CANADA

Debates of the Senate

2nd SESSION • 37th PARLIAMENT • VOLUME 140 • NUMBER 79

OFFICIAL REPORT
(HANSARD)

Tuesday, September 30, 2003

THE HONOURABLE DAN HAYS
SPEAKER

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(Daily index of proceedings appears at back of this issue).

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

Published by the Senate
Available from Communication Canada – Canadian Government Publishing, Ottawa, Ontario K1A 0S9.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, September 30, 2003

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

Prayers.

SENATORS' STATEMENTS

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

ONE-HUNDREDTH ANNIVERSARY

Hon. Edward M. Lawson: Honourable senators, a couple of weeks ago I attended an anniversary party in Washington, D.C. It was held to commemorate the one-hundredth anniversary of the International Brotherhood of Teamsters, a celebration of their 100-year history of successes on behalf of the working men and women of North America and the union's 1.5 million members.

Interestingly, there was also a political aspect to the celebration. At the Saturday afternoon session, a few American politicians with whom we have a relationship came to pay their respects. The first speaker was former President Bill Clinton. He looks great. He is on the South Beach diet and has lost about 30 pounds. He looks like he is ready to make a run again.

Following him as the second speaker was the senator from New York, Senator Hillary Clinton. Her opening remark was to the effect that she did not mind being the second speaker because it would probably be one of the few times that she might have the last word. She made an excellent presentation.

I have been reading that the Liberals have been talking about spicing up their convention in November and that they are thinking of inviting Senator Clinton as their guest speaker. Just do it. She made a great speech and received nine standing ovations. For the benefit of the ladies, she looked smashing in a coral-coloured suit.

At the banquet there was another speaker, Dick Gephardt, whom some honourable senators know. He was the minority leader in the Clinton administration and, by a poll of the membership, has been endorsed to be the Democratic nominee for president.

Another highlight of the occasion was the decision taken by the brotherhood to honour the original Jimmy Hoffa. As an aside, the current president of the brotherhood is Jimmy Hoffa's son, James P. Hoffa. The honour was the creation of the James R. Hoffa Lifetime Achievement Award for officers and members of the brotherhood who have distinguished themselves with their membership and brought credit to the union. Five former officers received this award.

I am proud to say that I was one of the five recipients of the James R. Hoffa Lifetime Achievement Award. I received the award for my 40 years of service to the union and its members at the provincial level, at the national level as international director for Canada and for being elected to four five-year terms as international vice-president in the United States.

WOMEN'S CONDITIONS IN SIERRA LEONE

Hon. Mobina S. B. Jaffer: Honourable senators, as members of the parliamentary delegation to West Africa, Senator Andreychuk and I visited Sierra Leone and saw how lives are devastated and shattered by the 10-year civil war. However, the effects of conflict and post-conflict zones are different for women than they are for men. Sierra Leone is ranked last on the 2003 UNDP's Human Development Index.

Throughout the armed conflict in Sierra Leone from 1991 to 2001, thousands of women and girls of all ages, ethnic groups and socio-economic classes were subjected to widespread and systematic sexual violence, including individual and gang rape, rape with objects and sexual slavery. Furthermore, amputation of limbs was often used as a weapon of war. A daily reminder of war exists all around with the number of amputees in the community.

Many women in Sierra Leone have survived rape and molestation. They have lost their spouses, their children and their community. The war has greatly disempowered women, not only by destroying their families and communities but also by making it virtually impossible for women to participate in their nation's political rehabilitation.

Thousands of former combatants of the 10-year civil war who have spent years murdering and raping are returning to their communities to live amongst the women and children whom they traumatized. The greatest concern consistently expressed by survivors of sexual violence was that fighters would return and abuse them again.

It is important that the voices of these women be heard. It is on their shoulders that the greatest burden is placed in trying to restore normalcy within families in which children bear the physical and mental scars of warfare; families in which thousands, including the women themselves, are amputees. Yet these women are still expected to carry the greater load of maintaining households of families living in desperate poverty, with no means of support and with insurmountable health issues that need to be addressed.

The Canadian Committee on Women, Peace and Security is working with networks in many conflict and post-conflict zones around the world. We have worked closely with the Afghan diaspora in Canada to engage them in the rebuilding of Afghanistan. We look forward to building partnerships and linkages with women and their networks in Sierra Leone.

Honourable senators, I encourage you to find ways to connect and to build relationships with these women so that we may learn from each other and inform Canadians. We must make building strong partnerships a priority with these countries that are in conflict and have so few resources.

• (1410)

THE RIGHTS OF THE METIS AS DISTINCT ABORIGINAL PEOPLE

SUPREME COURT JUDGMENT

Hon. Gerry St. Germain: Honourable senators, Senators Joyal, Chalifoux and Beaudoin respectively have spoken on the Supreme Court of Canada's landmark ruling regarding my people, the Metis. This Supreme Court decision has certainly rectified and clarified a long-standing injustice, an injustice that has denied the Metis people their rightful place in Canadian society.

From the time of Louis Riel, and long before then, we Metis have been discriminated against by all who are not Metis. They fell into a huge time void, a time during which they were virtually ignored by governments and society as a whole. It was like these people did not exist. Yet they were the pioneers, explorers, guides, trappers and hunters who were really the basic generators of the early economy of our country. They were hunters, trappers and gatherers who saw no real need or desire to attach themselves to the land in most cases. Their philosophical view was that landownership did not relate to their culture.

Today, honourable senators, let me share with you a true-life experience about being a Metis in Manitoba during the 1940s and 1950s. When I was about 9 or 10 years old, I sat at the supper table — which is now considered the dinner table — with my father, mother and two sisters. My mother and father were not eating. Being the eldest of the three siblings, I asked why. They replied that they were not hungry. That moment in my life has never left me, knowing full well the circumstances.

The very next day, my father and I left before daybreak, in the cold of a Manitoba winter, to hunt a deer in the immediate area. We hunted, hid and then celebrated in secrecy the fact that mom and dad could eat with their three children once again.

Dad was a Metis, a trapper and a hunter, and was persecuted and prosecuted for doing what is now being recognized as his right under section 35 of the Constitution. He trapped and was charged in Manitoba for doing what he figured was his inherent right. They removed from him his guns and humiliated him for doing what he had done since his early childhood.

Dad, wherever you are up there, it took 50-some years, but as of September 19, 2003, you have been vindicated for doing what you should never have been denied, not that you were ever guilty in God's eyes or ours.

Thank you, Canada, for doing what is right for a segment of our society that was rejected by the Aboriginal community in great numbers, but mostly rejected by the European settlers of that time.

As many honourable senators know, I have my moments of misgivings concerning our courts and the judicial system in Canada. I would be a hypocrite if I did not own up to that fact. However, I find myself in a strange position today, congratulating the courts in upholding the Constitution Act, 1982, as they have.

[*Translation*]

ROUTINE PROCEEDINGS

AUDITOR GENERAL

REPORT ON OFFICE OF PRIVACY COMMISSIONER TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): I have the honour to table, in both official languages, two copies of the report by the Auditor General of Canada on the Office of the Privacy Commissioner of Canada.

[*English*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

BUDGET ON STUDY OF PUBLIC HEALTH GOVERNANCE AND INFRASTRUCTURE— REPORT OF COMMITTEE PRESENTED

Hon. Marjory LeBreton, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, September 30, 2003

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWELFTH REPORT

Your Committee, which was authorized by the Senate on June 19, 2003, to examine and report on the infrastructure and governance of the public health care system in Canada, as well as on Canada's ability to respond to public health emergencies arising from outbreaks of infectious disease, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its study.

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,

MARJORY LEBRETON
Deputy Chair

(*For text of report, see today's* Journals of the Senate, *Appendix A, p. 1095.*)

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

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

NATIONAL SECURITY AND DEFENCE

BUDGET ON STUDY OF NEED FOR NATIONAL SECURITY POLICY— REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Tuesday, September 30, 2003

The Standing Senate Committee on National Security and Defence has the honour to present its

FIFTEENTH REPORT

Your Committee was authorized by the Senate on Wednesday, October 30, 2002, to examine and report on the need for national security policy for Canada.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget application submitted was printed in the Journals of the Senate of April 29 2003. On Thursday, September 25, 2003, the Standing Committee on Internal Economy, Budgets and Administration approved the release of a further $ 40 000 to the Committee. The report of the Standing Committee onInternal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

COLIN KENNY
Chair

(*For text of report, see today's* Journals of the Senate, *Appendix B, p. 1101.*)

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

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

[*Translation*]

USER FEES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-212, respecting user fees.

Bill read first time.

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

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

[*English*]

CHRÉTIEN-MARTIN GOVERNMENT MANAGEMENT OF HUMAN RESOURCES

NOTICE OF INQUIRY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I give notice that on Thursday, October 2, 2003, I shall call the attention of the Senate to the failure of the Martin-Chrétien government to provide adequate oversight in the management of human resources and public funds in certain federal agencies.

QUESTION PERIOD

PUBLIC SERVICE COMMISSION

AUDITOR GENERAL'S REPORT— STAFFING IRREGULARITIES IN OFFICE OF PRIVACY COMMISSIONER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the Auditor General stated this morning that she was told of a poisoned environment in the workplace at the Office of the Privacy Commissioner "in which staff were intimidated by the former commissioner."

• (1420)

The Auditor General noted what she called:

> ...an environment of fear and arbitrariness in the Office of the Privacy Commissioner that led to a major breakdown of controls over financial management, human resources management, contracting, and travel and hospitality.

Although the Public Service Commission carried out a study of staffing irregularities in 2001, the Public Service Commission failed to respond decisively. This sent a message to employees of the Office of the Privacy Commissioner that the Public Service Commission would not actively support any attempts to clean up the staffing abuses at that agency.

My question to the minister is this: Why did the Public Service Commission fail to take decisive action when it learned about staffing irregularities over two years ago?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I must tell honourable senators that I do not know why the Public Service Commission failed to respond. The Public Service Commission apparently did what it thought it should do and did not take action. The Auditor General herself did not seem to understand exactly why such action was not taken.

TREASURY BOARD

INCLUSION OF WHISTLE-BLOWING MEASURES IN BILL C-25

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the Auditor General also noted that there were instances of humiliation of staff, inappropriate comments, intolerance and verbal abuse. Employees who had questioned or displeased the former commissioner or his inner circle were banished from the commissioner's floor, excluded from meetings they should have attended, were not allowed to put their names on reports, and were moved to other positions. Such actions are classic examples of retaliation when an employee blows the whistle in the public's interest. Auditors were told:

> ...employees at the Office of the Privacy Commissioner perceived the avenues for reporting wrongdoing or financial mismanagement as generally ineffective, offering little or no protection to staff who might notify a superior officer or the Public Service Integrity Officer.

The Auditor General stated this morning that whistle-blowing legislation is worth exploring. My question to the minister is this: Will the government now agree to incorporate whistle-blowing legislation into Bill C-25, the bill that is before this house?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the government will not agree to incorporate whistle-blowing into Bill C-25. However, we have agreed — and I think this is most necessary — to put into place a working group including the Integrity Commissioner, Dr. Keyserlingk, and have requested that that group report within four months. A whistle-blowing policy, regime or legislation — whatever the recommendation may be — would be a made-in-Canada decision in the best interests of Canadians.

PRIVACY COMMISSIONER

AUDITOR GENERAL'S REPORT— RECOUPING OF EXPENSES

Hon. David Tkachuk: Honourable senators, today, in her review of the spending habits of the former Privacy Commissioner, the Auditor General stated that he spent public money on travel and hospitality unreasonably and extravagantly, without regard to prudence and probity. The Auditor General estimated that the government hopes to recoup $200,000 to $250,000 from various executives in the office, $250,000 in unjustified reclassification, and at least $100,000 from the former Privacy Commissioner himself.

Is it the intention of the government to adopt the same policy towards Mr. Radwanski's expenses as it did on his income tax owing?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, George Radwanski was an officer of Parliament appointed on the approval of both the other place and this place. Unfortunately, we do not have in place something which we should carefully consider, and that is an entity who examines the agents of Parliament.

The operations committee of the other place, which was just recently formed, has undertaken that task. That is how most of this matter came to light. It was their request that the Auditor General look into this situation, and also that the Public Service Commission look into it.

