money into companies with no defined program that were established under the Companies Act and subsequently converted into foundations. Over $10 billion of public money is now in the hands of boards appointed at the discretion of the government. To whom are these boards accountable? What are the qualification requirements for board members? To what extent are those requirements met? Is this a new form of bureaucracy that has been proven more efficient elsewhere?

If the administrative organization of government continues to move in that direction for a decade, we will no longer need ministers. Who will be held accountable to the House, then? Will it be the Prime Minister or the Prime Minister together with the Minister of Finance?

Only short-term patronage will be left in the hands of ministers. Perhaps the Minister of Finance thought that this was a good way to protect financial management from partisan assaults. At any rate, his answers to the Auditor General's comments are not very convincing.

I suggest, honourable senators, that you look at page 226 of the minister's budget plan. The minister switches from accrual-basis accounting to cash-basis accounting, depending on the needs of the moment, to justify his past actions. Such manipulation of the figures is extremely dangerous, and I recommend that Treasury Board officers resist unwarranted requests of this nature.

I mentioned earlier that statutory expenditures dominate our spending initiatives. If we add to those expenditures all our obligations under international treaties, for example, our participation in development banks and the IMF, labour agreements, money used by the councils to fund the arts, medical research, science and engineering, what is left for parliamentary oversight? The logic of that delegation process implies a reduction, not an increase, in the size of cabinet. No one outside Ottawa understands the Prime Minister's logic. It may be the best proof that there has been a power shift from cabinet to the PMO.

In conclusion, honourable senators, the government must review its economic strategy to take into account for new international socio-economic trends. The population is aging, which means fewer Canadians working, more retired people and a greater need for health services. The knowledge-based economy will require more university graduates, more professionals of both sexes and possibly a variety of family arrangements. Higher incomes also mean that there will be more shareholders. The aging of the workforce will probably be offset by immigration with its attendant integration problems, changes in values and cultural shifts. Globalization means increased competition, which in turn means higher productivity if we wish to preserve our standard of living.

In 1984, Canada's productivity was 86 per cent of that of the United States; it is now 76 per cent. A major change is obviously needed in the various components of the economic policy of the Government of Canada.

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Honourable Senator Bolduc.

The Hon. the Speaker *pro tempore***:** Honourable senators, as Honourable Senator Bolduc's time has expired, is leave granted for one question?

Hon. Senators: Agreed.

[*Translation*]

Senator Corbin: Honourable senator, I have listened very carefully to the honourable senator's speech, in which he spoke of Canadian aid to the African continent. We are both members of the Standing Senate Committee on Foreign Affairs.

• (1720)

Does he not believe that this committee should finally examine the issue of Canadian aid to the Third World, considering that, instead of improving things, it seems to exacerbate them? Would the honourable senator be prepared to support any motion of that type in the Standing Senate Committee on Foreign Affairs?

Senator Bolduc: I fully agree. I am not prepared to say that the aid we provide through various agencies such as CIDA is what causes the deterioration of Africa. However, there are related situations that deserve to be reconsidered. That was my point. This is an area we have to consider.

The sum of $3 billion was earmarked to solve the problem, on a yearly basis. That is a lot of money. The Standing Senate Committee on National Finance is looking at equalization. This is almost one third of equalization. Obviously, poverty is a problem in Africa. I realize that it was unfortunate that Japan was in a recession, but there was a period of tremendous growth in South-East Asia through trade. A market-driven system, which may be more or less adequate, was set up, but action was taken. Africa is, to a large extent, governed by French policy, which is said to be highly interventionist, like that of England after the war, with the result that its economic base is not sound.

In Canada and elsewhere in the world, we are putting up incredible barriers for products coming from Africa. This does not make sense. If there are countries that need help, it is those in Africa, so that they can export their products. This will promote economic growth four times greater than with all the aid programs under the World Bank and CIDA. It is the formula used in Southeast Asia that works. I think we should make a thorough review of all this.

On motion of Senator Stratton, debate adjourned.

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Nicholas W. Taylor: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*a*), I move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to sit at 5:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, February 20, 2002, at 1:30 p.m.

