

*Canada Evidence Act*

**Mr. Turner (Ottawa-Carleton):** The new politics is an open book; there is nothing confidential.

**Mr. Gilbert:** The minister has said that the new politics is an open book. If it is an open book, and we apply the test of the performance of the Prime Minister (Mr. Trudeau) at the Commonwealth conference, every page would appear to be blank. These are some of the matters that I hope the Minister of Justice will take into consideration in the general overhaul of the Canada Evidence Act. More important, I hope he will set up a law reform commission to study the law in all its facets, and will bring forth a freshness and updating such as in his best moments he is capable of doing.

[*Translation*]

**Mr. André Fortin (Loisbinière):** Mr. Speaker, I do not want to speak at length on Bill No. S-3. I would rather get at once at the heart of the matter and make pertinent remarks, in order not to prolong the debate unduly.

Mr. Speaker, the Evidence Act was enacted 75 years ago and it has never been amended since. Several members in the other place expressed dissatisfaction when the present bill was considered by the committee on banking and commerce. Why has the legislation not been adapted to our evolving society over the years?

Conditions under which justice is applied are certainly not the same in 1969 as they were in 1893. A great many things and ideas have changed since. To be just a legislation must be able to adapt to various circumstances. It must take into account the whole situation, without omitting anything. It is the price we have to pay for a sound application of justice.

We had to wait 75 years before at last daring to change this legislation, to reconsider it and to adapt it, when any jurist knows that it is outmoded and a hindrance to the sound and efficient application of justice.

Before studying the present bill, I wish to tell the minister that we are dissatisfied it took so long. Of course, he is not entirely responsible for the delay since he has not always been Minister of Justice, but I suppose his predecessors cannot boast of having made any efforts to move "the iceberg", as the minister called it a few minutes ago. I think those ministers have been as motionless as the "icebergs" mentioned by the minister.

[Mr. Gilbert.]

It is difficult for us, as it is for Canadians, to understand that such a situation could exist. We would be very happy if the Minister of Justice (Mr. Turner), whom we have always considered as a progressive man, who looks forward and not backward, would explain the situation to us and would tell us why we must be satisfied today with amending the Evidence Act—and very limited amendment indeed—instead of changing entirely such an important legislation, on which rests in a way the efficient administration of justice.

The minister is aware, no doubt, that present social and technical conditions are not what they were in 1893 and that a complete review of the Evidence Act would certainly help improve the efficiency of our judicial system.

I therefore want him to give us the assurance that the law as a whole will be reviewed without further delay because we have already waited far too long.

Moreover, I feel, and I dare say, other hon. members feel the same about it, that the administration of justice is so important, that one should not be limited, when it comes to submitting the evidence, by all kinds of red tape. For instance, the act we are now amending, sets a limit on the number of witnesses, as if the full administration of justice could possibly be hampered when trying to get the blame.

Mr. Speaker, the old act did not allow each side more than five witnesses, save by leave of the court or of the judge. That obsolete provision sets limits and I wanted to emphasize the fact.

I am therefore all in favour of the amendment proposed in the present bill which simply removes such limits.

The old act, in my opinion, truly limited the administration of justice.

Clause 2 amending section 9 of the act is another example of the yoke imposed by the act, and it is high time to change and adapt it to our present social and technical conditions, which certainly are different from those of 1893. Until now, as senator Walker put it so well, and I quote:

You could call your first witness thinking that he was your best witness because you have a signed statement from him. But, lo and behold, you find that somebody has got to him in the meantime. (...) And when you call him, he gives an entirely different story from the one he has given in the signed statement. (...) You are taken by surprise, you can appeal to the judge, but nothing can be done.