We do not have a similar committee in the Senate of Canada. I am not sure that we need a stand-alone committee, but perhaps we need to give an additional mandate to the National Finance Committee, which is, by tradition, chaired by an opposition member. That is something I hope all of us might take under very active consideration.

As to the specific question that the honourable senator asked, my understanding is that all agent generals or officers of Parliament are given a guidebook. They are provided with terms and conditions of employment, and they are given customized operational sessions. They are also told how they must comply with the provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders. I would assume that if any violations fit within those restrictions, then the monies could be recovered.

PRIVY COUNCIL OFFICE

PERFORMANCE MEASUREMENT AND REPORTING TO PARLIAMENT

Hon. David Tkachuk: I did ask whether the policy would be the same as the government had used toward the income tax that the commissioner owed just prior to his appointment. Also, in regard to the performance measurement and reporting to Parliament, I understand that that is an optional session at the present time. That is in response to the Auditor General and the Privy Council office. They promised to make a number of changes, including customized orientation sessions, but they made that session of performance measurement and reporting to Parliament an optional session.

In light of the revelations of the Auditor General that the Office of the Privacy Commission knowingly attempted to mislead Parliament by omitting about $234,000 of accounts payable in their financial statements, why would a session on performance measurement and reporting to Parliament be optional?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am not sure that my information or the information of the honourable senator is correct on whether that session is optional.

Senator Tkachuk: I am sure my information is correct.

Senator Carstairs: If it is optional, I will find out why it is optional, and whether it will now become compulsory.

OFFICE OF PRIVACY COMMISSIONER

APPOINTMENT OF NEW COMMISSIONER

Hon. David Tkachuk: Honourable senators, in her report on the former Privacy Commissioner, the Auditor General noted that the interim Privacy Commissioner will implement a program to restore confidence in that office, including implementing the many recommendations of both the Public Service Commission and the Auditor General. There is no provision in the Privacy Act to extend the appointment of the interim Privacy Commissioner, whose appointment will expire on December 26, 2003. Furthermore, the Privacy Act, in subsection 53(1), requires the appointment of a new Privacy Commissioner to be approved by resolution of the Senate and the House of Commons.

Can the Leader of the Government in the Senate tell us when the appointment of a new commissioner will be made and reviewed before Parliament? Can she assure us that this appointment will be made prior to any possible prorogation of Parliament?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator opposite knows, the interim Privacy Commissioner indicated that he did not wish to serve any longer than the six-month period. Obviously, a new Privacy Commissioner will have to be appointed. It is hoped that that person will be appointed relatively soon.

THE SENATE

VOTE ON APPOINTMENT OF PRIVACY COMMISSIONER

Hon. Marcel Prud'homme: Honourable senators, the Senate has fulfilled its rightful role and duty by calling on to the floor of this chamber for review every past commissioner. We now have an interim commissioner for whom we all have high esteem. In fact some of us were subject to immense hatred and unbelievable hate letters — and there is no other word for it, since there is a bill on hate — after I personally forced a vote for the nomination of Mr. Radwanski. I wish to remind everyone that Senators Atkins, Comeau, Di Nino, LeBreton, Nolin, Prud'homme, and St. Germain voted against his nomination. Senators Forrestall, Gauthier, Meighen and Simard abstained.

In view of that vote on that day, being quite unusual, a vote that was forced by me, would it be the opinion of the Leader of the Government that we should ask for a vote the next time a potential commissioner comes before this house to be questioned, as is the duty of the Senate? Even if the vote were 100 to zero, I think it would be good to ask all honourable senators to stand up.

• (1430)

If my colleagues want to have a good laugh, especially the new senators, they should read the testimony to which we subjected Mr. Radwanski for two days. Some colleagues may not be too happy to see how the praising of someone could eventually turn out to be embarrassing. Yet those of us who questioned him and voted against him still stand behind what we said at that time and what seems to have been proven today. The question is very simple: Would the leader consider my proposal if either Senator Kinsella, for instance — he always loved to do this — or someone else joined me to question the actual commissioner? The time is short, but certainly the next commissioner should be asked again to come here, in view of the traditions so well espoused by the Senate.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there are two parts to that question. The first is with respect to voting. We must vote. Whether that vote is a recorded vote, it is a decision made by at least two senators in this chamber, and that cannot be changed. We have a right to approve or reject the name that comes forward, and we can do it by an oral vote or by a standing vote, whichever the Senate decides.

In terms of whether we should ask someone to appear before us again, I think it is an excellent idea that they should. Unfortunately, I do not think any of us anticipated the kind of question that might have prevented what has been described by the Auditor General as a "poisoned atmosphere."

FISHERIES AND OCEANS

REQUIREMENT OF PUBLIC SERVANTS TO REPORT ON MEETINGS WITH SENATORS AND MEMBERS OF PARLIAMENT

Hon. Gerald J. Comeau: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It concerns the fact that reports must be made by all DFO officials of all contacts with MPs, senators and representatives of senators who meet or talk with such an official, to the supervisor of the employee within 24 hours of contact.

Bill C-25 is not yet passed and we are already heading towards a climate of intimidation. I have many DFO friends whom I meet with on an ongoing basis, not necessarily to discuss DFO subjects. Will my friends now have to report to their supervisor that they have met with me? If they do not, would they then be in a position whereby, if they were spotted talking to me and that was reported to their supervisor, they could be in trouble with their supervisors for having talked to a senator?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has made a serious statement this afternoon. I do not know of any circumstances under which public servants would be forbidden to speak with parliamentarians. Indeed, I took one to lunch on Friday in Winnipeg to thank him for his service to western economic diversification. I would be horrified if it would have to be reported that we had had a friendly lunch.

An Hon. Senator: How much?

Senator Carstairs: How much? I think the bill came to $42, actually, and there was a third person there, too.

I am appalled by what the honourable senator has told me, and I will seek that information for him.

Senator Comeau: Honourable senators, if this report is correct and if, in fact, what the official responded was that these reports must be made so that DFO officials provide the proper information to senators, members of Parliament and their representatives, that is a nice way of explaining the fact that reports of such meetings need to be relayed to the supervisor. I fear that this is not as simple as saying, "We want to provide good service to the senators." My fear is that if such reports have to be made back to the supervisors, it can create a climate of intimidation, in spite of the positive spin that is given by officials of the department.

I think we had an indication from Senator Kinsella a while ago that if you create an environment of fear and intimidation, and so on, what we saw with respect to Mr. Radwanski could very well extend into other departments, which is something that we do not want. We will soon be going into debate on Bill C-25, which contains the merit principles, whistle-blowing and a whole host of other controls that we should have. However, it appears as if the Liberal side will not support it. We will be heading into a period that, to me, is not reflective of traditional and historical Liberal values on how we deal with public servants. I am very much afraid that if this is the kind of message that is being passed on by DFO officials, namely that they report meetings with senators and members, then this is not the way that we should be proceeding at all.

Senator Carstairs: Honourable senators, I thank the honourable senator for raising that question this afternoon because I think he has raised a serious point. I will get back to him, because obviously we cannot generalize about these issues. I want to know if there is indeed a policy in place, as the honourable senator seems to believe. If there is, I want to know why it is in place, and I will get a full and thorough response to him as quickly as possible.

VETERANS AFFAIRS

VETERANS INDEPENDENCE PROGRAM— ENTITLEMENT TO WIDOWS

Hon. Michael A. Meighen: Honourable senators, I want to address, once again, the sorry situation into which a heartless government seems determined to confine many of our veterans' widows.

Yesterday, it was revealed that Liberal MP Dan McTeague, an ardent supporter of Mr. Martin, wrote a strongly worded letter to the Minister of Veterans Affairs. Mr. McTeague was writing on behalf of the 23,000 veterans' spouses who will be arbitrarily excluded from the department's Veterans Independence Program for no other reason than that they are no longer in receipt of these benefits, the 12-month period since the death of their husbands and spouses having expired. The result, honourable senators, is that some widows will get these benefits and some will not.

Mr. McTeague called this plan completely unacceptable, even repulsive, and correctly pointed out that it was morally reprehensible to spend $100 million on a political history museum, as this government seems determined to do, while veterans' widows go without.

Honourable senators, it is also a cop-out for the Minister of Veterans Affairs to say that there is no money. Of course there is: It is just a question of whether this government can get its priorities right.

My question to the Leader of the Government in the Senate is as follows: In light of Mr. McTeague's remarks and a host of other criticisms of this plan, will the government now consider revisiting its decision concerning VIP benefits for veterans' widows, or will we have to wait at the very least until next February for justice to be done, callously leaving the spouses of thousands of aging veterans to hang in limbo in the meantime?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows quite well, the Department of Veterans Affairs responded in May of 2003, with a promise at a cost of some $65 million over five years, to ensure that 10,000 survivors will retain lifetime housekeeping and ground maintenance services after the veteran's death. These are people who are already in receipt of that benefit, and this will allow it to continue. For those survivors who do not qualify for lifetime continuation of the VIP housekeeping and ground maintenance benefits, the Department of Veterans Affairs will help them to access programs and services in their own communities.

Senator Meighen: Could the Leader of the Government explain the rationale for deciding why those who are in receipt of the benefit are entitled to keep it for the remainder of their lifetime while, for some unknown reason, those who had received it for 12 months, and are therefore no longer receiving it, are cut off? What is wrong with the second class?

Senator Carstairs: Frankly, my understanding is that the people who have not ever received it are the ones who will not qualify. The information that I have is that it was just not possible to provide it for all survivors. Given the many competing priorities of government, this was not possible at this time. It may be, as we know from experience with other veterans benefits in the past, that the definitions of such groups have become broader and broader, but at this time the measure was to address those who were currently in receipt of the benefit.

Senator Meighen: Honourable senators, surely the Honourable Leader of the Government in the Senate is not suggesting that a political history museum is a legitimately competing priority. I would ask her to verify her information to the effect that those who are not in receipt now because of this arbitrary ruling have never been in receipt. My information is that they did receive the benefits for 12 months but that the former rule was that after 12 months it would be cut off, and they would no longer be entitled.

• (1440)

The minister has said — and I applaud him for this — that those who are now in receipt of the benefits may continue to receive them for the rest of their lives, but those who are not, because the 12 months have expired, are arbitrarily cut off. This is not fair.

Senator Carstairs: Honourable senators, let me read exactly from the note I have been given:

> The government appreciates the sacrifices made by veterans and the care provided by their spouses. In response to a top priority of the national veterans organizations for the continuation of VIP services, we responded by changing our regulation to ensure that, over the next five years, at a cost of $65 million, more than 10,000 survivors will retain lifetime housekeeping and ground maintenance services after the veteran's death. Prior to this amendment, they would have lost these services the year following the death of their spouse.

Senator Meighen: That is correct.

FOREIGN AFFAIRS

UNITED STATES—PARTICIPATION IN MISSILE DEFENCE SYSTEM

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. Today, there was convened in Ottawa an experts' session on Canada and ballistic missile defence. Convened by the Simon Centre for Peace and Disarmament Studies, the Liu Institute for Global Issues, the University of British Columbia, Project Ploughshares, it brought together experts from the United States and Canada on this subject. Among the many sources of information referred to was the recently released report of the U.S. General Accounting Office, which points to possible cost increases and technical failures that may lead the U.S. to slow down this program, another reason for Canada to delay. I have a copy of the report in my hand and will gladly make it available to the minister.

The results of the seminar that was held this morning will be given at 4 p.m. this afternoon by the Honourable Lloyd Axworthy, former foreign minister of Canada, at a press conference.

Will the minister accept to take the results of this expert session to the Prime Minister and her cabinet colleagues and also ensure that the Canadian officials now conducting discussions with the U.S. on this subject receive this material?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am pleased to say to the honourable senator that if he makes that material available, I will personally write a letter to the Prime Minister and see that it is hand-delivered to him.

UNITED STATES—PARTICIPATION IN MISSILE DEFENCE SYSTEM—PARTICIPANTS IN DISCUSSIONS

Hon. Douglas Roche: Honourable senators, I thank the minister for that response, especially her offer to hand-deliver a letter to the Prime Minister.

