Debates of the Senate

1st SESSION • 37th PARLIAMENT • VOLUME 139 • NUMBER 22

OFFICIAL REPORT
(HANSARD)

Thursday, March 29, 2001

THE HONOURABLE DAN HAYS
SPEAKER

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Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from Canada Communication Group — Publishing,
Public Works and Government Services Canada, Ottawa K1A 0S9,
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Thursday, March 29, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

DISTINGUISHED VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, today in the gallery there is a Mohawk delegation from Kanesatake.

[*English*]

We have with us Grand Chief James Gabriel, Chief Clarence Simon, Chief Marie Chéné, Senior Negotiator Brenda Etienne, as well as Ms Darlene Francis.

Welcome to the Senate.

SENATORS' STATEMENTS

LAWSUIT AGAINST CANADIAN ALLIANCE PARTY

Hon. Edward M. Lawson: Honourable senators, as I was saying when I was interrupted yesterday, there is something wrong with the picture when the perpetrators of character assassination against individual senators, which is an attack on the entire chamber, can go to the Board of Internal Economy of the House of Commons and have their legal fees paid, while the victims of these character assassinations are left to take care of themselves. In my own case, at the time of the settlement, I had about $25,000 worth of legal fees. I was able, in the settlement, to recover that amount and, in addition, to receive what was described as an amount sufficient to discourage any future character assassinations. From that amount, I was also able to make a donation to the Vancouver Police Foundation.

The real concern I have, and which I was raising yesterday, is that a list of 10 senators who were under attack ran on a Web site for six weeks. Senators may recall that Preston Manning went to the House of Commons and added another 10. Of course, the headlines read: "Manning to senators: Resign, resign. Tells patronage sheep to quit before the public kicks them out."

Of the twenty people they targeted, two were criticized validly. Two were convicted of wrongdoing. As an aside, I think we should make it a policy and precedent that if a senator is convicted of wrongdoing, that senator should be suspended with all privileges until the appeal is heard, except the right to participate in the chamber. That would take care of that.

However, what were the other 18 senators guilty of? Well, they were guilty of being appointed to this chamber. They got here by doing outstanding deeds and services in their communities, cities and provinces across the country, such that they came to the recognition of the Prime Minister of the day, who appointed them to the honour of serving in the Senate. The real crime that Manning and the Reform Party were accusing them of — some of them, some of you — was being members of the same political party as the Prime Minister who made the appointments. That is what they were suggesting.

Honourable senators, I suggest that we should have gone over the list of these 18 people, picked the three, four, five or six best cases, and filed a mammoth series of lawsuits to put an end to this nonsense. We should consider that.

I am pleased to say that after discussion yesterday, Senator Kroft, Chair of our Standing Committee on Internal Economy, Budgets and Administration, said that if I made a presentation today, he would be willing to revisit this issue. I think we should do that.

The other criticism that we have all heard, honourable senators, is that we do not have the legitimacy to be here because we are not elected. Well, the Constitution that allows for members of Parliament to be elected to the House of Commons is the same Constitution that provides exclusively for the Prime Minister of the day to appoint us to be here. We have equal legitimacy with the House of Commons. When anyone else makes that criticism and says that we do not have legitimacy, I suggest that we tell them gently and with love in our hearts that they do not know what the hell they are talking about. We have equal status with the House of Commons.

The Hon. the Speaker: Once again, honourable senators, as reluctant as I am to interrupt the second-most senior senator in this place, I draw his attention —

Senator Lawson: Give me one more minute to finish.

The Hon. the Speaker: I am sorry, Senator Lawson. We have a strict rule. Other senators wish to speak.

THE LATE MOE KOFFMAN, O.C.

TRIBUTE

Hon. Tommy Banks: Honourable senators, I stand today to mark with profound sadness the death of an internationally renowned Canadian artist who is remarkably of both great distinction and great popularity.

Moe Koffman soared to worldwide renown, success and notoriety in 1958 with his recording of *The Swinging Shepherd Blues*, a piece of music which is familiar throughout the world, transcending all musical tastes and borders. That notable success, which was both a continuation and a precursor of even greater success, was merely the tip of an enormous artistic oeuvre.

His body of work and his prodigious and unassailable worldwide reputation as a pre-eminent composer and instrumentalist have resulted in every possible honour being heaped upon him, fortunately during his lifetime. There is literally no honour of which our nation is capable or of which the music industry is capable that Moe Koffman did not receive.

Honourable senators, the loss of this truly remarkable talent and gentleman is and will be deeply felt throughout the world and particularly by Canadians. He was a truly great Canadian. Happily, his wonderful music and his fond memory will long survive him.

Our most sincere condolences go to his family and to his many close colleagues.

[*Translation*]

• (1350)

ROUTINE PROCEEDINGS

TRANSPORT

REPORT OF THE AIR TRAVEL COMPLAINTS COMMISSIONER TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, pursuant to rule 28(3), I have the honour to table in both official languages the report of the Air Travel Complaints Commissioner.

[*English*]

FEDERAL LAW-CIVIL LAW HARMONIZATION BILL, NO. 1

REPORT OF COMMITTEE

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

Thursday, March 29, 2001

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

SECOND REPORT

Your Committee, to which was referred Bill S-4, A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law, has, in obedience to the Order of Reference of February 7, 2001, examined the said Bill and now reports the same without amendment, but with the following observation:

That, pursuant to the letter of March 20, 2001, sent by the Honourable Anne McLellan, Minister of Justice, to the Honourable Lorna Milne, Chair, the Committee supports the proposal that a fifth paragraph be added to the Summary of Bill S-4, as follows:

Generally, in provisions that describe a legal concept by using a common law term and a civil law term, the common law term appears first in the English version and the civil law term appears first in the French version. Examples of this are “real property and immovables” in the English version and “immeuble et biens réels” in the French version.

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker: 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*]

SCRUTINY OF REGULATIONS

BUDGET “A”—REPORT OF JOINT COMMITTEE PRESENTED

Hon. Céline Hervieux-Payette, Joint Chair of the Standing Joint Committee for the Scrutiny of Regulations, presented the following report:

Thursday, March 29, 2001

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

FIRST REPORT — “A”
(presented only to the Senate)

Your Committee, which is authorized by section 19 of the *Statutory Instruments Act*, R.S.C. 1985, c. S-22, to review and scrutinize statutory instruments, now requests approval of funds for 2000-2001.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

CÉLINE HERVIEUX-PAYETTE, P.C.
Joint Chair

(For text of appendix, see today's Journals of the Senate, *Appendix "A", p. 274.)*

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

Senator Hervieux-Payette: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*g*), I move that this report be considered later this afternoon.

[*English*]

The Hon. the Speaker: Is leave granted?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): No.

Senator Hervieux-Payette: Later today.

The Hon. the Speaker: I asked if leave was granted and the response from one senator was "no." Accordingly, leave is not granted. Does the honourable senator wish to ask for leave in order that the item be considered later this day?

Senator Hervieux-Payette: Honourable senators, perhaps I could give an explanation. These are the expenses incurred for our clerks and our staff between sessions when we were not sitting and they terminate on March 31. Of course, I do not mind doing it next week, but we can only pay our bills after it has been adopted. I thought it would be appropriate, since the committee sat for the second time just today, to have it adopted before the end of the fiscal year.

The Hon. the Speaker: Honourable senators, I ask again, just to be sure. Is leave granted?

Senator Kinsella: No.

The Hon. the Speaker: No, leave is not granted.

Honourable senators, is it agreed that the report be put on the Orders of the Day for consideration at the next sitting of the Senate?

Hon. Senators: Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration at the next sitting of the Senate.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

REQUEST FOR AUTHORITY TO TRAVEL AND BUDGET PURSUANT TO PROCEDURAL GUIDELINES FOR FINANCIAL OPERATION—REPORT OF COMMITTEE PRESENTED

Hon. Nicholas W. Taylor, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, March 29, 2001

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on March 1, 2001, to examine such issues as may arise from time to time relating to energy, the environment and natural resources, respectfully requests, notwithstanding the Procedural Guidelines for the Financial Operations of Senate Committees, that it be empowered, for the purpose of such study and for its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it, to adjourn from place to place within Canada and to engage the services of such counsel and technical, clerical and other personnel as may be necessary.

Your Committee will report its expenditures on a pro-rated basis between its legislative study and special study activities.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

NICHOLAS W. TAYLOR
Chair

(*For text of appendix, see of today's* Journals of the Senate, *Appendix "B", p. 280.*)

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE PRESENTED

Hon. Richard H. Kroft, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, March 29, 2001

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

THIRD REPORT

Your Committee wishes to inform the Senate that it has agreed that the 64 Points Travel System be changed from calendar year to fiscal year effective April 1, 2001, and that all Senators be allocated a new set of 64 points on April 1, 2001 regardless of how many points they may have used between January 1 and March 31, 2001.

Respectfully submitted,

RICHARD H. KROFT
Chair

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

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

[*Translation*]

COMMITTEE OF SELECTION

FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Léonce Mercier, Chairman of the Committee of Selection, presented the following report:

Thursday, March 29, 2001

The Committee of Selection has the honour to present its

FOURTH REPORT

Pursuant to rule 85(1)(*b*) of the *Rules of the Senate*, your Committee submits herewith the list of Senators nominated by it to serve on the following committees:

SENATE COMMITTEE ON DEFENCE AND SECURITY

The Honourable Senators Atkins, Cordy, Forrestall, Hubley, Kenny, Meighen, Pépin, Rompkey and Wiebe.

SENATE COMMITTEE ON HUMAN RIGHTS

The Honourable Senators Andreychuk, Beaudoin, Ferretti Barth, Finestone, Kinsella, Oliver, Poy, Watt and Wilson.

Furthermore, your Committee recommends that the Honourable Senator Pitfield serve on the Senate Committee on Privileges, Standing Rules and Orders.

Finally, your Committee recommends a change of membership to the following committee:

SENATE COMMITTEE ON ABORIGINAL PEOPLES

The Honourable Senator St. Germain replaces the Honourable Senator Wilson as a member of the Senate Committee on Aboriginal Peoples.

Respectfully submitted,

LÉONCE MERCIER
Chairman

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

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

[*English*]

• (1400)

CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—FIRST READING

Hon. Richard H. Kroft presented Bill S-25, to amend the Act of incorporation of the Conference of Mennonites in Canada.

Bill read first time.

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

On motion of Senator Kroft, bill placed on the Orders of the Day for second reading Tuesday next.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY CHIEF ELECTORAL OFFICER'S REPORT ON THE THIRTY-SEVENTH GENERAL ELECTION

Hon. Lorna Milne: Honourable senators, I give notice that on Tuesday, next, April 3, 2001, I will move:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the Chief Electoral Officer's Report for 2000 on the 37th general election; and

That the Committee submit its report no later than June 30, 2001.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF FEDERAL GOVERNMENT POLICY ON PRESERVATION AND PROMOTION OF CANADIAN DISTINCTIVENESS

Hon. Michael Kirby: Honourable senators, I give notice that on Tuesday next, April 3, 2001, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of federal government policy relating to the preservation and promotion of a sense of community and national belonging in Canada. In particular, the Committee shall be authorized to examine:

a) the effectiveness of the policies, programs, symbols and institutions that have been used in the past to promote and protect Canadian distinctiveness or which have fostered an element of Canadian distinctiveness merely by their existence;

b) the effects of globalization and rapid technological change on Canada's ability to preserve and promote its distinctiveness at home and abroad;

c) the options that exist to modernize federal policies with respect to preserving, creating and promoting the uniqueness of Canada in a changing national and international context;

d) the opportunities that exist to use new technologies to market our unique qualities to the world and to engender pride in Canadians about themselves and their country; and

That the Committee submit its final report no later than December 20, 2002; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

RELEASE OF CENSUS REPORTS

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present 1,853 signatures from Canadians in Alberta, British Columbia, Saskatchewan, Ontario and Quebec, as well as 550 non-Canadians from all across the United States who are researching their Canadian ancestry, totalling 2,403 persons who are petitioning for the following:

Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the Public after a reasonable period of time, of Post1901 Census reports starting with the 1906 Census.

These signatures are in addition to the 363 that I presented on February 20 of this year and the 1,087 I presented to March 14. I have now presented petitions with 3,853 signatures to the Thirty-seventh Parliament and petitions with over 6,000 signatures to the Thirty-sixth Parliament, all calling for immediate action on this very important matter of Canadian history.

QUESTION PERIOD

PRIME MINISTER'S OFFICE

DUTIES OF MR. DAVID MILLER AS SENIOR ADVISER—POSSIBLE CONFLICT OF INTEREST

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. Can the minister tell us what the former Eurocopter lobbyist, Mr. David Miller, is doing in the Prime Minister's Office as his senior adviser? Among his duties is there a duty to advise the Prime Minister on the Maritime Helicopter Project?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know the duties of the individual so named by the senator. I assume it is to give advice to the Prime Minister, and I am sure that advice will be excellent.

Senator Forrestall: Honourable senators, can the minister obtain for us conflict of interest guidelines if, indeed, any exist for persons moving from business to government? The minister will be aware of the potential for conflict of interest.

