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THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Thursday, October 21, 2004

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

Prayers.

[Translation]

SENATORS' STATEMENTS

TRIBUTES

HONOURABLE JEAN-ROBERT GAUTHIER

The Hon. the Speaker: Honourable senators, the Honourable Jack Austin, Leader of the Government in the Senate, has sent me the following letter:

Pursuant to rule 22(10), I request that the time provided for the consideration of Senators' Statements be extended for the purpose of paying tribute to the Honourable Senator Jean-Robert Gauthier, who will be retiring on October 22, 2004.

I would remind the senators that the *Rules of the Senate* limit their speeches to a maximum of three minutes, and that no senator may speak more than once.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, we pay tribute to our colleague the Honourable Jean-Robert Gauthier today on the occasion of his retirement from 32 years of service in the two Houses of Parliament. During the period of time that Senator Gauthier was a member of Parliament in the House of Commons, he held the positions of Leader, Deputy House Leader and Chief Whip of the Official Opposition, as well as Parliamentary Secretary to the Minister of State for Urban Affairs. Senator Gauthier's long record of experience was recognized by his colleagues and evidenced by the broad support he enjoyed in the 1994 election for Speaker of the House of Commons.

Throughout his career, Senator Gauthier has been vigorous in enforcing the practices of Parliament and defending the rights of his fellow parliamentarians. I believe I can safely say that I am not the only colleague who has been the object of Senator Gauthier's famous persistence on matters he believes are important to Canadians.

[Translation]

Senator Gauthier made a huge contribution to the common good through his support of such causes as Montfort Hospital, francophone rights in the capital, most recently, this past month in fact, access by residents of Quebec to Ontario's French-language television station.

[English]

Senator Gauthier has served on numerous committees but has become closely associated with one committee in particular, that being the Standing Senate Committee on Official Languages.

Senator Gauthier's dedication to providing access to both official languages has raised our awareness of this indigenous aspect of Canadian society. He has been a standard bearer for language rights that are now an integral part of our national identity on the world stage.

Senator Gauthier has received many awards for his public service, receiving the M^érite Franco-Ontarien and the honour of Commandeur de l'Ordre de la Pléiade for his advocacy of French language and culture.

Senator Gauthier, we have behind the bar today Mr. Mauril Bélanger, who won the Liberal nomination in Ottawa—Vanier and went on to win the by-election that came after your resignation. I wish to tell you that he had asked me if he could come to pay his personal respects to you. He is now, as you know, the Deputy Leader of the Government in the House of Commons.

The extent of Senator Gauthier's devotion to public service was made clear when, in 1996, he contracted a life-threatening disease. The struggles he faced to become again a contributing member to this house are commendable beyond any question. He made an enormous expression of the will to continue and he has been a great success in recovering and contributing.

We remember you, Senator Gauthier, for that triumph and for your courage, your persistence and your devotion to the values of public life in which you believe.

Hon. Senators: Hear, hear!

[Translation]

Hon. Gerald J. Comeau: Honourable senators, I rise today to pay tribute to our colleague the Honourable Jean-Robert Gauthier on the occasion of his retirement from the Senate. I wish him good health and a good rest in the company of his charming wife Monique and his many friends. He deserves a rest, after three decades of service to our country.

For years we have benefited from his untiring efforts in promoting and enriching life in French in Canada, and his devotion to defending the rights of anglophones and francophones living in a minority situation anywhere in Canada.

Senator Gauthier has worked on behalf of the people of Canada to defend causes that were not always popular, and that were not always fully backed by governments, his own and others, or even by his own colleagues. Anyone daring to fault him for the passion with which he defended and promoted his cause, the respect of our two official languages, quickly became the object of his wrath.

Senator Gauthier has shown great courage in sticking to his convictions no matter what. He has distinguished himself by his perseverance, his courage, and his efforts to advance the linguistic duality of Canada. An inspiration, an agitator, an innovator, a reformer, he has made an invaluable contribution to Parliament.

[English]

Those who have listened to his remarks and speeches over the years will know that he has always promoted respect for the two official languages of Canada. He has always been committed to the English language as he has to the French language.

[Translation]

Senator Gauthier's door was always open for advice, no matter what one's political affiliation. I, too, want to express my most sincere thanks to him for all his kindness and consideration. His presence in this chamber and the other place has enriched Parliament and public political life in Canada. We are all in his debt, and I am sure we have not heard the last of Senator Gauthier.

Hon. Marie-P. Poulin: Honourable senators, it is an honour for me, although a sad one, to pay tribute to my Franco-Ontarian colleague, my friend, the Honourable Jean-Robert Gauthier, as he retires. One thing is certain: Senator Gauthier has always been a man of great intensity. Jean-Robert is a man of principle, a man of causes, deeply concerned with the affairs of his Senate division, Ottawa—Vanier, his province, his country, and the Francophonie throughout the world.

• (1410)

His determination and his sense of duty have earned him the respect of this chamber and the admiration of the other. Yes, he is leaving more than just the Senate; he is leaving Parliament Hill, where he has served his country for 32 years.

Honourable senators, across Ontario, from Ottawa to Sudbury and beyond, the name Gauthier symbolizes pride, devotion and involvement.

To those qualities our colleague Jean-Robert has added courage in the face of adversity. We were already his admirers when he began to have health problems, and despite those problems, he has never lost his passion; first, to promote official bilingualism in the nation and the capital city; second, to contribute to the blossoming of the French fact in Ontario; and third, to lend his strength to the many noble causes that a minority must shoulder.

If French-speaking Ontario had not had the Honourable Jean-Robert Gauthier as its devoted knight, we would have had to invent him.

Senator Gauthier, this place will never be the same without you. Your leaving is our loss. Please know that you can count on us to continue defending the values you personify.

To you, Jean-Robert, and your wonderful wife Monique, who is with us today, your children and your staff, we wish a well-deserved retirement.

[Senator Comeau]

Hon. Pierre Claude Nolin: Honourable senators, it is with great respect and great sadness that I rise today to pay tribute to our colleague, Jean-Robert Gauthier, on his leaving the Senate. Allow me to address him directly.

Jean-Robert, I did not know you too well before you came to the Senate. I knew you by name. When you came to the Senate from the House of Commons, I imagined a colleague who could potentially be partisan — too partisan for my liking — and it was with great enthusiasm that I discovered in you a most affable colleague who could engage in partisanship on occasion. But when the interests of citizens, and French-speaking citizens in particular, were at stake, that is when we would set our partisan thoughts aside.

It is with great sadness that I wish you happy birthday. I am saying goodbye to a colleague who made an impression on me. Never before had I met a person who could personify an ideal of determination.

All honourable senators agree with me, when I say that you have gone through ordeals and overcome them while staying on course with your political objectives. For that reason, we are losing today a colleague, and you will be missed. Given that you do not live too far away, like Senator Beaudoin, from time to time, we will gladly call on you for help.

Be forewarned!

Hon. Lise Bacon: Honourable senators, the contribution of Senator Jean-Robert Gauthier to parliamentary business, both in the Senate and the House of Commons, has to be recognized and saluted because it is, admittedly, considerable. Senator Gauthier has been sitting in this Parliament of Canada since 1972. For the past 30 years, he has been defending steadfastly and vigorously the many causes he has espoused. He sat in the House of Commons for nearly 20 years, and 10 in the Senate, in spite of life's challenges, carrying on the fight to get his point across and gain recognition for the soundness of his convictions.

Senator Gauthier is a man of principle who entered politics not to make a career there and accumulate prestigious roles and titles, but to promote and defend the values dear to him. He has always put his beliefs ahead of professional ambition. That is not to say that he lacked ambition; quite the contrary. He channelled his ambition into a number of battles to improve the lives of the people of Ottawa—Vanier, to make Ottawa a bilingual city, to gain respect and recognition for French and for francophones in federal institutions and in the public service, to improve support for deaf people, and the list goes on.

He is a fighter who never gives up. I have witnessed his tenacity on many occasions. He sees things through and never loses sight of his goal. He is very motivated and has fought throughout his entire political career to improve the conditions of Franco-Ontarians and francophones across Canada.

He fought tirelessly for the rights of francophones in minority communities, even before he arrived on Parliament Hill. For that, Senator Gauthier deserves our respect and admiration. Before he leaves, I would like him to know how much I admire his work and respect his conviction.

To be a good politician, one needs to have strength and the courage of one's convictions. These two qualities have served Senator Gauthier well throughout his career.

Again, I would like to say farewell to a colleague whose courage and candour I respect.

Senator Gauthier, I wish you many more challenges in the future and the desire to take them up. I have no doubt you will actively defend the many causes you are passionate about for a long time to come.

[English]

Hon. Wilbert J. Keon: Honourable senators, I join you today to celebrate one of our colleagues, Senator Jean-Robert Gauthier. I would like to take a few moments to highlight some of the accomplishments of Senator Gauthier after about 40 years of public and parliamentary life. Being from Ottawa, I was well aware of his career as a politician and the important role he played in representing his constituents from Ottawa—Vanier. In that capacity, he was always approachable and helpful, no matter who came calling on him on whatever issue. I was one of those who approached him in the early days of the Heart Institute as it came together, and I can assure you that he was much more than helpful.

As a senator, he has continued to work on the issues near and dear to his heart: foreign affairs, health, the Francophonie, people with hearing disabilities, and of course official languages. He is still dedicated to the passage of his bill, an act to amend the Official Languages Act, promotion of English and French, supporting the linguistic duality of Canada.

All of us watched with admiration as he struggled with the terrible illness and disability which befell him. Despite all this adversity, he continued to do his job and make monumental contributions.

[Translation]

The causes he has defended are not just local, but national. He has dealt with issues concerning TFO, Vidéotron, Air Canada, RDI and Radio-Canada, to name but a few.

He also took the bull by the horns in order to continue his parliamentary career when faced with a new challenge: deafness. Thanks to his interventions, our Senate is the only legislature in the world that offers computer-assisted transcription services.

To some extent, Senator Gauthier has become our conscience as far as Canada's official languages are concerned.

[English]

I had the pleasure of serving with Senator Gauthier on the Standing Senate Committee on Official Languages. It became

obvious as we travelled across the country that he was the true hero of the Canadian francophone community. It has been an honour and a privilege to serve with him.

• (1420)

[Translation]

You are leaving a huge gap with your departure. I hope that a number of others will come along to carry the torch. My best wishes for good luck and good health in your future endeavours.

[English]

The Hon. the Speaker: Honourable senators, I regret that the time for tributes has expired. However, we now go to Senators' Statements.

Before I turn to Senator Prud'homme, the table officers are wondering when I will give Senator Gauthier his right to respond. I intend to do so after the remaining tributes, if that is in order.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I remember, when I was a student, a political figure who was an MP in Ottawa, who became a minister under Jean Lesage and who wrote a book entitled *Malgré les obstacles*. He was the Honourable Bona Arsenaault, a very colourful man in Quebec politics, both in Ottawa and Quebec City.

This morning I was looking for something different to say on this memorable day. The honourable senators before me have talked about his career. My good friend Senator Bacon has talked about his political career. Senator Poulin talked about his career as a defender of causes, which Senator Gauthier has always been.

I read in *Le Droit* that, despite frequent insults, Senator Gauthier always stood firm as a rock.

