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Tuesday, April 24, 2012

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Tuesday, April 24, 2012

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

Prayers.

SENATORS' STATEMENTS

SYRIA

HUMAN RIGHTS

Hon. Donald H. Oliver: Honourable senators, human rights and humanitarian abuses continuing in Syria were the subject of a conference resolution at the Inter-Parliamentary Union's one hundred and twenty-sixth assembly held earlier this month in Kampala, Uganda. The title of the resolution the member parliaments adopted on April 5 was:

> Inter-Parliamentary Union initiative for an immediate halt to the bloodshed and human rights violations in Syria, and the need to ensure access to humanitarian aid for all persons in need and to support implementation of all relevant Arab League and United Nations resolutions and peace efforts.

[*Translation*]

The IPU, which represents over 160 national parliaments, fully supports the regional and international efforts to find a peaceful solution to this crisis. It will send a fact-finding mission to Syria so that the necessary measures can be taken to put an end to the suffering.

Honourable senators, the Canadian delegation played a major role in the adoption of this resolution.

Before the assembly, our delegation submitted a formal request that an emergency item on the situation in Syria be added to the agenda. Our group believed that it was important to address this topic because of the continuing violence in this country right now.

[*English*]

As honourable senators know, since March 2011, Syrian citizens have staged protests for democratic reforms. The Syrian government has met those peaceful protests with a violent crackdown that, according to the United Nations, has killed 7,500 and wounded many others. Thousands of civilians have been detained arbitrarily, and there are credible reports of summary executions and torture.

In our proposal to the IPU, the Canadian group argued that "the significant deterioration over the last 12 months of the political, security and humanitarian situation in Syria poses grave risks to the country's civilian population and to international peace and security."

Our request was favourably met by the IPU and its member states. I argued that the IPU can play a pivotal role, as the representative of the national parliaments of the world, in assisting the Syrian people foster political reconciliation and uphold human rights. It led to the eventual adoption of the resolution, as amended, following input from particularly Egypt, the Emirates, the U.K. and France. Many Arab states also called upon and urged the IPU to adopt the resolution.

Honourable senators will also remember that on April 1, Canada imposed additional sanctions to further isolate the Syrian President and those closest to him. Foreign Affairs Minister John Baird said that Canada will continue to support peaceful efforts by the Syrian opposition to achieve freedom for the Syrian people by providing $1 million for pro-democratic programs. Canada will also contribute $7.5 million in humanitarian aid.

Honourable senators, the Government of Canada, like the IPU, supports the Syrian people.

As president of the Canadian group, I felt there was a need for the IPU to address the situation in Syria and to express its solidarity and sympathy to the people whose democratic freedoms and human rights were systematically being undermined by their own government.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of six members of the Royal Canadian Air Force, including its commander, Lieutenant-General André Deschamps. They join us today as part of Air Force Appreciation Day on the Hill, a day when we are reminded of the service and sacrifices made by the men and women of the Royal Canadian Air Force to safeguard our peace and security.

Honourable senators, please join me in welcoming these distinguished members of the Royal Canadian Air Force.

Hon. Senators: Hear, hear!

ROYAL CANADIAN AIR FORCE

Hon. Joseph A. Day: Honourable senators, a week ago in this place I had the opportunity to participate in a debate on Bomber Command and the tremendous contribution of Bomber Command to the Allied effort in World War II. In that speech I called for a permanent reminder in Canada of the tremendous sacrifice on the part of Canadian pilots and ground crew who were part of Bomber Command and who participated in many of the crucial missions at that time.

• (1410)

I am very pleased to advise honourable senators that, on the following day, Veterans Affairs Canada announced that it would be contributing $100,000 to a Bomber Command memorial to be unveiled in London, England, at the end of June of this year, by Her Majesty the Queen, Queen of Canada and Queen of England.

This, honourable senators, is a laudable contribution that I hope is but the beginning of an effort to create a permanent reminder here in Canada of the contributions of Canadians who participated in Bomber Command during the Second World War.

The response to that announcement by the government has been overwhelming. The tone of the responses that we have received is very passionate and, while there is still much debate on just how Bomber Command should be recognized here in Canada, there is no question that there should be some Canadian recognition.

Honourable senators, our recent missions in Afghanistan and in Libya as part of the United Nations and NATO forces have served as a reminder to us of just how professional, capable and adaptable the Royal Canadian Air Force is as a military force. Our Canadian Forces comprise 65,000 regular force members and approximately 25,000 reserve forces. Of this, the RCAF has 14,500 regular forces and 2,600 reservists.

It is hard to ignore recent headlines about what our air force will look like in the years to come and what equipment it will have, but there is no doubt that the RCAF is undergoing a period of transition. Regardless of the outcome of that, it is comforting to know that the brave men and women of the Royal Canadian Air Force will be there to protect our Canadian values at home and abroad.

I would ask honourable senators to join our guests this evening from five until seven o'clock in room 256-S where we will be celebrating Royal Canadian Air Force Day on the Hill. One of the guests will be Master Warrant Officer (Ret'd) Vic Johnson, who has just retired after 53 years of unbroken service in the RCAF, the Canadian Forces and the Air Force Association of Canada, where he served as editor of *Airforce* magazine. I hope honourable senators will be able to drop by this afternoon to thank these representatives of the Royal Canadian Air Force properly.

Thank you, honourable senators.

[*Translation*]

FUTURE LABORATORY IN QUEBEC

Hon. Josée Verner: Honourable senators, yesterday, I had the honour of participating in the inauguration of Group Biscuits Leclerc's new health and well-being laboratory in Saint-Augustin-de-Desmaures in the Quebec City region.

The company has invested $7 million in this new facility, which will bring together nutrition and research and development specialists whose main task will be to innovate in the cookie and snack market of the future. According to the company, these items may help not only to prevent but also to heal chronic illnesses.

Honourable senators, this is a key step in the development of the company, which has been run by five generations of the Leclerc family, people who have always had great determination, perseverance and vision.

Founded in 1905 by François Leclerc at a time when French Canadian entrepreneurship was the exception rather than the rule, the small company persevered despite various challenges, including two world wars and a major fire, and has today become a jewel in the crown, for Quebec and Canada.

Leclerc employs almost 700 people in five plants in Canada and the United States. Its total sales are $275 million and its products are exported to some 20 different countries.

In the early 2000s, the company adopted a health promotion and illness prevention strategy. As a result, in 2002, it launched the Vital brand, eliminated trans fats from its products and then, later, marketed its Praeventia products.

In 2007, Health Canada published guidelines encouraging companies in the food and fast food industries to limit the use of trans fats in their products. In 2010, the World Health Organization stated that overweight and obesity would be the epidemic of the 21st century.

More recently, our Standing Senate Committee on Social Affairs, Science and Technology, in its review of the implementation of the 2004 health accord, recommended a pan-Canadian public health strategy to combat this scourge that, according to Health Canada, costs Canadians $4.3 billion a year.

Honourable senators, this chronology of events not only paints the picture of a company that has provided significant economic spinoffs, but it also shows that the company's vision plays a meaningful role in improving everyone's health.

In 1995, Steve Jobs said:

> Innovation is a situation we choose because we have a burning passion for something.

Join me, honourable senators, in wishing much success to the new lab at Biscuits Leclerc, a truly forward-looking company.

[*English*]

ROYAL CANADIAN AIR FORCE

Hon. Gerry St. Germain: Honourable senators, I would also like to welcome the members of the Royal Canadian Air Force. I concur with what Senator Day has said in recognizing the accomplishments and the work of the men and women of the Royal Canadian Air Force.

I also agree with Senator Day in that I hope politics will be shunted to the side as we make the correct selection of the correct equipment that will best defend this country and the countries

that we defend in our everyday work as Canadians in helping those who require the assistance that we can provide. The men and women of the Royal Canadian Air Force deserve the best of equipment. Whether it is the F-35 or whatever else it may be, let us make the right choice and let us put politics on the back burner on such an important issue.

I stand here as a former member of the RCAF, and I hope cooler heads will prevail. Thank you.

[*Translation*]

ARMENIAN GENOCIDE OF 1915

Hon. Maria Chaput: Honourable senators, today I am joining with the thousands of our Armenian-Canadian citizens who have gathered on Parliament Hill and across the country to honour the memory of the victims of the Armenian genocide of 1915.

On this day, 97 years ago, the Turkish Ottoman government proceeded with the mass arrest of the Armenian intellectuals on its soil. The arrest, deportation and execution of these hundreds of intellectuals was only the beginning of the atrocities that followed. Left without its elite, the Armenian population was brutally decimated in the months and years that followed. More than 1.5 million men, women and children fell victim to an ethnic cleansing campaign that was planned and orchestrated by the central government.

Some 97 years later, the Turkish government continues to deny this crime that was committed by its Ottoman predecessor despite the academic consensus on the genocidal nature of these acts and the fact that a number of countries, including Canada, recognize this genocide.

Ninety-seven years later, the Armenian people continue to fight on two fronts: they are fighting for their rebirth and for the full recognition of this crime. They are fighting for recognition by keeping their language and traditions alive, by establishing and developing vibrant communities throughout the world. And they are fighting for the renaissance of the young Republic of Armenia which, since 1991, has taken its place in the international community.

They are fighting for recognition of this crime to honour the memory of their ancestors and for justice and human rights, to raise awareness and to prevent such tragedies, to encourage mutual acceptance among all peoples, for the Jews of Europe and the Ukrainians, for Cambodia, for Rwanda, for Yugoslavia and Sudan, for all of humanity.

A famous member of the Armenian diaspora, the great singer Charles Aznavour, wrote these lyrics about his people:

> They fell . . . never knowing the cause. The women fell as well, and the babies they tendered . . . they fell believing their children could grow . . . they fell like flies . . . all in vain, for just one helping hand . . .

• (1420)

Honourable senators, we will never be able to explain why they fell. Nevertheless, 97 years later, Armenians are standing up for their cause and for all of humankind. I hold out my hand to them and stand in their honour.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I join in the comments of Senator Chaput. I appreciate her remarks.

THE LEGACY OF METROPOLITAN ANDREI SHEPTYTSKY

Hon. A. Raynell Andreychuk: Honourable senators, today I join with colleagues here and in the other place, friends in the Jewish and Ukrainian communities in Canada, representatives of the Ukrainian Jewish Encounter Initiative and delegates of the Ukrainian Council of Churches and Religious Organizations, in celebrating the legacy of the late Metropolitan Andrei Sheptytsky.

Metropolitan Archbishop Sheptytsky, of the Ukrainian Greek Catholic Church, is being honoured in Canada this week for his extraordinary acts of courage, principle and compassion, particularly towards Ukrainian Jews during the German National Socialist occupation in World War II.