Senator Carstairs: Honourable senators, if such conflict of interest guidelines exist for someone who has moved from a private sector job to a public sector job with the Government of Canada, I will obtain such for the honourable senator.

Senator Forrestall: Can the minister indicate to us whether Mr. Miller will absent himself from discussions on the Maritime Helicopter Project?

Senator Carstairs: Honourable senators, if such information is available — that is, if Mr. Miller is prepared to make such a statement — I will make such a statement available to the honourable senator.

• (1410)

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—RISK ANALYSIS PRIOR TO SPLITTING PROCUREMENT PROCESS

Hon. J. Michael Forrestall: Honourable senators, questions and answers to industry questions are posted on the Department of National Defence Maritime Helicopter Project Web site. Questions 2000-29 and 2000-87 state that no risk analysis was carried out on splitting the procurement for the Maritime Helicopter Project. Additionally, no discussion papers, analysis or standard operating procedures were completed prior to the splitting of this particular project. Could the Leader of the Government tell us if it was because the government split the program without warning the departments involved to exclude the EH-101 from the competition and direct the contract through one means or another to Eurocopter?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the question that has been asked by the honourable senator based on information obtained from answers found on the Web site does not indicate what the motive might have been. If I should learn of any motive, I will make it available to the senator.

Senator Forrestall: I should like the answers not only to these questions today, but the answers particularly to the questions that I asked yesterday. These responses are necessary if we are to get to the bottom of a matter about which I am becoming quite disturbed.

Senator Carstairs: Honourable senators, I thank the honourable senator for his questions, both yesterday and today. I will make every effort to get that information to him as quickly as I possibly can.

HEALTH

USE OF HIGH RISK ANIMAL TISSUES IN FOOD CHAIN

Hon. Mira Spivak: Honourable senators, last week, the European Union proposed that 10 countries be exempt from a new meat import ban. Canada is not on the list. The new ban will start in May 2001. Its purpose is to prevent the human variety of mad cow disease.

Canadian meat and meat products were refused because we cannot assure Europeans that we are taking enough precautions against mad cow disease, in their view.

A major food safety concern is something called “specified risk materials.” These tissues are known to carry the bulk of the infective material before a cow shows any symptoms of mad cow disease.

EU countries banned the use of brains, eyes and spinal cords in 1997. The list was expanded in December 2000. Canada has not banned these tissues. Canadian rendering plants can use them even when they come from fallen stock or animals that died before slaughter.

Would the Leader of the Government use her good offices to check whether this is indeed accurate information and to ask the government to reconsider taking those high-risk tissues out of the human and animal food chain?

Although this is a European concern, it is also our concern. There are many other questions on this particular issue, but this is what I would respectfully request.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for her question. I will take her question to the government.

Mad Cow Disease, as the senator knows and I hope every Canadian knows, is an extraordinarily serious disease. It is unlike foot and mouth disease in that it can go from animals to human beings.

Clearly, we must ensure that Canada is protected in every way, shape and form. We must also ensure that our food products can move into other countries freely.

I take the honourable senator’s question extremely seriously. As she has asked, I will use my good office, whatever good I might have, to check whether the information she has supplied today is 100 per cent accurate. If it is accurate, the government will reconsider banning such products.

Senator Spivak: Honourable senators, the question of the supervision of rendering plants is one that, hopefully, we can pursue here in another forum because it is a very important question. I am not sure that all of the required protection, supervision and enforcement measures are in place.

Senator Carstairs: To add to my previous answer, honourable senators, this is a perfect example of a situation where a standing committee of the Senate could, as it has done in the past, do very good work. I would suggest, as I believe that the senator is still a member of the Agriculture Committee, that she bring this matter to that standing committee.

I think that Canadians as a whole are very concerned not just with mad cow disease but also with foot and mouth disease.

Senator Spivak: Honourable senators, this is opportune because last evening before the Finance Committee, the Auditor General suggested that the whole question of food safety could come before a Senate committee. I sincerely hope that his suggestion meets with the approval of all honourable senators here.

I do not know to which committee such a study might be referred — the Finance Committee or the Agriculture Committee.

Senator Carstairs: As honourable senators know, those questions are determined by a committee that then reports to the Senate. I can assure honourable senators of my support.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT—MARITIME LUMBER ACCORD

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as this is the last day that we will be meeting prior to the end of the United States-Canada agreement on softwood lumber, I should like to ask the minister what advice I could give to New Brunswick exporters of softwood lumber as they head for the border crossing at Houlton, Maine, on April 1, 2001.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, my advice, and I think the government's advice, would be to continue to act in the responsible fashion that they have acted in the past and to take their exports of lumber across the border, where they are welcomed by the vast majority of Americans — not necessarily by some of the senators in the Senate of the United States, but by the vast majority of Americans.

Senator Kinsella: Honourable senators, I appreciate the manner in which the minister has answered my question because she underscores the political dimension of this issue. Given that she is noting that there is a major political consideration, no doubt involving how the politics in the United States will play out in Congress, would it be helpful if the premiers of the Maritime provinces were to meet with the governors of certain states? Does the minister think that it would be worthwhile for the premiers to meet with the Governor of the Commonwealth of Massachusetts, in particular, who is rumoured to be under consideration as the envoy of the United States to Canada? If the minister thinks that this is a good idea, our good offices on this side would be happy to facilitate such a meeting with the Premiers of New Brunswick, Nova Scotia and Prince Edward Island.

Senator Carstairs: Honourable senators, I thank the honourable senator for his question. I think it is always useful when politicians on both sides of the border get together. The Maritime premiers have had a very solid relationship with New England state governors in the past. I think that any expression of information that flows between the governors and the Atlantic premiers would be extremely useful.

[*Translation*]

JUSTICE

FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate. The federal court brought down a decision a week ago on the interpretation of the Contraventions Act, which was passed by Parliament in 1996.

My concerns relate to the fact that the federal government omitted to confirm in the Contraventions Act the maintenance of linguistic rights established under federal statutes.

In short, the federal government negotiated with the provinces and certain Ontario municipalities on the administration of courts and administration of laws on federal lands.

For instance, Pearson airport is located in the Ontario municipality of Mississauga. This municipality was able to issue tickets in English only, and this represented for us francophones a breach of federal statutes and regulations in accordance with the Official Languages Act and the Criminal Code.

Some time ago, the Association des juristes d'expression française and the Commissioner of Official Languages had asked the courts to clarify the linguistic rights that must take precedence in these federal, provincial and municipal agreements.

• (1420)

Will the minister inquire of her colleague the Minister of Justice whether amendments will be made to the Contraventions Act, as recommended by Justice Pierre Blais on March 23, 2001, in order to ensure respect for the quasi-constitutional linguistic rights provided for in the Official Languages Act and the Criminal Code and in order to ensure that they are clearly mentioned in these agreements?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. I also thank him for providing me a copy of the question, which, unfortunately, I did not receive until 1:12 p.m. Although I made efforts to find the answer, I could not obtain it in such a short time. However, we have made the inquiry on his behalf, and we are hopeful that we can provide the answer to him as quickly as possible.

[*Translation*]

Senator Gauthier: Honourable senators, I have a supplementary for the minister. In his ruling, Judge Blais wrote:

> ...that the federal government should ensure that every Canadian citizen has his or her linguistic rights guaranteed by any measure to ensure the implementation of the Contraventions Act.

In addition, Judge Blais gave the federal government one year in which to meet its obligations, failing which the Contraventions Act would become void. Will the minister assure us that the necessary amendments will be made to the Contraventions Act so that linguistic rights are clearly set out in this legislation?

[*English*]

Senator Carstairs: Honourable senators, I cannot respond to the specific statement by Justice Blais. However, I can tell the honourable senator that when judges have made similar orders in the past, the government has complied. My instinct is that it would comply with this one, as well.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT—MARITIME LUMBER ACCORD

Hon. Gerald J. Comeau: Honourable senators, my question is a follow-up to the questions by Senator Kinsella in respect of the softwood lumber issue. As the minister knows, there are two actions that may be taken by the Americans: one would be countervail and the other would be dumping. As I understand it, the Americans do not view the Maritime lumber industry as being in the same vein as the Western lumber industry. However, the Maritime industry will be caught in the middle of a problem that is not of its making. Has the minister any indication of a contingency plan in the event that this does happen to our small lumber industry in Atlantic Canada? We do not want to lose any more jobs in the industry, so it is extremely important to Atlantic Canadians.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator has raised the issues of countervailing and dumping practices. I can assure the honourable senator that in both cases the government will do everything it can with the means at its disposal to prevent the countervailing duties and to challenge the U.S. negotiators in every possible way.

Clearly, we hope that the Americans would not try to impose countervailing duties or to use an anti-dumping policy against any Canadian import. This is particularly so for the Atlantic area because it does not fall under the same obligations and responsibilities as other parts of the country. We are working toward a deadline. We are doing everything we can to prevent unfair practices by the United States. We are all looking for a positive resolution.

Hon. Brenda M. Robertson: Honourable senators, on the same issue, did I understand the Leader of the Government in the Senate to say yesterday that the government was negotiating the whole issue? Have they not considered that the Maritime agreement has been satisfactory for the U.S. and for the Maritimes? Has the government made an attempt to satisfy that agreement or are they grouping it with the broader issue? If it were the latter, the broader Canadian issue, would the government consider renegotiating the Maritime position on an

individual basis, rather than becoming involved in the negotiations for the general softwood lumber industry?

Senator Carstairs: Honourable senators, it is fair to say that the Government of Canada believes that it is important that the United States understand that Canadian softwood lumber exports to the United States have to be dealt with fairly from coast to coast. It is also important that the Canadian government recognize that the Atlantic provinces have had a special relationship, that guarantees free trade in softwood lumber between Canada and the United States. That is the goal that it hopes to achieve for the entire country.

Senator Robertson: Honourable senators, I understand from the answer of the minister that the government will not negotiate the Maritime case separately from the national case. Therefore, we will be caught in arguments faced by the rest of Canada. I cannot understand why the Maritimes are not being dealt with separately, because our position is different from the rest of the country.

Senator Carstairs: Honourable senators, as the honourable senator knows, we have a Free Trade Agreement with the United States, NAFTA, which involves Canada, the United States and Mexico. One obligation of the participants is the equality of treatment among the three countries, no matter where in the country that trade is taking place. It is the goal of the Government of Canada to ensure that the obligations agreed to by the three countries — Canada, the United States and Mexico — be protected in every single region of this country.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question asked by Senator Gauthier on March 12, 2001, regarding Treasury Board, possible reform of the public service, and involvement of the Senate.

TREASURY BOARD

POSSIBLE REFORM OF THE PUBLIC SERVICE— INVOLVEMENT OF SENATE

(Answer to question raised on March 12, 2001, by Honourable Jean-Robert Gauthier)

A comprehensive reform of the human resource management regime is required and this may include legislative reform as well as an examination of organizational roles.

The President of the Treasury Board, as the champion of human resource management reform, will be considering how best to proceed with the reform agenda. Decisions on who will be involved in the process will be forthcoming.

The Auditor General has commented on the need for an integrated framework that clarifies the fragmented accountability for human resource management.

Currently, the Public Service Commission verifies accountability for performance for authorities delegated under the Public Service Employment Act. Departments provide annual reports on results. In addition, surveys and audits of staffing along with staffing appeals and investigations provide information relevant to accountability.

ROYAL ASSENT

NOTICE

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

RIDEAU HALL

March 29, 2001

Mr. Speaker,

I have the honour to inform you that the Honourable Ian Binnie, 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 29th day of March, 2001, at 4:15 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Anthony P. Smyth
Deputy Secretary, Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

• (1430)

ORDERS OF THE DAY

KANESATAKE INTERIM LAND BASE GOVERNANCE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Joan Fraser moved the second reading of Bill S-24, to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence.

She said: Honourable senators, 11 years ago this month, the barriers went up between the village of Oka and the neighbouring Mohawk community of Kanesatake. Thus began a tragic time, a period of violence and deep mistrust between those two small communities and, very soon, between natives and non-natives across southern Quebec and even beyond.

The Oka crisis will long be remembered as one of the most difficult episodes in the history of Canada's relations with First Nations people. It was an armed confrontation whose images appeared daily in newspapers and on television, not only in Canada but around the world. The crisis bitterly divided a region where Mohawks and non-Mohawks have lived side by side for centuries and in which they continued to live after the barricades came down and the international press departed to seek another crisis somewhere else.

It was, as honourable senators can imagine, immensely difficult for residents of the two communities to rebuild any kind of trust. Too many harsh things had been said, too many foolish or malicious things done on both sides, for true peace to take hold quickly; but, now, 11 years later, significant progress has been achieved. We can truly say that the future again holds promise.

Today, we are being asked to support legislation that will move all parties forward in seeking a final resolution of the land and governance issues that have plagued the Mohawks of Kanesatake. Bill S-24, the Kanesatake Interim Land Base Governance Bill, is implementing legislation for a historic agreement that provides the first legal recognition of a land base for the Kanesatake Mohawks, as well as law-making powers over those lands. This agreement is a milestone in an ongoing process to resolve century-old grievances and to build good relations between Canada, the Mohawks of Kanesatake and the non-Mohawk residents of the Municipality of Oka.