This whole matter of Canada's possible involvement in ballistic missile defence is of crucial importance to Canada's role in the world, and yet the discussions between Canada and the U.S. are being held in secret. The Canadian people are being told nothing about the details of what exactly Canada is considering doing. Last week, I asked for a progress report and nothing has been forthcoming. Will the minister give honourable senators at least the names of the Canadian officials who are representing our country in these discussions?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator asks for names of the officials participating in those discussions. He knows that discussions frequently take place with various members. If, in fact, there is a specific list of individuals that I can make available to the honourable senator, I will be pleased to do so.

Senator Roche: When discussions and negotiations took place between Canada and the United States on the free trade agreement, the names of the negotiators were published and people had an opportunity to examine their views.

HEALTH

NATIONAL HEALTH COUNCIL

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government. The federal government and most of the provinces have agreed to create a national health council comprised of 27 members, including a chairperson, 13 government representatives and 13 members from outside government. Alberta Premier Ralph Klein has said that the makeup of the health council is not the same as was initially recommended and that his province will not join until the council resembles the original proposal. The number of board members appears to be a sticking point in Alberta's refusal to join at this time. Could the Leader of the Government in the Senate tell us if a 27-member board was part of the initial proposal of the national health council and if all provinces had previously agreed to it?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, my understanding is that no absolute number was put on the participation in this council. This issue was up for debate and discussion. It was hoped that the council would be relatively small. I know that this was the wish of the federal Minister of Health. However, the territories and the provinces insisted on having one representative each. The number of participants obviously started with 13 and grew from there. I do not think it is absolutely accurate to say that the number has changed; I think it has evolved from the very beginning of the concept of a national health council.

Senator Keon: Honourable senators, the number of people who will be sitting on the board, 27, is indeed large and may cause some difficulty in arriving at an agreement among members. Last year, the Romanow commission suggested a 14-member board for the council, and our own Senate committee studying health suggested an eight-member committee plus a chairman, or a nine-member committee. Could the Leader of the Government in the Senate tell us how this number of 27 was arrived at and if the federal government has any fears that the board may be unmanageable due to its size?

Senator Carstairs: As I indicated, we started with a board of 13 with representatives from all the provinces and territories. The number was increased to allow for representation from various areas of interest that I think everyone had hoped in the first place could have been combined with the 13, but that was not the way it worked. We have to work on the premise that the most important thing here is to get a health council. If it is found that the council is too large, then hopefully the provinces, the federal government and the territories can agree to reduce that number in the future.

UNITED NATIONS

ISRAEL—VOTE ON RESOLUTION TO HALT THREATS TO PRESIDENT OF PALESTINIAN COUNCIL

Hon. Marcel Prud'homme: Honourable senators, last week I asked a very precise question expressing my surprise — not shock but surprise — at the way Canada voted on a very important resolution. By the way, that question, which was very clear and very innocent, has since subjected me to unbelievable blackmail and threats and insult. I will provide soon some of the hate literature to those who are interested. My question was very simple. I asked why Canada abstained in the company of countries that I do not need to repeat, but countries like Cameroon, Fiji, Papua New Guinea, Tonga, Tuvalu, Micronesia and Marshall Islands, who were against. All our important friends — Great Britain, Russia, France, China, plus all their allies — voted in favour of the resolution. However, Canada saw fit to abstain on this very important resolution to stop any threat of killing — killing not by terrorists, but killing by even the ex-mayor of Jerusalem and others. I do not think this will induce peace in the Middle East. Why has Canada voted this way? I have the explanation of the vote by the ambassador. That surprised me even more. We live in a free country where we can ask this kind of question without being subjected to vicious and unbelievable attacks. I shall read them next week and expose their names so that all Canadians know the kind of Canadians we may have on this issue of the Middle East. I have endured 40 years of that kind of insult, so now the time has come for me to make their views public. However, will you kindly help me in my reflection to know why we saw fit to abstain and keep away from all our friends and allies?

• (1450)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can tell the honourable senator that there was much in the resolution that Canada could support, including the demand on both Israel and the Palestinians to implement their obligations in accordance with the road map.

However, in the view of the Canadian government, the resolution did not pay sufficient attention to the responsibility of the Palestinian authority to take all necessary measures to stop terrorism and incitement. Violence, in the view of the Canadian government, is not the path to a Palestinian state. The resolution did not, in our view, reflect this reality, and for this reason the Canadian representative abstained.

Senator Prud'homme: Briefly, I know that some of my — go ahead and applaud.

The Hon. the Speaker: I regret to advise honourable senators that the time for Question Period has expired.

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons in the following form:

Monday, September 29, 2003

Ordered, —

That a message be sent to the Senate to acquaint their Honours that, with respect to Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), this House continues to disagree with the Senate's insistence on amendment numbered 2 and disagrees with the Senate's amendments numbered 3 and 4. This House notes that there is agreement in both Houses on the need for cruelty —

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order. Would there be agreement that, since this message can only be taken into consideration at the next sitting of the Senate, whether or not we agree, we could dispense with the reading of it since it is being circulated?

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move that the sitting of the Senate be suspended until the bells are rung to call the senators back for a vote at 3:30 p.m. This would prevent a senator speaking on some other item on the Order Paper from being interrupted at 3 p.m.

[*English*]

The Hon. the Speaker: I am sorry, but I lost my earpiece, and I did not hear all of what the honourable senator said. Could I ask him to indicate again what he is suggesting?

[*Translation*]

Senator Robichaud: Honourable senators, it would probably be hard for me to swear that I will say exactly the same thing I said a moment ago. I was following Senator Kinsella's remarks that, since the message you were reading will only be taken into consideration at the next sitting of the Senate, we could dispense with the reading of it, and you could be excused from reading it in both official languages. I would be prepared to accept the suggestion of my honourable colleague. I then proposed that the sitting be suspended until 3 p.m., when the bells will ring to call the senators to a vote at 3:30 p.m. Suspending our sitting would avoid interrupting a senator wrapped up in an impassioned speech and making him lose his train of thought.

I see that the honourable senators indicate that I should continue. By hand signals, they appear to be indicating their agreement that the sitting should be suspended. As I said before, I cannot swear categorically that that is exactly what I said when you pointed out that you did not have your earpiece, and you asked me to repeat what I had said. However, if it is not clear, I could perhaps try to say a third time what I have tried to explain twice.

Honourable senators, I would not want to try the patience of my honourable colleagues because their understanding is incomparable, and they wish everything in this chamber to work smoothly. In fact, they are always ready to cooperate.

I see an honourable senator signalling that I have four minutes remaining. I do not think that I could continue to explain what I was trying to explain during all that time, because what I said at the beginning took only one minute to say. I would not want to try the patience of the honourable senators.

If it were necessary to continue discussing suspending the sitting, I could present a motion proposing suspension of the sitting so that the honourable senators could speak until the bells are to be rung. And if I were to present a motion to this effect, it could be debated, so that if everyone wished to express an opinion on the merits of the motion, it would certainly take us until 3 p.m.

I think I shall leave some time for other honourable senators to discuss the motion I would like to propose. Honourable senators, I invite you to listen to someone else on this subject. If not, I would propose a motion and we could begin the debate.

[*English*]

Senator Kinsella: Honourable senators, I was simply about to suggest that the house might deem the time to be three o'clock.

The Hon. the Speaker: Honourable senators, Senator Robichaud and Senator Kinsella have had an interesting exchange on a matter of house business, and I have listened carefully. It would be my duty to ask whether there is unanimous consent to proceed, as has been outlined by Senator Robichaud.

BUSINESS OF THE SENATE

The Hon. the Speaker: However, it now being three o'clock, pursuant to the order adopted by the Senate on September 25, 2003, it is my duty to interrupt our proceedings for the purpose of calling in the senators for the recorded vote on Senator Murray's amendment to Bill C-25.

• (1530)

ORDERS OF THE DAY

PUBLIC SERVICE MODERNIZATION BILL

THIRD READING—
MOTION IN AMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Harb, for the third reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Oliver, that the Bill be not now read a third time but that it be amended in clause 12,

(*a*) on page 145, by replacing line 20, with the following:

"(5) The Governor in Council shall designate, after approval by resolution of the Senate and House of Commons,"; and

(*b*) on page 151, by replacing lines 20 to 31, with the following:

"**110.** (1) The Chairperson shall, as soon as possible after the end of each fiscal year, submit an annual report to Parliament on the activities of the Tribunal during that fiscal year.

(2) The Chairperson may, at any time, make a special report to Parliament referring to and commenting on any matter within the scope of the powers and functions of the Tribunal where, in the opinion of the Chairperson, the matter is of such urgency or importance that a report on it should not be deferred until the time provided for transmission of the next annual report of the Tribunal."; and

(*c*) on page 168, by replacing line 11, with the following:

"(4) The Governor in Council shall designate, after approval by resolution of the Senate and House of Commons,".

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Lawson
Angus	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Meighen
Carney	Murray
Comeau	Nolin
Doody	Prud'homme
Gustafson	Roche
Kelleher	St. Germain
Keon	Stratton
Kinsella	Tkachuk—22

NAYS
THE HONOURABLE SENATORS

Austin	Jaffer
Bacon	Joyal
Banks	Kenny
Biron	Kroft
Callbeck	Lapointe
Carstairs	Lavigne
Chalifoux	Léger
Chaput	Losier-Cool
Christensen	Mahovlich
Cook	Massicotte
Corbin	Milne
Cordy	Moore
Day	Morin
De Bané	Poulin
Finnerty	Poy
Furey	Ringuette
Gauthier	Robichaud
Gill	Rompkey
Grafstein	Smith
Graham	Trenholme Counsell
Harb	Watt
Hubley	Wiebe—44

ABSTENTIONS
THE HONOURABLE SENATORS

Plamondon—1

[*Translation*]

Hon. Madeleine Plamondon: Honourable senators, I would like to explain my abstention. I was recently appointed to the Senate and I am not really aware of the context or the discussions around Bill C-25.

[*English*]

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senator, I was in the process of reading a message from the House. I believe that the exchange on house business that occurred at that time is no longer in play. Accordingly, I will read the message from the House, unless any other senator rises to differ.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I had risen to recommend that the text be not now read, because it has been circulated, and that we have a day or two to read it since it is not on the Order Paper until tomorrow. I recommend that we dispense with the reading of that text at this time.

• (1540)

The Hon. the Speaker: Honourable senators, I will put it and ask for leave. There are senators who wish to intervene.

Hon. Anne C. Cools: Honourable senators, I wonder about the propriety of not reading the message today. His Honour obviously is the recipient of the message from the Commons and has a duty to read it to the house because our record is oral and receives only that which is spoken. Granted, the message may be considered tomorrow, but this house has not yet taken a decision to deal with it. One cannot rise and fall at the same time. The message has to be received by the Senate. It has to be read to us. His Honour must do his duty and read the message to this house, after which honourable senators may then take a decision as to whether it will be considered and when it will be considered.

Hon. Eymard G. Corbin: I want to be clear about the status of the message in our official record. Earlier, Senator Robichaud suggested that the message be tabled. Honourable senators are now saying that we dispense with the reading of the message. Will the message be put in the *Journals of the Senate*? Where else would it be put if it is not read before the house?

The Hon. the Speaker: Honourable senators, I believe I can end this debate. Senator Cools' point is a good one. In any event, we require unanimous consent and so I will read the message.

Senator Cools: Your Honour, the message cannot be recorded. Senator Corbin's question is quite accurate because a message from the House of Commons cannot be recorded; rather, it must be read.

The Hon. the Speaker: For the sake of clarity, I will read the message from the beginning.

I have the honour to inform the Senate that a message has been received from the House of Commons in the following words:

Monday, September 29, 2003

> ORDERED—That a message be sent to the Senate to acquaint their Honours that, with respect to Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), this House continues to disagree with the Senate's insistence on amendment numbered 2 and disagrees with the Senate's amendments numbered 3 and 4. This House notes that there is agreement in both Houses on the need for cruelty to animals legislation to continue to recognize reasonable and generally accepted practices involving animals. After careful consideration, this House remains convinced that the Bill should be passed in the form it approved on June 6, 2003.