A unifier of Ukrainians of all denominations and ethnicities, Metropolitan Sheptytsky is remembered for having risked his own life to shelter and ultimately save the lives of scores of Ukrainian Jews. The philosophy that guided his actions is perhaps best surmised from his 1942 pastoral letter titled "Thou shalt not kill," which urged the Nazis to recognize the sanctity of human life and to stop murdering Jews.

The scholar Timothy Snyder credits Metropolitan Sheptytsky with having, and I quote, "saved more Jews than almost anyone in occupied Europe."

Representatives of Ukrainian Christianity, Judaism and Islam are in Canada this week to celebrate this legacy, along with Canada's important Ukrainian and Jewish communities, several living members of which credit Metropolitan Sheptytsky with having saved their lives.

I applaud the Ukrainian Jewish Encounter Initiative and visiting delegates of the Ukrainian Council of Churches and Religious Organizations for this initiative. I look forward to joining Canadian community leaders and parliamentarians in welcoming to Canada the Ukrainian Council of Churches and Religious Organizations, which includes senior Jewish, Catholic, Muslim and evangelical spiritual leaders.

The dialogue evoked through this and other events honouring Metropolitan Sheptytsky represents a timely contribution to the ongoing pursuit of human rights that is entrenched in the values of pluralism, religious and political freedom, and inter-ethnic and inter-denominational harmony.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of members of the Commonwealth Parliamentary Association of the United Kingdom of Great Britain and Northern Ireland. The leader of

the delegation is Ms. Helen Jones, member of Parliament. Accompanying the leader of the delegation, we have Mr. Andy Love, member of Parliament; Mr. Andrew Percy, member of Parliament; and Mr. Mike Weir, member of Parliament. From the House of Lords we have Lord Roberts of Llandudno.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

THE LATE RORY BECK

Hon. Catherine S. Callbeck: Honourable senators, today I rise to pay tribute to the late Rory Beck, who died suddenly in Charlottetown on April 13 at age 54. At the time of his passing, he was the Clerk of the Executive Council and Secretary to the Cabinet in Prince Edward Island. He will be remembered as one of the province's most outstanding public servants.

Rory Beck was totally committed to the service of his province and fellow citizens. His professionalism and dedication, along with his wide experience and extensive knowledge, earned him the deep respect and admiration of his colleagues. He always provided strong leadership and sound advice and exemplified the highest standards of public service.

Rory Beck will long be remembered for his many accomplishments while serving in various provincial administrations. He was instrumental in the municipal amalgamation initiative, which led to the creation of an expanded and strengthened City of Charlottetown, the new City of Summerside, as well as other amalgamated areas. Perhaps the most memorable was his involvement with the Confederation Bridge, the largest capital project ever in the history of Prince Edward Island. His valued participation leading to its construction helped to ensure the overwhelming success of that project.

Rory Beck helped to spearhead a comprehensive and highly successful government reform initiative to establish a more streamlined and effective public administration.

Like many other Canadians, he was also an avid hockey player and fan. He was a member of the Charlottetown Islanders hockey team when it won the national Hardy Cup in 1981. He was president of a highly successful Junior A hockey club in Prince Edward Island and was a popular minor hockey and baseball coach. He instilled in others a spirit of healthy competition and teamwork, qualities that were also reflected in his public service career.

Rory Beck had a wide circle of friends and lived life to the fullest. He will be sorely missed, not only in the halls of government but also in the hearts and minds of all those who knew him.

He will be missed most of all by his wife Gaylene and his three sons, Luke, Jacob and Dylan, his mother, his four brothers, his sister and other members of his extended family. It is difficult to lose a loved one, especially one who was at the prime of his life and career. To them I offer my sincerest condolences during this very difficult and tragic time.

[The Hon. the Speaker]

GLOBAL MATERNAL AND CHILD HEALTH

Hon. Salma Ataullahjan: Honourable senators, you may recall that I spoke to you in November regarding my role as the Canadian co-rapporteur for a draft report of the Inter-Parliamentary Union on maternal and child health.

Along with my colleagues from Uganda and India, I presented a report that stressed the role of parliaments in addressing key challenges to securing the health of women and children. The report and the feedback we received from deliberations served as a basis for an IPU resolution that would be considered at the one hundred and twenty-sixth assembly in Kampala, Uganda. At the time, I was looking forward to reporting back to you with the result.

Honourable senators, having recently returned from the one hundred and twenty-sixth assembly, I am pleased to report that the resolution passed unanimously on April 5. Leaders of nearly 120 national parliaments called for all members to take all possible measures to achieve the Millennium Development Goals 4 and 5 on maternal and child health by 2015. This is the first time a resolution has been passed in the IPU on the health of women and children.

The resolution was modelled closely on the key messages in our report: that parliamentarians should raise awareness about maternal, newborn and child health, and generate and sustain the political will to achieve the MDGs; that they should introduce and amend relevant legislation and scrutinize the implementation of legislation; and that they should monitor and provide effective oversight of budgetary appropriations, policy commitments and programs.

This is a major achievement for the IPU and for Canada. Canada has significantly supported women and children's health through the Muskoka initiative, our support to the Global Strategy for Women's and Children's Health and our Prime Minister's co-chairmanship of the Commission on Information and Accountability for Women's and Children's Health.

The Canadian Parliament will host the next IPU Assembly in Quebec City this upcoming October. We look forward to supporting and facilitating the implementation of this resolution.

Honourable senators, I would lastly like to mention that this achievement could not have been possible without the support staff of the Canadian Group of the IPU and the Library of Parliament. I thank them for their hard work. Here I must also recognize the IPU for the important work it does in bringing together parliamentarians from all over the world to discuss and find solutions to issues that affect all nations.

JOURNALISTS AND MEDIA WORKERS LOST IN THE LINE OF DUTY

Hon. Joan Fraser: Honourable senators, again this year I rise to bear witness to the more than 50 journalists and media workers who died in 2011 because they were journalists.

Nearly half of the journalists were murdered outright. Others were killed in crossfire or combat, as they were doing their jobs. Others were killed on dangerous assignments of one sort or another covering demonstrations, riots, mobs and racial clashes.

• (1430)

They were: in Afghanistan, Ahmad Omaid Khpalwak and Farhad Taqaddosi; in Azerbaijan, Rafiq Tagi; in Bahrain, Zakariya Rashid Hassan al-Ashiri and Karim Fakhrawi; in Brazil, Edinaldo Filgueira, Luciano Leitão Pedrosa and Gelson Domingos da Silva; in the Dominican Republic, José Agustín Silvestre de los Santos; in Egypt, Ahmad Mohamed Mahmoud and Wael Mikhael; in Iraq, Muammar Khadir Abdelwahad, Sabah al-Bazi, Alwan al-Ghorabi, Hadi al-Mahdi and Mohamed al-Hamdani; in Ivory Coast, Sylvain Gagnetau Lago and Marcel Legré; in Libya, Ali Hassan al-Jaber, Mohammed al-Nabbous, Anton Hammerl, Tim Hetherington, Chris Hondros and Mohammed Shaglouf; in Mexico, Luis Emanuel Ruiz Carrillo, Maria Elizabeth Macías Castro, Noel López Olguín and Rodolfo Ochoa Moreno; in Nigeria, Zakariya Isa; in Pakistan: Nasrullah Khan Afridi, Wali Khan Babar, Asfandyar Khan, Shafiullah Khan, Javed Naseer Rind, Faisal Qureshi and Saleem Shahzad; in Panama, Darío Fernández Jaén; in Peru, Pedro Alfonso Flores Silva; in the Philippines, Romeo Olea and Gerardo Ortega; in Russia, Gadzhimurad Kamalov; in Somalia, Abdisalan Sheikh Hassan, Noramfaizul Mohd and Farah Hassan Sahal; in Syria, Ferzat Jarban and Basil al-Sayed; in Thailand, Phamon Phonphanit; in Tunisia, Lucas Mebrouk Dolega; and in Yemen, Jamal al-Sharaabi, Hassan al-Wadhaf and Fuad al-Shamri.

Every one of them died in the service of bringing the truth to the rest of us. They died, in the most profound sense, for us. This is our small way to bear witness to their sacrifice.

2012 LADIES WORLD SENIOR CURLING CHAMPIONSHIPS

CONGRATULATIONS TO THE HEIDI HANLON TEAM

Hon. John D. Wallace: Honourable senators, what a truly proud and momentous day it was for our province of New Brunswick on Saturday, April 21, 2012, and particularly so for those of us who call the Greater Saint John region our home. It was on Saturday that the word was received from Copenhagen, Denmark, that the Heidi Hanlon rink from the Thistle-St. Andrew's Curling Club in Saint John had just defeated Scotland 12 to 2 to capture the 2012 Ladies World Senior Curling Championship. What a convincing and dominating victory it was.

As winners of the Canadian Senior Ladies Curling Championship in 2011, Heidi, along with mate Kathy Floyd, second Judy Blanchard and lead Jane Arseneau, were Canada's representatives at the world championship. The championship also included the national senior ladies championship teams from the United States, Sweden, New Zealand, Switzerland, Czech Republic, Ireland, Denmark, Japan, Italy, Finland, Slovakia, Russia and Scotland.

During the round robin portion of this world championship, Heidi and her team finished with a perfect six-wins-zero-losses record. After defeating New Zealand in the semi-finals, the team moved along to face Scotland in the finals.

As I am sure honourable senators can imagine, when our world championship team arrived home at the Saint John airport on Sunday afternoon, the waiting crowd of family members, friends and well-wishers was more than a little bit excited, boisterous and jubilant. No doubt about it, it was truly something to see. It was something that I will always remember.

Honourable senators, if ever there were perfect examples of the old adages that "good things happen to good people" and "nothing comes without hard work," they would have to be Heidi, Kathy, Judy and Jane. Something like this just does not happen overnight by chance. Heidi, Kathy, Judy and Jane truly deserve everything they have accomplished. They are our world champions, and we could not be more proud of them.

BATTLE OF KAPYONG

SIXTY-FIRST ANNIVERSARY

Hon. Yonah Martin: Honourable senators, recently I had the honour of organizing an unprecedented farewell ceremony for a Canadian soldier returning to Korea, where he had fought during the Korean War 61 years ago. On April 21, 2012, I greeted Debbie Hearsey and her son Solomon from Sioux Lookout, Ontario, during their stopover in Vancouver. She had with her the ashes of her late father, Archibald Lloyd Hearsey, which she was taking to Korea to be reunited with his brother, Joseph Hearsey, who was killed action in October 1951. It was Archie's request that he be buried in Korea with his brother and his daughter was nobly fulfilling his wish.

To show the great appreciation and respect that Koreans have for Canada and our country's role in defending Korea during the war, the ashes of Archie received the highest state honour when his daughter got off the plane in Incheon. Korea's Minister of Veterans Affairs, Park Sung Choon, met Debbie Hearsey at the airport and a military escort took the ashes into safekeeping. They were taken to Korea's National Cemetery to repose for three days in the national shrine — the first time that the remains of a foreign soldier have been placed there and, in the eyes of the Korean people, a very high honour indeed.