It is important to realize that while this agreement has been negotiated between the Mohawks and the federal government, Oka has been closely consulted. The agreement contains some innovative measures to ensure that the two communities will be able to manage their respective lands in harmony.

[*Translation*]

Honourable senators, you may not be aware of the significant progress made over the past decade to restore stability and the authority of law in Kanesatake. The last five years have been particularly successful. For example, in December 1996, Kanesatake, Canada and Quebec reached an interim agreement to establish a police force, and they agreed on a patrol area. In October 1999, the Kanesatake police force became a full-fledged police force and its officers were promoted from special constables to full-fledged police officers.

Today, the Kanesatake police and the Quebec provincial police maintain positive relations and have worked together on some major operations.

The establishment, in 1999, of a senior citizen centre is also a great source of pride for the Mohawks of Kanesatake. Moreover, the Mohawks now have control over their education and a new Mohawk immersion school is being built. Planning has also begun to build a youth centre in Kanesatake, something that will have a positive impact on young people.

The acquisition of land, to give the Mohawks of Kanesatake an interim land base, is also progressing, and negotiations are continuing on more global land issues and on the exercise of powers in general by the Mohawks of Kanesatake.

• (1440)

[*English*]

In the years since the Oka crisis, Canada has purchased 177 properties for the use and benefit of the Mohawks of Kanesatake. These lands include part of the area known as The Pines that figured so importantly in the 1990 crisis. Kanesatake has since used the land acquired in The Pines to expand its cemetery.

A Mohawk development corporation was created in 1999 to take over management of properties purchased in Oka since 1990, as well as to pursue other economic development initiatives. Under the terms of a property management agreement with Canada, the corporation leases these properties to Kanesatake members. All rents collected through this arrangement are used for the benefit of the community as a whole.

Honourable senators, positive results of these efforts to establish a land base for the Mohawks of Kanesatake are now becoming evident in the community. It is time to take the next step, to provide a clear legal status for that land base and a solid legal basis for the Mohawks of Kanesatake to govern these lands in much the same way as other First Nations are able to do under the Indian Act. This is the crux of many of the problems that have arisen in this region. The lack of clarity with respect to the status and governance of Kanesatake Mohawk lands has created a legal vacuum and contributed to uncertainty and volatility in the region.

The land base has been held as Crown lands for the use and benefit of the Mohawks of Kanesatake, but not as reserve lands under the Indian Act. For this reason, the Mohawk Council of Kanesatake has not had the legal tools available to other First Nations to control the development of its land base or to prevent potentially harmful uses of the land.

The legal situation with respect to Kanesatake lands has become even more uncertain in the wake of the 1998 *Jean-Roch Simon* decision, which had the effect of subjecting at least some Kanesatake Mohawk lands to municipal bylaws. No other First Nation in Canada can be said to fall under such a regime.

Honourable senators, Bill S-24 will resolve this legal uncertainty by implementing the Agreement with respect to Kanesatake Governance of the Interim Land Base, which was signed on December 21 last year by the Minister of Indian Affairs and Northern Development and the Grand Chief of the Mohawks of Kanesatake.

By recognizing an interim land base for the Mohawks of Kanesatake and by establishing the legal underpinning for them to govern the development and use of that interim land base, Bill S-24 will consolidate the gains that have been made in Kanesatake over the past decade. For this reason, it is absolutely essential that we support this legislative initiative. To do otherwise would deal a serious blow to the government's efforts to address the outstanding grievances of the community. This legislation will contribute to lasting peace and harmony in that region.

Honourable senators, I wish to take a few minutes to review the key elements of the land governance agreement. As I noted at the outset, the agreement formally recognizes for the first time an interim land base for the Mohawks of Kanesatake. I emphasize the word "interim" because the agreement explicitly states that additional lands may be brought under the agreement in the years ahead should both parties concur.

Under the terms of the agreement, the Kanesatake Mohawk interim land base will be brought under section 91.24 of the Constitution Act, 1867, which gives the Government of Canada exclusive legislative authority over Indians and lands reserved for Indians. However, Kanesatake Mohawk lands will not be considered reserve lands under the Indian Act. This approach ensures a clear legal status for the lands, while preventing them from falling within the cumbersome and restrictive land management regime of the Indian Act.

Honourable senators, as its name implies, the agreement will also ensure that the Mohawks of Kanesatake have a solid legal foundation for adopting land-related laws and regulations that will apply to the interim land base. In the absence of that legal foundation, they have been unable to exercise these powers.

Bill-24 will confirm that the Mohawks of Kanesatake have law-making authority in such areas as land zoning, waste management, the health and quality of life of residents and fire safety. All residents of the area, Mohawks and non-Mohawks alike, will benefit from having a government in Kanesatake that has the tools it needs to ensure the safe development of the lands.

To entrench the principles of good governance by which the Mohawk Council of Kanesatake will exercise its powers, the agreement also commits Kanesatake to adopt a land governance code. This code will provide for open and responsible governance in the best interests of the community with full political and financial accountability.

Honourable senators, another key element of the agreement relates to the harmonization of certain Kanesatake laws with Oka bylaws on adjacent properties. To fully appreciate the need for harmonization, it is important to understand that not all parts of the Kanesatake interim land base are contiguous and that 57 Kanesatake Mohawk lands are actually located within the village of Oka. It is not a matter of having one large block of Mohawk lands and one block of non-Mohawk lands. If you look at a map, you will see that, in the village, the two sets of lands, Mohawk and non-Mohawk, form an extraordinary patchwork, a crazy quilt, a kaleidoscope. These communities could not extricate themselves from each other even if they wished to do so.

Therefore, it is clearly in the best interests of all residents of the region that future development of the adjacent lands in the village of Oka be compatible and harmonious. That is why the land management agreement imposes an obligation on Kanesatake to negotiate a harmonization agreement with the Municipality of Oka for their respective properties in the village of Oka. That harmonization agreement would deal with the harmonization of Kanesatake land-use laws and Oka land-use bylaws on the adjacent properties in the village of Oka.

Representatives of the two communities are already meeting to negotiate a harmonization agreement and to address other issues of mutual concern. Until the harmonization agreement is in place, the development on Kanesatake Mohawk lands in Oka will be limited to the uses that are now permissible in Oka, and the status quo will prevail.

Honourable senators, any government that has the authority to adopt its own laws must have the corresponding authority to execute those laws. Toward this end, the land governance agreement provides powers for Kanesatake to enforce its community laws. It also provides for Kanesatake to appoint its own justices of the peace, once an agreement has been concluded on the relationship of these justices with the existing justice system in Quebec. Together with the representatives of the Government of Quebec, Canada and Kanesatake are well on their way to concluding such an agreement.

The land base agreement also addresses the application of provincial laws on Kanesatake lands. Essentially, Bill S-24 will achieve the same legal effect that currently exists on Indian Act reserves across the country. In general, of course, the application of provincial laws on Indian lands is somewhat limited because these lands fall within federal jurisdiction.

Having said that, the Mohawks of Kanesatake have demonstrated strong environmental leadership by agreeing that, in the absence of federal environmental standards, their actions will nevertheless be consistent with the standards of environmental practice that prevail in the province.

A further key point is that the land base agreement is without prejudice to any Aboriginal or treaty rights of the Mohawks of Kanesatake; nor does it prejudice a resolution of their outstanding grievances with respect to the seigneury of the Lake of Two Mountains. These matters continue to be the subject of negotiations between the Government of Canada and Kanesatake.

That explains what the land governance agreement is, honourable senators; but equally important is what it is not.

This is not a land unification agreement. Some of the lands set aside for the Mohawks of Kanesatake are, as I said, dispersed and interwoven with lands belonging to non-Mohawk people in the area, and this agreement does nothing to change that.

This agreement is not a land claim agreement; nor does it represent a final resolution of Kanesatake's outstanding land-related grievances. Many land-related issues remain to be resolved, but before a final settlement can be achieved all parties need to have a clear understanding of the legal status of the existing interim land base and the laws that apply to that land base.

This is not a comprehensive self-government agreement or a treaty. It is not a treaty. It is a unique governance arrangement that recognizes the special circumstances in Kanesatake. It simply levels the playing field by providing the Mohawks of Kanesatake with land management powers that other First Nations have had for decades.

Finally, I note that this agreement does not specifically address the issue of the rights of Aboriginal women. Some of you know that this is a subject about which I have serious concerns and on which I have argued that it is long past time to act. However, I am assured that in the matter of residency, which is the issue that would arise most directly in connection with any land management agreement, Kanesatake already has a thoroughly inclusive policy, not a policy of exclusion of any Kanesatake Mohawk. In addition, of course, any pertinent federal law continues to apply, as does the Charter of Rights.

Honourable senators, the land base agreement and Bill S-24, its implementing legislation, are crucial building blocks of a longer-term process to resolve the grievances of the Mohawks of Kanesatake through negotiations rather than confrontation.

[*Translation*]

Honourable senators, the members of the Kanesatake community have ratified the agreement on the exercise of government powers over their land. Before the vote, every Mohawk household in Kanesatake received a copy of the agreement and of the code giving authority to pass laws relating to their land, as well as a summary and an explanation of the two documents.

The Mohawk Council of Kanesatake held two public meetings in July of last year, and over 50 smaller workshops to explain the scope and the impact of the agreement.

[*English*]

On October 14 of last year, a slim majority of Kanesatake members voted in favour of the agreement. Given the closeness of the vote, 239 in favour versus 237 opposed, the grand chief and council decided that an independent recount was called for. The grand chief and council also requested an independent legal review of the ratification process itself.

On December 14, the results of the ratification vote were confirmed through a recount conducted by the Honourable Lawrence Poitras, retired Chief Justice of the Quebec Superior Court. Mr. Poitras also conducted a legal review of the ratification process and confirmed that it was fair and proper in every respect. This paved the way for the formal signing of the agreement by the Minister of Indian and Northern Affairs and the Grand Chief of the Mohawks of Kanesatake. Passage of Bill S-24 is the final step needed to implement the agreement.

[*Translation*]

Honourable senators, as is the case in any democracy, some members of the community oppose the ratification and implementation of the agreement. I think it should be pointed out, though, that a majority of the members have in fact ratified the agreement through a democratic, just and transparent process.

The community has therefore decided it is time to move forward. The agreement permits the Mohawks of Kanesatake to meet the challenges associated with the management of their interim land base. They will therefore be better able to meet greater challenges when they manage their permanent land base.

This is a fresh start for their region, based on a solid legal foundation, municipal harmony, constructive dialogue and the pursuit of the common goals of economic and social prosperity.

The Government of Quebec was consulted on the agreement and kept informed and gave its general approval. The municipality of Oka also gave its approval to the agreement. As I said earlier, representatives of the municipality are already working with the Mohawks of Kanesatake to harmonize certain Kanesatake laws and Oka bylaws.

[*English*]

Honourable senators, the negotiations that have brought us to this point have at times been challenging. What matters is that they have been successful and that they have given us the opportunity to turn another page, a very fine page, in the history of the Kanesatake-Oka region.

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

CUSTOMS ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Setlakwe, seconded by the Honourable Senator Gill, for the second reading of Bill S-23, to amend the Customs Act and to make related amendments to other Acts.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I took the adjournment of the debate after the second reading debate was initiated by Senator Setlakwe. I request that the adjournment now stand in the name of the Honourable Senator Angus.

Order stands.

[*Translation*]

PRIVACY RIGHTS CHARTER BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill S-21, to guarantee the human right to privacy.—(*Honourable Senator Robichaud, P.C.*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Senator Beaudoin has indicated that he would like to speak to Bill S-21 at second reading stage. I have no objection to his doing so and will adjourn the debate.

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to say a few words on the subject of Bill S-21, to guarantee the human right to privacy.

The senator responsible for this bill, Senator Finestone, has described both form and content of this bill well. I shall not revisit it, therefore, except to discuss the following three points: first, the scope of Bill S-21; second, the protection of privacy under the Canadian Charter of Rights and Freedoms; and third, Canada's international obligations relating to privacy.

Bill S-21 might be described as a quasi-constitutional bill, particularly because of clause 11, which provides that no provision of any other act can derogate from any provision of Bill S-21 and confirms its supremacy, once passed, over any other ordinary act, unless expressly indicated otherwise.

As for the practical application of this bill, it is agreed that it is limited to all matters coming within the legislative authority of the Parliament of Canada, as shown in clause 9.

It appears therefore that Bill S-21 constitutes a legislative complement to the privacy rights already protected constitutionally by sections 7 and 8 of the Canadian Charter of Rights and Freedoms.

Incidentally, section 8 entrenches general protection against unreasonable search and seizure. This guarantee applies to both individuals and bodies corporate. Section 8 therefore confers protection of the right to privacy, regardless of the technique used to limit that right, but this protection is not absolute. The wording of section 8 is as follows:

> Everyone has the right to be secure against unreasonable search or seizure.