Senator Gauthier and I have always had a number of things in common. It has always been my pleasure to act as his vice-president, the humble servant of Jean-Robert Gauthier outside Quebec, a defender of what he represents and a defender of him in his persona as a francophone outside Quebec, although I do not like that term very much. He is a vibrant French-Canadian nationalist from outside Quebec, so you can imagine the things we have in common, since I think I am a vibrant French-Canadian nationalist from inside Quebec. But the thing that unites us is that we are both federalists, each in our own way.

Senator Gauthier can boast that he has had much success in his life. Among other things, he can boast that he took part in the great march, as I did, to save the Montfort Hospital. For the first time in my life, I carried a sign through the streets of Ottawa.

I had, in the past, organized demonstrations in the streets of Ottawa, but I had never carried a sign. Still, Montfort had to be saved.

Something that pleased me a great deal when I arrived at this large public demonstration, bringing together people from all quarters of the city of Ottawa, was the fact that thousands of people rose as one when Senator Gauthier took the stage along with his medical assistants. It was an ovation and a moment of triumph that expressed exactly what we want to say today about Jean-Robert Gauthier.

Senator Gauthier is indeed a stubborn person! How else could he manage to convince his colleagues, who are often indifferent, to ask themselves: Why are we here? How could one win causes without being stubborn? Senator Gauthier has won causes throughout his life. He has fought for his people with dignity. He has fought for his health with dignity. He has amazed us and won us over by his strength of character. To a large extent, he owes that strength of character to those closest to him, his wife Monique, and his children Jean-François, Pierre, Vincent and Nathalie.

Today, in the presence of his family and staff, he is being praised by his colleagues. I can assure you that this praise is well deserved, because we know him and we love him.

Hon. Serge Joyal: Honourable senators, it is a privilege to pay tribute today to Senator Jean-Robert Gauthier, a comrade in the House of Commons and in the Senate for the past 30 years.

Senator Gauthier's commitment to pursuing his ideal and his vision of our country has been constant, unfailing and uncompromising.

He shares the conviction that francophones have an inalienable right to speak their language, to live and to get an education in French, and to fully participate in the life and institutions of our country.

Senator Gauthier's most significant action was to vote against the 1981 constitutional resolution recognizing section 23 of the Charter and the right to have access to French schools, but only "where the number so warrants." He has always been outraged by this provision.

Senator Gauthier never wanted to be a mere number when it came to exercising his rights. As far as he is concerned, a right is a right is a right.

He fought openly against the meanness of numbers, seeing them more as a way to count the victims of assimilation and humiliate individuals than a way to make people proud to speak their language, the language of their country, as he so aptly says.

This morning, it was reported by the media that a Nova Scotia court has just ruled that the clause "where the number so warrants" regarding the delivery of services by the RCMP in the region of Amherst, in the northwest of the province, violates the Official Languages Act and the Charter, even though francophones only make up 3 per cent of the population there.

Senator Gauthier's argument has been heard in court; let us hope it will be confirmed by the highest court in the country.

[Senator Prud'homme]

Senator Gauthier's vote on the 1981 resolution left him wounded because he has always believed so strongly in the value of charters and court protection against the indifference of governments and sometimes against the strength of prejudice. Nonetheless, he has always expressed great respect for his anglophone fellow citizens. He is courteous and diplomatic and has never displayed antagonism toward the other official language community.

His commitment to the recognition of the rights of francophones to manage their own education system achieved significant results across the country. He leaves us to continue the fight to have Ottawa recognized as a bilingual capital, because this city must be a reflection of the ideal of Canada's aspirations.

In lending his voice and the strength of his commitment to supporting the recognition of our rights, he has continued to make Canada a society that is more humanitarian and more sensitive to the plight of minorities, all minorities, especially Aboriginals. As he so rightly says: "We debate and we have rights, but when I think of the Aboriginals, so much needed to be done."

Independent, unassuming, passionate, yet profoundly human, he transformed his physical handicap into a tool for persuasion, which, I hope, will lead this Parliament to pass this very important amendment to the Official Languages Act that he piloted.

Honourable senators, on Monday I wrote to the executive director of the Canadiana Fund to say that the portrait of King Francis I, which I donated two years ago to enhance the Salon de la francophonie, should be dedicated to Senator Gauthier for his commitment to the recognition of the rights of official language minorities in the country.

King Francis I was the first to lay claim to Canada in 1534, and also the first to pass an edict in 1539 in Villers-Cotterêts, making French the language of government and the courts.

• (1430)

This is a lasting tribute to a man who is fair, a man of integrity, with a desire to serve his community.

[English]

The Hon. the Speaker: Honourable senators, I have been asked to leave time for two statements today. To do that, and to respect the understanding I have from the chamber, I will now call on Senator Jean-Robert Gauthier for his response, following which I will return to Senators' Statements for two statements: one by Senator Cochrane and one by Senator Carstairs. I remind honourable senators of Senator Carstairs' notice of inquiry that will allow for further tribute to Senator Gauthier.

Senator Gauthier.

Hon. Senators: Hear, hear!

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, I am touched. My sincere thanks to you all; you are good-hearted people for whom I have a great deal of respect. I also thank my family, of which I am very proud: my wife Monique, my children and grandchildren. I want to thank everyone working for the Senate: His Honour the Speaker and his advisors, the clerks; the security guards, always making us feel welcome; the stenotypists, my guardian angels, without whom I could not follow what is going on and carry out my duties. Thank you to all those who have contributed directly or indirectly to making life easier for a person with a disability.

I will not get into my problems, because I have more than the average person. It is not easy to function in premises that are not adapted: it is difficult to get around, to understand what people are saying when you are hard of hearing, and to see when you have lost sight in one eye. However, I have always been surrounded by people who were protective of me, friends and advisers.

At my office, I always had competent and hard-working assistants who had foresight and anticipated my needs. When I first tackled a cause, they knew this involved a certain amount of research. I take this opportunity to thank the Library of Parliament, which provides extraordinary service to parliamentarians in the form of very useful research papers.

I do not have enough time to list everyone I wish to thank, including my former colleagues in the House of Commons, but I will make an exception for the late former Speaker of the Senate, Gildas Molgat. This is difficult for me, because he was a good friend. He would visit me both in the hospital and at home. When I eventually came back, I had a hard time moving around. I was somewhat awkward, and he would take the time to come and cheer me up, saying: "Hang in there!" There is nothing he did not do to help me. He had audio systems installed, the infrared, the wiring, but nothing worked. The medications I was given had made me deaf.

I sincerely thank Senator Carstairs. She is an exceptional soul with a gift for recognizing the needs of people with disabilities. I cannot tell you how much I appreciated all the help you have given me. Thank you so very, very much! It was very encouraging and stimulating for me.

[English]

This place means a lot to me. As I said before, I was a young nine years old when I first came here with my grandfather, who was Assistant Clerk of the Senate at that time. I came here in 1939 to meet the King of England and his wife on their visit to Canada. My grandfather said, "You are going to come and meet the King of England," so I went with him. I was impressed.

My grandfather raised me. One must understand that my mother did not speak French. She was not very fortunate either. My father left her with two children in 1933. I was put into an orphanage for a few years. My grandfather took me out of the orphanage in 1938 and brought me to his home. I have one hero: my grandfather. To see him here made me very proud of him.

I never thought that I would come to this chamber as a member of the Senate. The day that Jean Chrétien, the former Prime Minister, phoned to offer me this position, I accepted. I was very proud and very honoured. I tried to work as hard as I could to contribute somewhat to this place and to Canada, because we all love our country very much. However, I think people in this place do not snap their suspenders strongly enough. Senators do good work. Do not let those media people take you on and tell you that this place is a waste of time. That is not true. I know because I have been in both places. If anybody wants to reform some place, they should reform the other place.

Hon. Senators: Hear, hear!

Senator Nolin: More, more!

Senator Gauthier: I do not want to drag on.

There are many things that I could say on asymmetrical federalism or the "Belgiumization" of Canada. Come on! This place would never ever accept such nonsense.

I do not think the Canadian people know enough about the Senate. I say very honestly that I do not think we impart our message clearly enough. I think every senator should send out householders as a habit. I did it for years. I put out a householder saying what I was trying to do and what we were doing in the Senate. Every three months the Senate administration supplies us with a résumé of the work of this place. We should push people to understand that we are not here as partisan politicians as much as we are here as experienced people with institutional memory.

Honourable senators, we have a commitment to Canada. We love this country. We respect the differences in people because there are all kinds of Canadians. I have a lot of time for people who want to join all of us here to make this country a much better place.

Honourable senators, I believe that we can change things. I believe that senators can make things better. I have tried hard to make life a bit more agreeable for Canadians. I have worked on many issues. I am very proud to say today that the issues I worked on were the people's issues — issues that I heard in my riding all the time. For example, people talked about minority rights in my riding. I was brought up in Lower Town with many minorities, such as the Blacks and the Jews. We had a few immigrants, but not very many. They were all friends of mine. I grew up with people who were different, but I learned to respect them for who they were and what they offered.

Honourable senators, the Senate has a lot to offer because there are a variety of points of view and a variety of people in this chamber. We are representative of Canada and, as such, should be working toward bettering this country.

I want to thank you all for what you said. Do not exaggerate a bit.

• (1440)

I have a cane, the top of which is an eagle's head. It is a sign of determination. Senator Gill gave me this cane. It is a walking stick, actually, made by one of his colleagues. He said he gave it to me because I am determined.

[Translation]

His French was a little more plain-spoken.

[English]

I said, "What's this, a snake?" He said, "It is a snake. For the Indians of Canada, it is a symbol of humility." He added, "Remember, remain humble."

Again, thank you very kindly for your remarks. I accept them all.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, we now return to the balance of our time for Senators' Statements.

LITERACY ACTION DAY

Hon. Ethel Cochrane: Honourable senators, I rise today in recognition of Literacy Action Day on Parliament Hill. In recent years, our attention to literacy skills development seems to have increased, and rightfully so. After all, literacy is for life, and literacy skills are critical to our success in the new knowledge economy.

When we speak of literacy skills, we are referring to the whole set of skills used in reading, in writing and in mathematics. Today, approximately 5 million adult Canadians experience serious difficulties in these areas. However, as a former reading specialist, I would like to focus for a moment on the value of reading and the importance of fostering a love of reading in our children.

Researchers at the University of Illinois found that "even 10 minutes of independent reading a day was enough to place fifth graders in the seventieth percentile of reading comprehension." Meanwhile, 20 minutes of reading a day was found to boost them into the ninetieth percentile. That is a staggering improvement.

Perhaps even more impressive is that great gains in literacy skills can be made in simple ways, without the need of modern technology or expensive tools. According to the Commission on Reading, a committee in the U.S., "the single most important quality for building the knowledge required for eventual success in reading is reading aloud to children."

Honourable senators, to help young children get better at reading we can follow a simple formula: The more you read, the better you get at it; the better you get at it, the more you like it; and the more you like it, the more you do it. The more you read, the more you know; and the more you know, the smarter you grow.

It was with that in mind that I read comments this week by prolific Canadian author Pierre Berton. He urged parents not to worry about what their children are reading but simply to encourage them to read. Children, he said,

...will find what they want to read themselves. I don't necessarily look for a book to learn something. I look for a book to entertain myself. That's what great literature does. It entertains you.

I could not agree more.

While ultimately federal government leadership is necessary to promote literacy among Canadians, we have a role to play. There are many ways to contribute. We can start at home by reading aloud to our grandchildren and our families, giving books as gifts or supporting literacy initiatives in our own towns and in our regions. Whatever the approach, I encourage all of us here and, indeed, Canadians to get involved and take action on literacy.