(1) This House does not agree with the amendment numbered 2 (replace "kills without lawful excuse" with "causes unnecessary death"), on which the Senate is insisting. This House is of the view that the defence of "without lawful excuse" has been interpreted by the case law as a flexible, broad defence that is commonly employed in the Criminal Code of Canada. It has been the subject of interpretation by Courts for many years, and is now well understood and fairly and consistently applied by courts in criminal trials. This defence has a longstanding presence in the Criminal Code, including being available since 1953 for the offence of killing animals that are kept for a lawful purpose. The House is convinced that the defence of "lawful excuse" offers clear and sufficient protection for lawful purposes for killing animals. There are no authorities that suggest that this defence is unclear or does not cover the range of situations to which it is meant to apply. For all of these reasons, this House remains convinced that maintaining the defence of "lawful excuse" in relation to offences for killing animals continues to be the best and most appropriate manner of safeguarding the legality of purposes for which animals are commonly killed.

The House disagrees with the Senate that the proposed amendment would provide better protection for legitimate activities. The House is of the view that the amendment would not bring any added clarity, and would give rise to confusion. The term "unnecessary" has been judicially interpreted to comprise two main components: (a) a lawful purpose for interacting with an animal, and (b) a requirement to use reasonable and proportionate means of accomplishing the objective (i.e. choice of means that do not cause avoidable pain). Only the first part of the legal test for "unnecessary" is relevant to offences of killing, namely whether there is a lawful purpose. It has been the law for many decades that persons who kill an animal without a lawful excuse are guilty of an offence. It has also been the law since 1953 that if they kill the animal with a lawful excuse, but in the course of doing so cause unnecessary pain, they are guilty of a second, separate offence. To collapse the elements of these two different offences into one will invite a re-interpretation of the well-developed test of "unnecessary" and will add confusion, rather than clarity, to the law.

(2) This House does not agree with the modified version of amendment numbered 3 (creating a defence for traditional aboriginal practices), on which the Senate is insisting. This House appreciates the recent clarification of an ambiguous component of the amendment, and agrees with the Senate that traditional aboriginal practices that cause "no more pain than is reasonably necessary" should be lawful. However, this House does not agree that the proposed amendment is necessary. Aboriginal practices that do not cause unnecessary pain are not currently offences and will not become offences under the Bill. This House believes that the Bill, as worded, already achieves the objective sought by the Senate.

This House remains convinced that creating a defence for this purpose is not legally necessary and may create unintended mischief. Any act that has a legitimate purpose and does not cause unnecessary pain does not fall within the definition of the crime, and cannot be the subject of an offence. A defence only applies where the conduct actually falls within the definition of the crime and is excused for other reasons. It is illogical and confusing to create a defence for actions that do not constitute a crime. More specifically, as causing unnecessary pain is not a crime, it is not meaningful to create a defence for Aboriginal persons who cause no more pain than is reasonably necessary. In addition, there is no need to mention aboriginal practices specifically; the law is already flexible enough to consider all fact situations and contexts.

The House remains convinced that the wording and effect of the amendment are ambiguous and unclear. For example, there is no clarity as to what "traditional practices" are in the criminal law context and whether there is sufficient clarity to guide the police in their law enforcement duties. In the absence of a demonstrated need for clarification in the law, this amendment could also create mischief by generating a different test for liability for Aboriginal persons. This House does not believe that the law would be improved by creating a defence that is legally unnecessary and has the potential to confuse, rather than clarify, the interpretation of the offences.

(3) This House does not agree with the amended version of amendment numbered 4 (the defences in subsection 429(2)). The defences of legal justification, excuse and colour of right set out in subsection 429(2) of the Criminal Code are applicable to a multitude of different kinds of offences including offences of animal cruelty. The defences apply differently depending on the elements of the offence under consideration. The phrase "to the extent that they are relevant" is included to indicate to the courts that the Bill is not intended to change the defences that are currently relevant to animal cruelty offences, or the way that they apply. It makes clear that the intention is to maintain the current availability and interpretation of defences, and not to alter it. This phrase sends a clear message to the courts that in any and all cases where the defences are currently relevant, they continue to be. Whether a particular defence is relevant will depend on the specific circumstance of each case. The phrase guarantees an accused access to these defences when they are relevant; it does not in any way limit access to defences that are relevant on the facts of the case. For these reasons, the House does not agree with the amended amendment proposed by the Senate.

ATTEST:

William C. Corbett
The Clerk of the House of Commons

• (1600)

[*Translation*]

Honourable senators, when shall this message be taken into consideration?

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

POINT OF ORDER

Hon. Pierre Claude Nolin: Honourable Senators, allow me to rise on a point of order. I thank His Honour for his patience. I am sure you know the point of order I wish to make. In good faith, most of my colleagues do not know the rule that I want to remind them of. It has to do with the use of whips to ensure that order and decorum are upheld in this House. A letter from you to our independent colleagues could remind them of the importance of maintaining this order.

Honourable senators, I remind you of section 18(5) and section 19(1) of the Rules of the Senate.

Section 18(5) reads as follows:

> When the Speaker rises, all other Senators shall remain seated or shall resume their seats.

His Honour spoke for 20 minutes — and I must congratulate him on his French — but at least one quarter of this chamber did not take into account the fact that His Honour was speaking. I suspect that my colleagues did so unwittingly, out of ignorance of that section.

As for the section 19(1), it is unfortunate to often see colleagues — again, in good faith I presume — walking between His Honour and the senator who has the floor. This is a simple rule, and one I do not intend to read. I think, however, that it is important, honourable senators, to respect the Rules of the Senate as much as possible.

His Honour is a tolerant man, but I can no longer tolerate this. I have been here for some years now, and I have seen this rule broken on a number of occasions. I trust that the whips will take steps so that His Honour does not have to call honourable senators to order.

[*English*]

The Hon. the Speaker: I thank Senator Nolin for his intervention.

Honourable senators, from time to time you see me rise as your presiding officer to draw attention to similar matters, and I think it carries even greater weight when such a matter is raised by a senator not in the Chair.

I simply thank you, Senator Nolin. I commend your comments to all of our colleagues.

[*Translation*]

PUBLIC SERVICE MODERNIZATION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Harb, for the third reading of Bill C-25, An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

Hon. Gérald-A. Beaudoin: Honourable senators, early in my career I was a public servant at the Department of Justice in Ottawa. I have always considered the competitive merit system to be appropriate and believed that merit, genuine merit, must be a fundamental principle in the public service. I still do. It must be carefully defined. I would like to quote at this time two excerpts from the speech Senator Roch Bolduc made before the Finance Committee before he retired. I fully endorse his views. Here is what he said:

> What struck me a couple of days ago is that no one — at least no one other than people who have been studying the issue for years — is outraged that the merit principle is not defined. We see no mention of competitions to enter the public service, and no mention of competitions among officials to advance within the public service. In other words, the core simply is not there. We have 300 pages of procedure, but the genuine competition process, public examinations with juries and results, are simply not mentioned. We imagine that these processes will just happen by themselves. Officials are good and competent, and we can rely on them. I have a great deal of respect for the public service — I have been involved in it all my life — but human nature is what it is, and ever since the delegation of authorities in 1993, the effect of the current system has been that 80 per cent of officials are recruited any old way. That is how it works. They are recruited as temporary employees, and eventually become permanent employees.
>
> This is not how we built up the quality public service we have at the Department of Foreign Affairs and at the Department of Finance. As a member of the Standing Committee on National Finance and the Committee on Foreign Affairs, I have dealt primarily with people from Foreign Affairs and Finance. Those are the officials I know best. This is not how those departments have become what they are.

• (1610)

MOTION IN AMENDMENT

Hon. Gérald-A. Beaudoin: Honourable senators, I move the following amendment:

> That Bill C-25 be amended in clause 12, on page 126, by replacing lines 8 to 12 with the following:
>
> "30. (1) Appointments by the Commission to or from within the public service shall be free from political influence and shall be made on the basis of merit by competition or by such other process of personnel selection designed to establish the relative merit of candidates as the Commission considers is in the best interests of the public service.

(1.1) Despite subsection (1), an appointment may be made on the basis of individual merit in the circumstances prescribed by the regulations of the Commission.

(2) An appointment is made on the basis of individual".

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

On motion of Senator Comeau, debate adjourned.

COPYRIGHT ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Gill, for the second reading of Bill S-20, to amend the Copyright Act.—(*Honourable Senator Beaudoin*).

Hon. Gérald-A. Beaudoin: Honourable senators, I am pleased to say a few words on the subject of Bill S-20, to amend the Copyright Act.

A good number of senators have already spoken to this bill, and many have asked questions. There is a good reason: One always thinks that copyright is a simple matter, but it is not; it is complex.

As you know, copyright is in the exclusive jurisdiction of the Parliament of Canada under section 91(23) of the Constitution Act, 1867. Although there are not many legal precedents dealing with the scope of section 91(23), it is still a major legislative jurisdiction. In particular, this jurisdiction enables the federal Parliament to intervene in matters of culture. Copyright is also part of federal jurisdiction in terms of intellectual property, a field not unrelated to culture, in which one finds patents.

The purpose of Bill S-20 was described very well by Senator Day. Essentially, it consists of repealing the exception by which the owner of a photograph is deemed to be its author. There is a presumption that the owner of the photograph is its author, but this assumption does not always correspond to reality. At present, a person other than the creator of a work, in this case a photograph, can be the owner; that is what the Copyright Act says and what Bill S-20 proposes to correct.

One may wonder what took so long to propose corrections. I could begin by saying that creators were perhaps the first to see what was involved. We are living in an increasingly artistic world, but we are also seeing cameras everywhere. It is time we thought about the rights of photographers. The time has come to discuss professional photographers and amateur photographers in greater detail. Both must be addressed.

It goes without saying that, like any creators, photographers should be entitled to the rights and privileges accorded to authors of copyrighted work. As Senator Day indicated, similar restrictions were corrected in the United States in 1976, and in the United Kingdom in 1988.

• (1620)

Our legislation, which is inspired by that of the United Kingdom, should also be amended in accordance with Bill S-20. Incidentally, in 2002, in *Théberge v. Galerie d'Art Petit Champlain inc.*, the Supreme Court of Canada — I found only two decisions, but that should be enough — stated the following:

Canada has adhered to the *Berne Convention for the Protection of Literary and Artistic Works* (1886) and subsequent revisions and additions, and other international treaties on the subject including the *Universal Copyright Convention* (1952), Can. T.S. 1962 No. 13. In light of the globalization of the so-called "cultural industries", it is desirable, within the limits permitted by our own legislation, to harmonize our interpretation of copyright protection with other like-minded jurisdictions.

In the decision rendered in March 2003 in *Desputeaux v. Éditions Chouette (1987) inc.*, the Supreme Court of Canada indicates that we must not underestimate the importance of the economic aspects of copyright in Canada. It also likens these rights to moral rights. Justice Louis LeBel, on behalf of the Supreme Court, wrote the following:

Parliament has indeed declared that moral rights may not be assigned, but it permits the holders of those rights to waive the exercise of them. The Canadian legislation therefore recognizes the overlap between economic rights and moral rights in the definition of copyright. This Court has in fact stressed the importance placed on the economic aspects of copyright in Canada: the Copyright Act deals with copyright primarily as a system designed to organize the economic management of intellectual property, and regards copyright primarily as a mechanism for protecting and transmitting the economic values associated with this type of property and with the use of it.

By putting all artists on an equal footing, Bill S-20 also ensures that this objective is achieved: recognizing the commercial value of a photograph while not putting photographers at an economic disadvantage.

I am pleased with this debate. At the appropriate time, this issue should be referred to a Senate committee for closer consideration.

Honourable senators, I support the principle of Bill S-20.

[*English*]

Hon. Tommy Banks: Honourable senators, I wish to echo everything that Senator Beaudoin has said. He pointed out a very important aspect of this bill, and that is the consistency with respect to the treatment of creations by their creators as regards the international conventions to which our country is signatory. It is long overdue that we make this correction if it were only for those purposes alone, but there are other purposes that have been referred to by others. Copyright is very simple in that it is simply the right to copy, but there are many layers of copyright in any work. The application of the principle of a moral right to the work of photographers, as has been applied to the work of every other kind of creative artist, is long overdue in this country.

Honourable senators, we are well advised to be considering this matter now, sooner rather than later. I anticipate there will be a motion to send this bill to committee, as Senator Beaudoin has suggested, and I urge all honourable senators to do so with alacrity.