The jurisprudence has clarified the concept of "unreasonable" as applied to section 8. For a search or seizure to be considered reasonable, as opposed to unreasonable, it must:

(i) have been authorized in advance

(ii) by a neutral and impartial individual who must act in a judicious manner

(iii) for reasonable and probable cause, mere suspicion being insufficient; and

(iv) carried out in a reasonable and non-abusive manner.

Therefore, an illegal search or seizure will be prima facie unreasonable. However, a legal search or seizure might also be deemed unreasonable if it is conducted in an abusive fashion. Moreover, it will be very hard to justify a search or a seizure deemed unreasonable as being "reasonable" under section 1 of the Charter.

Let us say from the outset that the violation of the physical integrity of a person is the most serious offence, followed by the violation of the home and of the office.

It is to be noted that, until now, the courts have made a distinction between criminal or quasi-criminal seizures and administrative seizures. The criteria set in *Hunter* apply to the former, but not to the latter. The Supreme Court also specified, in *McKinlay Transport*, that the greater the violation of privacy, the more the guarantees set in *Hunter* must be respected.

The right to privacy is also generally protected under section 7 of the Canadian Charter, which reads as follows:

> Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 7 of the Canadian Charter has been given a broad and liberal interpretation by the courts. For example, in accordance with the Supreme Court ruling in *Godbout*, one's choice of residence, in one's choice of city, is part of the concept of privacy.

It is also worth noting that by legislating — both from a constitutional and a legislative point of view — we are in compliance with the international instruments ratified by Canada. I am thinking, among others, of section 17 of the International Covenant on Civil and Political Rights, which expressly guarantees the right to privacy.

The right to privacy is not, of course, absolute. Section 1 of the Canadian Charter of Rights and Freedoms provides that reasonable limits are permissible in our free and democratic society. Clause 4 of Bill S-21 is largely based on section 1 of the Canadian Charter of Rights and Freedoms and the related jurisprudence. However, although I have no doubt that the right to privacy is a fundamental right, I feel that there must be an appropriate balance between this right and freedom of expression and even, I would add, between the right to privacy and the right to information.

Furthermore, it is interesting to note that the monthly periodical *Le Monde diplomatique* has just devoted an entire issue of its bimontly "Manière de voir" to the subject of privacy. This issue is entitled "Sociétés sous contrôle." The editor-in-chief, Ignacio Ramonet, concludes his editorial as follows:

> And every day that passes shows us just how easily, and without our knowledge, the fragile ramparts protecting our privacy are breached in a thousand and one different ways.

That should give us pause.

Honourable senators, as I already mentioned, I support Bill S-21, subject to further consideration in committee.

[*English*]

• (1500)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the Honourable Senator Beaudoin accept a question?

Senator Beaudoin: Yes.

Senator Kinsella: Senator Beaudoin mentioned the two sections of the Charter and the privacy provision contained in the International Covenant on Civil and Political Rights. Is the right to privacy that is contained in the covenant more extensive and more generous in its coverage than the two sections of the Charter, with the Charter sections even interpreted by the courts?

Senator Beaudoin: My impression is that at the international level it may be more defined because the recognition of the right to privacy in the Canadian Charter has been established by interpretation, of course. However, as the honourable senator knows well, there are 400 cases on the Canadian Charter of Rights and Freedoms. Section 7 of the Charter is, to a great extent at least, one of the most important sections. I am quite satisfied that we are giving effect to our obligations in the international world. Is the covenant more precise than our Charter, or the jurisprudence created from our Charter of Rights and Freedoms? I did not have the time to look at all the cases at the international level, but in my opinion it certainly is solidly enshrined.

Senator Kinsella: Honourable senators, I have a further question that may be somewhat academic, but I know Senator Beaudoin enjoys academic questions as well as socio-political questions.

Does the Honourable Senator Beaudoin think that when the Charter of Rights and Freedoms was being drafted it would have been better to have included an explicit section that speaks directly to the right of privacy?

Senator Beaudoin: Speaking for myself, my answer is certainly "yes." I always prefer in law a text that is more precise in important areas than a text that is a bit vague. Privacy is so important and so threatened in our new modern world that we stand to gain if we are more precise.

Hon. Lowell Murray: Honourable senators, on the question of a possible guarantee of the right of privacy in the Canadian Charter of Rights and Freedoms, in view of the fact that one of the powers we still have in the Senate is to initiate resolutions to amend the Constitution, would my friend consider drafting such an amendment to the Charter and bringing it in here for debate and possible approval?

Senator Beaudoin: Honourable senators, if my friends ask me to do that, I might find a great interest in doing so.

On motion of Senator Robichaud, debate adjourned.

STATE OF HEALTH CARE SYSTEM

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the second report (interim) of the Standing Senate Committee on Social Affairs, Science and Technology, entitled *The Health of Canadians — The Federal Role, Volume One: The Story So Far*, tabled in the Senate on March 28, 2001.—(*Honourable Senator Kirby*).

Hon. Michael Kirby moved the adoption of the report.

He said: Honourable senators, I am pleased to have had the opportunity yesterday to table volume one of the second report of the Standing Senate Committee on Social Affairs, Science and Technology on the state of the health care system in Canada. This is the first of five volumes that the committee will be tabling and marks the end of a fascinating beginning.

The purpose of this report is to present evidence received in the first phase of the committee study on health care. The objectives of phase 1 were to obtain a historical overview of the federal government's role in the Canadian health care system, to understand the rationale behind the enactment of the Canada Health Act, to understand the evolution of federal funding for health care and, in particular, to do an analysis of the myths and realities that surround our health care system.

The committee heard from a wide variety of witnesses. It was a fascinating discussion, not only because of the witnesses but also because of the contributions of my colleagues on both sides of the chamber.

I believe, honourable senators, that the Social Affairs Committee and, indeed, the Senate are uniquely qualified to bring a balanced perspective to the health care issues. Committee members, which include former health care professionals, former provincial health ministers, a former provincial premier and former public policy makers, bring a diverse range of experiences and perspectives to the table. Committee members asked tough questions and got the facts on the table. The quality of this report is a direct result of the efforts of all honourable senators on this committee.

This report provides a good reference point to move the debate forward. It provides a solid foundation for the difficult challenges the committee will face in the next four phases of the study.

With the infusion of cash from the first ministers' conference last September, things look reasonably good for our health care over the short term. Canadians are relatively healthy; indeed, we are second only to Japan in terms of life expectancy. The United States, interestingly enough, is twenty-fifth in life expectancy, even though they spend much more per capita on health than Canadians. It would appear therefore that spending more money on the health care system is not, in and of itself, necessarily a guarantee of better and longer living Canadians.

Honourable senators, I am not, however, as confident about the long-term sustainability of the health care system. Changes in the population structure, in particular the aging of the population, the escalating costs of health care resulting from new drugs and new technologies, the continuing fragmented structural approach in Canada to organizing and managing health care, as well as the changing expectations of Canadians, are a few of the realities that will challenge us to deal with the inevitable pressures that will build upon the health care system in the coming years.

If the health care system is to meet the needs of a changing population, there are fundamental issues that will need to be addressed and require a response. Any talk of reforming, restructuring or renewing the health care system arouses strong feelings of emotion and even suspicion among members of the public. The very essence of medicare says a great deal about what it means to be a Canadian, and in large part, it distinguishes us from our neighbours to the south.

The public's protection of medicare and the political support it has garnered are the main reasons for the exclusive focus of political leaders on modifying current funding levels to support the traditional system, whereas in reality major structural changes will be required if the system is to be sustainable for the long run.

If we want to have a high quality, accessible, “Canadian-style” health care system down the road, if patients want to have a high level of service and choice in their care, then we must be prepared to make some decisions that will guide us down that path. It is time, honourable senators, that Canadians talk candidly with one another about the challenges we face. It is time to get their input on key issues that will keep us on the right track. Canadians need to tell policy-makers which changes they support and which ones they do not. Yet, before Canadians can have that informed dialogue, we need to raise their knowledge and awareness of the system and, indeed, what some of the options are.

Therefore, honourable senators, the future direction of this committee will lead to the publication next fall of a paper outlining the options for answering a number of the major questions.

Let us go back just for a moment in history and ask ourselves what was the original objective of medicare. When Tom Kent appeared before the Senate committee, he said that the objective of the Medical Care Act of 1966 and the Hospital Insurance and Diagnostic Services Act of 1957 was:

> ...to ensure that every Canadian had access to all medically necessary services regardless of their abilities to pay for those services.

• (1510)

This public policy objective was reaffirmed in the 1984 Canada Health Act, through its five famous principles of universality, comprehensiveness, accessibility, portability and public administration.

Most Canadians believe that the Canada Health Act assures uniform, publicly funded access to all health care services from coast to coast. This, in fact, is not the case. When the hospital care and medical insurance programs were started, two significant decisions were made with respect to the method by which the programs would be delivered. First, no means test would be required of patients before they received medical services. This decision was made because it was felt that a means test would discourage low-income patients from seeking medical assistance. Second, the program in each province would be administered by a central department or agency. This was made in order to have the hospital care and medical insurance program gain the efficiencies of a “single payer” model. This is the origin of the public administration principle of the Canada Health Act. Unfortunately, this public administration principle is often misunderstood to mean that the role for the private sector is prohibited in the current system. This is categorically not the case.

Honourable senators, the point is that people perceive certain things to be true about the health care system that are not true. Other things that are true, frankly, are not even logical. Let me give you an example. If you go into the hospital and receive oxygen, it is paid for. If you go home and get the same oxygen, it is not. That is hardly the basis of a logical health care policy.

Surrounding the term “medically necessary” in the Canada Health Act, there are very significant and conflicting concepts of what that means. As you look across the country, our so-called “universal” system covers a different set of medically necessary services in different provinces. To give you an example, the services covered in Newfoundland and the services covered in Quebec are significantly different. They are different because the definition of “medically necessary” is a floor centred on traditional hospital and physician services. That floor exists across the country. Thereafter, provincial governments are allowed to add on certain services above that floor under the definition of “medically necessary.” Equally, as we have seen over the years in evidence before the committee, various services that were once deemed to be “medically necessary” and insured are no longer insured. In fact, we do not have the uniform system that most Canadians believe we have.

The other thing that has happened, honourable senators, is that over the past 40 years, since publicly funded health care began, new delivery systems beyond merely hospitals and doctors have developed, for example, home care and an awful lot of drug therapy. If you get that medication in the hospital or if you go to a doctor’s office and he gives you a sample, which doctors sometimes do, those drugs are free. However, the same drugs are not free to an individual who receives them outside those two settings. Therefore, determining what services should be considered medically necessary and covered by public funds is not as easy or simple as is sounds.

This problem will only get worse. It is interesting to note that drugs have now surpassed physician services in terms of cost. That is to say, the cost of prescription drugs in Canada exceeds the entire cost of physician services. Clearly, if the public health care system is to remain relevant to the lives of all Canadians, we need to revisit the definition of “medically necessary” and define it in terms of today’s health care reality. To continue publicly funded medical coverage based only on the delivery systems of the 1960s, centred around hospitals and doctors’ offices, is to ensure that the system will become less and less relevant to meeting the health care needs of Canadians.

The determination of what is to be covered inevitably leads to the question of who will pay for the services that are covered. If the definition of “medically necessary” is narrowed, it will put more of a burden on individual Canadians, who will have to foot the increasing bill for a greater share of their personal health services. If the definition of what is medically necessary is broadened, the system will cost more and the burden on public resources will increase. This, in turn, raises the question of how these expanded services should be paid for and how excessive costs can be avoided.

During its hearings, the committee heard a number of proposals for dealing with the costs in question. We will be exploring that issue in more depth as we look at the international comparative study that we will be doing later this spring. During the committee's hearings we were told, for example, that the original vision of medicare contemplated a sliding scale of after-the-fact fees by having, at the end of each year, the value of the services that an individual obtained from public health insurance form part of his or her taxable income for tax purposes. This would mean that lower-income Canadians would have paid little or nothing and higher-income Canadians would have paid a significant amount. The question of how various expanded services should be paid for will come before the committee and be explored in great detail in the months ahead.

Honourable senators, when I revert to the issue of the four patient-oriented principles of the Canada Health Act, namely, universality, portability, comprehensiveness and accessibility, that leads inevitably into the issue of patients' rights and, as testimony before the committee showed, that, in turn, leads us into the issue of patients' responsibilities. Surely patients' responsibilities must also be a factor in our discussion of reforming the health care system.

That issue will also be coming up, along with the issue of the principle of public administration, which is not a principle aimed at eliminating privatization. The public administration element is based on guaranteeing the efficiencies of a single-payer system, but that fact is not widely understood.

In summary, honourable senators, we must examine whether Canada should continue to restrict our publicly funded program to simply two delivery systems, as we do now, or whether we should go back to first principles and accept the notion that it is health care we are talking about, not merely hospital and doctor care. If that is the direction we take, then the questions become: How should we pay for it? Exactly what will be covered? If payments are to be made by individuals, when should that occur?

The issues that the committee will consider in the months ahead are: how we can make the system more accountable to Canadians, what can be done to improve the public health of Canadians, and how we can address the health needs and improve the health status of the Aboriginal population.