CHILD ABUSE

Hon. Sharon Carstairs: Honourable senators, on September 29, 2004, the Joint Statement on Physical Punishment of Children and Youth was formally launched at CHEO. The joint statement was developed by a national partnership of organizations concerned about the well-being of children and their families. Based on extensive research evidence, the joint statement provides an overview of developmental outcomes associated with the use of physical punishment on children and youth. It relates to the strong evidence that physical punishment places children at risk for the following: physical injury; poorer mental health; impaired relationships with parents; weaker internalization of moral values; anti-social behaviour; a poorer adult adjustment; and tolerance of violence in adulthood.

On the basis of the clear and compelling evidence that the physical punishment of children plays no useful role in their upbringing and poses only a risk to their development, the joint statement strongly encourages parents to develop alternative and positive approaches to the disciplining of their children.

The joint statement has been formally endorsed by 140 organizations concerned with the well-being of children, including the Canadian Nurses Association, the College of Family Physicians of Canada, the Canadian Paediatric Society, the Canadian Public Health Association, the Canadian Institute of Child Health, the Canadian Association of Social Workers, the Canadian Red Cross, YMCA, YWCA, the John Howard Society and a host of children's hospitals, family service organizations and child welfare organizations.

Honourable senators, as we near the end of the YWCA Week Without Violence, I challenge you again to support initiatives such as the Joint Statement on Physical Punishment of Children and Youth, and I challenge you to remember and to imagine a Canada free from violence against children.

[Senator Gauthier]

[Translation]

ROUTINE PROCEEDINGS

PUBLIC ACCOUNTS OF CANADA

TABLED

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a report entitled *Public Accounts of Canada*.

ANTI-TERRORISM ACT

2002-03 ANNUAL REPORT TABLED

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I also have the honour to table, in both official languages, two copies of a report entitled *The Anti-Terrorism Act — Annual Report* concerning Investigative Hearings and Recognizance with Conditions (December 24, 2002 to December 23, 2003).

LEGAL AND CONSTITUTIONAL AFFAIRS

REPORT PURSUANT TO RULE 104 TABLED

Hon. Lise Bacon: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour of tabling the first report of the Standing Senate Committee on Legal and Constitutional Affairs, dealing with the expenses incurred by the committee during the Third Session of the Thirty-seventh Parliament.

(For text of report, see today's Journals of the Senate, p. 79.)

OFFICIAL LANGUAGES ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Eymard G. Corbin, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Thursday, October 21, 2004

The Standing Senate Committee on Official Languages has the honour to present its

SECOND REPORT

Your committee, to which was referred Bill S-3, *An Act to amend the Official Languages Act (promotion of English and French)*, in obedience to the Order of Reference of Thursday, October 7, 2004, has examined the said bill and now reports the same without amendment.

Respectfully submitted,

EYMARD G. CORBIN
Chairman

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

Senator Corbin: With leave of the Senate and notwithstanding rule 58(1)(b), I move that the bill be placed on the Orders of the Day for third reading later this day.

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

Motion agreed to.

• (1450)

[English]

SCRUTINY OF REGULATIONS

FIRST REPORT OF JOINT COMMITTEE PRESENTED

Hon. John G. Bryden, Joint Chairman of the Standing Joint Committee for the Scrutiny of Regulations, presented the following report:

Thursday, October 21, 2004

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

FIRST REPORT

Your Committee reports that in relation to its permanent reference, section 19 of the *Statutory Instruments Act*, R.S.C. 1985, c. S-22, the Committee was previously empowered “to study the means by which Parliament can better oversee the government regulatory process and in particular to enquire into and report upon:

1. the appropriate principles and practices to be observed
 - a) in the drafting of powers enabling delegates of Parliament to make subordinate laws;
 - b) in the enactment of statutory instruments;
 - c) in the use of executive regulation - including delegated powers and subordinate laws;

and the manner in which Parliamentary control should be effected in respect of the same;

2. the role, functions and powers of the Standing Joint Committee for the Scrutiny of Regulations.”

Your Committee recommends that the same order of reference together with the evidence adduced thereon during previous sessions be again referred to it.

Your Committee informs both Houses of Parliament that the criteria it will use for the review and scrutiny of statutory instruments are the following:

Whether any Regulation or other statutory instrument within its terms of reference, in the judgement of the Committee:

1. is not authorized by the terms of the enabling legislation or has not complied with any condition set forth in the legislation;
2. is not in conformity with the *Canadian Charter of Rights and Freedoms* or the *Canadian Bill of Rights*;
3. purports to have retroactive effect without express authority having been provided for in the enabling legislation;
4. imposes a charge on the public revenues or requires payment to be made to the Crown or to any other authority, or prescribes the amount of any such charge or payment, without express authority having been provided for in the enabling legislation;
5. imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
6. tends directly or indirectly to exclude the jurisdiction of the courts without express authority having been provided for in the enabling legislation;
7. has not complied with the *Statutory Instruments Act* with respect to transmission, registration or publication;
8. appears for any reason to infringe the rule of law;
9. trespasses unduly on rights and liberties;
10. makes the rights and liberties of the person unduly dependent on administrative discretion or is not consistent with the rules of natural justice;
11. makes some unusual or unexpected use of the powers conferred by the enabling legislation;
12. amounts to the exercise of a substantive legislative power properly the subject of direct parliamentary enactment;
13. is defective in its drafting or for any other reason requires elucidation as to its form or purport.

Your Committee recommends that its quorum be fixed at 4 members, provided that both Houses are represented whenever a vote, resolution or other decision is taken, and that the Joint Chairmen be authorized to hold meetings to receive evidence and authorize the printing thereof so long as 3 members are present, provided that both Houses are represented; and, that the Committee have power to engage the services of such expert staff, and such stenographic and clerical staff as may be required.

Your Committee further recommends to the Senate that it be empowered to sit during sittings and adjournments of the Senate.

Your Committee, which was also authorized by the Senate to incur expenses in connection with its permanent reference relating to the review and scrutiny of statutory

instruments, reports, pursuant to Rule 104 of the *Rules of the Senate*, that the expenses of the Committee (Senate portion) during the Third Session of the Thirty-seventh Parliament were as follows:

Professional and Other Services	\$ 202
Transport and Communications	\$ 0
All Other Expenses	\$ 396
Total	\$ 598

A copy of the relevant Minutes of Proceedings and Evidence (Issue No. 1, First Session, Thirty-Eighth Parliament) is tabled in the House of Commons.

Respectfully submitted,

JOHN G. BRYDEN
Joint Chairman

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

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

[Translation]

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

THIRTEENTH ANNUAL BILATERAL MEETING,
AUGUST 22-28, 2004—REPORT TABLED

Hon. Marie-P. Poulin: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Japan Inter-Parliamentary Group on the thirteenth annual bilateral meeting held at Toronto, Cambridge, Niagara-on-the-Lake and Banff, from August 22 to 28, 2004.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

Hon. Lise Bacon: Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

Hon. Lise Bacon: Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to engage services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

[English]

QUESTION PERIOD

PUBLIC WORKS AND GOVERNMENT SERVICES

SPONSORSHIP PROGRAM— INVOLVEMENT OF PRIME MINISTER

Hon. David Tkachuk: Honourable senators, the Prime Minister continues to hide behind the Gomery commission by refusing to answer questions about his staff intervening in the sponsorship program on behalf of a Liberal fundraiser.

Given that the Prime Minister continues to stonewall the other place, perhaps the Leader of the Government in the Senate could answer this question: When did the Prime Minister know that his office was calling Alfonso Gagliano to secure sponsorship money for the Liberal fundraiser?

Hon. Jack Austin (Leader of the Government): Honourable senators, the Gomery commission has been put in place to examine every possible issue that arises out of the sponsorship inquiry. I believe, and it is the view of the government, that questions with respect to matters that are before the Gomery commission should be left there.

Senator Tkachuk: Honourable senators, the government cannot avoid answering questions about the sponsorship scandal by continuing to refer to the Gomery commission. This has nothing necessarily to do with the Gomery commission. This is a question of Parliament. The Prime Minister, by his own statements, has said that he wants to get to the bottom of this matter, yet he refuses to answer questions in this regard.

Last spring, the *National Post* reported that in February of 2002, while he was still in cabinet, Paul Martin received a letter from the party's policy chair, Akaash Maharaj, asking that he prepare a fact-based reply to the growing rumours that funds from the sponsorship program were being diverted through advertising firms closely linked to the Liberals. It was, in Mr. Maharaj's words, "a creeping miasma over the party," and the Prime Minister continues to pretend he knew nothing about "adscam." Did the Prime Minister ever bring this letter or the questions on "adscam" with regard to the sponsorship problems to the attention of the Leader of the Government in the Senate or to past leaders of the Liberal Party in the Senate?

• (1500)

Senator Austin: Honourable senators, this issue arose prior to the last election and was debated in the last election. The letter from Akaash Maharaj is a well-known letter, and there is nothing new in the comments of Senator Tkachuk.

I believe the best way to find objectively what took place — whether anything was done that was illegal or improper, whether anyone carries any particular responsibility — is by way of the

Gomery commission. That is what the opposition parties asked for. They asked for a thorough, impartial investigation, and that thorough, impartial investigation is underway.

Senator Tkachuk: I understand that that investigation is underway. I did not ask a very difficult question of the government leader. I simply asked whether the government leader was made aware of that letter by the Prime Minister. Did the Prime Minister ever bring to the government leader's attention what was transpiring in the sponsorship scandal or information about the letter he had received from the party's policy chair, which is an important position in the Liberal Party of Canada? Government members cannot refuse to talk about or answer any questions about this matter. They cannot simply leave it to the Gomery commission to come up with answers. Government members have a responsibility to Parliament. The government leader in this place has a responsibility to tell us what he knew, what his past leader knew and what the current Prime Minister knew. The government leader cannot just say, "We have the Gomery commission out there." It is important that he ask those questions.

The Prime Minister was out of office when the Auditor General tabled her report last February. Did the Prime Minister at that time make any calls to his former staffers to find out whether anyone from his office had been involved in "adscam"; or did he make any calls to members of Parliament or senators who were supporting him in his leadership attempts to see whether they were involved in the sponsorship scandal?

Senator Austin: Honourable senators, Senator Tkachuk has made an error of fact. The tabling of the Auditor General's report was February 10 of this year and Prime Minister Martin was in office at that time. It certainly is an event that I recall with real clarity.

With respect to the rest of Senator Tkachuk's question, his party is represented by counsel before the Gomery commission. The best way for these issues to be dealt with is by counsel in the order of proceedings of the Gomery commission. That is what lawyers call the best evidence, and that will be the place where these issues are best examined objectively. That is what Canadians want. Canadians want an objective analysis of what took place, a clear appraisal, an untainted bipartisan argument.

Some Hon. Senators: Hear, hear!

Senator Tkachuk: It was the Prime Minister who said to Parliament that he wanted to get to the bottom of this matter and that he did not know anything about it.

Information is now coming out that he did know something about it. Whether a prime minister tells Parliament the truth is a matter of Parliament, a matter of the other place and of this place. Hence, these questions should be answered by the leader in this place.

Senator Austin: Honourable senators, we can continue with the questioning and the responding, but the Prime Minister is in the other place and he can be asked questions directly in the other place as to his conduct.

The Prime Minister, however, is entirely entitled to say that we have a judicial commission investigating all of the facts and the behaviour of all of the relevant people, and that commission will come to a conclusion as to whether anyone has conducted themselves improperly and/or illegally.