Tonight, on the sixty-first anniversary of the Battle of Kapyong, Archie Hearsey will join his beloved brother in Busan, where he has been buried these past 60 years. The Hearsey brothers served with the Princess Patricia's Canadian Light Infantry and were among the valiant Canadians who fought victoriously in this historic battle. Among Archie Hearsey's personal possessions is the small blue ribbon that signifies the United States Presidential Citation awarded to the PPCLI for their amazing stand at Kapyong.

The Battle of Kapyong was one of the decisive actions of the Korean War. The Patricia's commander, whom Archie Hearsey so greatly admired, gave his soldiers simple orders before that battle. He said that they would stand, no matter what, and that they would not give up one inch of ground. They all understood that they would die before they let the enemy force them back. The Canadian battalion and one Australian battalion held back assault forces from two enemy divisions ten times their number. The Commonwealth brigade prevailed, and the enemy offensive in that area was thwarted.

One more soldier will now be buried in the United Nations Memorial Cemetery in Busan, Korea, which will be Archie Hearsey's final resting place. It will bring the total number of Canadians buried there to 379.

Let us never forget these brave young Canadians who volunteered in the prime of their youth to serve a country and a people they never knew. Let us continue the strong alliance between our two nations that those brave young Canadians wrought with their heroism and sacrifice 61 years ago.

[*Translation*]

ROUTINE PROCEEDINGS

PRIVY COUNCIL

SPECIAL ECONOMIC MEASURES (SYRIA) REGULATIONS AND SPECIAL ECONOMIC MEASURES (SYRIA) PERMIT AUTHORIZATION TABLED

Hon. Gerald J. Comeau (Acting Deputy Leader of the Government): Honourable senators, pursuant to section 7 of the Special Economic Measures Act, I have the honour to table, in both official languages, copies of the Special Economic Measures (Syria) Regulations and the Special Economic Measures (Syria) Permit Authorization Order, both officially announced on March 30, 2012.

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

INTERNATIONAL CONFERENCE ON BENCHMARKING AND SELF-ASSESSMENT FOR DEMOCRATIC PARLIAMENTS, MARCH 3-4, 2010—REPORT TABLED

Hon. Pierre De Bané: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian branch of the Assemblée parlementaire de la Francophonie (APF) on the International Conference on Benchmarking and Self-Assessment for Democratic Parliaments of the Assemblée parlementaire de la Francophonie, held in Paris, France, on March 3 and 4, 2010.

MEETING OF THE PARLIAMENTARY NETWORK TO FIGHT HIV/AIDS AND THE PARLIAMENTARY AFFAIRS COMMITTEE, MARCH 27-31, 2010—REPORT TABLED

Hon. Pierre De Bané: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian branch of the Assemblée parlementaire de la Francophonie (APF) on the meeting of the Parliamentary Network to Fight HIV/AIDS and the Parliamentary Affairs Committee of the Assemblée parlementaire de la Francophonie, held in Casablanca and Marrakech, Morocco, from March 27 to 31, 2010.

PARLIAMENTARY SEMINAR ON DEMOCRACY AND ECONOMIC GOOD GOVERNANCE: THE ROLE OF PARLIAMENT, NOVEMBER 10-11, 2010—REPORT TABLED

Hon. Pierre De Bané: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian branch of the Assemblée parlementaire de la Francophonie (APF) on the parliamentary seminar on Democracy and Economic Good Governance: The Role of Parliament, held in Cotonou, Benin, on November 10 and 11, 2010.

MEETING OF THE PARLIAMENTARY AFFAIRS COMMITTEE, APRIL 5-6, 2011—REPORT TABLED

Hon. Pierre De Bané: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation respecting its participation at the Meeting of the Parliamentary Affairs Committee of the Assemblée parlementaire de la Francophonie (APF), held in Clermont-Ferrand, France, on April 5 and 6, 2011.

• (1440)

CANADA-FRANCE INTERPARLIAMENTARY ASSOCIATION

MEETING OF THE STANDING COMMITTEE, MARCH 15-16, 2012—REPORT TABLED

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-France Interparliamentary Association respecting its participation at the Meeting of the Standing Committee, held in Paris, France, on March 15 and 16, 2012.

[*English*]

BUSINESS OF THE SENATE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, there have been discussions with my counterpart opposite concerning today's order of business. Pursuant to those discussions, I would ask for leave to bring forward Inquiry No. 40 on the Notice Paper and have it called at the appropriate time later today.

Hon. Gerald J. Comeau (Acting Deputy Leader of the Government): That is agreed, honourable senators.

The Hon. the Speaker: So ordered.

[*Translation*]

PREVENTION AND ELIMINATION OF MASS ATROCITIES

NOTICE OF INQUIRY

Hon. Roméo Antonius Dallaire: Honourable senators, I give notice that, two days hence:

> I shall call the attention of the Senate to Canada's continued lack of commitment to the prevention and elimination of mass atrocity crimes, and further calling on the Senate to follow the recommendation of the United Nations Secretary General in making 2012 the year of prevention of mass atrocity crimes.

[*English*]

QUESTION PERIOD

FISHERIES AND OCEANS

FUTURE OF COMMERCIAL FISHERIES

Hon. Catherine S. Callbeck: Honourable senators, my question is for the Leader of the Government in the Senate. Earlier this year the government released a discussion paper called *The Future of Canada's Commercial Fisheries*. This paper has created a lot of concern among fishers, especially about changes to the fleet separation and owner-operator policies that were put in place 30 years ago. The consultations on this document ended on March 15, roughly six weeks ago, and DFO officials indicated that they would be compiling a "what we heard" document that would be public.

Would the Leader of the Government in the Senate check with DFO to find out when that document might be released?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. Is the honourable senator referring to the announcement made today by the Minister of Fisheries with regard to habitat conservation? I am not clear on what the honourable senator is asking for.

Senator Callbeck: Earlier this year a discussion document was released called *The Future of Canada's Commercial Fisheries*. DFO held consultations, which ended on March 15. The department indicated then that they would compile a "what we heard" document that would be made public.

Would the Leader of the Government check with DFO to see when that document will be made public?

Senator LeBreton: I thank the honourable senator for the clarification. I most certainly will do that.

Senator Callbeck: Honourable senators, I am happy that the Leader of the Government will check on the status of the document, because fishers are very anxious to hear from the government.

The fishers' organizations have been asking for more follow-up and more consultations about fisheries issues. Some fishers felt that they did not have sufficient time to examine the original discussion paper, and they believe there is serious need for further dialogue with the department. However, there has been no indication from DFO about upcoming consultations.

Will this government commit to further consultations with fisheries? Also, would the Leader of the Government check with the Minister of Fisheries and Oceans to learn when he plans to come to Atlantic Canada, in particular to Prince Edward Island, to have discussions with fishers?

Senator LeBreton: I thank the honourable senator for the question. I will be happy to make inquiries. Therefore, I will take the question as notice.

HEALTH

FOOD LABELLING

Hon. Robert W. Peterson: Honourable senators, my question is for the Leader of the Government in the Senate. Budget 2012 announced that the government will stop enforcing almost all food labelling regulations. To be more clear, the budget announced that ordinary Canadians will now be responsible for inspecting food labels at the grocery store. Canadians will have to verify for themselves whether manufacturer claims about things like cholesterol content, sodium levels, sugar and allergens are true. For those with serious health conditions such as hypertension, peanut allergies and diabetes, false claims could prove deadly.

This is penny wise and pound foolish. What on earth is the government doing putting the safety of Canadians at risk to save a few bucks?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, we are not putting the safety of Canadians at risk. We have committed to ensuring that consumers have the proper information they need about the food they purchase. The Canadian Food Inspection Agency will continue to verify that labelling regulations are followed, especially where there is a clear risk to health or safety, by investigating consumer complaints, inspecting at the manufacturer and retail levels, and doing laboratory testing.

Senator Peterson: Honourable senators, I hope they do a better job than they did with the Maple Leaf Foods incident some time ago in which it was claimed that the products contained no preservatives when they in fact contained nitrates. We know the ramifications of that. I hope that they will be more diligent than they have been in the past.

Senator LeBreton: I think it is very clear that as a result of the listeriosis outbreak in the summer of 2008 the Canadian Food Inspection Agency took rigorous steps and increased the number of inspectors. With the cooperation of industry, they have vastly improved the safety of Canadians through meat inspections.

[*Translation*]

INTERNATIONAL COOPERATION

SUPPORT FOR INTERNATIONAL AID

Hon. Claudette Tardif: Honourables senators, the 2012 budget presented three weeks ago would reduce government spending on foreign aid by 7.5 per cent over the next three years. Canada's assistance to international organizations is also being reviewed and will be cut.

These cuts are among the largest cuts made in the budget. Spending on international aid, which had already been frozen at the 2010 level, is estimated to represent only 0.29 per cent of this year's gross national product, which is a far cry from Canada's commitment to devote 0.7 per cent of our national income to development assistance.

Canada already ranks among the least generous of developed countries in terms of spending related to foreign aid based on national income. By 2015, this percentage could be even lower.

The government's position recently prompted OXFAM Canada to ask the following question, which I will now ask of the leader: Why is this government balancing its budget at the expense of the most vulnerable people in the world?

• (1450)

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, we are not balancing the budget at the expense of the poorest people in the world. As honourable senators know, since we formed government, we have been making our international aid commitments more effective, targeted, focused and accountable. In fulfilling our international commitments, Canada's international aid levels will continue to be higher than those of the previous Liberal government.

Of course, we all know the advantages when Canada untied 100 per cent of food aid, reducing the cost of transportation, supporting local producers and allowing food to be bought at the best price in the areas where we are focusing.

Canada was the second largest donor to the World Food Programme in 2011, helping the program reach over 90 million people in 73 countries.

[*Translation*]

Senator Tardif: Unlike Canada, Australia and the United Kingdom have increased their international aid budgets even though their economic situation is similar to or even worse than ours. In Great Britain, David Cameron asked parliament to increase aid by 40 per cent to ensure that his country reaches its millennium development goal of 0.7 per cent by 2015, the target year. Canada spends just over $3 a week per Canadian on international aid. By 2015, our expenditures will fall below $2.50 a week per person.

How can the government justify making cuts to modest expenditures that seek to help the most disadvantaged while the Minister of International Cooperation insists on staying in luxury hotels when attending conferences on poverty, and while scourges such as AIDS and tuberculosis continue to afflict millions of people in the world?

[*English*]

Senator LeBreton: Honourable senators, I pointed out a moment ago that Canada was the second largest donor to the World Food Programme in 2011. As honourable senators know, Canada partnered with the people of Canada by matching donations with regard to the drought in Eastern Africa. We worked with experienced and reputable organizations to deliver critical relief to over 13 million people. Through the World Food Programme, 11.5 million people have received food in Kenya, Ethiopia and Somalia. In 2009-10, 48 per cent of CIDA aid went to Africa and 53 per cent of CIDA food aid went to Africa.