Honourable senators, many of you would be stunned if you saw some of the data that has come before the committee on the health status of Aboriginal Canadians compared with the health status of non-Aboriginal Canadians. It is truly a deplorable state of affairs. The committee will be addressing these issues as we proceed through the next stages of our debate. It is our view that however controversial some of the questions and options that we put on the table may be, rational debate only comes from

reasoned discussion based on the facts. We hope that this report is the first step toward putting some of the facts on the table.

Developing options for future debate will be the focus of the next phase of our work. It is time to have that debate in Canada. It is time to rethink what Canadians need and want in a future health system. It is time to have this debate, not from the perspective of partisan political objectives, but from the perspective of what we need to do to ensure that this most cherished social service continues to represent the very heart of what it means to be Canadian. It is to this end that committee members from both sides of this chamber are devoting their efforts.

Hon. Consiglio Di Nino: Honourable senators, first, I suspect that there is not a Canadian alive who would argue with the points that Senator Kirby has raised and the questions he has asked. I think they would all applaud the effort of the committee.

I should like to know if the Prime Minister's Office has been in contact with either the Honourable Senator Kirby or the Leader of the Government with regard to the blue ribbon panel that we have heard about. Have we been asked to participate or will the committee be asked to be part of that panel?

Senator Kirby: Honourable senators, I do not know if there have been any discussions with the Leader of the Government. Obviously, I cannot answer as to whether or not anyone else has had those discussions. I have had no discussions with members of the Prime Minister's Office at all, other than to inform them of the work we are doing.

• (1520)

I have never had discussions with them about the prospect of whether they will or will not do a study. It does seem to me that, even if such a study were done, the work that this committee has done and is planning to do in terms of laying groundwork for discussion of some of the most important public policy issues will be an enormously valuable contribution to the debate in any event. However, beyond that, I cannot give any details because I do not know what the answer is.

Senator Di Nino: I wonder if our colleague would undertake to make a point of contacting the PMO to ensure that the work that he and colleagues from this chamber are doing will form part of that future process of public policy.

The Hon. the Speaker *pro tempore***:** Your time has expired, Honourable Senator Kirby. Are you asking leave to continue?

Senator Kirby: Yes.

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

Hon. Pat Carney: No.

On motion of Senator DeWare, debate adjourned.

PUBLIC SERVICE WHISTLE-BLOWING BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on National Finance (Bill S-6, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers, with amendments) presented in the Senate on March 28, 2001.—(*Honourable Senator Murray, P.C.*).

Hon. Lowell Murray moved the adoption of the report.

Motion agreed to and report adopted.

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

On motion of Senator Kinsella, bill, as amended, placed on the Orders of the Day for third reading two days hence.

DEFERRED MAINTENANCE COSTS IN CANADIAN POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions.—(*Honourable Senator DeWare*).

Hon. Mabel M. DeWare: I was pleased that Senator Moore decided to launch an inquiry into the accumulated deferred maintenance costs in Canadian post-secondary institutions. I commend him for drawing the Senate's attention to this important issue, one that requires immediate action. I am hopeful that his fellow Liberals, especially those in cabinet, will sit up and take notice.

I was pleased that our honourable colleagues asked me to provide a regional perspective on this subject. It is an honour for me to speak to it today.

The issue of deferred maintenance costs was previously raised in this chamber in the context of Senator Atkins' inquiry into post-secondary education in Canada and during debate in reply to the Speech from the Throne. However, those costs form a unique and particular aspect of post-secondary education reform that deserves consideration on its own merits.

During my time as Minister of Advanced Education and Training in New Brunswick, I was involved in cabinet and government discussions regarding the state of our province's post-secondary education system. It was not always easy to make decisions regarding the future of our province, especially ones that had to do with spending. However, we did our best to meet our current needs without sacrificing our long-term goals.

Others honourable senators from the Maritimes can certainly relate to this, including the former premiers of Nova Scotia, Senator John Buchanan, and of Prince Edward Island, Senator Catherine Callbeck. They are aware that we in the less populated regions of Canada face especially difficult decisions when it comes to spending and reinvesting in our universities, community colleges and other places of learning. The difficulty arises from several factors.

One problem that Ottawa faces is providing adequate equalization payments to Canadian regions. Premier Bernard Lord of New Brunswick has, along with other Atlantic premiers, called for a review of the way that equalization is calculated for small provinces such as New Brunswick.

Another problem is the level of transfer payments to the provinces for health, social programs and post-secondary education. It is a sad fact that since 1993 those transfers have been slashed. In 1993-94, the provinces received nearly $19 billion from Ottawa under the Canadian Health and Social Transfer. That level of funding, although not overly generous, allowed us to take care of our immediate needs in the post-secondary sector while enabling colleges and universities to look after some of their long-term campus needs as well.

However, after the 1993 federal election we got hit with a $6.5-billion cut to the CHST. The effects across Canada, especially in the outlying regions of the country, were felt immediately. This caused a significant financial shortfall for Canadian colleges and universities, which had also been coping with expanded enrolment. University enrolment is expected to continue to climb significantly.

A third factor is that it is hard to attract substantial long-term educational investments in New Brunswick when the entire population of the province is roughly that of a mid-sized Ontario city. This was made evident by the distribution of university Chairs of Excellence, the majority of which were given to the Ontario universities.

Another example in this area is the federal government's infusion of $750 million, through the Canadian Foundation for Innovation, into research and development initiatives in universities. It looks good on paper, but New Brunswick universities have been having trouble tapping into it. They must come up with 60 per cent of the project costs, and Ottawa will cover 40 per cent. The problem is that the Atlantic provinces, unlike other jurisdictions, are not in a position to cover that 60 per cent out of public-sector funds. Since the Canadian Foundation for Innovation was established in 1997, New Brunswick universities have been able to draw just $5 million from the funds.

Honourable senators, when the financial pie that universities have to work with is so small, some pretty tough choices have to be made — choices about where money is going to be put and where cutbacks will have to be made. As a result of the cuts to the CHST, the federal government support for university core operating budgets on a per-student basis is 16 per cent less today in real terms than it was in 1992. Therefore, it has only been possible to fund the most immediate, and generally short-term, needs of our post-secondary institutions — needs such as instructors' salaries.

Long-term investment and maintenance costs had to be put on the back burner in the hope that there better times are ahead and that we can catch up later. This, of course, was wishful thinking.

Throughout the mid-1990s to the late 1990s, places of higher learning were able to direct few, if any, dollars to long-term campus renewal. Those deferred costs accumulated year after year after year.

As Senator Moore has pointed out, Canada's post-secondary institutions are now facing huge bills for accumulated deferred maintenance. Those bills will not simply go away if we keep ignoring them; they will keep growing and piling up. In the meantime, the quality of our schools and universities and the education they provide will continue to deteriorate.

Let us look for a moment at how post-secondary education has been affected by the deferral of maintenance costs.

First, many buildings and other facilities are in bad shape. Some are literally crumbling and falling apart. Many fail to meet basic fire codes and disability access regulations. This has caused greater health and safety concerns for students, faculty and staff who live, study and work on campus.

Second, library collections of books and journals are falling below the standard enjoyed in other universities across North America, Europe and the world. And third, scientific and computer equipment is becoming obsolete, making groundbreaking research far more difficult to generate.

Many of our best and brightest students are leaving Canada to seek their higher education in schools where considerable thought has gone into keeping schools freshly updated and in tip-top condition.

Senators Moore and Callbeck did an excellent job of drawing the attention of this chamber to the problems that deferred maintenance practices cause for Canada's post-secondary institutions. I would like to elaborate on their observations from a New Brunswick perspective.

In April 2000, the New Brunswick Minister of Education, the Honourable Elvy Robichaud, rose in the legislative assembly to outline his department's operating estimates. He made particular reference to post-secondary education, remarking that:

> It is imperative that post-secondary education is more accessible to New Brunswickers.

[Senator DeWare]

He also noted:

> As requested by New Brunswick universities and recommended in the Collette Report, we are providing New Brunswick universities with a 2 per cent funding increase each year for the next three years.

The minister's statement reflected a keen understanding that we have to think in long terms — terms far past the span of our lives. He stated that, on behalf of the New Brunswick government:

> We are also making a commitment to a multi-year funding formula, which will allow universities to commit to long-range plans and help stabilize tuition costs for students.

Honourable senators, before any meaningful change can occur, the federal government must loosen its purse strings because the amount that provincial education ministers can devote to universities and colleges is proportional to the amount of money that the province receives in transfers from Ottawa.

If positive changes are made, I believe that Minister Robichaud's job of providing long-term funding to places of higher learning will be easier, just as it will be for his counterparts in other provinces.

At present, Canadian universities are in urgent need of roughly $1 billion to $1.2 billion for repairs and renewals. "Urgent" means just that — those repairs cannot be put off any longer. The money is needed right now.

When one considers that decrease of funding with the rise in inflation and energy costs, and further combines it with the need to renew the crumbling infrastructures in New Brunswick's places of higher learning, the need is for an immediate federal reaction. We do not have to go far beyond New Brunswick's capital, Fredericton, to see that deferred maintenance costs are reaching the point of crisis.

The following is a quote from a letter sent by Dr. Elizabeth Parr-Johnston, President of the University of New Brunswick, to New Brunswick MPs Andy Savoy, Andy Scott, Charles Hubbard, Elsie Wayne and Dominic LeBlanc and to MLA Shawn Murphy on December 19, 2000. Dr. Parr-Johnston wrote:

> One of our most pressing needs is the lack of financial resources to meet the challenges of deferred maintenance of our physical plant. Universities are facing mounting costs for repairs to classrooms, residences and other buildings...The total for accumulated deferred maintenance on our university campuses nationally has now reached at least the $3.6 billion mark. At UNB, we conservatively face a staggering $50 million in deferred maintenance costs. At the same time as we are facing mounting repairs and renewal bills, we are also investing heavily in new learning technologies in order to ensure that our students are receiving requisite knowledge and training in much-needed technology skills. Without new government investment in infrastructure, UNB will soon be at a critical juncture.

Honourable senators are aware that the issue of accumulated deferred maintenance is fast becoming one of the most pressing problems that affect Canadian campuses. As has already been noted in this chamber, an excellent study has been conducted on this matter, entitled "A Point of No Return: The Urgent Need for Infrastructure Renewal at Canadian Universities." It was authored by the Canadian Association of University Business Officers. That study, which collected data from 51 universities, estimated that a minimum of $3.6 billion was needed to prevent further deterioration of universities. Of that amount, it was estimated that $644 million was required by universities in Atlantic Canada.

The Hon. the Speaker: Honourable senators, I regret to advise the Honourable Senator DeWare that her 15-minute time limit has expired. Is she asking for leave to continue?

Senator DeWare: Yes, I would ask for leave to continue.

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

Hon. Senators: Agreed.

Senator DeWare: Honourable senators, the study points out that five factors contribute to the decrepit nature of the Canadian post-secondary education system. First, our physical plants are aging. The average university building in Canada is 32 years old. Second, funding levels to the provinces are decreasing. Third, there is a lack of profile. Facility maintenance and renewal does not attract as much attention as do new building projects. Fourth, demands for new space to accommodate larger schools and student bodies changes the focus from taking care of existing resources to creating additional resources. Fifth, new codes and regulations, for example in the area of disability access, plus changes to the workplace technology, such as computers, reduce the capital resources that could be directed to stopping and reversing campus deterioration.

The chair of the steering committee that produced "A Point of No Return" has added to the debate with some rather chilling comments about the need for renovation of Canada's university facilities.

Before I cite some of those observations, however, I should like to recommend that the honourable senators concerned with the state of post-secondary education in Canada take a look at this hard-hitting report.

Many of the points raised by the Canadian Association of University Business Officers are very interesting and provide tremendous food for thought and information that is helpful to our deliberations.

The steering committee chair, Duncan Watt, who is Carleton University's Vice-President of Finance and Administration, certainly did not mince his words. He said:

> The survey confirms our worst fears on the state of Canadian university campuses. University facilities have deteriorated to the point where the capability of the physical infrastructure to support the academic mission and the core functions of learning and research is threatened.

Robert J. Giroux, President of the Association of Universities and Colleges of Canada, was clear about what is needed. He said:

> In order to provide universities with the capability to meet maintenance needs over the longer term, it is essential that governments — both federal and provincial — increase the core operating funding of our universities.

Honourable senators, the first recommended policy option is the infusion of short-term catch-up funds to meet the urgent need for $1.2 billion to prevent a national education disaster and an additional $2.4 billion for the long-term reconstruction of our universities. The report suggests that this could be accomplished if the federal and provincial governments declare universities eligible to take part in a national infrastructure program as partners.

I would grant you, honourable senators, that with a substantial proposal from our federal government, we could also count on businesses and alumni getting involved in the program.

The second recommended policy option is a long-term increase in base operational funding to avoid ongoing problems of maintenance deferral.

The University of New Brunswick in Fredericton is the oldest registered university in Canada. In respect of this, I submit that increased funding for deferred maintenance costs is more than an issue related only to post-secondary education reform; it is also about preserving Canada's cultural heritage.