In addition, the process in question is one that has been accepted by the Canadian people as the right process, and I certainly believe it is the right process.

FOREIGN AFFAIRS

CANADA CORPS—MANDATE, MAKE-UP AND INVOLVEMENT WITH CANADEM

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate.

In his reply to the Speech from the Throne in February — and I emphasize February — the Prime Minister promised to create Canada Corps. Nearly nine months after Canada Corps was conceived, this government has failed to effectively give it life. At the time of the latest throne speech, Canada Corps still lacked a mandate, employed only six people, and did not as yet have a telephone number.

When will Canada Corps receive a mandate and be up and running?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am delighted with the implication of Senator Oliver's question, which is that he heartily endorses the concept of Canada Corps, and I assure him that the development of its terms of reference, its personnel, and its engagement in its work is one to which this government is devoted.

Senator Oliver: Honourable senators, the program was originally intended for youth, but according to reports circulating it now includes constitutional experts, retired police officers, teachers and even former MPs.

Can the leader explain to the chamber why the focus of Canada Corps seems to have changed?

Senator Tkachuk: Liberals needed jobs.

Senator Austin: Honourable senators, I think that the answer will be best given when the government makes its official announcement with respect to Canada Corps. That announcement, I hope, will be relatively soon.

In the meantime, I know Senator Oliver recognizes that he is talking about highly competent and well-trained people who can be effectively employed in building human capacity in countries that are willing to accept Canada Corps' role.

Senator Oliver: Honourable senators, in the late 1990s, an organization named CANADEM was created, which, with government funding, has for the last seven years helped send

Canadian experts abroad to promote democracy, peace and security in the world. Its roster also includes skilled experts from a variety of fields.

Can the Leader of the Government explain how Canada Corps will differ from CANADEM, and can he reassure honourable senators that the former will not duplicate the work of the latter?

Senator Austin: Honourable senators, again, Senator Oliver's interest and my own will have to await a detailed government announcement.

However, let me assure the honourable senator that there will be no overlapping or duplication. There will, however, be a concentrated effort in this area of human capacity development.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

APPLICATION OF LEARNING BOND PROGRAM

Hon. Marjory LeBreton: Honourable senators, last week I identified a problem with provincial welfare rules that could prevent children whose parents are on social assistance from benefiting from the proposed Canada Learning Bond. As of last week, almost eight weeks after the bond was announced, Ontario was contemplating changing its rules but has yet to do so. Has the government learned anything from this? Has it learned that what Ottawa gives in the area of social benefits, the provinces can and will take away, if the details are not ironed out in advance?

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator LeBreton for her question.

I will make inquiries to see what has taken place and whether there is an understanding or arrangement between the federal government and the Province of Ontario with respect to the Learning Bond Program.

Senator LeBreton: Honourable senators, that would be a good place to start.

SOCIAL DEVELOPMENT

GUARANTEED INCOME SUPPLEMENT— EFFECT OF INCREASE IN ONTARIO

Hon. Marjory LeBreton: Honourable senators, the Speech from the Throne also announced that the government would increase the Guaranteed Income Supplement, with details to come later.

• (1510)

Given the rules currently in place in the province of Ontario, low-income seniors in long-term care may not see a dime of any increase. That is because, for those with subsidized beds, their OAS and GIS cheques go directly to pay for that bed. The senior is left with a fixed comfort allowance of about \$112 per month, an amount the Ontario government said it plans to raise. If the GIS goes up, the increase may very well go to the provincial government rather than to the senior, who would be left at the same level. Ontario already has a Guaranteed Annual Income Supplement called GAINS. An increase in the GIS could affect the GAINS payment if it is not increased as well.

Has the government held any discussions with the McGuinty government of Ontario to ensure that Ontario passes on the increased GIS to those receiving long-term care and to those receiving GAINS?

Hon. Jack Austin (Leader of the Government): I will look into the question of the honourable senator and provide the answer as soon as I can.

JUSTICE

CHILD PORNOGRAPHY LEGISLATION— DEFINITION APPLIED TO ART WORKS

Hon. A. Raynell Andreychuk: Honourable senators, the government tabled, as its first bill in this new Parliament, legislation concerning child pornography. As honourable senators know, there was a great debate as to whether artistic merit, or the question of art, could be a defence in child pornography cases. This new attempt in the legislation to replace “public good” with “legitimate purpose” does not seem to solve the problem. It appears that the debate as to whether one can legitimately use art as a defence will continue under this bill.

Would it not be better for the government to explicitly state whether they will allow “art” or “artistic merit” to be a defence rather than to sit on the fence by using terms such as “legitimate purpose”?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will pass Senator Andreychuk’s representation, if that is what it is, or her question, on to the Minister of Justice for an answer.

Senator Andreychuk: Honourable senators, it is very important that the government state whether that defence will exist. Emotions are high in the community on both sides of this issue. As good public policy, the government had better state its position. If it does not, we will be back in the courts; we will not be supporting children and we will have needless divisions in our society. The government should not introduce legislation that leaves doubt to be resolved elsewhere. The matter should be resolved by the government.

Senator Austin: Honourable senators, again, I will pass that question along to the Minister of Justice. To state the obvious, both Houses will have the opportunity to examine that question when the legislation comes before them. Senators will, of course, have the ability to make their views known and, if there is a wish to make an amendment, to pursue that line as well.

AGRICULTURE AND AGRI-FOOD

CROP INSURANCE PROGRAM—POSSIBILITY OF ADJUSTMENT TO RULES FOR GRAIN FARMERS

Hon. Leonard J. Gustafson: Honourable senators, my question is directed to the Leader of the Government in the Senate. Due to the frosts in Manitoba, Saskatchewan and Alberta, and the snow that is now covering crops there, much of the crop will not be harvested in time for farmers to file for crop insurance. One of the regulations is that the crop must be harvested before they can apply for insurance.

Since the program is split between the federal and provincial governments, although the provincial governments have jurisdiction over it, could a message be sent stating that it is important to adjust the rules given the very difficult situation that has arisen due to the weather?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am advised that the Minister of Agriculture is aware of this situation and that officials are discussing the matter.

Senator Gustafson: I am pleased to hear that.

ORDERS OF THE DAY

FEDERAL LAW-CIVIL LAW HARMONIZATION BILL, NO. 2

SECOND READING—DEBATE ADJOURNED

Hon. Serge Joyal moved the second reading of Bill S-10, to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law.

He said: Honourable senators, Bill S-10 is important, even though it might look technical to many of you, because it is the second phase of a bill that we have debated at length in the previous Parliament, in fact in 2001, three years ago. The purpose of this bill is to harmonize the civil law of the Province of Quebec with the common law.

The word “harmonization” raises a fundamental question. What do we intend to do by harmonizing? In musical terms, harmonization means that two entities with different sounds will together play something in common.

One characteristic of our country, which dates back a long time, is that we have two legal traditions for dealing with our relationships in trade, commerce, contracts and, of course, the family structure — the responsibilities of parents, children and so on. These two traditions come from the two greatest worldwide traditions of law, those being the common law and a civil code. Of course, my honourable friends know well the distinction between the two.

[Translation]

One is based on precedent, and the other, of course, on a systematic codification which tells us, through reference to a code, how the law is applied in specific contexts: family law, contracts, obligations, wills, bills of exchange and commerce-related matters in general. Canada is known for having the benefit of these two legal traditions.

[English]

When we talk about the two legal traditions of Canada — the common law and the civil law — we are omitting a third source of Canadian law, and that is the Aboriginal common law.

• (1520)

When I reviewed Bill S-10, I tried to understand where we come from in terms of Canadian common law and the Quebec Civil Code. I was thinking about the Erasmus-Dussault report on the Aboriginal people of Canada, which I would say is the bible to understanding the status of the Aboriginal people in Canada. When we state that there are only two legal traditions in Canada, we are omitting another important tradition. I should like to quote from the Erasmus-Dussault report, which is entitled "Aboriginal Peoples and the Justice System." At page 43, the report states:

In the Aboriginal experience "the organizing and regulating force for group orders and endeavour...was custom and tradition." "Customs were derived from the Creator," and because they were spiritually endowed and through history had withstood the test of time, they "represented the Creator's sacred blueprint for the survival of the tribe."

In other words, the customs and traditions for Aboriginal people have a direct link with what seems to be the balance between the members of the tribes.

This reality is truly recognized by the National Assembly of Quebec. This year is the tenth anniversary of the new Civil Code of Quebec, adopted in 1994, following 40 years of trying to revise the original civil code that was adopted in 1865, two years before Confederation. I had the privilege to attend the opening of the exhibition last month at the National Assembly of Quebec, where I obtained a copy of the exhibition catalogue. I was invited by the Speaker of the National Assembly, Mr. Michel Bissonnet, and the Minister of Justice, Jacques Dupuis. Let me quote from the catalogue, which states:

[Translation]

In the territory of New France, the customs of the Amerindians co-existed for a long time with the legal traditions of the mother country, each one based on centuries-old rules handed down through the generations. The Amerindian people lived according to the customs and instructions taught by their clan elders. These customs, often varying from one nation to another, constituted the legal standards applied to life in society. For instance, although monogamy was not obligatory, it was generally practised. Spouses were considered each other's equals. Women had some authority within the family and the community, and the education of children was a collective responsibility.

[English]

Honourable senators, I want to say that in fact there are three legal traditions in our country. As I mentioned previously, we have the British common law, which was important to Canada in 1760 with the events that took place at that time. We have the civil code, which was introduced as a source of law in 1664, when Louis XIV decided that la Coutume de Paris would be the civil law system of New France. At the time, there were many different customs from various regions of France — that is, from le Poitou,

L'Anjou, la Normandie, l'Aunis, la Charente — where immigration was coming from France. Each region had its own customs, and there was a conflict of interpretation of customs. Louis XIV finally decided that there will be one system, that la Coutume de Paris will be in force in New France.

That is origin of the Quebec civil code. La Coutume de Paris was applied from 1664 to 1760, cohabiting with the Aboriginal common law. There is no doubt that, through the years, the Aboriginal common law, or the Aboriginal customs and traditions, gave way to the common law or to the civil code in Quebec — I see our colleague Senator Gill here — and in other parts of Canada to the British common law.

If we want to be true to the legal reality of Canada, we must recognize that we have two systems that are interpreted in Canada in terms of private rapport between citizens, the common law and the civil code. However, there is still, to a point, subliminal among the Aboriginal population of Canada, a heritage of common customs and traditions that, sooner or later, we will have to address.

I am not in a position today to continue the debate on this aspect of the Canadian reality, but we in the Senate are particularly sensitive to the plight and the condition of our Aboriginal colleagues, and one day we will have certainly to address that aspect. However, that is not the purpose of the stand that we are called to consider today.

[Translation]

Today we are celebrating the tenth anniversary of the new Quebec Civil Code. It is not inappropriate for this bill to be before us because its aim is to harmonize federal legislation and the civil code tradition, in written law.

[English]

In other words, honourable senators, we are talking about a written set of rules and the common law, a heritage of precedents.

How can we come to the conclusion that we can express two legal traditions in the federal legislation? It is like speaking two different languages. If we want to have a third language, how can we marry those two languages to have a third one? The first thing to rely upon is terminology. It is important to understand the terms. In the last 20 years, the Department of Justice, with the support of the Provinces of Manitoba, Ontario and New Brunswick, has worked to develop a lexicon of legal terms — in other words, bilingual terminology records. Hence, when the federal Department of Justice drafts legislation, the drafters do not draft legislation in the legal tradition of common law and then translate it into French for the civil code; rather, the drafters draft the legislation with the terminology that applies equally in the civil code and in the common law.