I know the honourable senator is not specifically referring just to Africa. However, as I pointed out in my opening answer, we have focused our international aid to be more accountable and we are bringing better results on the ground.

With regard to the honourable senator's comments about Minister Oda's stay at the Savoy hotel, the minister has repaid the cost of changing hotels, and she has apologized to Parliament and to the Canadian public.

ACTIONS OF MINISTER

Hon. Jane Cordy: Honourable senators, this is not the first time Minister Oda has wasted taxpayers' money. She did the same thing a few years ago when she was in Halifax for the Juno Awards. A driver arrived at the airport for her, and she shooed that driver away and insisted that she have a limousine. She took the limousine half a block to the Metro Centre to attend the Juno Awards and had it waiting outside for her while she attended the awards.

When will this government start using taxpayers' money in the right ways and not waste it? Minister Oda already apologized in Halifax. She has done that once, and the same thing has happened again.

Hon. Marjory LeBreton (Leader of the Government): First, honourable senators, Minister Oda has apologized. She has paid money for her stay at the Savoy hotel. With regard to the Juno Awards, Minister Oda at the time did address that.

I would point out, honourable senators, that ministers in this government have reduced their budgets by 18 per cent. The Prime Minister's Office has reduced its budget by 22 per cent.

An Hon. Senator: Hear, hear.

Senator LeBreton: I again invite honourable senators to draw a comparison between my expenditures, as Leader of the Government in the Senate, and my predecessor's. I think

honourable senators will be quite shocked that I spent about 1,000 per cent less. Also, the government has drastically cut the use of government aircraft, by almost 80 per cent.

I think, honourable senators, it is fair to say that our government and our ministers are very mindful of how we spend taxpayers' dollars.

Senator Cordy: I am sure many Canadians would agree that $16 for a glass of orange juice is a bit over the top. Would the honourable senator not agree?

Senator LeBreton: I reiterate that Minister Oda has reimbursed the taxpayer. She has apologized. The government has an outstanding record, as I have just pointed out, of being very mindful of taxpayers' dollars; and Minister Oda has, as I mentioned, apologized to Parliament and to the Canadian taxpayer.

[*Translation*]

PUBLIC SAFETY

CLOSURE OF PRISONS

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate. According to the Parliamentary Budget Officer, Kevin Page, passage of Bill C-10 will result in a huge increase in the inmate population and will force the federal and provincial governments to build new prisons.

However, Mr. Vic Toews, Minister of Public Safety, made a decision last week that is at odds with this information when he announced the closure of the Kingston and Laval penitentiaries. Oddly enough, the recent federal budget does not include funds for the construction of new prisons to replace these institutions.

Can the leader tell us what strategy her government will use to deal with the increase in inmates resulting from Bill C-10 and the reduction in cells to hold these inmates, either in Kingston or Laval, and what is the overall plan for the appropriate incarceration of these inmates?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): I am glad to notice that the honourable senator has had to change her line of questioning, because a few months ago she was accusing us of building prisons. Of course, we kept asking where these prisons are that we are building.

The fact of the matter is the thrust of our "tough on crime" legislation is to ensure that we keep dangerous and repeat offenders behind bars, where they belong. We are not creating new criminals; we are stopping the revolving door. In other words, in the past, under the previous government, a prisoner would be listed four times, the same person in and out of prison four times. We are simply lengthening the sentences to ensure that person is there for a longer term.

In fact, the wave of prisoners predicted by the other side and by other so-called experts has not materialized. We will be closing two prisons. Anyone who has familiarity with Kingston Penitentiary or the Leclerc Institution would know that the infrastructure of these facilities is incomplete and incompetent in terms of modern-day housing for prisoners. We have already indicated that there is a plan to move these prisoners — maximum security to maximum security and medium security to medium security. There is already a plan in place. As honourable senators know, existing facilities are having additional cells added to them.

[*Translation*]

Senator Hervieux-Payette: The minister seems to think that her government can magically make this question disappear. Not only has the federal government passed laws that will increase the number of inmates, but it has also ensured that current inmates will not have the right to parole, which would be more conducive to rehabilitation.

• (1500)

However, I would like to mention the GEO Group, an American company that manages private prisons and makes over $1.3 billion. This company met with two of the key players in the potential privatization of Canada's correctional system, Minister Vic Toews on October 18, 2011, and John McBride, the president and CEO of PPP Canada, on June 3, 2011.

Based on this information, are we to conclude that the Conservative government is getting ready to start a tendering process for the privatization of Canada's correctional system? When will we see the tendering documents? How many spaces is the government planning to turn over to private prisons?

[*English*]

Senator LeBreton: I think the honourable senator is fixated on what is happening in the prison system south of the border.

Minister Toews made it clear why the government was closing the Leclerc and Kingston penitentiaries. By closing these antiquated and outdated institutions, taxpayers will save nearly $15,000 per prisoner per year. The offices of Corrections Canada and the Minister of Public Safety are working on a plan to move prisoners to equally secure facilities — whether it is maximum to maximum or medium to medium — within our present prison system. I have no idea what the honourable senator is talking about with regard to a request for proposal for private sector involvement. That is not in the government's plans.

[*Translation*]

Senator Hervieux-Payette: Since the leader of the government mentioned our antiquated prisons, I would like to point out that the famous Hôtel-Dieu hospital in Montreal is several centuries old, yet every day, Quebecers are hospitalized there and leave in better health than when they went in.

Having just returned from Paris and Europe, you know that destruction and rebuilding is not always the way to go. People use and renovate existing buildings. The minister had the choice to

renovate those buildings if they were in poor condition, but I cannot believe that the facilities have not been improved since the beginning of the last century.

Can the government leader tell us where those prisoners will end up? The provinces tell us that certain members of the prison population sentenced to less than two years will end up in provincial prisons. But where will inmates sentenced to more than two years end up, now that the government has introduced a considerable number of harsher sentences in Bill C-10?

[*English*]

Senator LeBreton: I cannot imagine one could say that Kingston Penitentiary could in any way be renovated and brought up to a modern-day penitentiary. Anyone who has ever toured Kingston Penitentiary or talked to or knows any prison officials who have worked there knows the difficulties they face in sightlines and the construction of the cells. Prison guards are subjected to having things thrown at them because the bars in the cells are not to the standard of prisons built today.

Corrections Canada has a plan. There is a plan to add cells to existing facilities. There are a dozen existing facilities in the Kingston area. There are others within a distance of Leclerc. Corrections Canada has a plan that will be implemented over two years which will transfer prisoners out of Kingston Pen and Leclerc into facilities requiring the level of security according to their sentence.

One thing is for sure: we will not be building new prisons and our government will not spend a dollar more on corrections than is necessary to keep Canadians safe.

Hon. Joan Fraser: I have a supplementary question. The leader said that the prisoners will be transferred maximum to maximum, medium to medium. That is all well and good, but the plan also includes closing the psychiatric treatment centre. As all members of the Legal and Constitutional Affairs Committee have been made starkly aware, this country's federal prison system is already drastically underserved in terms of treatment for the mentally ill. We know that the population of our prisons increasingly consists of people with mental illnesses. What will the government do with them?

Senator LeBreton: Honourable senators, this is a very serious issue. The Legal and Constitutional Affairs Committee is to be commended for further exposing this very difficult issue before committee when we were studying Bill C-10.

I would point out that it was our government that provided additional resources, such as requiring a mental health assessment for all inmates within the first 90 days of their incarceration. Both access to treatment services for inmates and training for staff have been improved under our government, and the fact remains that we cannot totally rely on prisons. That is not the proper place to treat mental illness. We are working with our provincial counterparts to treat mentally ill people. With regard to the centre in Kingston, we will be accommodating the people who have been treated in that facility just as we are accommodating the other people who are being transferred over the next two years out of Kingston Pen and Leclerc Institution.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the answer to the oral questions raised by Senator Jaffer on March 8, 2012, concerning violence against women; by Senator Chaput on March 6, 2012, concerning second-language training for public servants; and by Senator Comeau on March 6, 2012, concerning second-language training for public servants.

STATUS OF WOMEN

VIOLENCE AGAINST WOMEN

(Response to question raised by Hon. Mobina S. B. Jaffer on March 8, 2012)

Ending violence against women is a priority for this government. Since 2007, Status of Women Canada has approved over 49 million dollars in funding to address the issue of violence against women and girls. Under the programming priority area *ending violence against women and girls,* Status of Women Canada approved funding to community projects that provide prevention and protection supports, such as:

- increasing understanding of the issue of violence against women for victims of gender-based violence (GBV), communities, and professionals/service providers;
- providing information about available resources and recourses;
- familiarizing women with the Canadian justice system and family law;
- facilitating access to mainstream services, outreach, transition support; economic independence support (including financial literacy), and service improvement; and
- developing tools and supports for women, communities and service professionals, including culturally-relevant resources/responses.

The Government of Canada addresses the needs of newly arrived immigrant women primarily through settlement programs. In addition, Status of Women Canada has provided project funding in support of various initiatives. Since 2007, Status of Women Canada has approved over 3 million dollars in funding to address the issue of violence against immigrant women and girls. For example, Status of Women Canada provided project funding to support the development of culturally specific services for immigrant and refugee women victims of violence and human trafficking at an Edmonton area shelter. The shelter, specifically for immigrant and refugee women, is the first

of its kind in Canada and includes outreach services, workshops, a peer mentoring program, and liaison with key stakeholders and law enforcement, social services and immigration services.

OFFICIAL LANGUAGES

SECOND-LANGUAGE TRAINING FOR PUBLIC SERVANTS

(Response to question raised by Hon. Maria Chaput on March 6, 2012)

The internal audit of the School's language training program, referred to in the *2011-2012 Report on Plans and Priorities*, was initiated by School management and preliminary work has been carried out by the School's Internal Audit Group.

The School's Internal Audit Group is currently completing a final audit report. It is expected to be completed in April. Once it is approved, it will be made publicly available.

(Response to question raised by Hon. Gerald J. Comeau on March 6, 2012)

An evaluation was undertaken of a Pilot Memorandum of Understanding between the Canada School of Public Service and Université Sainte-Anne, as part of the Canada School of Public Service 2008-09 Evaluation Plan. The Formative Evaluation Report and the subsequent Action Plan are available on the School's web site (http://www.csps-efpc.gc.ca/aut/cdo/cdo-arc/usa-evalreport-eng.pdf).