CONTENTS

Tuesday, February 19, 2002

PAGE

The Late H.R.H. Princess Margaret Rose
Silent Tribute. The Hon. the Speaker 2235

Royal Assent
Notice. 2235

SENATORS' STATEMENTS

Heart and Stroke Awareness Month
Senator Keon 2235

Heritage Day
Senator Hubley 2236

Transport
Aviation Security Fee. Senator Carney 2236

Newfoundland and Labrador
Twentieth Anniversary of Capsizing of Ocean Ranger Offshore Oil Rig. Senator Cochrane 2236

The Late Thérèse Daviau
Tribute. Senator Pépin 2237

ROUTINE PROCEEDINGS

Criminal Law Amendment Bill, 2001 (Bill C-15A)
Report of Committee. Senator Milne 2237

Claim Settlements (Alberta and Saskatchewan) Implementation Bill (Bill C-37)
Report of Committee. Senator Chalifoux 2238

Study on Matters Relating to Fishing Industry
Report of Fisheries Committee Tabled. Senator Comeau 2238

National Anthem Act (Bill S-39)
Bill to Amend—First Reading. Senator Poy 2238

Canada-China Legislative Association
Fourth Annual Meeting, October 2001—Report of Canadian Delegation Tabled. Senator Austin 2238

The Senate
Motion to Authorize Videotaping of Royal Assent Ceremony Adopted. Senator Kroft 2238

National Finance
Notice of Motion to Authorize Committee to Extend Date of Final Report on Study on Effectiveness of Present Equalization Policy. Senator Murray 2239

PAGE

Human Rights
Notice of Motion to Authorize Committee to Study Canada's Adherence to International Human Rights Instruments.
Senator Andreychuk 2239

QUESTION PERIOD

National Defence
Ministers Eligible for Briefings on Afghanistan.
Senator Nolin 2239
Senator Carstairs 2239

Prime Minister's Office
Cabinet Committee on Defence and Security.
Senator Nolin 2239
Senator Carstairs 2239
Conversations between Prime Minister and Leaders of Foreign States—Briefing Process. Senator Nolin 2239
Senator Carstairs 2239

National Defence
Afghanistan—Briefing of Prime Minister.
Senator Forrestall 2239
Senator Carstairs 2239
Senator Carney 2240

Justice
Federal Court Decision—Maintenance of Established Linguistic Rights—Intention of Government. Senator Gauthier 2240
Senator Carstairs 2241

Foreign Affairs
Case of Russian Diplomat Charged with Causing Death with Motor Vehicle while Under Influence of Alcohol—Request for Update. Senator Atkins 2241
Senator Carstairs 2241

United Nations
Iraq—Reopening of Borders to Determine Compliance with Resolutions. Senator Roche 2241
Senator Carstairs 2241

Foreign Affairs
Iraq, Iran and North Korea—Expansion of War Against Terrorism—Consultation with United Nations Security Council in Advance of Taking Action. Senator Roche 2241
Senator Carstairs 2241

The Senate
Iraq, Iran and North Korea—Expansion of War Against Terrorism—Possibility of Study by Foreign Affairs Committee.
Senator Prud'homme 2241
Senator Carstairs 2242

PAGE

Veterans Affairs
Federal Court Ruling Granting Veterans Status to Citizen of Prince Edward Island. Senator Comeau . . . 2242
Senator Carstairs . . . 2242

The Environment
Ratification of Kyoto Protocol—Publication of Impact Analysis and Regulations. Senator Cochrane . . . 2242
Senator Carstairs . . . 2243

Royal Assent . . . 2243

Delayed Answer to Oral Question
Senator Robichaud . . . 2243

Fisheries and Oceans
Atlantic Salmon Fish Farm Industry—Competition in United States with Chilean Salmon. Question by Senator Robertson.
Senator Robichaud (Delayed Answer) . . . 2243

ORDERS OF THE DAY

Canadian Commercial Corporation Act (Bill C-41)
Bill to Amend—Third Reading Debate Adjourned.
Senator Hervieux-Payette . . . 2243

Statistics Act
National Archives of Canada Act (Bill S-12)
Bill to Amend—Third Reading—Debate Adjourned.
Senator Milne . . . 2243

PAGE

Senator Lynch-Staunton . . . 2247
Senator Comeau . . . 2247
Senator Fraser . . . 2249
Senator Taylor . . . 2249
Senator St. Germain . . . 2249
Senator Murray . . . 2249

First Nations Self-Government Recognition Bill (Bill S-38)
Second Reading—Debate Adjourned. Senator St. Germain . . . 2250

Louis Riel Bill (Bill S-35)
Second Reading—Debate Continued. Senator St. Germain . . . 2252
Senator Cordy . . . 2254

National Acadian Day Bill (Bill S-37)
Second reading—Debate Adjourned. Senator Comeau . . . 2255

Internal Economy, Budgets and Administration
Eleventh Report of Committee Withdrawn. Senator Kroft . . . 2256

Budget 2001
Statement by Minister of Finance—Inquiry—Debate Adjourned.
Senator Lynch-Staunton . . . 2256
Senator Bolduc . . . 2256
Senator Corbin . . . 2260

Energy, the Environment and Natural Resources
Committee Authorized to Meet During Sitting of the Senate.
Senator Taylor . . . 2261

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