That process, which has been successful, would not have been possible without the support of the Provinces of Ontario, Manitoba and New Brunswick especially — and I am thinking here of the University of Moncton, which was very helpful in that regard.

[Senator Joyal]

When the federal government has to harmonize its legislation, what is the task to perform? Honourable senators, 600 statutes and 3,000 bylaws. I heard our colleague Senator Bryden today reporting on the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations. This is a mammoth task that is being facilitated by this lexicon of terminology.

Canada is unique in this regard. If there is something unique that we are doing in Canada — even though, as I mentioned, three quarters of the countries in the world, 189 that are members of the United Nations, use either the common law or the civil code system — we are the only country in the world that has developed the capacity to express ourselves in both legal systems. This is quite an achievement. It is an achievement similar to that of Senator Gauthier fighting in the courts to have the meaning of “rights” recognized. The content of rights must be the same when you read a federal statute, be it in English or in French.

• (1530)

That is essentially the challenge. The Quebec Civil Code is written in French, of course, and in English. It is printed in both languages, and each version is equal and carries the same weight when interpreted. In the same way, the English and French versions of the common law are equal. One might say that this analysis is too technical, simply become lost, and give up. However, when a judge, a drafter or a senator has to read and understand a bill, the proposed legislation must lend itself to equal interpretation under English or French common law and under both the French and English versions of the civil code. That is quite an achievement.

We should recognize that the first bill adopted in 2001 contained a preamble, on which Senator Nolin and I spent so much time to air our differing views. Senator Murray, too, took part in the debate. This bill does not have a preamble as Senator Nolin asked of me, so I will spare you my thesis on whether a preamble should be included.

We must recognize that the desired result of the overall exercise is that the civil code and the common law tradition will develop, both in accordance with their own genius and so that both will achieve something in common. Essentially, that is in keeping with the philosophy of this country, that is, we maintain our identity while we move forward together. We want to join our respective genius, talents, resources and diversities in creating a multi-ethnic and diverse society in which we can live and thrive together. Canada will be a more diversified country in the years to come.

This is an important exercise. Bill S-10 contains amendments to 26 different statutes.

[Translation]

Bill S-10 amends 26 statutes, all of which were amended in the first harmonization in 2001. The Bankruptcy and Insolvency Act takes up almost three quarters of the bill. I will spare you the details of it; only rabid accountants understand it, even lawyers have difficulty finding their way around in it. I see Senator Nolin smiling at this.

Bill S-10 contains a significant number of provisions aimed at harmonizing the Bankruptcy and Insolvency Act with the terminology and concepts of the civil code and the common law.

New legislation is now drafted immediately with the benefit of the lexicon I mentioned earlier, but many laws passed over the years obviously do not reflect the terms or concepts contained in the civil code. The exercise will be ongoing and lengthy, and as senators we have to realize that in the coming months and years we will have other bills intended to adjust the two traditions in our statutory language. As I was saying earlier, 600 different statutes and 3,000 regulations are involved.

That said, Canada's legal heritage is extremely important. We are trying to bring about the marriage within a single reality of concepts now based on identical principles. Two principles, essentially, guided the revision of the Quebec Civil Code in 1994: those contained in the Quebec Charter of Human Rights and Freedoms and in the Canadian Charter of Rights and Freedoms and the fundamental principle of the equality of individuals. These two series of principles were, at the time, revolutionary in contrast with the old Quebec Civil Code of 1865, which enshrined inequality between men and women. It established the principle of paternal authority and considered women to be minors.

Fortunately, this code, which was in effect for many years in Quebec, has been replaced with a new code based on the inalienable principle of equality of people and the Charter principles and, more important, the principles of international conventions on the rights of the child. In recent years, children have been recognized as full subjects of law, while previously, in codes and legislation, children were under full guardianship of their parents and, therefore, the paternal authority had final say on just about any decision a family made. The new code is consistent with Charter principles, the principle of equality of people, just as the British-inspired common law was brought into line with similar principles. This means that, while we have two separate sources of law, they have a common basis, and both draw on the same principles even if they reflect various realities with particular nuances and adjustments. What is said to be “immovable,” in English, does not have a perfect equivalent when used with the expression “real property,” and when a judge or an interpreter of law tries to understand what a law means, they have to do so with only one definition. What is remarkable is that not a single one supersedes the other.

[English]

They are equal. They are two sources of law and neither one takes precedence over the other; neither one should be set aside to grant privilege to the other. To achieve that is a remarkable exercise that is unique to Canada.

Honourable senators, I am hopeful that Bill S-10 is referred to the Standing Senate Committee on Legal and Constitutional Affairs.

I look forward to the day when we formally recognize the third source of law in Canada — the Aboriginal peoples' common law — and to the day when the special definition of rapport among Aboriginal peoples and the various tribes is reflected in one way or another in Canadian legislation. Only when we achieve that will we have true recognition of the equality of diversity that we currently have with the common law and the civil code.

On motion of Senator Nolin, debate adjourned.

• (1540)

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY— MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Munson, seconded by the Honourable Senator Chaput, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the First Session of the Thirty-eighth Parliament,

And on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that the following be added to the Address:

“and we urge Your Excellency's advisors, when implementing the details of their proposals, to review the Employment Insurance program to ensure that it remains well-suited to the needs of Canada's workforce, to reduce and improve the fairness of taxes, to be unwavering in the application of fiscal discipline, to examine the need and options for reform of our democratic institutions, including electoral reform, and to rise above partisanship to address the public interest;

That Your Excellency's advisors consider the advisability of the following:

1. an Order of Reference to the appropriate committee of each House of Parliament instructing the committee to recommend measures that would ensure that all future uses of the employment insurance program would only be for the benefit of workers and not for any other purpose;

2. opportunities to further reduce the tax burden on low and modest income families consistent with the government's overall commitment to balanced budgets and sound fiscal management;

3. an Order of Reference to the appropriate committee of each House of Parliament instructing the committee to make recommendations relating to the provisions of independent fiscal forecasting advice for parliamentarians including the consideration of the recommendations of the external expert;

4. an Order of Reference to the appropriate committee of each House of Parliament instructing the committee to recommend a process that engages citizens and parliamentarians in an examination of our electoral system with a review of all options;

5. with respect to an agreement on ballistic missile defence, the assurance that Parliament will have an opportunity to consider all public information pertaining to the agreement and to vote prior to a government decision;

And we ask Your Excellency's advisors to ensure that all measures brought forward to implement the Speech from the Throne, including those referred to above, fully respect the provinces' areas of jurisdiction and that the financial pressures some call the fiscal imbalance be alleviated.”—(4th day of resuming debate)

Hon. Ione Christensen: Honourable senators, it is my pleasure to respond to the Speech from the Throne. Such documents are, by their very nature, lacking in detail, but they are strong statements of intent and set out a path that the government of the day will follow during its mandate. It is always noteworthy to have a region or an issue mentioned in the speech, as it clearly shows the importance that the government places upon it.

Those of us from the northern territories were greatly encouraged by the prominence given to northern issues: economic development, additional health dollars, and an issue of great importance, the enhancement of our northern sovereignty. This is particularly true with the implications of global warming and the heightened exploration of oil and gas in our Arctic coastal waters. Reference was also made to territorial formula financing.

We also benefit from the many other commitments that apply to all Canadians, like sharing the gas tax with communities. This can make a huge difference to a small northern city or town with low populations but high operation and infrastructure costs.

The national system of early learning and childhood care, New Horizons program for seniors and additional funding for Aboriginal health care are all areas that make a very big difference with well-placed dollars.

The section of the throne speech that really caught my attention was the mention of fetal alcohol syndrome, FAS. I found it encouraging that the government had decided not only to recognize this difficult disorder but also to target it. Hopefully it will lead to a better way of life for those living with FAS as well as to prevent future cases. Unlike many disorders, this one is totally preventable. We do not need to find the cause. We already know that it is the effect of alcohol on the developing fetus.

Honourable senators, fetal alcohol syndrome is one of the disorders that falls under the wider group of fetal alcohol spectrum disorder, or FASD. FAE, fetal alcohol effects, and alcohol-related neurodevelopment disorder, ARND, describe other effects within the spectrum.

FASD is caused by prenatal exposure to alcohol. Because the effects on the fetus vary, severity of the problem can range from minor to very severe, with fetal alcohol syndrome being the most extreme. Impairments of FASD are cognitive, behavioural, physiological and physical and will affect the child over his or her lifetime.

The prevalence of FAS is greater than in either Down's syndrome or spina bifida, and the prevalence of FAE is five to ten times higher than that of FAS. In other words, of 350,000 babies born in Canada each year, 728 will have FAS, while another 3,640 will have fetal-alcohol-syndrome-related birth defects.

The secondary syndromes of FAS victims relate to quality of life characteristics: 90 per cent have mental health problems; 60 per cent will be expelled or suspended from school or will drop out; 60 per cent will get into trouble with the law; 50 per cent will exhibit inappropriate sexual behaviour; 30 per cent will abuse drugs or alcohol; 80 per cent will not be capable of living independently; and 80 per cent will have employment problems. What is so tragic is that these severe problems could have all been prevented if the mother had received support in abstaining from alcohol during her pregnancy.

Obviously this issue needs to be addressed and, with the support of the government, some major changes can happen. I am concerned, however, that FAS was mentioned under the Aboriginal heading. It is unfair to associate FAS only with the Aboriginal community. While it is true that in Canada the rates of FASD are much higher in Aboriginal communities, any community in the world where alcohol is consumed will be affected by FASD.

In a recent conference I attended on fetal alcohol spectrum disorder, an American presenter gave us some new information about high-risk groups. Single white women with an income of over \$50,000 a year are the fastest growing group at risk in the United States. Frequent business lunches and the use of alcohol as part of their career development have contributed to this new phenomenon. This is strong evidence that FASD does not discriminate on the basis of race or socio-economic status.

Unlike so many other afflictions that we face in society today, no funds are required to reach a cure. It is not a disease. While it is true that the mother may suffer from the disease of alcoholism, often it is the lack of awareness in women of child-bearing age that will cause the damage. We know what causes FAS, and it is totally preventable.

Unfortunately, the most severe damage to the child can occur during the first four to six weeks after conception, a time period when many women are not aware that they are pregnant. Once affected, the child is affected for life, and the cost to society is growing.

Parents bear the burden of care in the early years, but when the child becomes an adult, society has no safe place for this individual to go. People with fetal alcohol spectrum disorder often end up on our streets, in our welfare system and in our penal institutions.

Children with FASD are often treated with other children suffering from different disorders, and the treatments are totally inappropriate. This is why early diagnosis can make a huge difference. When you know the cause, both the child and those working with him or her can better understand the problem and learn how to live with it.

Each year, we are learning more and more about the effects, but we have a long way to go to help both the child and the caregivers. From birth to old age, people with fetal alcohol spectrum disorder need support. Proper training and programming is needed at all levels so that those individuals can live as full a life as possible.

FASD is not passed on genetically, so a woman with FASD can have a perfectly healthy baby. However, we know that half of the mothers of children with FASD have undetected FASD themselves. In other words, if we could diagnose one child, we can help prevent another baby from having FASD.

In 2000, two studies were done in Canada looking at public awareness of fetal alcohol syndrome and the effects of alcohol on pregnancy. One nation-wide study surveyed Canadian men and women. The second study asked the same question, but respondents were from north of 60.