[*English*]

ORDERS OF THE DAY

FIRST NATIONS ELECTIONS BILL

THIRD READING— MOTION IN AMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Ogilvie, for the third reading of Bill S-6, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations;

And on the motion in amendment of the Honourable Senator Dyck, seconded by the Honourable Senator Watt, that Bill S-6 be not now read a third time, but that it be amended:

(*a*) on page 3, in clause 3,

(i) by deleting lines 1 to 3;

(ii) by replacing lines 4 to 9 with the following:

" (*b*) the Governor in Council has set aside an election of the Chief and councillors of that First Nation under section 79 of the *Indian Act* on a report of the Minister that there was corrupt practice in connection with that election."; and

(*b*) on page 4, in clause 5, by replacing lines 4 to 7 with the following:

" (*b*) in the case of a First Nation whose name is added to the schedule under paragraph 3(1)(*b*), six months after the day on which the order is made.".

Hon. Dennis Glen Patterson: Honourable senators, I wish to respond to my honourable colleague's suggested amendments to the First Nations Elections Act, Bill S-6. On April 3, Senator Dyck recommended that clause 3(1)(*b*) of Bill S-6 be struck altogether. This clause states:

3.(1) The Minister may, by order, add the name of a First Nation to the schedule if . . .

(*b*) the Minister is satisfied that a protracted leadership dispute has significantly compromised governance of that First Nation;.

I wish to emphasize these words here. They are quite explicit: if "a protracted leadership dispute has significantly compromised governance of that First Nation." I will speak to the importance and significance of these words a little later on.

It is important that this clause remains in the bill. It provides a mechanism to restore leadership in a community in rare and exceptional circumstances where governance has completely broken down in a First Nation and where any progress whatsoever on important issues cannot be made for a protracted period of time.

The honourable senator outlined several reasons which she believes support the removal of this provision, and I would like to deal with these now.

First, while it is true that witnesses appearing before the Standing Senate Committee on Aboriginal Peoples recommended the removal of this clause, the Atlantic Policy Congress of First Nations Chiefs told us that they support Bill S-6 as it currently stands. This support is significant given that this organization has led and championed this initiative from the beginning and it is on their recommendations that the bill stands before us today.

• (1510)

The second reason put forward to delete this clause is that it may be unconstitutional. There are several reasons why the government considers the minister's powers under clause 3(1)(*b*) to be constitutional and why it respectfully disagrees with the opinion offered by the lawyer for the Canadian Bar Association who appeared before the committee.

First, the power in clause 3(1)(*b*) is very similar to the minister's present power under the Indian Act. Though that power has been exercised three times in contentious circumstances, it has never been successfully challenged on constitutional grounds.

Second, we must not lose sight of the fact that Aboriginal rights are not absolute, and the courts have ruled that infringements of those rights may be justified in a variety of circumstances. To the extent that a court might one day find that a custom leadership selection method enjoyed constitutional protection, a situation where a protracted leadership dispute has left a First Nation without effective governance is exactly the sort of circumstance that would justify an infringement of any such right.

Lastly, in such circumstances, making an order under clause 3(1)(*b*) is in fact, I believe, the right thing to do. It is not right to abandon the members of a First Nation whose government has broken down over an inability to resolve long-standing leadership issues. It is not right to put a First Nation into third-party management because their leadership selection system has broken down. On the contrary, it is the right thing to do for the minister to bring them under a stable legal regime with a four-year term of office that can serve as a stepping stone to the re-establishment of a viable custom regime.

My honourable colleague stated as her third reason to delete clause 3(1)(*b*) that the minister will gain new powers over custom code First Nations through this clause that he does not have in the Indian Act.

With respect, this is simply not the case. Under the Indian Act, the minister may order any band, which of course includes First Nations who hold their elections under their own custom, to hold an election under the Indian Act. In fact, operationally, this order can only be made for custom code First Nations. In qualifying the conditions to be a "protracted leadership dispute that has significantly compromised governance," the breadth of the minister's power is more precisely and narrowly defined in Bill S-6 than in the Indian Act, which states that the minister may order an election under the act if "he deems it advisable for the good governance of a band."

While under the Indian Act the minister can order an election on a very subjective ground, Bill S-6 requires the minister's decision to be supported by evidence that there was a governance dispute that has both been going on for a long time and has compromised governance in that community.

The fourth reason Senator Dyck put forward is that there are better ways to intervene in prolonged governance disputes. To this point, I agree wholeheartedly, and so do the minister and his department. When governance disputes arise, the department makes every reasonable effort to offer resources for mediation and other community-based processes to support the community in reaching its own resolution. In some instances, the community has turned to the courts for a resolution where the minister has not been a party. In the three cases in which the minister did exercise his power under the Indian Act, he did so after all reasonable efforts had been exhausted.

To outline an example, the most recent case where the minister ordered a First Nation to hold an Indian Act election occurred in the Algonquins of Barriere Lake First Nation in Quebec. In this case, the community was split into factions, each of which claimed to be the legitimate government selected under the community custom rules. The factions turned to the courts on more than one occasion for a resolution. Although decisions were issued by the courts, the community factions failed to support and respect these decisions, and they continued to assert their claim as leaders.

Finally, after years of effort — and by some calculations this went on for as long as 15 years — and significant resources being dedicated to solving the dispute, all of which proved fruitless, the minister ordered that the leaders of the community would be selected through an Indian Act election process. This election process would provide the clarity as to who the chief and council are. Since this Indian Act election process took place in 2010, the department has been working with the chief and council, and I am happy to say that progress is being made on some key issues.

My honourable friend has also suggested that the Indian Act elections system be amended to include elements of Bill S-6. This approach is not consistent with the recommendations for electoral reform provided by the First Nations organizations that led this initiative. They have clearly stated that reform is best achieved not by amending the Indian Act but by creating a strong alternative that allows them to shed the outdated Indian Act election provisions altogether. This, honourable senators, is what Bill S-6 does. For those First Nations who do not see the bill as their best alternative, the department continues to support their efforts to develop their own community election systems.

The fifth reason put forward to support an amendment to the bill is that there is no guarantee that the minister will not use the power afforded under Bill S-6 inappropriately. Again, I refer back to the words in the clause: "protracted leadership dispute that has significantly compromised the governance of that First Nation." This condition must exist before the minister can order a First Nation to hold an election under Bill S-6. If challenged, the minister would be required to substantiate his decision and provide evidence that supports his conclusion that a protracted leadership dispute has significantly compromised the governance of that First Nation. A court would very likely set aside the minister's order if it found that he acted capriciously and for other motives.

I think it is important to point out that this clause would not allow the minister to order an election simply based on decisions being made and healthy debates amongst the leaders and the community. The types of disputes that would qualify under this wording are those where competing factions in the community claim to be the legitimate government, causing the Government of Canada, the provinces, the territories, the private sector and the community members themselves not to know who the legitimate leaders of the First Nations are. These are governance disputes that drag on, where the parties are unable or unwilling to end their disputes, and they are not the same as internal debate on policy by a recognized government.

Finally, and perhaps most important, I would like to point out that if the clause were removed from Bill S-6, as this amendment would accomplish, the minister would still be able to order the holding of an election under the Indian Act, a system that

I believe we all agree is much weaker than the system under Bill S-6. A First Nation community in such a state that the minister must intervene to restore governance should have access to the best available legislative framework for elections, which is not the Indian Act but Bill S-6.

For those reasons, I recommend that honourable senators vote against the proposed amendment.

• (1520)

The Hon. the Speaker: Questions and comments?

Hon. Lillian Eva Dyck: Would the Honourable Senator Patterson accept a question?

Senator Patterson: Yes.

Senator Dyck: I thank the honourable senator for his speech today. I am happy that he brought up the idea that one of the main reasons this amendment is here is not necessarily because of problems within a particular election but because of the problems of competing factions within a community.

Bill S-6 is designed mostly to talk about improving a particular election, not about competing factions, so we are mixing apples and oranges here. I agree entirely that the Bill S-6 election is much better, but the amendment, as the honourable senator outlined today, is to deal with competing factions, not with irregularities within an election held under the Indian Act or under a custom code.

The honourable senator used Barriere Lake as an example where the situation has improved, but from my readings on Barriere Lake, when the Indian Act was imposed on the community, only 10 people participated in the election. How can that chief and council then be seen as legitimate? In other words, how can imposing an election on a community really improve things? I think most of the communities, although there may be exceptions, do not want the minister forcing them to hold an election; therefore, they have vetoed it.

Senator Patterson: I thank the honourable senator for the question. I will try to answer what I think were two points made by the honourable senator.

With respect, when I spoke in my address about competing factions in a community, I was speaking about competing factions relating to governance disputes. That would be competing factions questioning the legitimacy of an election. I believe that the clause that we are debating today is only about disputes relating to governance or election processes. It would not relate to disputes over decisions made by government or policy disagreements within a community, which the senator suggested would be an obtuse motive for the minister intervening.

I want to make it clear that it is more than just about competing factions or opinions in a community. It is about competing factions that lead to a breakdown of governance, so that the community has no government and is then, in effect, open to the very colonial possibility of third-party management, which no one likes to see happen, or engages in an endless round of litigation, which only enriches lawyers and in the case of Barriere Lake never produced any resolution, even after decisions made by the courts.

The Hon. the Speaker: The honourable senator might wish to ask the house for another five minutes.

Senator Patterson: May I have another five minutes?

Hon. Senators: Agreed.

Senator Patterson: The honourable senator obviously knows more about the Barriere Lake situation than I do, but I do understand that there have been many years where there was, in effect, no governance. Money was spent on litigation and lawyers, producing no result. Perhaps there was minimum participation in an election, but I understand that there is now a governing body able to make decisions. Hopefully, it can restore a custom code that will have the support of more members of that community.

Senator Dyck: I think this idea of competing factions is incredibly important. In Barriere Lake, it probably boiled down to the customary election versus hereditary. In many First Nations, there are hereditary or traditional chiefs for the council of elders who may have an opinion that is very different from those who are elected by Indian Act chiefs. That applies to Barriere Lake.

I do not know if the honourable senator is aware that in early April of this year the B.C. Supreme Court ruled it will not interfere in a prolonged leadership dispute in the Gitxsan First Nation, where the hereditary traditional chiefs are at odds with the elected chiefs. The B.C. Supreme Court is saying it is up to the nation itself to resolve that dispute, which revolves around resources in the Northern Gateway Pipeline. Considering what the B.C. Supreme Court judge has said, why are we proceeding with this type of clause in the bill that clearly goes against modern-day principles?

Senator Patterson: Honourable senators, I believe that one of the purposes of ordering that an election take place in a community where there are disputes over custom codes would be to permit that community to have a mechanism for working together to create a custom code that works rather than the one that is dysfunctional.

As far as the unwillingness of a court to interfere is concerned, I think that is a different situation than the minister ordering an election under this provision, because in an election members of the community will have the opportunity to have a voice in the new leadership of that community.