On motion of Senator Nolin, debate adjourned.

CONSTITUTION ACT, 1867
PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Stratton, for the second reading of Bill S-16, to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate).—(*Honourable Senator Joyal, P.C.*).

Hon. Serge Joyal: Honourable senators, I wish to speak this afternoon on Bill S-16, which is a very important bill introduced by our honourable friend Senator Oliver.

Bill S-16, a copy of which senators will certainly have in their bookbinders, attempts to do two things. It would change the appointment process of our Speaker from the current system, which is by appointment through Governor in Council, to a selection process that would be similar to the one followed in the House of Commons — that is, a secret ballot among senators to choose the Speaker.

Bill S-16 would also restrict the voting rights of the Speaker to breaking a tie vote. That means that the only time the Speaker could vote would be in this rare scenario. Presently, our Speaker does break tie votes because he votes on every question.

This bill is very important, honourable senators, because the status of our Speaker is rooted in one of the five principles of our institution. Our institution was endowed by the Fathers of Confederation with five institutional characteristics.

The first characteristic is independence. Our house was intended to be fully independent from the other place and, of course, from the executive. This is very clear in the Confederation debates. Once a senator is appointed, he or she does not face re-election, and they are appointed up to age 75. Governments may come and go, but we remain at least until age 75. In the other place, each electoral cycle brings a new wave of members. In fact, statistics show that every eight or nine years, two-thirds of the members in the other place are replaced. The statistical data is available in the book that we released last May. This first institutional characteristic of the Senate, independence, has implications for the status of our Speaker, and I will come back to this point later.

The second characteristic of this chamber is that of a long-term perspective. Senators bring a long-term perspective to the study and debate of legislation. The fact that our mandate is not tied to an electoral cycle of three or four years ensures that Parliament has a long-term view on all federal legislation.

The third institutional characteristic is continuity. Senators are the institutional memory of Parliament, which I think is obvious in much of the legislation that we pass here because we remember how we dealt with an issue 5, 10 or maybe even 20 years previously. This is very important, especially when dealing with such fundamental questions as minority rights.

The fourth characteristic of the Senate is the professional and life experience of its members. The Constitution provides that senators must be at least 30 years old; and convention requires that we be accomplished and reputable citizens; that we have life experience or professional experience commending us to this chamber.

The fifth and final characteristic is our representative role. We are appointed on a regional basis.

• (1630)

I would like to underscore to honourable senators today why the Speaker exercises a very important role in our institution. The Speaker represents our institution. He is in some ways the embodiment of our institution. He is our representative, for instance, when there is a legal proceeding affecting the rights and privileges of the Senate.

All honourable senators know that the Senate is currently reviewing an issue that might, at some point, require our Speaker to defend the rights of this chamber before the Supreme Court of Canada, in the same way that the Speaker of the Nova Scotia legislature did in the 1993 landmark *Donahoe* decision of the Supreme Court. So the Speaker is very important because he is the embodiment of our legislative chamber.

All honourable senators will remember that our legislative chamber is equal to the other place. This must be clearly understood. On June 5 earlier this year during the debate on Bill C-39, I rose in this chamber, as did Senator Kinsella, to draw the attention of honourable senators to the fact that the bill treated our Speaker differently than it treated the Speaker of the other place. It was an affront to the principle of equality between our two chambers. However, that is not what is at stake today.

What is at stake today is the status of our Speaker within this chamber. It is very important that we examine ourselves on this issue. Our Speaker is appointed through the Governor General in Council. That is what the Constitution says. Section 34 of the Constitution Act, 1867 states the following:

> The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

In other words, it is the Governor General in Council. The Governor General in Council, as we understand it, is the government of the day through the Prime Minister, who advises the Governor General on the choice of Speaker. The government of the day can decide to remove the Speaker at any time. It is not our prerogative; it is up to the government of the day. At least that is what the Constitution Act, 1867 states at section 34.

The bill proposed to us by Senator Oliver is very attractive. It is attractive because it proposes to select our Speaker in the same way as the Speaker in the other place is chosen. However, when we look carefully into our Constitution, there are many constitutional hurdles involved which Senator Oliver's proposal must pass. Senator Oliver's proposal assumes that section 34 of the Constitution Act, 1867 could be amended on the basis of section 44 of the Constitution Act, 1982, which allows Parliament to amend the Constitution without provincial approval, in purely federal matters. It is on that basis that Senator Oliver proposes to amend the appointment provision for our Speaker. Section 44 of the Constitution Act, 1982 says quite clearly that Parliament can amend its own Constitution.

Senator Oliver says that, since we have the capacity to amend our own Constitution as a federal Parliament where the powers of the Senate or the powers of the House of Commons are involved and because the Speaker is part of that, Parliament alone can amend this part of the Constitution.

As attractive as that is, honourable senators, I find that to be a fast reading of section 34. Section 34 refers to the Governor General in Council. The Governor General in Council is the Governor General, under the advice of the cabinet, which is the council of the Governor General, the Prime Minister and his ministers.

When we look further into the Constitution Act of 1982, paragraph 41(a), we see that, in order to amend the office of the Governor General, we need the consent of both Houses of Parliament, and, honourable senators, the 10 concurring provinces. It is unanimity. Paragraph 41(a) clearly mentions "the office of the Governor General." What is the office of the Governor General? That is key to understanding this issue. It is not the physical premises with the furniture. That is not what we mean by the word "office." Here, "office" means the constitutional responsibility that is vested in the person of the Governor General.

In other words, if we were to change the powers of the Governor General under the Constitution, such as her power to appoint our Speaker, we would have to go through the heaviest amending formula of the Constitution, and my colleague Senator Beaudoin would concur with me that it involves the unanimity rule. As one might say, this will not be done tomorrow.

There is another problem in relation to the bill. If we are to amend the power of the Governor General in relation to the appointment of our Speaker, it might require Royal Consent because we are affecting the Governor in Council. This bill is a private member's bill. It does not include any Royal Consent. We all know what is involved in Royal Consent; it would have to be signified to us at a point in time before we vote on third reading. This is not something that should prevent us from studying the proposal; however, the proposal could be sent to the Rules Committee or the Legal and Constitutional Affairs Committee. We could hear witnesses, reflect and debate, and only at the last step of the bill would we need Royal Consent. That would not be a point of contention among us. There are many rulings of our Honourable Speaker on this issue.

Could we change the provision of the Constitution by which the Speaker is selected?

Senator Prud'homme: Yes.

Senator Joyal: Senator Austin has an original proposal. What did Senator Austin say? Senator Austin said, "Maybe we should pass a resolution."

Senator Prud'homme: Exactly.

Senator Joyal: We should pass a resolution requesting that the Governor General in Council appoint a Speaker chosen by senators through a secret ballot. This approach would avoid the constitutional requirement of provincial unanimity that we would likely face by attempting to alter the power of the Governor General.

I thought twice, honourable senators, about the proposal of Senator Austin. I feel there is also a constitutional problem with this suggestion. Section 34 states that it is the Governor General in Council who appoints the Speaker. Who is the Governor in Council? Who gives advice to the Governor in Council? It is very clear: It is the Prime Minister through cabinet. The Constitution provides, by convention, that the only authority competent to advise the Governor General is the Prime Minister and his cabinet. We cannot substitute the advice of the Prime Minister with the advice of senators. Our Constitution does not provide for that.

In other words, if we were to adopt the proposal of Senator Austin, we would be altering a constitutional convention that is binding and that has implications on many other sections of our Constitution involving the powers of the Governor in Council to appoint judges, for example. There is no substitute for this essential conventional power exercised exclusively by members of the Privy Council. One must be a Privy Councillor to give advice to the Governor General when it is clearly provided in the

Constitution that the responsibility comes from the Governor in Council. We sit as senators; we do not sit as Privy Councillors. Some of us may be or might have been Privy Councillors, but the Senate is not the house of the Privy Council. We are not all in the cabinet, in other words.

• (1640)

This is an issue that we must address fundamentally if we are to change the appointment process of our Speaker. Our Constitution must be taken as a logical framework. When our Speaker is appointed by the Governor in Council, the Speaker does not have the power to break a tie vote in our chamber. That is what the Constitution provides and that is what our rules provide. Our rules provide that if the Speaker wants to vote, he must vote first. He is equal to any one of us. He has one vote.

In the other place, the Speaker does not vote, except in the case of a tie. Honourable senators will remember that that happened two weeks ago. Many of us saw it on television. It is a very rare occurrence in the other place.

In other words, honourable senators, our Speaker, even though he is appointed by the government of the day, does not have any additional voting power. His vote is as decisive as that of any other senator.

The Hon. the Speaker: Senator Joyal, I truly regret to advise that your time has expired.

Senator Joyal: I would seek further time.

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

Hon. Senators: Agreed.

Senator Joyal: I thank honourable senators for their indulgence.

Another aspect of our chamber that is different from the other place relates to the power of our Speaker to issue rulings. That is fundamentally different from the powers enjoyed by the Speaker of the other place. In the other place, a decision of the Speaker cannot be appealed. Once he or she has ruled, that is the last word. Our rules provide that, under rule 18(4), the decision of the Speaker can be appealed. In other words, because our Speaker is an appointee of the government of the day, two safeguards exist to maintain our capacity to remain master of our own rules. First, the Speaker votes before us. Second, his or her decisions are appealable. In other words, the Senate can reverse them.

Before we change the status of our Speaker, honourable senators, we must understand the architecture of our institution insofar as the Speaker is concerned. These issues were well thought out and well canvassed by those who were here before us. We are not the first to consider them.

[Senator Joyal]

[*Translation*]

The status of our Speaker was determined over 137 years ago. Why? Because, before Confederation, our Speaker was elected by the legislative councillors.

[*English*]

I wish to remind honourable senators that, before Confederation, the Speaker of the previous legislative council — our ancestor — was elected by the legislative councillors. I wish to quote Bourinot, pages 38-39, in the 1892 edition:

> The Speaker was appointed by the Crown from the Council until 1862, when he was elected by members from among their number. The first election took place on March 20, 1862, when Sir Allan McNab was chosen Speaker.

Why was he elected among legislative councillors in 1862? The chief reason is that, back in the day, the majority of the legislative councillors were themselves elected. One can readily see the logic in this system. When a legislative body is elected, it has the right to elect its speaker. When a legislative body is appointed, so, too, is its Speaker. As I said before, the Speaker is the embodiment of the chamber.

The rationale is there. We might not agree with it; we might want to change the system, but we must operate within it. I believe that Senator Oliver has done us all a service in bringing this issue to our attention. However, I suggest to honourable senators that we should refer Senator Oliver's bill to the Legal and Constitutional Affairs Committee or to the Rules Committee to canvass all those aspects, all these questions I have raised, because, as I suggested to honourable senators, we are dealing with fundamental constitutional issues, very important institutional issues. If we are to support such an important change to our institution, we must, as our ancestor Sir John A. Macdonald said, devote sober second thought to this debate.

Honourable senators, this is a very serious issue. While it may seem to be straightforward at first glance, it is not simple. When we scratch some of the sections of our Constitution, we find more and more problems. If we have a concern, we should do the right thing.

I thank Honourable Senator Oliver. I am indebted to him for having given us a chance to reflect upon this matter, but I hope that we will be able to devote the time and study required to properly assess all the points raised by this proposed legislation on the selection of our Speaker.

Hon. John Lynch-Staunton (Leader of the Opposition): I should like to ask Senator Joyal a question. He has left me with the impression that he is arguing that, because the Speaker of the Senate votes first, although only occasionally or even rarely, and because his decisions can be appealed, he has an independent status. I, for one, fail to see it. Have I misinterpreted what the honourable senator has said?

My view is that no matter who the Speaker is, under the present system, he or she is strictly a political appointee, beholden to the government or the Prime Minister appointing him or her. No matter which party is in power, that is a fact, as far as I am concerned.

Second, the Speaker votes first, usually in a situation where the result of the vote is expected to be very close and, therefore, that vote is needed. It is not because of persuasion; it is because a vote is needed and the vote always goes to the government side. I know of no Speaker in the Senate who voted with the opposition. He or she who did so would not have lasted long in that job.