In the Canada-wide study, men were more likely than women to think that alcohol use was safe while a woman was pregnant. They also found that women between the ages of 18 to 24 who were well educated and drank were more likely to be influenced if their partners stopped drinking during their pregnancy. Unfortunately though, three out of every ten men indicated they would not stop drinking if their partners were pregnant. Obviously, we have a long way to go with awareness, and not just for women.

When asked about the most frequent effects of FAS, 29 per cent of northerners surveyed indicated learning disabilities, as opposed to only 10 per cent of the country-wide respondents. When asked what women could do to increase the chances of having a healthy baby, cutting down on alcohol consumption or stopping drinking during pregnancy came first on the list for the northern respondents. In the Canada-wide survey, it came third on the list, after a healthy diet and decreasing or stopping smoking. As one can see, there were significant differences between the two surveys in understanding what FAS is and is not.

Whatever the reasons, it is clear that FASD prevention and programming is dealt with differently in each province and territory. In 2001, Health Canada published a situational analysis looking at various activities such as prevention, intervention, research and policies with regard to FASD. It showed how each province and territory had a different approach. Only three provinces used warning signage about alcohol and pregnancy in establishments where alcoholic beverages were either sold or served. Yukon was and is the only place in Canada to have legislated warning labels on alcoholic beverages.

Alcohol can harm fetuses even at relatively low levels of exposure, but we do not know what exact levels can be considered "safe." FASD can affect children who have been exposed to very little alcohol, while other women who are alcoholics or who have drunk on occasion can deliver healthy babies. This is why we have to be careful and to make awareness and prevention our priority. We know for a fact that a pregnant woman is taking a risk if she drinks alcohol when pregnant.

• (1550)

For some reason, though, we do not talk about this in our society. While we hear much about the dangers of drinking and driving, we avoid connecting pregnancy and drinking. Fetal alcohol spectrum disorder is a social problem that can be prevented. Yesterday, Senator Trenholme Counsell gave us information on the long-term development of the infant brain. When alcohol is introduced during that development, the child is at high risk for FASD.

We need more awareness programs at both the federal and provincial levels to help families and the community, who can, in turn, help the mother at risk. A mother of an FAS child needs all the support that she can get to ensure that she does not have another FAS pregnancy, but she cannot do it alone. There is much denial in families, communities and even in some caregivers, but with strong, daily support, an expectant mother can deliver a healthy baby.

There is currently a private member's bill, Bill C-206, in the House to amend the Food and Drug Act providing for the labelling of alcoholic beverages to warn people of the dangers of consuming alcohol when pregnant. We have recognized the need for such labelling of cigarettes. Surely we can do no less to protect the health of an unborn child.

Honourable senators, when that bill comes to the Senate I will ask for your support. It may seem like a small step, but it is a good first step. Awareness is what it is all about. A healthy baby is what it is all about. We can help to prevent the preventable.

On motion of Senator Stratton, debate adjourned.

[*Translation*]

OFFICIAL LANGUAGES

BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

Hon. Jean-Robert Gauthier moved the third reading of Bill S-3, to amend the Official Languages Act (promotion of English and French).

He said: Honourable senators, this is the fourth time I have tabled this bill. You will remember that, on March 11, 2004, the Senate unanimously passed Bill S-4. That bill was sent to the

House of Commons for review and consideration. Second reading began on April 22, 2004. However, Parliament was dissolved in June 2004 for the general election and my bill died on the Order Paper.

[*English*]

Bill S-3 is essentially the same as Bill S-4 with a few minor changes in the wording. The summary now specifies that the provisions in question are in Part VII of the Official Languages Act.

[*Translation*]

Because of the restrictive interpretation of the Department of Justice to the effect that section 41 is declaratory, no statutory regulations have been adopted since this section came into effect in 1988. As you know, an act is discretionary and it sets an objective. A regulation is not discretionary, because it specifies how the objective is to be achieved.

In other words, without regulations, an act or a section of an act is about as useful as a watchdog without teeth.

It is rather difficult to go before the courts when an act has no regulations, when we do not know how to implement it.

The Commissioner of Official Languages cannot be part of a legal action under section 41, because Part X of the act, or section 77, excludes that possibility.

In short, Bill S-3 pursues three objectives. First, it specifies the binding nature of the government's commitment in Part VII of the act.

Second, it imposes an obligation on federal institutions to implement this commitment and gives the government the possibility of enacting regulations for that implementation.

Third, Bill S-3 provides a power of recourse enabling the courts to monitor application by governments and the Commissioner of Official Languages to support that recourse.

When a law imposes an obligation, it must come with a power of recourse that allows the courts to monitor application of that law. As I have said, and say again, there can be no rights without recourse.

Some may, no doubt, argue that the government took positive action when it presented an action plan last year. That plan, of which we greatly approved, was the object of much reflection by several federal ministers. It focuses on certain federal institutions, I will admit, but there are many others, such as agencies and Crown corporations.

What we need are clear and precise directives to know how to implement the act. Regulations are needed. That is the purpose of this amendment, one I have already proposed several years ago, which was passed on numerous occasions here in this chamber. The government has a credible and satisfactory plan. It must be implemented, thereby eliminating any possibility of ambiguity which might reduce or repress some of the enthusiasm prevailing in some circles.

[Senator Christensen]

The official language communities need to feel that they have the support of government and the courts. Every gain relating to official languages has been hard won. All were confirmed subsequently by the courts. Whether with respect to education, health or social services, the courts backed us up, but we need still to be able to make use of those gains.

In my opinion, section 41 is the very heart of the Official Languages Act. It states that the government is committed to enhancing the vitality of the English and French linguistic minority communities in Canada, and supporting and assisting their development. That commitment is clear.

This clause is declaratory, I am told. So, it means nothing. It is only an expression. It is legal language that is used to avoid saying anything specific. I do not understand the meaning of this statement.

I think it should be pointed out that the amendment in question, proposed in Bill S-3, is only intended to clarify the power of the government to enact a regulation.

Part VII is the only part of the act that does not include regulations.

• (1600)

Part VI has an entire section saying that the Governor-in-Council may make regulations. That is proper, and it specifies how the law is to be applied. Section 41, which I believe is very important, contains no provision for regulations.

The power to make regulations would enable the government to specify the extent of the obligations on federal institutions regarding community development. This, of course, is a discretionary power. The government is not obliged to make regulations, but it would be useful.

First, for example, federal institutions could be required to determine whether their policies and programs had any impact on the promotion of linguistic duality and the development of minority communities, from the earliest stages of their formulation right through to implementation.

Second, they could, if appropriate, consult the people affected — in particular the representatives of official languages communities — as part of the framework for developing and implementing the department or agency's policies and programs. A consultation is not a big thing to ask for. It was forgotten in the Maritimes.

In the Acadian Peninsula, for example, the Canada Food Inspection Agency was taken to court by the Forum des maires de la péninsule acadienne, because the agency had neglected to consult, to tell people what it was doing — it cut jobs. The Forum des maires, a group of municipalities went to court and won in the Trial Division of the Federal Court. The government appealed. The appeal court overturned the ruling by the Trial Division judge, Mr. Justice Pierre Blais. Now I hear the matter is going to the Supreme Court.

These things are very costly in time and energy. This is how communities are exhausted. The fight takes its toll, and people give up. This is what we call assimilation, and it threatens all of us in Canada. Balkanizing the two official languages, having French in one province and English in another, I do not believe in. My Canada is more inclusive than that.

Federal institutions would also need to be able to describe their approach and show how they have considered the needs of minority communities. This is essential if we are to have living communities.

I did not make up what I have just said. It appears on pages 70 and 71 of the Action Plan, where they refer to the famous regulations. We have it before us, then, clearly and precisely.

[English]

The bill takes into consideration most of the recommendations made by the Official Languages Commissioner in the last reports. The commissioner recommended clarifying the binding nature of the commitment. In order to ensure its implementation, she stated that the proposed legislation would provide for regulation-making authority. This is, in essence, what I am seeking to do with Bill S-3.

We pay attention when the Auditor General speaks. The media pay attention. However, when the officer of Parliament for official languages speaks, I listen, and the Senate has listened. I can give you many prior examples. The Commissioner of Official Languages is an officer of Parliament. If an officer of Parliament tells us we should do certain things, I think we should listen attentively.

This bill has been studied by the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

The Standing Senate Committee on Legal and Constitutional Affairs heard 35 witnesses at eight meetings. The official languages committee looked at the bill and said that it agreed. We just brought it back to you today. I am asking you in all sincerity: What more can we do?

If you want to be nice, pass this bill at third reading. Send it to the House of Commons. If there are objections, recommendations, improvements, if they want to improve it, fine! However, this will show that the Senate has a role to play, an important role to protect minorities and to defend the rights of minority groups and communities. Such is our calling as senators: We must protect the regions and protect minorities.

I thank you and I am confident that you will heed my request.

On motion of Senator Stratton, for Senator Comeau, debate adjourned.

CRIMINAL CODE

[English]

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Jean Lapointe moved the second reading of Bill S-11, to amend the Criminal Code (lottery schemes).—(*Honourable Senator Lapointe*)

Honourable senators, Bill S-11, formerly Bill S-6 and Bill S-18 — I hope we do not end up at Bill S-100 — has reached the stage of consideration in committee.

Many of you have already had the opportunity to speak on this matter in past sessions of Parliament. I therefore urge you to support my motion to refer Bill S-11 to the Committee on Legal and Constitutional Affairs as soon as possible.

Honourable senators, we must speed up the legislative process to save lives and help those entrapped by these infernal video poker machines or video lottery terminals, commonly known as “VLTs,” in certain provinces.

A few weeks ago, I received a telephone call from a woman who begged me not to abandon the fight, because she had just lost her 17-year-old son. He had committed suicide because he owed money to loan sharks. He owed them \$2,500 or \$2,700; I do not remember the exact amount, but that does not matter. The point is that his debt was due entirely to video poker machines. He was 17 years old, and he had lost all this money in three months. He must have been 16 years old when he started. This means that bar owners are not doing their job of monitoring.

Frankly, this is only one of hundreds of horror stories that have come to my attention since the bill was first introduced.

As I have said repeatedly, the scourge of video poker can leave no one unmoved, and I hope with all my heart that this bill can pass as quickly as possible.

• (1610)

Honourable senators, in my humble opinion, when these accursed machines are no longer available on virtually every block in eight of our provinces, when our fellow citizens are no longer driven to suicide because of them, when families stop breaking apart because of them, young people stop developing gambling addictions because of them, and senior citizens stop squandering their RRSP money on them, our allies, the provinces, and the country as a whole will be far better off.

To paraphrase what Senator Gauthier said a little earlier, let us make Canadians aware of the importance of the work done in the Senate. Bill S-11 would then be more than mere words. It would be tangible proof of that importance.

On motion of Senator Stratton, debate adjourned.

STATUTES REPEAL BILL

SECOND READING—DEBATE ADJOURNED

Hon. Tommy Banks moved second reading of Bill S-5, to repeal legislation that has not come into force within 10 years of receiving Royal Assent.

He said: Honourable senators, I will take the least possible amount of time because this bill is identical to one that existed in the previous Parliament, and perhaps all senators here have heard my original rationale for the need for this bill. I will try to condense my comments because I propose that it should be referred to committee for study at the earliest opportunity, and I hope that honourable senators will concur with my view.

