• (2040)

Hon. A. Irvine Barrow: Honourable senators—

The Hon. the Speaker: I must remind honourable senators that if the Honourable Senator Barrow speaks now, his speech will have the effect of closing the debate.

Senator Barrow: Honourable senators, I would like to thank Senator Phillips for his remarks concerning Bill C-90. I am not sure that the agreement with New Zealand covers the matter of the transshipment of mutton to the United States. However, I would be glad to look into the matter and bring it to the attention of this house on third reading of the bill.

With respect to the honourable senator's question concerning developing countries, there is a list of least developed countries put out by the United Nations. There are approximately 30 countries on the list. I would be glad to read them out, but I do not think it would add anything to the debate.

As to the matter of canned fish, although this measure has been imposed, I am informed that the amount of canned fish brought into Canada is comparatively small and does not form a large part of our imports.

Senator Phillips also raised a matter concerning metrication. This point was also raised in the report of the Standing Senate Committee on Banking, Trade and Commerce. The minister replied to this, and I will just indicate what he said by paraphrasing one or two paragraphs. The only complaints that have been received with regard to metrication are in those areas, such as sugar and textiles, where complete industry conversion has already taken place and they were complaining that they must convert metric units to imperial units for customs purposes. This reply was given to Senator Hayden on June 16.

Honourable senators, those are all the comments I have to make at this point.

Motion agreed to and bill read second time.

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

Senator Barrow: I move that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

Motion agreed to.

CANADA EVIDENCE BILL, 1982

SECOND READING—DEBATE ADJOURNED

Hon. P. Derek Lewis moved the second reading of Bill S-33, to give effect, for Canada, to the Uniform Evidence Act adopted by the Uniform Law Conference of Canada.

He said: Honourable senators, it is with pleasure that I rise to move second reading of Bill S-33, the Canada Evidence Bill. I commend this bill to you as an extremely important piece of legislation. The primary function of the Canada Evidence Act is to prescribe the rules of evidence in criminal cases. It is a mark of democracy that those rules ensure a fair balance between the interests of the state in having an effective fact-finding procedure and the interests of the individual is not being deprived of his liberty on insubstantial proof or by unjust means. It is appropriate that this legislation should come before us in the same year that the Canadian Charter of Rights and Freedoms was incorporated into our Constitution.

It is a hard-won principle of our system of justice that political considerations have no part to play in proceedings before the courts, and a corollary of that principle, in my view, is that the rules of evidence should not be based upon political or economic dogma, but rather upon principles of common sense, justice and fairness. Accordingly, I think it is appropriate that this bill be introduced first in this place, where it can receive a more detached and thorough consideration.

There can be no doubt that the law of evidence is in need of reform. It has become one of the most technical subjects, with rules and exceptions, and exceptions to the exceptions. Some indication of its complexity can be gathered from the fact that a leading text, *Wigmore on Evidence*, comprises 11 volumes and occupies a full two feet of shelf space.

The law of evidence is also out of date, for it is based on social conditions that were current in the eighteenth and nineteenth centuries, and it fails to take into account the dramatic changes that have taken place in recent years in relation to the general level of education, the status of women, the place of religion, the mobility of society and the revolution in business practices due to the advent of high-speed communications, photocopying and electronic data processing.

The core of the present Canada Evidence Act dates back to 1893, and while Parliament has introduced amendments from time to time on a piecemeal basis, those amendments often have resulted in legislative overlaps and confusion as to which section actually applies. The scene is further complicated by the fact that there is evidence legislation at both the federal and the provincial levels, and there is no uniformity of legislation between provinces or between provinces and the federal government.

To a greater or lesser extent, every common law country shares these problems and over the past two decades there has been a great deal of effort put into the reform of the law of evidence in the United States, Great Britain and Australia. Significant strides have been made, not only in terms of studying the problems and identifying options but also in terms of implementation of new legislation. The need for a review of the law of evidence was recognized by the Minister of Justice as far back as 1971, when he referred the subject to the Law Reform Commission of Canada for study and report. The commission submitted its report in December 1975, recommending the adoption of an evidence code that would have replaced the common law entirely and would have dealt with many problems simply by leaving the matter up to the discretion of the judge in the particular case.

The Department of Justice carried out consultations with the bench and bar across Canada to determine their reaction to the proposed code. The majority of those who responded tended to react unfavourably. As a result of the consultations