Senator Dyck: I believe in his answer the honourable senator talked about the community being involved in the election, and I believe that under custom code and the development of reverting to custom, all the community is involved in developing the code. Would the senator not agree that that is the preferable route to go, namely, having the community members come together and develop their own code rather than the minister saying, "You have to hold an election via Bill S-6"? In fact, two of the witnesses

from the AFN and Chief Cook-Searson from Saskatchewan indicated that community development is the answer, and imposing court orders will not resolve these kinds of issues.

Senator Patterson: Honourable senators, of course I would agree that it is very much desirable that a community come together and achieve a consensus. However, this clause — which is a small part of a much bigger bill that, I think, we all agree has many progressive and desirable improvements over the present Indian Act — only relates to a situation where the community has not been able to come together over a protracted period of time.

We all hope that they will come together. The department has resources to assist in that happening, but when it does not happen, should we stand by and allow a community to be paralyzed without governance, without the ability to make decisions, and to be vulnerable to the imposition of the invidious third-party manager? That is the choice we are facing today.

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

Some Hon. Senators: Question.

The Hon. the Speaker: Honourable senators, it was moved in amendment by the Honourable Senator Dyck, seconded by the Honourable Senator Watt, that Bill S-6 be not now read a third time, but that it be amended:

(*a*) on page 3, in clause 3,

(i) by deleting lines 1 to 3;

(ii) by replacing lines 4 to 9 with the following:

" (*b*) the Governor in Council has set aside an election of the Chief and councillors of that First Nation under section 79 of the *Indian Act* on a report of the Minister that there was corrupt practice in connection with that election."; and

(*b*) on page 4, in clause 5, by replacing lines 4 to 7 with the following:

" (*b*) in the case of a First Nation whose name is added to the schedule under paragraph 3(1)(*b*), six months after the day on which the order is made.".

Honourable senators, all those in favour of that motion in amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to that motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: We will call in the senators. Do we have advice from the whips?

Hon. Jim Munson: Thirty minutes.

The Hon. the Speaker: The vote will take place at five minutes to four.

Call in the senators.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

• (1600)

The motion in amendment was negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Callbeck	Hervieux-Payette
Campbell	Hubley
Chaput	Losier-Cool
Charette-Poulin	Lovelace Nicholas
Cordy	Mahovlich
Cowan	Mercer
Dallaire	Merchant
Dawson	Moore
Day	Munson
De Bané	Peterson
Downe	Poy
Dyck	Ringuette
Eggleton	Rivest
Fairbairn	Robichaud
Fraser	Smith (*Cobourg*)
Furey	Tardif
Harb	Zimmer—34

NAYS
THE HONOURABLE SENATORS

Andreychuk	Maltais
Angus	Marshall
Ataullahjan	Martin
Boisvenu	Nancy Ruth
Braley	Neufeld
Brazeau	Nolin
Brown	Ogilvie
Buth	Oliver
Cochrane	Patterson
Comeau	Plett
Dagenais	Poirier
Demers	Raine
Di Nino	Rivard
Doyle	Runciman
Duffy	Seidman
Eaton	Seth
Fortin-Duplessis	Smith (*Saurel*)
Frum	Stewart Olsen
Gerstein	Stratton
Greene	Tkachuk

Housakos
Johnson
Lang
LeBreton
MacDonald
Unger
Verner
Wallace
White—49

ABSTENTIONS
THE HONOURABLE SENATORS

St. Germain—1

The Hon. the Speaker: Accordingly, the motion in amendment is defeated.

Honourable senators, the question before the house is on third reading of Bill S-6. Are honourable senators ready for the question?

Some Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Hon. the Speaker: Adopted, on division.

Hon. Patrick Brazeau: Honourable senators, I wanted to put on the record that I obviously voted against the amendments proposed. However, I was also going to abstain on the original piece of legislation for the following reasons. First, I would like to commend the government for trying to tackle —

The Hon. the Speaker: Honourable senators, when an honourable senator during a standing vote, as occurred a moment ago, chooses to vote in favour of the motion or vote against the motion, when the chair calls for those who wish to abstain, it has been our practice to allow the honourable senator to explain the abstention. However, not having had a standing vote called for, we did not have that same situation prevailing.

Therefore, I must turn to the table to continue the formalities of third reading having been adopted.

(Bill read third time and passed, on division.)

• (1610)

[*Translation*]

INDUSTRIAL ALLIANCE PACIFIC INSURANCE AND FINANCIAL SERVICES INC.

PRIVATE BILL—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Wallace, for the second reading of Bill S-1003, An Act to authorize Industrial Alliance Pacific Insurance and Financial Services Inc. to apply to be continued as a body corporate under the laws of Quebec.

Hon. Dennis Dawson: Honourable senators, as Senator Comeau mentioned, this is not a controversial bill. A private company requested this bill in order to move from federal jurisdiction to the provincial jurisdiction of the Province of Quebec. Industrial Alliance Pacific, IAP, is a subsidiary of Industrial Alliance Pacific Insurance and Financial Services, an insurance company incorporated under the laws of Quebec.

In order to make the change between the federal and provincial jurisdictions, a private bill has to be passed since no other provision under the Insurance Companies Act of Canada can transfer a federally regulated company to a provincial jurisdiction. This initiative is similar to the one taken last December to bring another of their subsidiaries under Quebec's jurisdiction. As was the case last December, the parent company is seeking this change in an effort to be more efficient.

It should be noted that the company received approval from both financial market regulating bodies, at the federal and provincial levels.

I would add that this institution is not setting a precedent because, since 1994, four insurance companies have gone through the same process in order to be subject to the laws of Quebec. The last time we passed similar legislation was in December for the same company.

In closing, I would like to add that it is perhaps time to recommend to the Government of Canada that it amend the Insurance Companies Act to allow jurisdictional transfers to be made without taking up the precious time of the House and committees. As I said earlier, I asked that the Library of Parliament look into viable options. One of the conclusions in the report is that the reason there is no clause allowing for a transfer of jurisdiction is to protect the interests of insurance policy holders. We could therefore, for example, include a provision that would allow a transfer of jurisdiction if the minister or the Superintendent of Financial Institutions is convinced that the regime in the new jurisdiction offers policy holders protection similar to that offered by the federal legislation.

I will come back to this soon, honourable senators.

[*English*]

If honourable senators agree, with leave of the Senate and notwithstanding rule 58(1), I will now move, and I think that Senator Comeau agrees:

> That rule 115 be suspended with respect to Bill S-1003, An Act to authorize Industrial Alliance Pacific Insurance and Financial Services Inc. to apply to be continued as a body corporate under the laws of Quebec.
>
> And that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[*Translation*]

Hon. Gerald J. Comeau (Acting Deputy Leader of the Government): I second the motion of my colleague, Senator Dawson, that we abandon the one-week waiting period in order to send this bill directly to committee.

The Hon. the Speaker: This motion has been formally moved by Senator Dawson and seconded by Senator Comeau.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Joan Fraser: Has the bill been read for the second time? It is just a procedural question: does this motion replace second reading?

Senator Comeau: If I understand correctly, it is a motion to send the bill directly to committee, so this does not replace second reading. We can now proceed with second reading and avoid the one-week waiting period, if I understand the nature of the motion correctly.

The Hon. the Speaker: If we want to use rule 115, that applies. That is the procedure. Okay?

Hon. Fernand Robichaud: Has the bill before us gone through second reading?

The Hon. the Speaker: Not yet.

Senator Robichaud: But it will be referred to the committee, right?

Senator Dawson: There will be an order of reference to suspend the waiting period.

Senator Comeau: Honourable senators, I move that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: Maybe we should start over. Today's Order Paper lists this bill at second reading. Senator Dawson, seconded by Senator Comeau, is using rule 115 to not continue debate at second reading and suspend the one-week waiting period.

Senator Robichaud: Suspend the waiting period.

The Hon. the Speaker: Yes, that period. Is that right?

[*English*]

Senator Fraser: Forgive me, Your Honour, but those of us who serve on that committee are going to need to know the status of the legislation that it is proposed to refer to us. I may be being excessively thick today, but I thought you did second reading and then you had your motion to refer, despite rule 115. I am not quarreling with the goal of the procedure here, but I want to know what it is we will be getting.

The Hon. the Speaker: What the suspension of rule 115 is doing is not proceeding for that week. It states:

> A private bill originating in the Senate, of which notice is required to be given, shall not be considered by a committee until after one week from the date of referral to such committee and, in the case of any such bill originating from the House of Commons, until twenty-four hours thereafter.

I understand that all we are doing is suspending that rule as far as the number of days, which is a week, for the referral. Second reading is suspended. We are not proceeding with second reading.

Let me appeal to the house to explain this one, because I confess my ignorance.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I am not sure I understand either, but would it not be the case, because we have accepted to dismiss rule 115, that Your Honour should now ask the question, perhaps, of when we may consider second reading of this and then we could proceed and put second reading before us?

The Hon. the Speaker: I believe where we are at is that we have the bill and that we are at second reading. When second reading has been concluded, and should second reading conclude with a subsequent motion that the bill be referred to a committee, that committee can deal with the matter without having to wait the period of time that is required. That is all we are doing. I thank honourable senators for helping the chair understand this rule.

• (1620)

[*Translation*]

Senator Comeau: Honourable senators, this is a rule that, I think, very few of us have ever used. Senator Dawson found it, but it is going to help us in our review of this very important bill for business.

I want to thank every senator for unanimously agreeing that if we refer the bill to committee, that the committee will consider the bill immediately.

If no one else wants to speak to this bill, then I move that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs for an in-depth study.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion for second reading of this bill?

Hon. Senators: Agreed.

(Motion agreed to, bill read the second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker: It is moved by Senator Comeau, seconded by the honourable senator, that this bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to, bill referred to Standing Committee on Legal and Constitutional Affairs.)

[*English*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I wish to advise the house that the Speaker's Ruling on the first report of the Rules Committee will be brought down tomorrow.

HUMAN RIGHTS IN IRAN

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Frum, calling the attention of the Senate to egregious human rights abuses in Iran, particularly the use of torture and the cruel and inhuman treatment of unlawfully incarcerated political prisoners.

Hon. Joan Fraser: Honourable senators, I owe an apology to Senator Frum. I promised her that I would speak before the break, and time ran away with me; we were quite busy that week. Although I have almost all of my material put together, I am not quite complete. I will speak to this motion next week, but in the meantime I crave your indulgence and ask for the adjournment for the balance of my time.