I will take a moment to remind honourable senators why this bill came about. There was once a bill called Bill C-37 to create the Canadian Heritage Languages Institute Act, which was passed by the House of Commons, the Senate and which received Royal Assent. A constituent of mine brought to my attention that the act had never been given force and effect. When that was brought to my attention, I was less experienced in these matter than I am now, and I got into a state of high dudgeon and tried to find out why the act had never been put into effect. I assumed it was because of the intransigence of some bureaucrat somewhere who was flouting the will of Parliament.

However, my then assistant, who knew then and knows now a great deal, told me to calm down, and read the fine print, read the whole bill, including the bits near the end. I did just that, and I realized I had been given excellent advice. I found a clause called, “Coming into Force,” by which means the government often proposes to Parliament, and Parliament agrees, that the bill in question will be brought into force at a time when the government determines that it will be brought into force.

I did some homework and made inquiries of many of my colleagues here and found out that there are many circumstances in which the government needs, must have and must enjoy that kind of flexibility. Sometimes certain acts will come into force subsequent to another action or in lieu of something else happening. The government needs to have, from time to time, that kind of flexibility. I decided to inquire, out of curiosity, how many such bills containing that flexibility were in place but had not, over a long period of time, been brought into effect.

I was surprised to discover how many there were. They comprise a long list. Many are small pieces of amending legislation that had been enacted by both Houses of Parliament, received Royal Assent but which have never been brought into force.

I believed at the time and believe now that there is a reasonable length of time during which that freedom of action ought to be granted to this government or any future government. I have picked 10 years out of the air as the point at which a government should have to come back and seek the approval of Parliament again. The circumstances that obtained when that proposed

legislation was first introduced, discussed, deliberated and passed would be or could be totally different from the circumstances in which it might subsequently be brought into effect. That was so much the case that I saw some danger — I do not think I was looking for bogeymen under the bed — in the coming into force of some of those acts that are kept in the hip pocket of the government. I am not referring to only this government or the previous government or the next government; it may be applicable to the actions of governments several years from now. Unless we do something about it, all successive governments, whatever their stripe may be and whatever the circumstances in which they might find it useful, could bring into force these acts which might then be useful to achieve purposes which might be different from the ones for which they were originally intended and, certainly, in circumstances different from the ones in which they were devised.

Therefore, I have devised the bill, honourable senators, which is now before you. Bill S-5 states, in effect, that, at the first meeting of Parliament in each year, the Minister of Justice shall place before both Houses of Parliament a list setting out those acts of Parliament that have received Royal Assent, are at that point nine years old or more and have not yet been brought into force and effect.

The government would then have, according to the terms of this bill before you, a year in which to either bring an act into force or to come back to Parliament and ask that they be, by the enactment of a new act, given that flexibility again. If those things do not happen, then, on the following December 31, the legislation would be, perforce, repealed.

Honourable senators, that 10-year time limit is arbitrary. I picked it out of the air. It might be more desirable to have five years or 15 years. However, I think there should be a point at which legislation, which I have described and which has not yet been brought into force, should either leave us or be reintroduced. The mechanism by which the government might reactivate these bills or save them is something that I hope will be addressed by members of the committee who know a great deal more about how that might be done than I.

I suggest that a perusal of the list of those statutes shows that more than 30, having been passed in 1985, could be brought into force by the government tomorrow or 10 or 20 years from now, unless we do something about it. What I am proposing is what I have described to you.

I believe that 10 years is a prudent and sufficient length of time, after which, it seems reasonable to me, any government ought to be obliged to come back to Parliament and say, "We would like to keep this going." Failing that, according to this bill, the acts would disappear on the following December 31.

• (1620)

I will not bore honourable senators any longer with the provenance of this bill or the reasoning behind it, but I will ask that you assist in its forward progress by moving as quickly as possible to send it to the appropriate committee for proper study.

On motion of Senator Stratton, debate adjourned.

THE HONOURABLE JEAN-ROBERT GAUTHIER

CONTRIBUTION TO CANADA—INQUIRY

Hon. Sharon Carstairs rose pursuant to notice of October 19, 2004:

That she will call the attention of the Senate to the contributions to our country, to the francophone population outside of Quebec, to the citizens of Ottawa and particularly of Vanier and to those suffering from disabilities by the Honourable Jean-Robert Gauthier, Senator.

She said: Honourable senators, it is my great honour to rise today to pay tribute to the career of the Honourable Senator Jean-Robert Gauthier.

J.R., as he was affectionately known to us and many others in this community, was appointed to the Senate on November 23, 1994. After he took his oath of office, he took his seat next to me in this chamber, over there where Senator Cordy is presently sitting.

I knew of J.R., but I did not know him. As so often happens in this chamber, seatmates become friends. Unfortunately for J.R. and those who depended on his life of advocacy of minority issues, he soon found himself in a fight, literally, for his own life. For weeks and months, we learned how very tenuous his hold on life was. However, we also knew what a fighter he was, and we watched his struggle with compassion and empathy.

J.R. needed to learn to walk again. We watched as he went from wheelchair, to canes, and then to the very natty cane he now uses, which he talked about earlier this afternoon. Unfortunately, as a result of the medication he took in this trip to survival, he lost his hearing. Again, he had to relearn things that he had known. This time, he had to learn to use whatever was at his disposal to hear again. One of the things he learned to do was lip read, although he will readily admit that he lip reads French but not English. His bilingualism, which is superior in both official languages, regrettably did not carry over to lip reading.

J.R. would regularly visit my office when I was the leader. He would speak in English and I would write out my replies in English. We had no difficulty communicating because J.R. would have it no other way; one more example of what I think we would all declare to be his feistiness.

Of course his personal fight, which he fiercely and ferociously carried out, would come as no surprise to any of us, because J.R. has been fighting for others all of his life.

Minority education issues have always been dear to his heart. It was in the cause of education that he began his career of public service as he was elected to the Gloucester School Board in 1961 and served as its chair for four years. He was elected to the Ottawa School Board of Education in 1967 and served as its vice-chair. It was because of his dedication to the cause of language education in the official language of choice that he was honoured with a doctorate in education by the University of Ottawa.

In 1972, he chose a greater challenge. He was elected to the House of Commons and re-elected in 1974, 1979, 1980, 1984, 1988, 1993, seven times, representing almost 20 years of service in the other place. If one adds those years to the years as a school trustee and his years in the Senate, J.R. Gauthier has given 43 years of service to the people of his community. By any measure, it is an extraordinary career.

J.R.'s contribution to official languages has also been remarkable. Over the last few weeks it has given me pleasure to respond to emails I have received with respect to his Bill S-3. I have to tell the honourable senator that I have not received any positive emails about his bill, but it has still given me great pleasure to respond to them. In fact, one I received today was a tirade over the millions of dollars wasted on bilingualism. This person could not possibly understand why the Senate of Canada could support such a colossal waste of money. My answer was very simple: We do not think it is a waste of money; we think it is excellent value for money spent. You see, I have benefited from J.R.'s education, and I have been delighted on his behalf to attempt to educate others.

Most recently J.R. has concentrated a great deal of his effort on behalf of the disabled in our country, particularly for those who are deaf or hearing impaired. Because of this chamber's need to address the needs of one of its members, the Senate is one of the most technically advanced in the world in terms of legislative chambers and is certainly much further advanced than the other place.

It is unfortunate that J.R. needed to suffer this handicap in order for us to respond, but reflective of all of his life, he epitomizes the expression that when life gives you lemons, you should make lemonade.

J.R. has enhanced my life. He has taught me to be more empathetic to those whose problems need to be solved. He has made me understand what it is to have gone through the struggles that he has gone through and to have succeeded with such courage and such determination. He has made me understand what it truly is to be a Canadian. He has been my friend. His legacy is not only worthy of note, it is worthy of example, and one can only try to follow in his footsteps.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Pierre De Bané: Honourable senators, I would like my colleague Senator Gauthier to know that my affection for him is only equaled by my admiration.

It is hard to summarize the devotion to the public interest of a colleague who has been so active on the local, provincial, national and international levels for all of 43 years. There is no doubt whatsoever that all of these accomplishments include a fairly major component of contribution by his extraordinary wife, Monique.

[Senator Carstairs]

I also know how much the affection and support of his children Jean-François, Pierre, Vincent and Nathalie have meant to him as he has championed all those causes over the past 40-plus years.

He began to get involved with schools at the local and regional level back in 1961, moving on in 1968 to become one of the forces behind the creation of government-funded French-language public schools in Ontario.

• (1630)

Elected to the House of Commons in 1972 and re-elected in 1974, 1979, 1980, 1984, 1988 and 1993, he served with distinction for 22 years as an MP and chaired a number of very important parliamentary committees, including Foreign Affairs and Public Accounts, in addition to being the House Leader of my party.

His appointment to the Senate in 1994 brought our chamber a unique voice and a unique contribution. Senator Gauthier is one of those who bring honour to the institution they join.

His involvement on the international scene has also been remarkable. He is one of the rare parliamentarians in the world to have chaired the *Assemblée des parlementaires de la Francophonie*, which consists of hundreds of members of 65 parliaments on five continents, along with nine parliaments holding observer status.

I could go on at length about all the distinctions that have been conferred on Senator Gauthier, but that would take too long. I will just mention a few. He was honorary chair of the Standing Senate Committee on Official Languages. He was awarded the rank of Commander and then of Grand-Croix in the *Ordre de la Pléiade*, decorated by the President of the French Republic as an Officer of the Legion of Honour, and elected Man of the Year. He was also honoured at an ACFO special event on September 21, where the entire francophone community of Ontario paid tribute to him during a memorable evening made even more memorable by the presence of leaders of the community and such distinguished people as a Supreme Court of Canada justice and the French ambassador.

Beyond that, the man himself commands my admiration for all that he is — genuine, saying what he thinks right out loud, dynamic, visionary, far-sighted, honest, determined, prepared to stand up for his beliefs, full of conviction, a scrupulous administrator of public funds, and most of all, a man of courage beyond compare, having lived with a terrible illness for a number of years. With his wife Monique, their children and their spouses, and their grandchildren, he overcame the condition.

Jean-Robert, you are the very incarnation of the poet's observation that the most wonderful of monuments is a man who stands up.

[English]

Hon. Lowell Murray: Honourable senators, how much will we miss Senator Gauthier in the days and months ahead? I can only begin to count the ways.

Early in our association, I thought to regale him with some stories of the history of the Tory party, only to find out that he knew more about it than I did, his grandfather having sat as an MP in the caucus of Sir Robert Borden during the First World War. Again, during the 1980s, when we were associated closely, we found ourselves on the same side on the constitutional issue.

[Translation]

Not many Liberals dared to speak out against the Right Honourable Pierre Elliott Trudeau, but Senator Gauthier always had the courage of his convictions.

Honourable senators, I admit I am among those who would like his Bill S-3 to be approved by the Senate today and referred to the House of Commons. Despite the obstacle, I am confident that Bill S-3 will soon be approved by the Senate.

Committee deliberations on a number of similar bills in the past indicate that the government, specifically the Department of Justice, has serious reservations about this bill.

Earlier this morning, I was reading the minutes of the Standing Senate Committee on Official Languages, which was considering Bill S-3. I noticed that the Minister of Canadian Heritage, Ms. Frulla, had sent a letter to the committee about Bill S-3, in which she praised Senator Gauthier. Clearly she was willing to embrace Senator Gauthier, but not necessarily his bill. Time will tell.