The fact that his or her opinions can be appealed is because previous Speakers have been accused of too much political content in their opinions. We remember during the GST debate what Speaker Charbonneau went through. I will not argue the merits or demerits of the opinions, but I do remember at the time that the Liberals were arguing that he was too influenced by the need to get a certain bill through. Other Speakers have also been accused of the same thing — not as flamboyantly nor as passionately as at that time, perhaps, but it has been done.

All of this is to say that, at the present time, the Speaker is a political appointee with a political mission. I have nothing against that, but I much prefer Senator Oliver's bill, which would take the Speaker out of that political atmosphere as much as possible. I might add that I know of Speakers who have, on occasion, attended their local or national caucus. That again confirms the political loyalty that the individual has and continues to maintain.

• (1650)

To continue in the present system, one must accept that the senator in the Chair, as Speaker, has a political mission. Senator Oliver's bill would remove that position and give the individual more true independence.

Senator Joyal: I thank the honourable senator for his question, which raises an important point. We may wish to change the system as the objective of the bill proposes but we must first meet the constitutional test that I raised in my short speech. We may wish, as the honourable senator properly indicated, to place the Speaker of the Senate beyond any presumed or alleged influence by the government, such as the selection process contemplated by this bill. That is not the point, however. When Senator Oliver asked if I would second Bill S-16, I said that I would be happy to do so but that we should look into the intricacies involved in achieving those objectives. Senator Austin proposed another way to try to achieve the desired results through the conventional route but even that approach faces constitutional hurdles. I will be clear: I am not opposed to the objectives sought by the Honourable Senator Oliver. I merely raise the constitutional issues this bill must face sooner or later.

The honourable senator raised the point that our Speaker's decisions are subject to appeal, allowing the Senate to remain, to some extent, the master of its own procedure. If, as the honourable senator proposes, the Speaker were to make a ruling that were to be seen by the house as partisan or government-influenced, the house would have the authority to appeal that decision. Honourable senators have the capacity to reflect and vote upon rulings of the Speaker, providing the Senate with a means to show dissatisfaction with the decisions of the Speaker. The Senate has had such votes, as honourable senators will recall.

At least we have that capacity. The situation could arise whereby the Speaker, appointed by the Governor in Council — the government of the day — may be in a minority position in the Senate because of a change in government. That has happened. Senator Charbonneau, as honourable senators will recall, was acting Speaker for a period of time during which the government was in a minority position in the Senate. It was also the case for this government for some time after its election in 1993. The Speaker in this position plays a key role: to maintain the credibility of the debate process. There is no question about that.

The honourable senator is absolutely right when he says that if a Speaker engages in partisan activities, such as attending caucus, party functions or other activities that are seen as partisan, there is no doubt that it would tarnish his reputation as the guardian of decorum and impartiality.

We must never forget that the Senate is a chamber of conflicting viewpoints which are the basis of our democratic system. That is why we sit in this chamber with one party facing the other, with the Speaker in the middle above the fray. It is fundamental to the credibility of the Senate that debates be conducted in a process that is fair, and the Speaker has a paramount role to play in ensuring the integrity of debate through his or her rulings.

Honourable senators, I am not opposed to the objective of improving the current method of selecting a Speaker. However, we must do it in such a way as to remain conscious of all the elements that are at stake in the endeavour. Essentially, that is my purpose in the chamber today. I propose that we have a thorough examination of the issue at the Rules Committee or at the Legal and Constitutional Affairs Committee. That would provide an opportunity for senators to consider the input of those with long experience in this chamber in an effort to avoid situations that we do not wish to repeat. This is part of the institutional memory and long-term perspective that we want to bring to the debate on this issue.

Hon. Anne C. Cools: Honourable senators, I thank Senator Joyal for his comments. I also thank Senator Oliver for his intentions in this bill, which are to find a way to make choices for the Speaker that are truly representative of the house as a whole. However, I think Bill S-16 has enormous problems.

I would like to ask Senator Joyal a couple of questions. He led me to believe that the Speaker of the Senate is appointed by an Order in Council — a Governor in Council appointment. That is not my understanding at all. My understanding is that the Speaker of the Senate is appointed under the Great Seal by the Queen's representative herself, the Governor General. It is a different instrument. We must understand that the Speaker of the Senate is not the Senate's man. The Speaker of the House of Commons is the House of Commons' man, but the Speaker of the Senate is the King's man, because the Senate — the upper chamber — is the House of the Parliaments, just as the Clerk of

the Senate is the Clerk of the Parliaments. The Clerk of the House of Commons is the under-clerk of the Parliaments. The Senate is the upper chamber. The Senate is the only one of the two chambers in which the three estates of Parliament can assemble; being the Queen, or her representative, the Commons and the Senate. The system outlined in section 34 is intended to honour and to have fidelity to that particular constitutional fact. That is why, for example, we are not supposed to call the Speaker of the Senate, "Mr. Speaker." That term belongs to the House of Commons alone.

The position of Commons Speaker evolved hundreds of years ago when the King met with the commoners and decided that, unable to speak to all of them at the same time, they should choose one of their own as spokesman to him. In all fairness, for 100-odd years in this country, the Commons Speaker was chosen by government, by a process of government motion.

My question is for the Honourable Senator Joyal: How is it possible that Senator Oliver's bill could create the power for the appointment of the Speaker? I can understand how he is attempting to create a process for selecting a nominee for the Speaker's position. A characteristic of the two Houses of Parliament is that they have no power even to make the appointments of their own officers, such as their clerks, their Black Rod, their Sergeant-at-Arms, et cetera. They must rely on the power of the Queen to make those appointments. It is not without reason that the system is called the Queen in Parliament — or acting with the cabinet, the Queen in her council in her Parliament. The power to actually make those appointments remains a royal power. How can that power be created by any act of Parliament? It cannot be.

• (1700)

Senator Joyal: Honourable senators, I think I have read section 34 properly. Section 34 of the Constitution Act, 1867, as the honourable senator has just quoted, states very clearly that the Governor General may, from time to time, by instrument under the Great Seal of Canada, appoint a senator to be Speaker of the Senate. I think that is what I read — I did not change the letter of the Constitution. It is quite clear that it is through an instrument under the Great Seal that the Speaker is appointed. When the Speaker is appointed under the Great Seal, he is appointed through the exercise of a power that is vested in the Governor General in Council; and to act, the Governor General must have the advice of the Privy Council. That is essentially what section 34 says.

I do not think we have any dispute on the constitutional implication involved in the appointment of our Speaker. I think that it is proper that we review this thoroughly, including an examination of how the Speaker in Westminster's Parliament, the House of Lords, is appointed. I think it would be helpful to look into the procedure over there. There is no doubt that, when section 34 was drafted by the Fathers of Confederation, they paid attention to this question; they were familiar with how the system of appointment changed in 1862. They opted to reinstate the appointment process through the Governor General. There is no doubt that the issue was discussed by the Fathers of Confederation, which explains why we ended up with section 34. It was a departure from the pre-Confederation appointment process that prevailed in the Legislative Council of Canada.

Hon. Gérald-A. Beaudoin: I was interested, honourable senators, in speaking on this matter and on taking the adjournment, but if someone wants to ask another question, that is fine. This subject is so difficult that I prefer to be allowed to speak on it by way of a prepared speech.

Hon. Marcel Prud'homme: We all know that Senator Joyal is a great and knowledgeable person in these matters, but he was and still is a member of the Privy Council. I am a member of the Privy Council, by the Queen's own hand and not by way of the Governor General, but I have never been a minister. My question is simple: You keep referring to the Governor in Council, which means the Prime Minister and cabinet. To the best of your experience, having been a cabinet minister and, therefore, a member of the Queen's Privy Council, were you ever consulted in cabinet when the Prime Minister decided to appoint a Speaker, or was it solely a prime ministerial decision?

Senator Joyal: Honourable senators, Senator Prud'homme is raising a very tricky question. It is like everything else: it always appears easy but, in fact, there is a trap. There is no doubt that when the Prime Minister and his cabinet appoint a person whose status is defined by statute or in the Constitution, what happens — and this is my personal experience — is that such appointments are discussed at the end of the cabinet meeting. There is the list of the appointees, which is submitted for advice and consent — the concurrence of the cabinet. There is no vote on this list. It is concluded after the expression of opinions around the table. In such cases where a position is by way of appointment through the Governor in Council, the name of the person would be on the list of the government appointees. The Prime Minister would say, "I intend to appoint Mr. or Senator X or Z to that position. Is there any objection?" It is then signed.

In the case of senators, as you know, the appointment of senators is governed by the Constitution. I will go back to the text. It is section 24 of the Constitution. It says:

> The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate...

I repeat — the Governor General from time to time — it is not the Governor General in Council. What does this mean? It means that the cabinet does not have to sit to give an opinion to the Governor General to appoint someone to the Senate. What does that mean? It means that there is only one person who may advise the Governor General in the appointment of a senator: the Prime Minister.

We have to read the text very carefully, as Senator Cools has properly said, because there are many dimensions to the convention on the exercise of those powers. Honourable senators will certainly know that it is a tradition when Her Majesty visits Ottawa for her to call a meeting of the Privy

Councillors — all of them, of any political stripe. I think it is a very important tradition because it maintains the status of the Queen as head of the Privy Council. Of course, in the day-to-day administration of government, it is only the ministers of the Crown who enjoy the confidence of the House who advise on such matters. However, when Her Majesty comes to Parliament, traditionally she will meet all the Privy Councillors who have been appointed. That has been the tradition. I have attended myself, and our colleague Senator Austin, who was a Privy Councillor some years ago, has been invited to similar functions.

Senator Corbin: And he still is.

Senator Joyal: Yes, as Senator Corbin said, he still is. I will not say anything more. Senator Corbin opened the trap before me and I resisted.

However, this is an important element of the debate on this bill, honourable senators.

Hon. Jack Austin: Honourable senators, in the tradition of questions in this chamber, particularly the recent tradition of questions in this chamber, I would like to begin by saying that I believe the debate on the question of the method of appointment of the Speaker of the Senate is a useful and timely one. I must congratulate Senator Joyal for a very comprehensive and
well-canvassed review of the issues.

• (1710)

I wanted to add a tiny footnote to his knowledge in the form of a question. Is Senator Joyal aware of the 1935 Order in Council which was passed when the Right Honourable Mackenzie King first took office? That order specifically reserved the recommendation to the Prime Minister of appointments to a number of offices, including the Supreme Court of Canada, chief justices in the provinces, and senators, and others. That recommendation was reserved specifically to the Prime Minister and only to the Prime Minister. I seek Senator Joyal's comment on this. The result is that the suggestion I made, when Senator Oliver presented the bill and made his comments on it, could run to request an amendment to that Order in Council. There is no way we can do anything in terms of the law because the law requires a constitutional change, as Senator Joyal has said. However, we could request that the Prime Minister act, with respect to the power of appointment under that Order in Council, on the advice of the Senate. Of course, this would require not an adversarial relationship with the Prime Minister of the day but an agreed process.

Again, Senator Joyal, I would like you to comment on what appears to be a change in the trend from prime ministerial to perhaps a more consensual and cabinet form of governance. As honourable senators are aware, there are a number of suggestions that would change the role of parliamentarians in dealing with the so-called democratic deficit expressed in terms of parliamentary practice.

When the appropriate committee deals with Bill C-16, does Senator Joyal think it would be appropriate for the committee to look at the larger issue of parliamentary authority and the appointment to various offices by Parliament in the context of this particular bill?

Senator Joyal: Honourable senators, I thank Senator Austin for his question. It brought to my mind a lot of suggestions and comments that have been made, especially this past summer, on the appointment of senators.

Honourable senators will recall that, last summer, about mid-August, an article was published on this issue in *Maclean's* magazine. I cannot give the date but I think you will all remember it. That article suggested that senators be appointed from a list provided by the provinces. It was circulated, commented upon and abundantly reported. That struck me because, of course, as I said earlier, senators are appointed by the Governor General, not in council and, as Senator Austin has just reminded us, on the advice of the Prime Minister alone. In other words, the Prime Minister consults himself, with himself, by himself, and then calls the Governor General with the news. There is no doubt that the Prime Minister owes anyone an explanation in the exercise of this conventional power.