If we accept the point that universities are places of learning as well as historical and cultural treasures, I imagine that Heritage Canada could intelligently and capably investigate this issue.

The problem of deferred maintenance is as much a "vision" issue as it is a "policy" issue. Although the damage done by ignoring the problem is not all that visible in the short term, in the long term it could be disastrous.

Honourable senators, I shall close with this last observation. New Brunswick universities and colleges are suffering as a result of deferred maintenance problems. As a result, many of our best and brightest students look to other provinces and regions of Canada to satisfy their academic and intellectual curiosity. In effect, we suffer from an internal "brain drain" as well as an international one because we are a small province in a small region of Canada. From my perspective as a resident of New Brunswick, that is unacceptable.

I hope that Senator Moore's inquiry into the issue of accumulated deferred maintenance in Canada's post-secondary education institutions is a fruitful one, and I urge my colleagues and both sides of this chamber to engage in this matter further.

On motion of Senator Callbeck, debate adjourned.

[*Translation*]

FRENCH-LANGUAGE BROADCASTING SERVICE

INQUIRY—DEBATE ADJOURNED

Hon. Jean-Robert Gauthier rose pursuant to notice of Wednesday, January 31, 2001:

> That he will call the attention of the Senate to the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.

He said: Honourable senators, I wish to draw your attention to a topic of great interest to me. It is important that francophone minority communities be given a significant place in the vast range of television stations now available in the country — a range which, as we know, keeps growing with every passing year.

In today's world, the media and much of television programming play a decisive role in ensuring the survival of official-language minority communities. In fact, according to many researchers, the media come right after family and school as the most important variable in influencing the development of an individual's identity in a minority context.

• (1540)

This is why francophone communities all over the country have been looking for years to get media tools in French, including magazines, newspapers, television and radio stations, and the Internet. These same groups are asking for a more prominent role in the development of new media broadcasting services.

Originally, a French presence of any kind was sought in radio or television broadcasts. Efforts were made to ensure that Radio-Canada's radio and television signals could reach francophone communities across Canada.

With the advent of new French-language television stations such as RDI and TV5, communities began asking with greater insistence that these stations be accessible and reflect the realities of these communities. It can be said that RDI, the station that provides uninterrupted news and information, fulfilled that mandate by creating specific programming slots for francophones from the Atlantic region, Ontario, Western Canada and, of course, Quebec.

TVA, a Quebec television station, successfully applied for and obtained permission to have its signal carried across the country and pledged to cover the local realities of francophone communities. That commitment has yet to be fulfilled. We have noted that there is lack of coverage on the part of TVA.

Today, minority francophone communities are not only asking for access to all French stations in Canada, but are also asking for the establishment of a television station totally dedicated to them, a station that would reflect their reality and with which their young people would identify, a station that would mention them, their towns, their streets, their performers and their issues, a station that would allow authors, producers, artists and performers to develop, a station that would actively contribute to their cultural expression, that would talk about their past and their future.

Last year, the Governor in Council asked the CRTC to consult the public and to report on the issue of official languages in French-language broadcasting services and minority francophone communities.

The order was clear; the CRTC was to assess the availability and quality of French-language broadcasting services in francophone minority communities in Canada; bring to light the discrepancies and challenges in French-language broadcasting to these communities; and propose measures to encourage and promote access to the broadest possible range of French-language broadcasting services in francophone minority communities, as well as ensure that the Canadian broadcasting system reflects the diversity of francophone communities across the country.

I will give you a bit of background. In 1999, the Ontario network TFO sought CRTC approval to require Quebec cable companies such as Vidéotron and Cogéco to carry the TFO signal in Quebec, on an optional basis. The CRTC decided it was not in the national interest to do so. I and many others found this unsatisfactory.

The government reacted by issuing the famous Order No. 2511, which I have just mentioned. The CRTC responded to this request in February of this year. I appeared before the CRTC in an effort to make my position on the subject understood. In a fairly voluminous document, I stated that CRTC decision 2072 denying the application by the Ontario Educational Communications Authority, TVO, to have mandatory distribution of its French-language educational television service, TFO, in Quebec as part of an optional analog package, was contrary to the provisions of public interest of the Broadcasting Act and the many pious statements by the Governor in Council of the CRTC on its promotional objectives, on the French language in Canada.

It is hard to support decision 2072 by the CRTC in a context in which the Commission should be trying to preserve and promote the French language in Canada. As a commissioner of the CRTC pointed out in his dissenting opinion, the decision appears to be a capitulation to commercial interests. It manifestly does not consider the non-commercial elements on Canadian broadcasting.

I continued as follows:

> It is the least that could be said that, having rejected this request to impose an obligation on the major cable distributors to carry the TFO signal in Quebec, the CRTC had before it and was prepared to examine the authorization to distribute numerous French and European services.

This meant Euronews, Planète, Paris Première, Musique and Tropiques, which are all European networks. Yet they had just refused the only francophone network outside Quebec, TFO, inclusion among the programs to be carried in Quebec. I cannot understand why the application was turned down. And I certainly do not accept it!

There were public consultations, which generated a great deal of interest. Many communities came before the CRTC. Certain groups demanded the creation of such a network because it would reflect the Canadian reality. The Société des Acadiens et Acadiennes du Nouveau-Brunswick made the following statement when it appeared before the CRTC in Dieppe, New Brunswick, on October 10, 2000:

> At this time, the situation is such that most of the major Canadian French-language networks have given up and have relegated to the ranks of folklore all the francophone and Acadian communities living in minority situations.

It therefore made a proposal, as follows:

> The first proposal we wish to submit affects the establishment of a national public television network wholly devoted to the Acadian and francophone minority communities of Canada.

It even went so far as to give it a name, la Télévision des francophonies canadiennes, or the Network of Canadian francophonies. The Société nationale de l'Acadie, a coalition of provincial associations of Acadians in the four Atlantic provinces, also adopted this proposal for national public television.

The Fédération culturelle canadienne-française, a coalition of francophone cultural organizations across Canada, also proposed to the CRTC that it give precedence to the establishment of a national television network for the Canadian francophonie. It went beyond that to call for a working committee comprised of representatives of the communities and of the CRTC, mandated to examine all options that might achieve that objective, in order to select the best one. The organization and its membership wish to support a national television initiative that could provide the regions, as well as regional artists, producers, journalists and populations, with a choice platform on a national broadcasting entity.

Ask any francophone. They feel colonized by Montreal, because everything that is broadcast in French comes from Montreal at the moment, unless they watch TFO. Unfortunately, many do not know of this network. RDI is doing its share, but we want a television network that reflects the Canadian reality — what is going on in Acadia is totally different from what is happening in Saskatchewan, Alberta, Manitoba or Ontario. Our identity is tied to the region we live in. We have to take this opportunity to make it known.

• (1550)

If we live in our own little space, separate from each other, and we are prevented from talking to each other, seeing each other, hearing each other or looking at each other, what sort of a country are we living in? A country that will become balkanized. This is not what I want. I want a Canada in which people reach out to one another, talk to each other, understand each other and also explain themselves to one another sometimes. It is not complicated.

I come back to the question of precedents. There are precedents, and they may be found here in Canada. I would like to speak for a few minutes about APTN. Are you familiar with APTN? It is a television network born of consultation with native groups — Inuit and Métis. They succeeded after many years in convincing the CRTC of the merit of their proposal. Today this network reflects the life of native peoples with its programming in native national languages, in French and in English. APTN gives Aboriginal minorities an opportunity to get to know one another, to talk together and to be heard by the rest of Canada.

Honourable senators, I should like to try to convince the Senate that one of the roles of this country is to ensure that its minorities can survive, and, as I was saying earlier, television and radio are vital to the survival of official-language minorities. They are no longer inaccessible thanks to technological change. With digital television, we will be able to broadcast to the country as a whole.

This is the right moment to rise to this challenge, to take our place by setting up, with the CRTC and existing governments, a national network to reflect the reality of Canada in the provinces.

[*English*]

The Hon. the Speaker: Senator Gauthier, I regret to advise you that your time has expired. Are you requesting leave to continue?

Senator Gauthier: Yes.

The Hon. the Speaker: Honourable senators, is leave granted for Senator Gauthier to continue?

Hon. Pat Carney: No.

The Hon. the Speaker: Leave is not granted.

On motion of Senator Corbin, debate adjourned.

VIEWS OF BRITISH COLUMBIANS ON WESTERN ALIENATION

INQUIRY—DEBATE ADJOURNED

Hon. Pat Carney rose pursuant to notice of March 15, 2001:

> That she will call the attention of the Senate to the views of some British Columbians on the subject of Western alienation and ways to reduce regional tensions.

She said: Honourable senators, today is the day for British Columbians to be heard in the Senate of Canada. I will be reading into the record views of some British Columbians with whom I met in Qualicum Beach recently at a fundraiser for arthritis. Approximately 200 people were in attendance and I asked them to give me their views. Their response was quite amazing. The views they sent to me fill a binder, which I can table should the Senate desire. I promised that I would express in the Senate those views on the subject of western alienation.

Qualicum Beach is a pretty little community on the East Coast of Vancouver Island. Its name comes from the Aboriginal word for "chum salmon," which gives you an idea of its sport fishing capacity and of why it is one of the most popular resorts on the coast. It is a favourite place for British Columbians and people around the world. Over one-third of its population of about 6,700 people are over the age of 65. Many people from other parts of Canada come to Qualicum to enjoy life. The village was established in the late 1880s and was only connected to Nanaimo by road in 1894. Therefore, it is an old settlement in British Columbia, but a new settlement in Canadian terms.

Is the West alienated? Two years ago there was an editorial in *The Vancouver Sun* saying:

> Is the West alienated? Let us count the ways. Liberals, unable to find signs of western dissatisfaction, had their blinkers on when it came to Nanoose Bay, illegal immigrants, fishing, leaky condos, and the scarcity of MPs west of Ontario.

Last month, the *Sun* did an update and produced a four-page special report on what the West wants, which indicates some of the reasons that British Columbians are unhappy in Confederation. Although I do not intend to read four pages of the *Sun* into the record, I will review the concerns of the people who took the time to write notes to me.

When I met with the people in Qualicum, I asked them to be positive. I asked them to explain ways that we could improve Confederation and the position of British Columbians and thus, achieve Canada's greater potential.

It is interesting to me that almost one-half of the responses dealt with parliamentary reform. British Columbians are interested in Senate reform, in an elected Senate, in renegotiating the terms of Confederation, and in electoral reform. They are also interested in greater representation in the Senate and the House of Commons and in a greater financial fair share.

• (1600)

The honourable senator has pointed out that New Brunswick has the population of a small Ontario city, yet it has much greater representation here — ten senators as compared to six for British Columbia. She is talking about the difficulties of redistribution and equalization.

A recent report by the Government of British Columbia entitled *A Preliminary Examination of Fair Share Issues* provided by the Intergovernmental Fiscal Relations and Income Security Branch of the Minister of Finance points out that British Columbian households contribute to Canada $5,156 per year more than they receive. Households in British Columbia are net overall contributors to Canada. As a province, in terms of net fiscal flows, British Columbia contributes a net of $5 billion more to Canada than it receives in federal transfer payments and in federal purchases of goods and services.

With that context, honourable senators, let me read some of the things that British Columbians told me and, through me, the Senate. I will not give the names, as is normally my practice. Since the Liberals have shown such a new attitude of intolerance, as exemplified by Minister Hedy Fry, I thought it safer for British Columbians not to include their names.

Some of the responses under parliamentary reform include the following:

> I feel that B.C. needs more representatives. Representation by population needs to be reviewed on a regular basis. All numbers of senators representing provinces is very unequal. Ontario and Quebec have too many seats relative to the rest of the country. We need more balance. I appreciate that the CBC tries hard to decentralize. Networking with all the parties, like you suggested, to raise the problems and issues is important to the West. Renegotiate the Constitution.
>
> Electoral reform would start to help. This would give every area some feeling of belonging to the whole if we can find a way to (a) make it work and to persuade the ruling party to implement it. The distribution of MPs should be reviewed regularly. We are seriously underrepresented here in B.C. for our burgeoning population, and we should look at the election of senators. We should make Parliament more representative of the population, that is, more seats for B.C. compared with seats from Nova Scotia or the Maritimes. Amend the Constitution, if necessary, which may be difficult but it is not impossible. Hold parliamentary sessions in other parts of Canada.

Remember, the thrust of this conversation, senators, was to improve Confederation, not to exacerbate it.

> One way we could do that is by holding parliamentary sessions in other parts of Canada. Another suggestion: Could the European Union serve as something of a model?

> We definitely need more representatives in B.C. I resent the fact that the Prime Minister was already elected before I even voted. Also, the counting of votes should happen after the last polling station is closed.

That deals with some of the responses under the topic of representation. I want to move on to how to consult with the public and the consultation process. These are some of the ideas:

> I appreciate your comment about people from the West who cannot afford to go to Ottawa to present opinions. Most times, when Ottawa says it has consulted with Canadians, it is only Ontario Canadians or those who can afford the plane fares and time off. Is there any way government meetings could be held in major cities rather than in Ottawa?