Nevertheless, I feel that Senator Gauthier's initiative will, to its great credit, force the government to propose a concrete legislative solution to an issue over which it has been indecisive for too long. With all due respect to Ms. Frulla, who wanted to project a very reassuring picture of the progress made in the area of official languages in the country — she is right in that she prefers to see the glass half full rather than half empty — I would tell her that Part VII of the 1988 Official Languages Act has neither achieved the intentions of the government of the day nor fulfilled the expectations of the minority linguistic communities. If the government does not accept Senator Gauthier's bill in its entirety, it must propose an effective alternative.

Let us not forget that Senator Gauthier's bill will soon become our bill, a Senate bill. We will then have a duty to ensure without fail that it follows the parliamentary process and to insist that the government make a decision and act definitively on this issue. Here in the Senate, we will do our homework, aware that our former colleague, Senator Gauthier, is keeping watch.

There are always new challenges in the area of official languages. These days, the concerns voiced by some regarding language training programs in the public service are making headlines. The head of Statistics Canada, who, in 2003, received a Commissioner of Official Languages award for his leadership in the promotion of bilingualism is now saying that the objectives of the language training program are muddled.

Others talk about a very high failure rate in language exams and a feeling of frustration and insecurity among students. The CBC in Ottawa just aired a series of reports on the situation in the federal public service entitled *The Linguistic Divide*. It is all quite familiar. We are told that a committee of deputy ministers is reviewing the issue, but sooner or later parliamentarians will have to deal with the problem.

• (1640)

[English]

Nobody is better qualified than Senator Gauthier to help us work our way through problems of this kind, as he has done with similar problems in the past. He is a champion of linguistic minorities. He is open and fair-minded. He has grown up in this city and in this region and understands better than most the accommodations and adjustments that are made to ensure linguistic justice, to strike a fair balance and to preserve linguistic harmony.

I have learned all this about Senator Gauthier beginning with our close association as co-chairmen of the Joint Committee on Official Languages, more than 20 years ago, and much more recently as colleagues on the Standing Senate Committee on National Finance where his intimate knowledge of the federal public service was a real asset in our study of public service issues and our lengthy consideration of the new legislation governing the public service.

As old challenges in these fields recur and new ones appear, I hope and believe that Senator Gauthier will be heard from again and again. He will not be far away from the action. If "Cincinnatus at the plow" is not appropriate for such a convinced urban dweller, let us just say that he remains "à la réserve de la république."

Hon. Senators: Hear, hear!

Hon. Joan Fraser: Honourable senators, Winston Churchill once advised a group of young people: Never give up, never give up, never, never, never, never, never give up.

[Translation]

Do not give up. Never give up. Senator Gauthier personifies this principle.

[English]

May I say that as a neophyte in this place — and I still feel like one compared to many of you — I have been enormously privileged to learn from this so honourable senator beside whom I have had the privilege of sitting for several years now.

Never give up fighting for what you believe. I have learned from Senator Gauthier that a successful parliamentarian must pick his or her causes carefully and then fight and fight and fight and fight and never give up.

Senator Gauthier told us earlier that an individual senator can make a difference. Well, he is the living proof of that. I have learned from him, as we have all learned from him, never to give up when adversity strikes. Whether it be political adversity or physical adversity, never give up and you will conquer, as he has conquered, again and again and again.

I have learned from him never to stop paying attention. For example, Senator Gauthier sits and reads his screen and follows what is going on in this place with an attention to the rules that is absolutely exemplary. I cannot tell senators how many times he has been watching the goings on here and has turned to me and said, "They are wrong," and has quoted chapter and verse about why they are wrong. He is always right.

Above all, I have learned from him never to give up one's ideals, never to give into cynicism and never to give up the capacity to laugh.

Senator Gauthier has the most infectious giggle when something happens in this place or elsewhere that is funny. Sometimes I even have to say to him, "Watch it. We will infect the proceedings if we go on this way."

It has been the most inspiring and humbling experience to have the privilege of knowing him and of sitting beside him, but one of the very great privileges of sitting in this place.

[Translation]

Senator Gauthier, do not give up. Never give up. We know that you will not give up. We thank you. I personally thank you from the bottom of my heart.

[English]

Hon. Senators: Hear, hear!

Hon. Peter A. Stollery: Honourable senators, I will be very brief but I would be remiss if I did not say a few words on behalf of myself and Senator Rompkey, who cannot be present today.

I believe — and I think I am right — that Senator Rompkey, Senator Gauthier and I are the last three people in the parliamentary complex who were elected in 1972. I know that Senator Rompkey would join me in wishing our very best for the future for Senator Gauthier.

I do not know if anyone else has touched on it, but, unfortunately, Senator Gauthier's birthday is October 22. If it were October 30, he would have been here for 32 years. He just misses that by eight days.

We were both elected in a minority Parliament in 1972. It was a difficult time, I suppose, for members on all sides of the House of Commons. I recall our old friend Monique Bégin, Senator Gauthier and myself at his cottage with his lovely wife in the spring of 1973. We go back a long time.

[Senator Fraser]

I will not take up any more time this afternoon because senators can imagine the number of experiences that we shared, particularly as we went through two minority parliaments together. There will now only be two of us left after October 30. Once again, both Senator Rompkey and I wish Senator Gauthier the very best in his endeavours.

Hon. Senators: Hear, hear!

[Translation]

Hon. Maria Chaput: Honourable senators, it is with mixed feelings that I rise to pay tribute to a friend and colleague, Senator Jean-Robert Gauthier. I say with mixed feelings because, Senator Gauthier, it has been an honour to know you and to appreciate your great qualities. Your legendary tenacity is matched only by your genuine self-sacrifice and your courage is matched only by your dedication. It is with a twinge of regret that I see you leave this place, which will never be the same without your expertise, your vigilance, your wisdom — in a word, without you.

Senator Gauthier, we have had the opportunity to recognize your exceptional commitment to this institution, particularly your many achievements at the Standing Senate Committee on Official Languages. Incidentally, you were appointed honorary chair of that committee.

All will agree that you have been a real watchdog in this house, which you have served with generosity for nearly 11 years. I am convinced that your constituents will be forever grateful to you.

Rest assured that your torch will be taken up by a number of us here, as we work toward greater recognition of the rights of the official language minority communities. We will try to maintain your same level of ardour, conviction and determination, if that is possible, in order to ensure that the government's commitments on this are respected.

Your departure is not an ending; it is instead a move on to a new stage, a more serene one no doubt, in this long journey you have undertaken to serve your fellow Canadians.

I will never forget your cheery and friendly reception when I came to this place. I will never forget the first time I met you, when you welcomed me to your office and handed over to me all the files relating to official language minorities in Western Canada. You said to me: "You're here now, so they are all yours." I will never forget that, senator.

• (1650)

My respectful thanks to your wife and your family for having shared you with the community. I wish you good luck and much happiness in this next stage of your life. Senator Gauthier, your life has been a love story; love for your culture, for your language, for your country, for your community, for your family, for your wife, and it sets a great example for us all. It shows us that love knows no limits.

Thank you and have a wonderful journey onward.

Hon. Pierrette Ringuette: Honourable senators, my apologies for not having a written text.

As the most junior member in this place, I thought to myself that I did not want to have to say goodbye to any of my colleagues, but you, Senator Gauthier, are more than a colleague. You are a visionary, and I remember in 1993, in the House of Commons, when you did for me what you did for my colleague Senator Chaput when she came to the Senate. You took me under your wing, to show me the ropes and advise me in the debates concerning the Francophonie.

I can tell you that I appreciated your help enormously, and I recognize, as you do yourself, that the debate for the equality of the communities and for respect will never be over. It will never be over because we are well aware that we will never be able to achieve respect for our two linguistic communities, despite the contribution we can make. We have seen a political example of this right here this afternoon.

I am truly disappointed that today we have not been able to properly pay you the honour due to you for all the years you have devoted to achieving that recognition, and that your bill — which has been passed unanimously here on three occasions — did not pass because of pure partisan politics. I wonder whether this does not denote a lack of respect for what you wish to accomplish and what you have worked so hard to achieve.

Senator Gauthier, out of respect for your work in the House of Commons, the Senate and in your community of Ottawa—Vanier, we are prepared to act rather like soldiers. None of us will ever be a general like you, but we can certainly be soldiers, whether we are francophone or anglophone. At the end of the day, this is the key to Canada, its foundation, its cornerstone. Not many people have understood this yet and are prepared to fight. Rest assured, there will be recruiters to carry on your noble cause. I thank you sincerely for everything you have done for us francophones who live in the regions where an education and communication networks have not been easy to come by. You fought the battle well.

I am not good at saying farewell, but you may be sure that your work and your vision will never be abandoned.

[English]

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I would ask Senator Gauthier, as he leaves this chamber, to do so with fond memories of this place. We shall indeed miss him. In particular, I shall miss working with Senator Gauthier on the Internal Economy Committee, where we worked so well together over the years.

On behalf of our caucus, I thank you, Senator Gauthier, for your years of service to this country; and on behalf of our caucus, I wish you, more than anything, good health and long life. Au revoir.

The Hon. the Speaker *pro tempore*: If no other honourable senator wishes to speak, the inquiry is considered debated.

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Nick G. Sibbeston, pursuant to notice of October 19, 2004, moved:

That the Standing Senate Committee on Aboriginal Peoples have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

Motion agreed to.

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Nick G. Sibbeston, pursuant to notice of October 19, 2004, moved:

That the Standing Senate Committee on Aboriginal Peoples be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Motion agreed to.

OFFICIAL LANGUAGES

2003-04 ANNUAL REPORT OF COMMISSIONER REFERRED TO COMMITTEE

Hon. Eymard G. Corbin, pursuant to notice of October 20, 2004, moved:

That the Annual Report of the Commissioner of Official Languages 2003-04, tabled in the Senate on October 19, 2004, be referred to the Standing Senate Committee on Official Languages.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Peter A. Stollery, pursuant to notice of October 20, 2004, moved:

That the Standing Senate Committee on Foreign Affairs be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Motion agreed to.

• (1700)

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Peter A. Stollery, pursuant to notice of October 20, 2004, moved:

That the Standing Senate Committee on Foreign Affairs have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

Motion agreed to.

COMMITTEE AUTHORIZED TO STUDY ISSUES
RELATED TO FOREIGN AFFAIRS

Hon. Peter A. Stollery, pursuant to notice of October 20, 2004, moved:

That the Standing Senate Committee on Foreign Affairs, in accordance with rule 86(1)(h), be authorized to examine such issues as may arise from time to time relating to foreign relations generally; and

That the committee report to the Senate no later than March 31, 2006.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Terry Stratton (Deputy Leader of the Opposition): I should like to ask a question of Senator Stollery, if I may. Is this motion a standard motion, one identical to that moved in the last Parliament?

Senator Stollery: Honourable senators, this motion has been the standard for many years; it involves no expenses or anything like that.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

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

Motion agreed to.

[*Translation*]

ADJOURNMENT

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

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

That, when the Senate adjourns today, it do stand adjourned until Tuesday, October 26, 2004, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 26, 2004, at 2 p.m.

THE SENATE OF CANADA

PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been **completed**)

(1st Session, 38th Parliament)

Thursday, October 21, 2004

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS (SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-10	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	04/10/19							

GOVERNMENT BILLS (HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to amend the Citizenship Act (Sen. Kinsella)	04/10/06	04/10/20	Social Affairs, Science and Technology					
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0			
S-4	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06							
S-5	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07							
S-6	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							

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