As Senator Austin just mentioned, in the case of senators, the proposal that was floated last summer defies the logic of our Constitution. Why? Because it would bind the Prime Minister in a way that would transfer the practical exercise of his power of appointment into the hands of the provincial premiers. I remind you of the Supreme Court of Canada's landmark reference in 1980. I wonder if we have senators in this chamber who were here in 1979 when that key decision of the Supreme Court on the status of our institution was made public? Senator Graham was here and I am sure there are others. If I were a professor talking to students about the Senate, I would refer to the Supreme Court reference of 1980 as required reading — "Senate 101" if you like.

At page 77 of that decision, the Supreme Court states clearly that any selection of senators from a list provided by provincial legislatures, or selected by legislatures themselves, would effectively be a transfer of the power of appointment to another level of government, which was not contemplated in the Constitution Act, 1867. To do so would circumvent the Constitution, essentially amending it without going through the required procedure of amendment at section 38 of the Constitution Act, 1982.

Senator Austin's proposal requires the cooperation of the Prime Minister of the day. That would be, in fact — and I use a negative word here — a framing.

[*Translation*]

Such a practice would frame the powers of the Prime Minister.

[*English*]

As I said earlier, the Prime Minister can consult whomever he wishes on the appointment of senators. There is nothing to prevent him from consulting us now. What cannot be done is the transfer of that power to another authority outside of this body.

The suggestion of Senator Austin is very appealing. I may give the impression here of advertising our book, *Protecting Canadian Democracy: The Senate You Never Knew,* published last May. Some proposals were made in the book, especially by Professor David Smith, to frame the exercise of the conventional power of the Prime Minister to advise the Governor General. I will give you some examples. The Prime Minister could issue a statement saying, "When I exercise my conventional power of appointment, I will take into account gender parity and a fair representation of our Aboriginal peoples in Canada; I will take into account a fair representation of visible minorities in Canada." We all know that the electoral system in the other place gives a distortion in terms of "representativeness" of the other place. The Prime Minister could issue a public statement saying: "Here are my objectives and my policy framework for the exercise of my power."

For instance, in the case of the Speaker, the Prime Minister could announce that he will consult with the Senate. However, we cannot simply jettison section 34 of the Constitution Act, 1867. There are many ways, in my opinion, to address this issue and to bring about improvement of the system.

On motion of Senator Beaudoin, debate adjourned.

• (1720)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Mahovlich, for the second reading of Bill C-250, to amend the Criminal Code (hate propaganda).—(*Honourable Senator Stratton*).

Hon. Richard H. Kroft: Honourable senators, aware of the hour and wanting to intrude on only a little of your time, I should like to address myself to the debate on second reading of Bill C-250, to amend the Criminal Code in respect of hate propaganda. In doing so, I follow some outstanding speeches, beginning with Senator Joyal, who laid out the history and significance of section 18 over the past 40 years. We have also heard important, impressive and frequently moving interventions by Senators LaPierre, Oliver and Gauthier. I wish now to add my thoughts to a debate that I believe touches on some of the most fundamental issues relating to the building and preservation of our democratic society.

We all look at our world through the lens of our own identities and experience. Human nature dictates that starting point, but as thoughtful people, and certainly for all of us as senators, we must take that personal perspective and try to see where it fits in the broader context of society as a whole. Nowhere is this process more important than in issues like the one before us.

My personal point of departure is my own position as a member of a minority. Looking through my Jewish lens, I am conditioned by being part of a group that has always been a minority, in every society where Jews have lived over thousands of years. Since biblical times, only the State of Israel provides an exception to that minority condition. I begin with that personal experience and the bias it gives me.

Since everyone in this room, without exception, is in a minority at some time, in some place, in some context, this is a process we can all follow. What do I see? First, I see and appreciate how Canada has dealt with issues of minority rights and the protection of minorities from hate propaganda. I know well the story that Senator Joyal has recalled of these steps from the committee led by Professor Maxwell Cohen, through to the Charter and the Criminal Code and other legislative provisions that have created the protections we enjoy today. I would remind honourable senators that these laws did not come quickly or easily in Canada. It is a long time from Confederation to the 1980s. Remember: The battle was waged from both sides. It was not only the forces of discrimination and prejudice that slowed their coming, although most assuredly it was those that exerted the strongest force. There was also strong resistance from the other side, from those for whom unrestricted freedom of speech is simply non-negotiable.

In the United States, the first amendment to the Constitution established a base from which any restriction of speech, no matter how despicable and how based in ignorance that speech may be, is seen as a greater evil than allowing the hateful propaganda to go on. This dilemma continues to be a fundamental part of the American experience to this day and is certainly a part of legal and intellectual discourse in this country — and rightly it should be. We must never let any restraint of free expression go unchallenged, but we do so within limitations articulated in the Canadian Charter of Rights and Freedoms, in the sanctions of the Criminal Code and other legislative provisions.

What are those limitations based on? They reflect a determination by Canadians, after long and careful thought and debate, and repeatedly reinforced since their passage, that a free and democratic society demands that lines be drawn, that even a right as fundamental and cherished as the freedom of expression has limits when it comes up against our commitment to a fair and compassionate society.

Canadians have decided that there simply cannot be a democratic society, a civilized society, as we want to have it, without everyone in the society feeling and being safe in body, free from fear and with rights respected by those around them. We have decided that some carefully considered restraints on freedom of expression are a price worth paying, a price that must be paid to assure comfort and respect and dignity for all Canadians. This is the ideal — not always achieved, but this is the ideal.

All of this is what we are really talking about now as we address Bill C-250, honourable senators. We are reminding ourselves of what defines us as a nation. We are again testing ourselves to be sure that we do not sit back smugly and say that we looked after it all in the Charter and the Criminal Code as it stands. We are reminding ourselves that the Charter of Rights is not only a set of

non-negotiable standards but also a living document of principles that must be constantly sensitive to changes in society. We must be sure that our laws giving effect to the principle of the Charter are relevant and complete.

Sexual orientation was not included in the list when the present section 18 was passed. That was not because hatred directed at that group was not a problem. The reasons for its exclusion then are not really the issue now. What matters is that society has come to the point where continued exclusion of sexual orientation from section 18 is simply no longer acceptable. There is absolutely no justification for denying gay and lesbian members of our society the same respect and security that other Canadians already have.

In taking this step, we should not do so with reluctance, hesitation or regret. On the contrary, we should do so with pride and confidence that we are continuing to build our society, indeed, our civilization. This building is not complete and never will be. What keeps a civilization great is its recognition that perfection is never reached and that constant vigilance is required to assure that we constantly protect and improve what we have and that no one is left behind.

Hon. Anne C. Cools: I wish to ask Senator Kroft a question.

Senator Kroft referred to section 18. Bill C-250 is being described in the vernacular and colloquially as hate crimes, but this bill is amending the genocide section of the Criminal Code, section 318. This seems to be a fact that is not very well known. Yes, the title of the section is hate propaganda, but the substance and language of the statute itself is genocide. I am sure that Senator Kroft knows that very well because he stated his own "gens," so to speak, and contact with his own Hebrewness.

The term "genocide" was born roughly around the time of the Nuremberg trials. It was a new way of looking at things. Genocide really speaks to relations between peoples, particularly bad and murderous relations. Section 318 contains the genocide sections of the Criminal Code. Section 318(1) states:

> 318.(1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Subsection (2) goes on to define "genocide" as follows:

> (a) killing of members of the group; or
>
> (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

Genocide is a particular horrific, frightening thing. Subsection (4), which is the subsection that Bill C-250 seeks to amend, describes the members or those persons of the public who are identifiable groups. Currently, it states:

> (4) In this section "identifiable group" means any section of the public distinguished by colour, race, religion or ethnic origin.

Bill C-250 adds the term "sexual orientation" to that collection of people.

Does Senator Kroft have any thoughts on the phenomenon that this is not hate crime in any simplistic way; this is the describing of a new genocide? This is what this is. Genocide, I think, is something we should study.

Honourable senators, I do not talk about myself a lot, but I remember when I first came to Canada, I was in a part of Montreal called St. Lawrence. There were many Jewish people with stores there. As a matter of fact, the Steinberg family had started in that area. I remember being in those stores, and I saw numbers tattooed on peoples' arms. I had never seen anything like that. I remember it was explained to me what those numbers were, and what had happened. I just wonder if Senator Kroft has any thoughts on this matter.

• (1730)

Genocide is not simply murder. Genocide is murder with the intention to exterminate an entire group. I am wary of throwing words like "genocide" around, especially at some very ignorant people. They are quite often very ignorant, backward and mean. Genocide is a different matter. Does the honourable senator have any comments in that regard?

Senator Kroft: Honourable senators, I have given the broad subject an enormous amount of thought but not a great deal in the context of this speech. I heard the honourable senator's comments the other day when the focus on the genocide aspect first arose. For me, while that is obviously a subject of enormous importance, we are at risk of confusing what we are doing here today.

Even though the structure of the section comes under the headings as the honourable senator has described it, today we are dealing with a much more focused and narrow subject: We are dealing with the issue of the treatment of hate-mongering and hatred expressed in various ways towards groups in our society. To try to extend our debate beyond this into a concept of genocide is beyond the intention of the section, certainly beyond the intention of the amendment and, I guarantee you, beyond the intention of my intervention today.

On motion of Senator Stratton, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixteenth report of the Standing Committee on Internal Economy, Budgets and Administration (salary increase for senior management employees) presented in the Senate on September 25, 2003. —(*Honourable Senator Bacon*).

Hon. Lise Bacon moved the adoption of the report.

She said: Honourable senators, the report before you seeks to provide a 2.5 per cent increase to the senior executive group and middle manager salary scales retroactive to April 1, 2003, and to grant one day of personal leave per year to encompass SEG positions beginning in fiscal 2003-04.

After a review of the sixth report of its advisory committee on senior level retention and compensation, Treasury Board agreed to increase the salary scales for senior public officials by a similar amount retroactive to April 1, 2003, and to provide one day of personal leave per year, a common benefit in the external market.

[*Translation*]

In light of these facts, and in order to enable the Senate to make available to its staff benefits comparable to those available to their Public Service counterparts, I am asking honourable senators to support adoption of this report.

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

Motion agreed to and report adopted.

FISHERIES AND OCEANS

BUDGET ON STUDY OF QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Fisheries and Oceans (budget — study on Nunavut and Nunavik quotas and benefits), presented in the Senate on September 25, 2003.—(*Honourable Senator Comeau*).

Hon. Gerald J. Comeau: I move adoption of this report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

HUMAN RIGHTS

BUDGET ON STUDY OF SPECIFIC CONCERNS—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Human Rights (budget — study to hear witnesses with specific human rights concerns) presented in the Senate on September 25, 2003.—(*Honourable Senator LaPierre*).

Hon. Maria Chaput: I move adoption of this report.

[*English*]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the practice here is for either the chairman or deputy chairman to be in attendance when an item requesting funds is before us. Since neither one is here, it would be preferable to adjourn the debate on this matter.

On motion of Senator Lynch-Staunton, debate adjourned.

BANKING, TRADE AND COMMERCE

BUDGET ON STUDY OF BANKRUPTCY AND INSOLVENCY ACT AND COMPANIES' CREDITORS ARRANGEMENT ACT—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on Banking, Trade and Commerce (budget—release of additional funds (study on Bankruptcy and Insolvency)) presented in the Senate on September 25, 2003.—(*Honourable Senator Kroft*).

Hon. Richard H. Kroft moved the adoption of the report.

Motion agreed to and report adopted.

• (1740)

[*Translation*]

THE ROLE OF CULTURE IN CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the important role of culture in Canada and the image that we project abroad.—(*Honourable Senator Poulin*).

Hon. Marie-P. Poulin: Honourable senators, I would like to take these few minutes to respond to the excellent speech delivered by our colleague, the Honourable Senator Jean-Robert Gauthier. His remarks about Canadian culture contained important points for our international image.

In his remarks, the honourable senator explained why culture should be included in Minister Stéphane Dion's plan, entitled "The Next Act: New Momentum for Canada's Linguistic Duality." As Senator Gauthier reminded us, language is an essential communication tool, but culture is what remains when everything else has been forgotten.

Honourable senators, for over thirty years, culture has been of great interest to me, both as a radio broadcaster and deputy minister responsible for the Canadian Artists and Producers Professional Relation Tribunal and now as the senator for Northern Ontario.