> Consider having the Senate meet across the country and go to the regions. Sponsor videoconferences at educational institutes that allow our young people to participate in discussions on issues that affect their futures.

Here is another suggestion from a former Ottawa bureaucrat. He said:

> I worked for you during your tenure in International Trade. After three years of living in B.C., I too have become an alienated westerner.

He suggests:

> All cabinet ministers should be required to spend a certain number of days in the provinces, east to west, and the same goes for senior bureaucrats. Federal-provincial exchange assignments for officials would help. Cabinet and parliamentary committee meetings could be held regularly outside Ottawa in provincial legislatures when they are not sitting.

He adds:

> I could go on and on.

In terms of renegotiating the Constitution, I was particularly amused by this suggestion:

> Having just read that, if they could, one in every three Canadians would move to B.C., perhaps we should remind Eastern Canada's aging population that they will most likely become citizens of B.C. before long and they should look to getting a better deal for us now before they arrive.

Honourable senators, the media came in for some criticism:

> It appears that local B.C. groups should become aware of West Coast issues and continually bombard Ottawa with our concerns and solutions. B.C. people seem very complacent and do not get upset until it is too late. We are partly to blame for the alienation.

Another suggestion:

> The kids I teach in social studies are interested and excited. Maybe you should be targeting a younger group to educate. I do teach government every year, and we have a great time.

Again, another says:

> We in the West need to be more vocal, not sit back and say, 'Well, they won't listen; what can we do?' We in the West need a forceful but well-informed leader.

Another person suggests:

> Canada is governed by the principle of divide and conquer, and it is working because we allow it.

The section on Senate reform is too long to include in this debate; I will do a separate session on it.

Another point that was raised, of course, is the federal issue of fair share and what our fair share is.

Also, in terms of media, these suggestions were put forward:

> I feel that Western Canada is still considered to be the Wild West. Having seen the Canadian history series on CBC where our country began, in the centre and east, it seems to me that people think it is the most important place. Is it because our population is less, so we don't count? Or maybe our country is just too big. Why do so many people from Ontario retire here? I am sorry I don't have any solutions for the West.

Another suggestion:

> Why, oh, why do all references in the media, when referring to the West, mean Alberta? What are we? Eastern Japanese?

Another:

> When I lived in Toronto 25 years ago, I was largely unaware of the West. There was very little mention of the West and western concerns in the *Toronto Star*. I was shocked one day to learn that westerners hated and resented us. I always thought that we easterners supported the western provinces.

More comments about the CBC:

> The CBC and all national publications could do more outside Ottawa and Toronto.

That point has been raised by another senator this afternoon.

In terms of fair share, someone wrote:

> Herb Dhaliwal, the Minister of Fisheries, explained that the West got little in the way of federal aid for port improvement. Statistics show that many small, unimportant port facilities in Quebec and Maritimes got plenty. Dhaliwal said that B.C. MPs were not petitioning him enough. Did he not have enough high profile MPs in the West to advise him?

Another view:

> Eastern and central Canada must learn the West is also Canada. We need more representatives. We need an elected Senate. We need our share.

Another suggestion:

> Certain decentralization of some of the departments to the provinces to help stop alienation of certain parts of the country.

My time is running out. There were several issues on the West's political and economic importance. There were a lot of issues about forestry and fishing.

One suggestion:

> If each riding and each party running a candidate would run only a fisherman, we would be able to take our responsibility to get rid of some of the alienation we complain about.

Another point:

> As far as forestry goes, we seem to be on the losing end. Free trade is hard on us in B.C. in terms of logging, et cetera. We are hardly recognized back east, and they do not seem to understand forestry as it is in B.C. Forestry and fishing have become our income.

I could go on.

Senator Kinsella: Take your time.

Senator Carney: Immigration is a big issue in the mail. Health and the transfers and the cuts in transfers are a big issue. Believe me, the mail bag fills all the time. I shall bring these comments forward to honourable senators in the future.

• (1610)

Hon. Nicholas W. Taylor: Perhaps the good senator from B.C. will allow me to ask several questions. I notice the complaint list, being a westerner myself, sounded very much like the usual symphony. The honourable senator mentioned that B.C. householders say they contribute $5,000 a year more than they get and that they need more representation in the House of Commons. I wonder if the honourable senator, from her knowledge and position, was able to inform them that giving $5,000 more than they are getting is a function of Confederation, or has she figured out a way that every province can get more back than they put in and still hold Canada together? British Columbia is a rich province, as are Alberta and Ontario.

Regarding increased representation, does the House of Commons not now have equal representation?

The Hon. the Speaker: I have just been advised by the Table that the time for Senator Carney's speech, questions and comments has expired. Do you wish to adjourn the debate?

Senator Kinsella: Good idea.

The Hon. the Speaker: Senator Carney would have a right of reply if you spoke. In any event, the time has expired for this inquiry.

Senator Taylor: Honourable senators, possibly it could be extended to allow the honourable senator to answer. However, the deputy leader says it is good idea to adjourn the debate, in which case I will. I always do what he says.

On motion of Senator Taylor, debate adjourned.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, is it your pleasure that the Senate do now adjourn during pleasure to await the arrival of the Deputy of Her Excellency the Governor General?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I would like to ask something of my colleague opposite. Word has reached us on this side that the House of Commons has adjourned. My understanding of the procedure is that if the House of Commons is not sitting, the Usher of the Black Rod will find no one at home when she goes to summon them. Could I ask my colleague if he has the same information? Perhaps the Speaker could then give us direction if my information is correct.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I did receive the same information, but I am told that we must still proceed with the ceremony as scheduled. When the Usher of the Black Rod comes back to give us the message that the House has adjourned, the representative of Her Excellency the Governor General will retire and we shall adjourn.

[*English*]

Senator Kinsella: Honourable senators, if I have understood correctly, Senator Robichaud has suggested that we go through the steps of having the Usher of the Black Rod go and summon the House of Commons. If we know that no one is there, we are no longer seized with the issue of Royal Assent. Perhaps the minister is able to confirm that the House has adjourned, and then we might carry on with our business. I take it the minister can guide us.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the Honourable Senator Kinsella. I want to inform the Senate of what has occurred in the other place. An unexpected adjournment motion was passed. As a result, we are not able to hold Royal Assent this afternoon. The earliest we could hold Royal Assent would be at approximately 10:15 a.m. tomorrow, because the House does not come back until 10 a.m. The House would still be in a state of adjournment at 9 a.m., were we to convene and sit at our usual time of 9 a.m. My suggestion is that we adjourn. We will obviously need leave to adjourn to 10 a.m., instead of the regular 9 a.m., because the rules provide that we sit automatically at 9 a.m. on a Friday. We can move the adjournment for 10 a.m. tomorrow and sit at that time.

Honourable senators, I would not ask you to remain for another day under the circumstance of a Royal Assent for a normal bill. This is not Royal Assent on a normal bill. This is Royal Assent on a supply bill. If we do not hold Royal Assent, there will be no money to operate the Government of Canada.

Hon. Pat Carney: Good idea.

Senator Carstairs: This is an extraordinary circumstance. I would ask all honourable senators to cooperate fully. To all those senators on both sides of the chamber who can possibly remain here for the Royal Assent ceremony tomorrow at approximately 10:15 a.m., I beg your indulgence.

Senator Kinsella: Honourable senators, on behalf of the opposition in the Senate, it is the two money bills for which Royal Assent is sought and obviously expected to be granted. The consequences of not having Royal Assent on those bills, which have been adopted by this place, would be quite adverse. Therefore, on behalf of the opposition, under the circumstances, and notwithstanding that I am tempted to introduce a motion that we adopt a constitutional resolution for the abolition of the House of Commons, we should be here tomorrow morning.

The Hon. the Speaker: Honourable senators, I need not comment on the exchange on the matter of order that involved the Deputy Leader of the Opposition, the Deputy Leader of the Government and the Leader of the Government.

I will not read the provisions in our rules, but I would refer all honourable senators to rule 135, in particular 135(2) and 135(4), which explain why we are going through the procedure that we follow.

Honourable senators, before the matter of order was dealt with, I had asked honourable senators: Is it your pleasure, honourable senators, that the Senate do now adjourn during pleasure to await the arrival of the Deputy of Her Excellency the Governor General? The matter of order was discussed and I referred all honourable senators to rule 135, which explains why we will go through this procedure even though the House of Commons is not sitting.

Hon. Shirley Maheu: Do we have the right to object to that?

The Hon. the Speaker: I suppose one could. Do you want to rise on a point of order, Senator Maheu?

Senator Maheu: I rise on a point of order, honourable senators. If you are asking for unanimous consent to adjourn, I am afraid I cannot give it. We have people who have been waiting to hear Senator Setlakwe and myself all day long. I think it would be unfair to decide arbitrarily to adjourn now.

Senator Kinsella: We are not adjourning anyway.

The Hon. the Speaker: So it is clear to all honourable senators, we are not adjourning the Senate. We are adjourning during pleasure to await the arrival of the Deputy of Her Excellency the Governor General.

Perhaps I should read the provisions of our rules.

• (1620)

Senator Carstairs: Before His Honour does that, I should like to ask whether it is in order to get unanimous consent from this chamber to suspend rule 135.

The Hon. the Speaker: Honourable senators, I will read rule 135(3), which I think answers that question.

> When the Speaker receives a message, in accordance with the provisions of section (2) above, the Speaker shall interrupt any proceeding then before the Senate and read the said message. If a message is received during the taking of a standing vote...

I will not finish reading the rule, as it is quite lengthy.

My interpretation of rule 135 is that when Her Excellency the Governor General sends a letter and her deputy to this place, we receive her deputy. I will proceed in accordance with that rule. I will follow that procedure so that we may receive Her Majesty's representative, the Governor General's deputy, who is waiting outside.

I will hear other interventions on Senator Maheu's point of order, but if no honourable senators rise, I will carry on with the ceremony.

Senator Carney: I rise on a point of order, honourable senators.

In view of Senator Grafstein's point made on March 27 that we are bound by the *Rules of the Senate*, it has been pointed out that the rules are not being followed because the House of Commons is not sitting. Could His Honour please elaborate whether and how we are bound by the rules?

The Hon. the Speaker: We are following the rules, Senator Carney. Even if we do follow the rules, Royal Assent will not be completed because we will not receive representatives from the House of Commons in order that it might be completed. It was explained by Senator Carstairs that the Senate will sit tomorrow so that the ceremony can take place and be completed.

The Senate adjourned during pleasure.

• (1630)

The Hon. the Speaker: Honourable senators, I have been informed that the House of Commons has adjourned.

The sitting of the Senate was resumed.

RECOGNITION AND COMMEMORATION OF ARMENIAN GENOCIDE

MOTION—DEBATE ADJOURNED

Hon. Shirley Maheu, pursuant to notice of March 27, 2001, moved:

That this House:

(a) Calls upon the Government of Canada to recognize the genocide of the Armenians and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity.

(b) Designates April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century.

She said: Honourable senators, I rise today to discuss a very serious matter: the genocide perpetrated against the Armenian people by the Government of the Ottoman Empire between 1915 and 1918. I know that many senators may already be aware of the history, but for those who are not, a short recap is in order.

[*Translation*]

An 1882 census showed that, at the time, there were approximately 2.6 million Armenians living in the Ottoman Empire. Ottoman authorities feared that Armenians would demand their independence, just like Greece, Bulgaria and Romania had done a few decades earlier.

To solve the Armenian issue, the Ottoman government decided to completely exterminate the Armenian people living on the lands that they had been occupying for over 3,000 years.

On April 24, 1915, Ottoman authorities arrested and executed over 2,300 intellectuals and leaders of the Armenian community living around the imperial capital of Istanbul. In the absence of Armenian political leaders, the Ottoman government announced the deportation of all Armenians living in the interior. Since all young men had already been conscripted into the imperial army because of the Great War, the Armenians who were deported were mostly women, children and old people.

[*English*]

Secret orders were sent to provincial governors to organize the complete massacre of all Armenians living in those regions. Armenian men conscripted in the Ottoman army were murdered by their own Ottoman Turkish commanding officers. Most of the civilian population was either immediately put to death by death squads or killed en route to destination.

Forced to walk hundreds of kilometres with few belongings and no food or water, the survivors of these long "death marches" finally reached Syria, where they were received and helped by the local Arab population and Western missionaries.

Of the 2.6 million Armenians living in the Ottoman Empire before the genocide, only 400,000 remained in what became the Republic of Turkey, mostly in areas around Istanbul. Some 200,000 escaped to Eastern Armenia, a territory later annexed by the Soviet Union. The remaining 500,000 survivors found refuge in France and in the Middle East — Syria, Lebanon and Cyprus. Many eventually moved on to Western Europe, South America, the United States and Canada, creating the Armenian diaspora that we know today.

As I stated earlier, there is overwhelming evidence that Ottoman authorities deliberately attempted to eradicate the Armenian people from lands they had occupied for almost 3,000 years. This is defined as a genocide.