(On motion of Senator Fraser, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO URGE THE GOVERNMENT TO MODERNIZE AND STANDARDIZE THE LAWS THAT REGULATE THE MAPLE SYRUP INDUSTRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Raine, seconded by the Honourable Senator Andreychuk:
>
> That the Senate call upon the Government of Canada to modernize and standardize the laws that regulate Canada's maple syrup industry, which is poised for market growth in North America and overseas, and which provides consumers with a natural and nutritious agricultural product that has become a symbol of Canada;
>
> That the Government of Canada should do this by amending the *Maple Products Regulations*, in accordance with the September 2011 recommendations of the International Maple Syrup Institute in its document entitled "Regulatory Proposal to Standardize the Grades and Nomenclature for Pure Maple Syrup in the North American and World Marketplace", for the purpose of:
>
> (*a*) adopting a uniform definition as to what constitutes pure maple syrup;
>
> (*b*) contributing toward the development of an international standard for maple syrup, as it has become very apparent that the timing for the introduction of such a standard is ideal;
>
> (*c*) eliminating non-tariff measures that are not found in the international standard that may be used as a barrier to trade such as container sizes and shapes;
>
> (*d*) modernizing and standardizing the grading and classification system for pure maple syrup sold in domestic, import and export markets and through interprovincial trade, thereby eliminating the current patchwork system of grades that is confusing and fails to explain to consumers in meaningful terms important differences between grades and colour classes;
>
> (*e*) benefiting both marketing and sales for an industry that is mature, highly organized and well positioned for growth;
>
> (*f*) enhancing Canadian production and sales, which annually constitutes in excess of 80% of the world's annual maple products output; and
>
> (*g*) upholding and enhancing quality and safety standards as they pertain to maple products;
>
> And on the motion in amendment of Senator Nolin, seconded by the Honourable Senator Lang, that the motion be amended as follows:
>
> 1) By replacing the words "which is poised for market growth" by the words "which wants to pursue its dynamic development"; and
>
> 2) By replacing paragraph (*d*) in the motion by the following:
>
> "Modernizing and standardizing the grading of pure Maple syrup sold in domestic, import and export markets and through interprovincial trade which would explain more clearly to the consumer the classification and the grading system;".

Hon. Céline Hervieux-Payette: Honourable senators, after a very short season this year, it is almost maple syrup production time; but before this becomes a touchy subject for my colleague, the champion skier, I decided to start my speech by telling you about my personal experience in this regard.

My grandfather had a sugar shack on his land. When we were young, we made the rounds of the sugar bush with a magnificent Percheron. We did not have many modern conveniences. We went to an old cabin with a leaky roof and we boiled the sap 24 hours a day. The men did the rounds while the women worked in the kitchen. I remember well that a flask was passed around every time to help people get through the harvest.

It was much less complicated than what is being proposed today, namely, a project to standardize grades of maple syrup, which was developed and proposed by the International Maple Syrup Institute. Everything seems to be in order. The motion is quite well developed, and I do not intend to comment on it in any detail.

However, what I did notice is that we have two types of producers in Quebec. We have craft producers, such as my grandfather, my uncles and my cousin, who is still producing maple syrup: these are small operations. They are a little more sophisticated today, since they have a pipeline system, whereas, in the good old days, we went around the sugar bush with the horse and emptied each bucket into a giant barrel and then brought the sap back so that it could be boiled.

We are talking about large sums, thousands of jobs, real, commercial operations. To read the file that the Fédération des producteurs acéricole du Québec gave me, I realize this is the direction they are being asked to take, but that there has not been a general consultation, certainly not among the small producers. We are talking about rather elaborate concepts such as appellation control, for which, as with wine, all sorts of standards apply. The documents also talk about the colour, the level of sweetness, and so on. The fact remains that if tomorrow the small craft producers were faced with all these approved international standards, I would like them to be happy or exempt.

In the present case, the only person equipped to exempt them is the Minister of Agriculture whose departmental budget has just been cut by $300 million under the recent federal budget.

I guess that is the cause for the delay, because it seems to me that if the funds were available, the Senate would not be asked to deal with this type of issue. I have no problem with there being a study. I think it is important.

When it comes to small and large producers, there may also be a conflict of interest because we must realize that the large producers want to export. In future, standards might be imposed on the small producers that will affect their commercial operations and even make them unable to see the process through.

Even though this motion is motivated by good intentions, I think it is unnecessary. We could simply tell the minister, who has received the briefs and is aware of the issue, that there needs to be a consultation process in place for small and large producers alike and that he should go see for himself how things operate in the sugar bushes.

There have been all kinds of recommendations. The agriculture committee studied the issue, and now we have a motion to tell the minister to do his job. I have been in politics for several years now, and I do not think that we should have to tell the Minister of Agriculture to take care of producers. That is what he should be doing.

With respect to the motion and the amendment, what worries me is that, even though 80 per cent of the production is exported, we have to remember to put Quebecers first. We also have to remember that Quebec accounts for nearly 90 per cent of production. Of course this is important to us.

Even now it seems that we are not the priority when Quebec issues come up. Just look at the number of MPs, which I think is fairly representative of reality. Personally, even though I commend my colleague's good intentions, I have neither the skills nor the expertise to evaluate this kind of thing. I will do that when we get the report.

There is currently a proposal from an organization made up of large-scale producers, but small-scale producers were not consulted. In my opinion, honourable senators, this is not a bad motion, but there should be no need for it because the minister should do his job.

In conclusion, I cannot support this motion as written. I understand that people who are part of the organization of large-scale producers support it, but they have not considered all aspects of the motion, such as how to evaluate syrup colour and viscosity and how to grade it correctly.

• (1630)

There are dishonest competitors who make imitation syrup. The honourable senators who come from other provinces may never have seen imitation syrup but, in Quebec, we see it regularly. Imitation syrup generally has a lot of water added to it and it is often of very poor quality.

Quebec will certainly benefit from always having a high quality product. I believe that the way to implement the system is to have the 750 small producers — that is a lot of people — agree to a process and make them aware of the effects on their business. If that were to happen, I would agree. The problem must be resolved.

And so, I simply send this motion back to the government and ask it to examine it, to redo its homework. Then, we can take comfort in knowing that we have a standard that eliminates unfair competition, that maple syrup will not be confused with corn syrup, and that the maple syrup industry will prosper both now and in the future. It is important that people at the local level are satisfied. I cannot support this motion as it stands.

Hon. Gerald J. Comeau (Acting Deputy Leader of the Government): Honourable senators, I learned that Senator Carignan, who cannot be here this week, has an interest in this subject. He asked that the debate be adjourned in his name. I believe that Senator Hervieux-Payette's comments will provide

Senator Carignan with additional motivation to correct certain comments that were made in the past few minutes. I move that the debate be adjourned in Senator Carignan's name.

(On motion of Senator Comeau, for Senator Carignan, debate adjourned.)

[*English*]

MULTIPLE SCLEROSIS AND CHRONIC CEREBROSPINAL VENOUS INSUFFICIENCY

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cordy, calling the attention of the Senate to those Canadians living with multiple sclerosis (MS) and chronic cerebrospinal venous insufficiency (CCSVI), who lack access to the "liberation" procedure.

Hon. Jane Cordy: Honourable senators, as you know, the MPs were given a briefing on CCSVI, and I asked the Leader of the Government in the Senate if she would make a similar briefing available for senators. She kindly arranged to do that. That briefing will take place this week, so I would like to adjourn the debate in my name for the remainder of my time. I will speak after I have the briefing.

(On motion of Senator Cordy, debate adjourned.)

THE SENATE

MOTION TO URGE GOVERNMENT TO OFFICIALLY APOLOGIZE TO THE SOUTH ASIAN COMMUNITY AND TO THE INDIVIDUALS IMPACTED IN THE KOMAGATA MARU INCIDENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Munson:
>
> That the Government of Canada officially apologize in Parliament to the South Asian community and to the individuals impacted in the 1914 Komagata Maru incident.

Hon. Yonah Martin: I rise today to remind honourable senators what a great country we live in. Unlike many countries around the world, Canada allows us to have certain freedoms that may not be found in other countries. Here, we are provided with freedom of speech, freedom of independent thought, freedom of religion, freedom of expression and opinion, freedom to travel abroad, and countless other freedoms that we take for granted every day.

If we choose to make something of our lives, we certainly can. We have protected ourselves, through our laws, to allow each and every Canadian citizen and permanent resident to achieve what we aim to do in our lives. Our quality of life and the opportunities available to us here are unparalleled. It is no wonder that people from across the world look to Canada as a place to live, raise a family, invest, start a business and grow old.

When we look at our immigration system, it is a busy and vibrant government department. It is based on principles of fairness and justice. Minister Jason Kenney must be congratulated on taking hold of one of the most sensitive ministries in our government and making it what it is today.

Some Hon. Senators: Hear, hear.

Senator Martin: Each year, our country accepts a quarter of a million immigrants to live here. People fleeing persecution or simply wanting to make a better home for themselves and their families come here. Through our policies, we are shaping the future of our country with people who have brilliant minds and are eager to work. All of these new Canadians can find a home here in our great country, just as my family and I have.

Sadly, this has not been the case in Canada's history. This place has not always been the fair and just haven for migrants and refugees that it is today. In the past, certain laws were formed to discriminate against certain people coming into this country. To recognize these injustices, our government, as soon as it took power in 2006, embarked on a number of initiatives to address the wrongs carried out to various communities throughout our country's history.

One of these misfortunes was the incident of the *Komagata Maru*. In 1914, almost a century ago, there was a Japanese steamship named the *Komagata Maru*, carrying 340 Sikhs, 24 Muslims and 12 Hindus. All of these 376 passengers were British subjects from the Punjab state of India. When the ship arrived at the harbour of Vancouver, 356 of the passengers were not allowed to enter the Dominion of Canada. The reason given was that this steamship did not make a continuous journey to Canada as prescribed by Canadian immigration regulations at the time. The ship sailed from Hong Kong to Shanghai, China, then to Yokohama, Japan, and, finally, to its destination of Vancouver, Canada. Just a few years earlier, the Canadian government had passed an order-in-council that prohibited the immigration of persons who did not come from the country of their birth or citizenship by continuous journey or through ticket purchase before leaving the country of their birth or nationality. This ultimately eliminated all ships that began their voyage from India since there was no way that a ship could go from India to Canada without making at least one stop.

This exclusionary law was basically designed to keep out immigrants of Asian origin. Only 20 of *Komagata Maru*'s passengers were allowed to arrive on Canada's shores, while all the rest were turned away since the steamship violated the 1908 exclusions laws of not sailing directly from India. The steamship had no choice but to turn back to Asia at end of July, after being moored for two months on the shores of Canada.

What happened next was tragic. The *Komagata Maru* arrived in Calcutta, India, now known as Kolkata, at the end of September, a full six months from its original departure date in Hong Kong. A British gunboat assumed that the ship had political agitators on

board since it was turned away from Canada. A skirmish broke out, ending in the death of 19 of the passengers. The remainder were arrested, imprisoned or kept under village arrest for the duration of the First World War.

Who knows how history would have played out if Canada had allowed all of these migrants to come ashore? One piece of information that we do know is that the Indo-Canadian community has made an enormous contribution to the building of our nation.

The immigration restrictions that were imposed at the turn of the 20th century mark an unfortunate period in our country's history.