In the 1990s, during my tenure as chair, the Standing Senate Committee on Transport and Communications drafted a report entitled "Wired to Win" on communications and telecommunications, which addressed the issue of culture in an international context. We found that new communications technologies forced us to broaden the standard definition without minimizing the importance and merits of tradition, arts and performance, literature, visual arts and music.

As a result, new communications technologies have multiplied our means to transmit our history, values, traditions, beauty and hopes. They also help us appreciate not only the works of our painters, via their virtual galleries, but also radio and television shows, print media and cinema, no matter where we are in the world.

Furthermore, new communications technologies promote our country's cultural diversity, thus enhancing our image abroad. Whatever the case, it is essential to promote the best of what Canadians have to offer. We lack neither talent nor magnanimous individuals to make a substantial contribution to our country and its international image.

On the one hand, who are today's stars in the arts? In North America, in Europe, in Asia, Céline Dion, Shania Twain, Margaret Atwood, and Denys Arcand are names that spring to mind. Our writers, singers, actors, filmmakers and producers are highly regarded on the international scene and are ambassadors of Canadian culture.

On the other hand, we have recently had an example of remarkable patronage of the arts, when Ken Thompson gave his art collection to the Royal Ontario Museum. That was a gift that will grow for generations to come.

In the winter of 2003, we commemorated a turning point in Canadian history, an event that identified us as a country. We passed legislation creating the national day of remembrance of the Battle of Vimy Ridge. I would like to tell you how proud I was when Joël Ralph, a young man of 17 from Northern Ontario, wrote this in 1999:

> That morning, when our soldiers set out to storm Vimy Ridge, they were soldiers of the Commonwealth. When they reached the top, they had become Canadians.

Our history, culture and heritage are closely linked and speak volumes about Canada on the international scene.

However, despite our collective triumphs and individual successes, we have the tendency to remain rather ambivalent. I have been involved in the cultural and linguistic dynamic of our country for more than thirty years, and I continue to be amazed at our modesty.

As Senator Gauthier pointed out, Canada is dead last when it comes to promoting culture. Per capita, we spend on culture a fraction of what the French, British and Japanese do. Culture is a sound investment for the state, for companies and individuals. In the United States, banks, companies, and foundations spend millions of dollars promoting culture.

Conversely, our artists in Canada, who play a key role in promoting our image in the world, earn an average annual income of roughly $25,000. You would have to be truly dedicated!

Honourable senators, we all agree that our international relations rest on three pillars: diplomacy, trade and defence. A fourth pillar should be added: culture.

Canada has reason to be proud of its many successes. We should proclaim our pride from our mountain tops, forests, from the shores of our rivers, oceans and lakes.

On motion of Senator Banks, debate adjourned.

[*English*]

LABOUR SHORTAGES IN SKILLED TRADES

INQUIRY—DEBATE ADJOURNED

Hon. Catherine S. Callbeck rose pursuant to notice of June 4, 2003:

> That she will call the attention of the Senate to the crisis of increasing labour shortages in the skilled trades.

She said: Honourable senators, it is a pleasure to rise to speak on the inquiry that stands in my name. Today, I would draw the attention of honourable senators to a serious issue that affects all Canadians, an issue that cuts across both economic and social policies, and an issue that has a major bearing on the future of Canada. I refer to the growing shortage of skilled workers in this country.

There is compelling evidence that we may be facing a national crisis. The Conference Board of Canada has said that, by 2020, Canada may be short 1 million skilled workers. The Canadian Federation of Independent Business has said that, among its members, some 300,000 positions were unfilled.

The Canadian Manufacturers and Exporters report that, among its members, one in three said that shortage of skilled labour was a significant barrier to expansion. That is from an organization representing an industry that accounts for 75 per cent of Canada's manufacturing output, 90 per cent of exports and 2.4 million jobs.

In my own province of Prince Edward Island, the Construction Association of Prince Edward Island has said that it is now experiencing shortages of skilled trades people. As the average age of construction workers is between 45 and 54, it is concerned about meeting future needs.

This growing shortage of skilled workers is delaying or even postponing some construction projects throughout Canada. As the number of new entrants into the trades does not equal those retiring, we can anticipate that shortages of skilled workers will continue to increase. It is also important to keep in mind that most trades require four to five years of training before full qualifications are achieved. The issue will not be resolved in the near future.

The evidence is clear, and the evidence is mounting: Canada is faced with a shortage of skilled workers, and that will have a negative impact on our economy and on Canadian society.

On a sectoral basis, there is enough evidence to suggest that skill shortages are fairly widespread throughout the economy, especially in sectors such as construction, oil and gas, and health care.

• (1750)

It is not just changing demographics that are reshaping the workforce; it is also what is required in terms of more skills. By next year, it is estimated that up to 70 per cent of jobs will require post-secondary, university or college education, or trades training.

To further compound the problem, Canada also has relatively high rates of functional illiteracy. It is estimated that there may be as many as 8 million Canadians who do not have the literary capacity to fully engage in the life of our country and its economy. I should also note that 12 per cent of Canadians do not complete high school, seriously limiting their chances of employment.

As well, increasing globalization of world markets means more competition for skilled workers, and younger people are choosing different careers from those in the trades, as they have a poorer image of the work in the trades.

As the Prime Minister stated in the paper "Knowledge Matters: Skills and Learning for Canadians":

> In the new global knowledge economy of the 21st century, prosperity depends on innovation which, in turn, depends on the investments that we make in the creativity and talents of our people. We must invest not only in technology and innovation, but also in the Canadian way, to create an environment of inclusion, in which all Canadians can take advantage of their talents, their skills and their ideas.

As I have said, shortages of skilled workers are becoming more prevalent in many sectors of our economy. Today, I would address the particular problems facing Canada's growing shortage of skilled tradespeople in the construction industry and some of the steps that I believe might be taken to resolve them.

Under the Constitution, education and training are provincial responsibilities. However, under various arrangements with the provinces over the years, the federal government has actively supported training initiatives. This involvement recognized that a skilled and knowledgeable labour force was a matter of national importance.

Over the years, the federal government purchased training from the provinces, from private schools or from industry, or it provided reimbursement to the provinces for offering training courses. However, this led to some inefficiencies and wasteful spending practices.

A report by the Auditor General in 1986 found that course purchases were largely based on budget allocations of previous years and that they were not based on any comprehensive labour market analysis or the success of trainees in securing employment.

In 1995, the Prime Minister announced that the federal government would, over a three-year period, withdraw directly from labour market measures. The new arrangements with the provinces and territories came about in 1996 when Human Resources Development Canada proposed the establishment of Labour Market Development Agreements. Under these agreements, the provinces and territories would take over the responsibility of programs funded through the Employment Insurance Account, including training. In short, the federal government withdrew from direct involvement in training. It was passed over to the provinces.

This coincided with the enactment of the Employment Insurance Act. Under this legislation, there were limits on who could apply for training. Only those people eligible for EI benefits could receive training, leaving many people without access. The ineligible would include new immigrants, people new to the labour force, people with little or no labour force involvement, and many women who may have wished to seek training in order to re-enter the labour force.

Prior to these agreements, Human Resources Development Canada had funded large active labour market programs for these groups. With budget cutbacks, the remaining resources are now directed mainly toward Aboriginal clients and youth, along with a small program for people with disabilities.

Under each of the Labour Market Development Agreements, funds are provided for programs such as wage subsidies, earning supplements, self-employment assistance, direct job creation projects and skills loans and grants. However, only people eligible for EI benefits can access these programs.

Notwithstanding this limitation, there are some benefits under this new arrangement between the federal government and the provinces and territories. Final decisions about training priorities are no longer made by the federal government. There is more flexibility in determining what is required.

However, the federal government does not have the effective means of helping to develop labour market programs that meet national needs. Total federal spending for training has been reduced.

In 1982-83, federal spending on training was approximately $1.7 billion. This had risen by 1994-95 to $2.7 billion. Today, the federal spending on labour market measures, including training, is $2.2 billion. In other words, not only is total spending down, but the amount allocated to skills development or training is also significantly reduced.

I believe that it is time for the federal government to increase its support for training programs to help meet the growing skills shortages in Canada. I also believe that support for training should be extended to more people who want and need training opportunities. Our goal should be to ensure that we have a workforce that is trained and able to meet the needs of our economy.

We need to better understand the dynamics of the labour force. We need to know more about how many workers are needed, what kind of skills they should have, and where in Canada they will be required. We cannot develop good labour market strategies without good labour market information.

There also needs to be a more coordinated approach among governments at all levels, universities, colleges, training schools and industry, to develop new labour market strategies. The federal government should take the lead in such an initiative because we are dealing here with an issue of importance to all Canadians.

I am pleased that a number of steps have been taken by the federal government and others to address the issue of skills shortages. We know, for example, that many young people do not enter the trades because their perception is that the trades involve only manual work. In short, the trades have an image problem.

The industry is beginning to recognize this and is taking steps to improve this perception. Earlier this year, for example, the Construction Association of Prince Edward Island held open houses during Construction Awareness Week to highlight the opportunities available to those thinking of enrolling in a trades program.

The federal government has already taken some steps to promote skilled trades as a career. In January of this year, the Minister of Human Resources Development Canada announced a $12 million investment to develop and promote careers in the trades.

No discussion of skills shortages can take place without reference to the important contribution that immigrants make to the economy. Our colleagues in the other place have spent a great deal of time studying this complex issue. I was pleased that last Thursday, September 18, the Minister of Citizenship and Immigration Canada announced an adjustment to the pass mark for federal skilled worker applicants. The Minister of Human Resources Development Canada had also been active in efforts to engage the country's foreign labour pool by identifying the Federal Credential Recognition Program as one of the department's priorities.

Perhaps one of the best methods of addressing skilled trades shortages in Canada is to strengthen the apprenticeship system. The apprenticeship system is an excellent means of providing skilled workers to the workforce. It is a great model of business and education working effectively together.

The Hon. the Speaker: I am sorry to interrupt, but it is six o'clock.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I would suggest that we not see the clock.

The Hon. the Speaker: Is it agreed, honourable senators, that we not see the clock?

Hon. Senators: Agreed.

Senator Callbeck: However, there is evidence that it is not working as well as it should. Only 1 per cent of all Canadian workers have gone through an apprenticeship. That is compared to 6 per cent in Germany. There is also a very high dropout rate. Human Resources Development Canada estimates that 30,000 people begin trades training every year but only 17,000 actually complete the program. HRDC also estimates a need for 37,000 apprenticeships coming out of the system by the end of the next decade.

• (1800)

We must do more to encourage apprenticeships. I am pleased to note that the federal government, in its last budget, introduced changes to EI rules for apprentices. In the past, apprentices attending a training institution had to go through a two-week waiting period before qualifying for EI benefits. That waiting period applied each time an apprentice went for training. Now, as a result of the last budget, that two-week waiting period is applied only once throughout the duration of the program.

There are a number of other incentives that might be put in place to encourage more apprenticeship training. One is to help offset the costs of the apprenticeship program. Employer costs could be offset by providing tax deductions or tax credits. For apprentices, consideration should also be given to providing tax deductions or credits for the high cost of tools.

There could also be more opportunities for high school students to be exposed to the trades through, for example, pre-apprenticeship programs, mentoring by trades people, or co-op programs where students might spend part of their school time on a job site. I understand that there are some excellent models in Europe that help to generate a higher degree of interest.

We also need to encourage greater labour mobility throughout Canada. There is a program called "Red Seal," which has developed consistent interprovincial standards and certification requirements across some 45 trades in Canada. This is an excellent approach and perhaps it needs to be expanded to more trades.

The issue I have raised today is a very complex and challenging one and will not be easily or quickly resolved. The issue of skills shortages is limiting our potential as a nation. It is affecting the growth and development of our economy and society. I believe that the federal government must take a leadership role and work with other governments, industries, and educational and training institutions to develop good labour markets strategies. What we are doing now is not working as well as it should, and that means that our country is not working as well as it should.

On motion of Senator Hubley, debate adjourned.

The Senate adjourned until Wednesday, October 1, 2003, at 1:30 p.m.

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Available from Communication Canada – Canadian Government Publishing Ottawa, Ontario K1A 0S9