In order to understand what we are talking about, Article II of the UN Convention on the Prevention of Punishment of the Crime of Genocide of December 11, 1948, defines a genocide as:

...any of the following five acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of that group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

Only one of these acts is necessary to consider events as a genocide. The historical evidence shows that the Armenians were subjected to at least four of these five acts between 1915 and 1918.

Despite huge amounts of documentary evidence, including German and Ottoman archival sources, and despite the recorded testimonies of the survivors of the massacres and published reports from foreign missionaries as well as diplomatic personnel stationed in the Ottoman Empire at the time, the Government of Turkey today denies that any of these things ever took place.

The deniers claim that there was a civil war in which both Turks and Armenians were killed, that the Armenians were rebelling against the authorities, which caused the fighting and the deaths. Faced with the evidence, they admit that there were some deportations but that only 300,000 people died. In other words, deny what happened, distort what happened and blame the victims.

[*Translation*]

Strangely, those who deny the historical truth do not have an answer to explain exactly who was leading the rebellion and who these rebels were, since the vast majority of young men had been conscripted into the Ottoman army and could therefore not take part in a rebellion or a civil war.

Given the figures provided by the census, they cannot explain where these 1.5 million people went in less than two and a half years.

[*English*]

• (1640)

In the last few years, the Parliaments of many countries and two provincial governments, Quebec and Ontario, have chosen to recognize the Armenian genocide as a historical fact. France was the most recent to do so, in January 2001. Belgium, Greece, Italy, Germany and Sweden, as well as the European Parliament, have also recognized it.

Some governments, including Canada's, accept the historical evidence, including the deaths of 1.5 million people, but refrain from using the term "genocide" for fear of upsetting Turkey.

[*Translation*]

Canada's Armenian community now numbers close to 100,000 strong and these Canadian citizens are entitled to demand that their Parliament and their government acknowledge the reality of what happened to their ancestors.

When our European ancestors acknowledge the reality of the past, Canada has a duty to do likewise. Canada's reputation as a champion of human rights and freedoms is at stake. We need to shout out loud and clear that this crime against humanity is unacceptable, even 85 years after the fact.

[*English*]

Most important, we must recognize the Armenian genocide to show the world that one cannot get away with denial. If we allow the Armenian genocide to be denied today, will we allow Holocaust deniers to get away with such lies a few years from now?

Honourable senators, for over a century, Canada has been a peaceful and democratic home for millions of victims of racial discrimination and genocidal actions. It is my hope that Canada will not only inform and educate its people of past genocides, but also work toward the creation of an international system of justice that will prevent further genocides from happening.

Why this recognition now, after 85 years? It is because the denial of the historical record continues, and the act of denial is a continuation of the genocide itself. It will not allow people to mourn and move on.

The time is ripe for reconciliation. Today, Turkey is aspiring to join the European Union and must face its dark past in order to move forward toward the future. By adopting resolutions such as this one and by talking about this important issue, Canada encourages Turkish authorities to begin a real dialogue with Armenia and with the Armenian diaspora. This is the only way this issue will be resolved. Canada must encourage it.

As a friend and ally of Turkey, Canada must help her along this difficult path. By doing so, we are not hurting Turkey; we are helping her. As stated by Murat Acemoglu, of the *Armenian Reporter International*:

> It is obvious that the Armenian Genocide Resolutions adopted across Europe have become a catalyst, not only to stimulate the debate in Turkish society but also to give a new fresh impetus to reconciliation efforts by the leftist forces and Ankara government as well, as we witnessed in the recent Istanbul conference on February 14 where the Turkish Foreign Minister took a conciliatory tone against Armenia.

After the First World War, the world failed to adequately recognize the ultimate evil that had occurred to the Armenians. By not denouncing what had happened and the perpetrators who were responsible, we left the door ajar for it to occur again. Unknowingly, by not saying anything at the time, we allowed that ultimate evil to reappear 20 years later, during World War II.

Some people, however, are better students of history than others. I want to read a quote from a person who was influential in the planning and execution of the Holocaust during the Second World War. In a speech to Nazi generals and German army commanders on August 22, 1939, the man said:

> I have placed my death units in readiness with orders to them to send to death, mercilessly and without compassion, men, women and children of Polish derivation and language. Only thus shall we gain the living space which we need. Who, after all, speaks today of the annihilation of the Armenians?

The name of the man uttering these words was Adolf Hitler, speaking one month before invading Poland and sparking World War II. The answer to Hitler's rhetorical question must be "We do." We must say so strongly and unequivocally. To do otherwise, would be to invite others to do what the Ottoman government and the Nazis did.

[*Translation*]

Canadians of Armenian descent implore the Government of Canada not only to recognize and condemn the Armenian genocide, but also to speak out against any form of servitude, destruction or oppression of a people, a state or a nation. Moreover, the Armenian community hopes that the Government of Canada will condemn any attempt to deny, distort or minimize the facts of the genocide.

[*English*]

For a number of years, Armenians all over the world have commemorated the genocide on April 24 of each year.

[*Translation*]

With this resolution, we call upon Canada to recognize these days of terror with an official national day, this very date.

[*English*]

In conclusion, I hope that I was able to convince all my honourable colleagues that the Armenians have suffered for long years and continue to be haunted by cruel memories that are passed on from generation to generation — and it does affect other generations.

In order to break this sad pattern, it is time to recognize this destruction of a people and call it what it is — a genocide.

I thank honourable senators for their attention.

With your permission colleagues, after being advised that reading the preamble to my resolution would have been out of order, I ask permission to have the text appended to my debate.

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

Hon. Senators: Agreed.

(*For text of preamble, see Appendix, p. 524.)*

[*Translation*]

Hon. Raymond C. Setlakwe: Honourable senators, I wish to express my support of the motion by the Honourable Senator Maheu, speaking out of sorrow, but also out of a desire to preserve a historical memory.

Jean d'Ormesson has written that a great family is one with traditions and with memories of its past. The great Armenian family is such a family.

For these reasons, I point to the disappearance at the hands of the Turks of members of five of my grandfather's brothers and three of my mother's brothers.

[*English*]

Armenians everywhere claim a recognition of this genocide by the Turkish government and a symbolic restitution. Had this been done before the Holocaust, Hitler would not have been able, as my colleague has just pointed out, to say in 1939, "Who remembers the Armenians?"

• (1650)

Until this historic act of barbarism is recognized, the world and all Armenians will remember, and the words of the poet will ring true:

> Out of the night that covers me,
> Black as the Pit from pole to pole,
> I thank whatever gods may be
> For my unconquerable soul.

Honourable senators, I should like to quote from an article that appeared in the *International Herald Tribune* on March 14, 2001, in which Paul Glastris writes:

> After more than 80 years, the public are coming around to the view that what the Armenians suffered was not a tragic wartime loss, but a deliberate genocide.
>
> This shift is most obvious on the political front. About two decades ago, the Armenian diaspora began trying to persuade Western governments to pass resolutions acknowledging the genocide. Lobbyists funded by the Turkish government thwarted almost every attempt.
>
> With opinion turning against the Turkish position, some former government officials in Turkey are advocating a new approach; convening a panel of scholars from around the world and giving them full access to all archives to look at the historical record.
>
> Ending this dispute would help Turkey achieve its primary national goal: entry into the European Union. Not ending it would put Turkey on a collision course with nations that might pass Armenian genocide resolutions.

I would hope that Canada would soon be among those nations.

[*Translation*]

Here, in translation, is an extract from an editorial written by Robi Ronza, which appeared in Milan's *Il Giornale*.

> A recent vote in the French parliament, subsequently supported by President Chirac, revived an issue which Europe cannot afford to forget: the first genocide of the 20th century, the genocide of the Armenians of Anatolia, carried out by the Turks in 1915. Europeans must adopt a firm attitude towards Turkey's obstinate denial of an extermination that cost many people — perhaps a million and a half, but at least 850,000 — their lives, and its refusal to conduct a just national examination of conscience in this regard. The genocide of the Armenians was the first genocide in the century which has just ended and we know that it was influential in Hitler's thinking when he conceived the idea of the Holocaust.

If, however, we compare Turkey's current attitude vis-à-vis this issue with all that Germany has said and done to recognize its faults and to compensate the survivors as well as the descendants of the victims of Nazi exterminations, we must conclude that present-day Turkey cannot aspire to enter the EU, not just because it is not a part of Europe, but also because, even today, it will not respect human rights and observe the democratic principles without which one cannot lay claim to the Western cultural heritage, even by affiliation.

However, we must demand that Turkey show this courage. It needs such courage if it wishes to establish and consolidate a special relationship with Europe, but also if it wishes to free itself of the burdensome heritage of the Kemal myth, which in reality is no longer helping it to become the country it aspires to be.

Honourable senators, it is because humanity is far from being safe from a repetition of such a massacre that it is all the more important that this massacre be recognized. Africa and many other places in the world are threatened by this sort of barbaric behaviour, which leads to the annihilation of peoples.

[*English*]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have a question to ask. If the honourable senator cannot answer, I would ask leave for Senator Maheu to answer.

I do not see what force this resolution will have if it is passed as it is presently written. The resolution asks that this house designate April 24, but the resolution will not have the force of law. Rather, it will be an expression of the majority of this house. I would think that the honourable senator would reinforce her intent if she asked the Parliament of Canada and sent such a motion over to the other place to have it ratified. If it is passed in both Houses, then it would have the force of law and be recognized legally. Otherwise, as it is written now and as I interpret it, it is really just an expression from this chamber. It will end here.

The Hon. the Speaker: Honourable senators, is leave granted to allow Senator Lynch-Staunton's question to Senator Maheu?

Hon. Senators: Agreed.

Senator Maheu: I thank the Honourable Senator Lynch-Staunton for his question. I was well aware that the Senate cannot make this resolution a law.

A private bill sponsored by the only Armenian member of Parliament, Mr. Sarkis Assadourian, is progressing through the House of Commons. Whether it is made votable is another point.

If we cannot have a date declared, then at least Canadians will be aware of what occurred. My hope is that when the Armenian community comes to Parliament Hill on April 24 to reflect upon this genocide, most Canadians will know that the day has been dedicated to them. Whether it be through law or not, the symbolic fact is essential.

Perhaps in helping Mr. Assadourian, we may have a positive influence on the members of the other place.

Hon. Consiglio Di Nino: Honourable senators, both Senator Prud'homme and Senator Wilson indicated to me that they wished to speak to this issue, as do I.

On motion of Senator Di Nino, debate adjourned.

[*Translation*]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*h*), I move:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Friday, March 30, 2001, at 10 a.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Friday, March 30, 2001 at 10 a.m.

APPENDIX

(see p. 522.)

PREAMBLE

TO THE RESOLUTION

OF

THE HONOURABLE SHIRLEY MAHEU

MARCH 29, 2001

RESOLUTION ON THE RECOGNITION AND COMMEMORATION OF THE ARMENIAN GENOCIDE

WHEREAS on April 24, 1915, the Ottoman Turkish authorities arrested, and later executed, over 2300 prominent leaders of the Armenian community in Istanbul, without cause or reason, but for their race and religion, signalling the beginning of the first genocide of the 20th century;

WHEREAS using the First World War as a cover for their operations, Ottoman Turkish authorities ordered and carried out the systematic slaughter of Armenians living in six provinces of Eastern Anatolia and Cilicia, in an effort to exterminate the Armenian presence in those regions;

WHEREAS the Ottoman Turkish authorities exiled the survivors of the massacres from their homes and native lands;

WHEREAS the historical record clearly demonstrates that the events occurring between 1915 and 1918 that resulted in the massacre and exile of the Armenian population of Eastern Anatolia and Cilicia constitutes a genocide as defined by international customary law and by the *United Nations Convention on the Prevention and Punishment of Genocide* of December 11th, 1948;

WHEREAS the government of the Republic of Turkey distorts the historical record and denies that the Armenian Genocide took place;

WHEREAS the parliaments of Argentina, Belgium, France, Greece, Italy, Lebanon, Russia, Sweden, Uruguay and the European Parliament and the World Council of Churches have condemned the massacres of the Armenian population of the Ottoman Empire and recognized them as constituting a genocide;

WHEREAS the Armenian Genocide has also been recognized by the National Assembly of Quebec, the Legislative Assembly of Ontario and the Canadian Council of Churches;

WHEREAS thousands of Armenian Genocide survivors and their descendants now reside in Canada as Canadian citizens and enrich Canada's multicultural heritage;

WHEREAS Canada is a country which prides itself on the rule of law and of the respect of human rights and liberties;

WHEREAS April 24th has become a symbolic date of remembrance for Armenian-Canadians and for people of Armenian origin all over the world;

WHEREAS the resolution of the Armenian Genocide issue could help peacefully resolve several long-lasting conflicts inthe South Caucasus

BE IT RESOLVED THAT THIS HOUSE

a) Calls upon the Government of Canada to recognize the genocide of the Armenians and to condemn any attempt to deny or distort a historical truth as being anything less than a genocide, a crime against humanity.

b) Designates April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Aremenians who fell victim to the first genocide of the 20th century.

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