To try to acknowledge and right this wrong, the Conservative government has established a fund for community projects aimed at acknowledging the impact of past wartime measures and immigration restrictions on ethno-cultural communities. This initiative is called the Community Historical Recognition Program, also known as CHRP. This program funds community-based commemorative and educational projects that recognize the experiences of ethno-cultural communities affected by historical wartime measures and immigration restrictions applied in Canada. This program is also focused on promoting communities' contributions to building this country. The CHRP was announced in 2006 and launched in 2008. It provides up to $2.5 million in funding for eligible projects to recognize the *Komagata Maru* incident.

This program actually has three components to it to acknowledge other wrongs of Canada's past. The first component is a $10-million endowment fund to support initiatives related to the First World War internment experience for all affected communities. This particular fund is managed by the Ukrainian-Canadian Foundation of Taras Shevchenko.

• (1640)

The second component makes $5 million in grants and contributions available to each of the Italian-Canadian and Chinese-Canadian communities in relation to the Second World War internment and immigration restrictions respectively.

Under the third component of the CHRP, both grants and contributions funding are available for commemorative projects relating to other wartime measures or immigration restrictions. This not only includes the *Komagata Maru* incident, but also the MS *St. Louis* incident, which affected the Jewish-Canadian communities. Each ethno-cultural community can access up to $2.5 million.

A key element of the CHRP is the establishment of individual advisory committees for affected ethno-cultural communities to provide advice to the Minister of Citizenship, Immigration and Multiculturalism through Citizenship and Immigration Canada officials on the relative merit of eligible projects. The Indo-Canadian Advisory Committee met for the first time on June 29, 2009. As a result of that meeting, the ICAC recommended three projects for funding with Minister Kenney approving them.

Funding was allocated to Grayhound Information Services in Metcalfe, Ontario; Peripheral Visions in Toronto, Ontario; and the Progressive Intercultural Community Services Society in Surrey, B.C. One of the projects, *Beyond the Gardens' Wall: The Asian Immigrant Workers of Tod Inlet* by Grayhound Information Services, addressed the immigration restrictions that affected both the Chinese-Canadian and the Indo-Canadian communities. It was reviewed and recommended by the advisory committees for both of these communities.

On January 19, 2010, a new call for proposals under the CHRP was issued and additional project proposals were being accepted. I am happy to say that to date, five more projects have been accepted with a focus on the *Komagata Maru* incident. Aside from these projects, it is also important to see how the Conservative government handled this incident publicly. In May 2008, the Government of Canada secured passage of a unanimous motion in the House of Commons recognizing the *Komagata Maru* incident and apologizing to those who were directly affected. On August 3, 2008, Prime Minister Stephen Harper conveyed that apology to members of the Indo-Canadian community in Surrey, B.C.

This historic apology follows on the heels of others made for past wrongs by the Canadian government, such as the Japanese internment during the Second World War and the Chinese Head Tax. It is important that we acknowledge our past wrongs and never forget the contributions made to our country by immigrants from across the world. After all, we are a nation of immigrants with different views on life. That is what makes Canada so unique and dynamic. Each of us brings a unique contribution to our society. It is because of our differences that we are so strong, so accepting and so prosperous. Our diversity brings a resilience that helps us to weather all storms, the cold, the rain, the snow and the turbulent economic troubles that threaten our livelihood.

I am proud that our Prime Minister apologized on behalf of the country to those adversely affected by the *Komagata Maru* incident. I stand behind the Prime Minister in recognizing that the unfair immigration laws of the past held back what may have been some great contributors to our society. Honourable colleagues, we should never forget our past. By not forgetting, we hopefully will avoid making any future mistakes or misdeeds such as the *Komagata Maru* incident.

Hon. Art Eggleton: Will the honourable senator take a question?

Senator Martin: Yes.

Senator Eggleton: I applaud Senator Martin for her remarks on the *Komagata Maru* and on the past wrongs that have been carried out over many years by different governments in this country. The honourable senator said early on that she lauded Mr. Kenney and the government in terms of its fairness of practices. Yet, we hear now that people who have applied to immigrate to this country prior to 2006 are part of the backlog, are to be told that they are being removed from the backlog and that if they so choose, they can apply again. However, the rules have changed, so some of them will not be able to apply again. People who have put their lives on hold for years while waiting to hear from the government about the processing of their applications are suddenly being told that they are gone. Where is the fairness in that?

Senator Martin: Honourable senators, I made reference to the work that Minister Jason Kenney has been doing and some of the reform initiatives based on broad consultation and to the courage and the commitment with which he is approaching these reforms. I am aware of some of these cases, and some people that I know personally. I have confidence in our officials and the ministry to handle those cases in the best way.

My statement today was about the *Komagata Maru* incident. I was in B.C. on the day the Prime Minister made that apology on behalf of the government. When the motion was unanimously passed, it meant so much to those who had been affected directly and to the survivors of the victims.

I will stand by that record. Our Minister Kenney works tirelessly. I have seen his schedule and how he goes across the country. I have confidence in his staff and officials and in their abilities to address what they have to address.

Senator Eggleton: I hear all of that, and I applaud the honourable senator for the remarks she has made about our past wrongs. However, I am afraid we might be on the verge of another wrong. Many people have put their lives on hold while they were in the system as part of the backlog of applicants. Now, they are now being told to get lost. I do not see the fairness in that. I hope that the honourable senator will take it up with the minister because we do not need another wrong in our immigration policy.

(On motion of Senator Tardif, debate adjourned.)

CHARTER OF RIGHTS AND FREEDOMS

INQUIRY—DEBATE ADJOURNED

Hon. James S. Cowan (Leader of the Opposition) rose pursuant to notice of April 5, 2012:

> That he will call the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

He said: Honourable senators, thank you for agreeing to expedite the launch of this inquiry to draw the attention of the Senate to a remarkable event that took place 30 years ago last week: On April 17, 1982, Her Majesty Queen Elizabeth, Prime Minister Trudeau and then Justice Minister Jean Chrétien signed the Charter of Rights and Freedoms. Finally, after more than 100 years, Canada's Constitution was truly Canadian, and finally Canadians had a constitutionally enshrined Charter setting out the fundamental rights and freedoms of all of us — rights and freedoms that no government may violate.

Some Hon. Senators: Hear, hear.

• (1650)

Senator Cowan: An entire generation has grown up never knowing their country without the Charter. It is easy to be complacent and to take its guarantees for granted. I want to take a moment to read a passage from a speech that Mr. Trudeau gave while serving as Prime Minister Pearson's Minister of Justice, at the Constitutional Conference of February 1968. Even then, he was convinced that Canada needed a constitutionally entrenched Bill of Rights. He said:

> I have been asked what need there is in Canada for a Bill of Rights. My answer is that our need may not be so great as is that of persons in some other countries. But my answer as well is that we should not overemphasize our righteousness. We are not in this country innocent of book-burning or banning legislation, or deprivations by law of previously guaranteed minority language rights, of legal expropriation which at times appears to be more akin to confiscation, of persons arrested in the night and held incommunicado for days. We have no reason to be complacent. How many Canadians know that Canadian law permits evidence to be introduced by the police in criminal trials no matter how illegally that evidence may have been obtained? Apart from confessions, for which there are elaborate rules to ensure that they are voluntary, incriminating evidence —

— and this is 1968 —

> — is admissible in our courts no matter how obtained. It may have been gained by fraud; the law-enforcement agencies may have stolen it; they may have obtained it without a search warrant, or by means of breaking-and-entering private premises. To the great credit of the police forces of this country, these tactics are seldom employed. But do we wish to live in a country where they may be employed? And where, on occasion, they are employed? Where one standard of conduct is expected of citizens and another permitted of government agencies?
>
> I do not, and it is my guess that the great number of Canadians do not.

Mr. Trudeau was right, and that is why Canadians have overwhelmingly embraced the Charter.

From its inception, the Charter was viewed as the "people's package." It was not something that was imposed from on high. In fact, Canadians turned up in unprecedented numbers to engage in drafting the text. Professor Lorraine Weinrib, the highly respected professor of law at the University of Toronto, described what happened at the time:

> In publicly televised parliamentary hearings . . . representatives of a wide spectrum of the Canadian public lined up to identify infamous breaches of the liberal democratic values of liberty, equality and fairness. One after another, public interest groups derided the negligible level of protection afforded to fundamental rights and principles under the Canadian Constitution, the statutory Bill of Rights, and the common law. They demanded a strong Charter to prevent repetition of egregious denials of liberty, equality and fairness to the wide range of Canadians they represented. The government welcomed this friendly fire. Amendments quickly replaced a number of weak and deferential provisions.

Writing last week in the *Ottawa Citizen*, Andrew Cohen called it a "carnival of democracy" and "a glorious exercise to cover" as a journalist. The special committee — which was co-chaired by our colleague Senator Joyal, then a member of the other place — sat for 56 days of televised hearings, hearing 914 individuals and 294 groups. By the way, for those of us who have been accustomed in recent years to seeing ministers appear for sometimes less than an hour, it is interesting to recall that then Minister of Justice Jean Chrétien testified before the committee for more than a hundred hours, explaining the meaning of key words and sections.

Senator Mercer: Now, that is open democracy.

Senator Cowan: As he wrote in his book *Straight from the Heart*: "It was a hell of a test." However, I believe the Charter benefited from that demanding process — and as a consequence, so have we all.

Professor Weinrib wrote:

> If democratic engagement constitutes the touchstone of political legitimacy, as those who opposed the Charter contended, then Canada's new Charter, with its expansive guarantees and stringent limitation clause, enjoyed considerable legitimacy. The wide array of public interest groups that participated in the final drafting of these clauses functioned in many respects as the constituent assembly that Canada had never had.

Today, the Charter has become one of the most important symbols of Canadian national identity. An Environics poll in the fall of 2010 found the Charter was the second highest ranked national symbol for Canadians — our health care system was number one. The Charter was considered more important even than the flag and our national anthem. That is how deeply it is now etched in our national consciousness.

Indeed, I noticed last week that someone was offering a special free smartphone app for the Charter, complete with a menu of the different categories of rights and freedoms protected by it. They said they were doing this "to help celebrate the thirtieth anniversary of the adoption of the Canadian Charter of Rights and Freedoms."

There have been reports in recent days that Prime Minister Harper decided not to mark this anniversary of the Charter because he is sensitive to the concerns of Quebecers about the Constitution. I suspect many Quebecers would wish that instead of sitting out last week's celebration in supposed deference to their constitutional concerns, the Prime Minister would sit down with the Quebec government and work out present-day differences on issues like the gun registry, approaches to youth criminal justice and Senate reform.

Some Hon. Senators: Hear, hear.

Senator Cowan: Perhaps he would even hold a first ministers' meeting.

In fact, a CROP poll last October found that an overwhelming majority of Quebecers, 80 per cent, said that patriation of the Constitution was a good thing. Fully 88 per cent supported the Charter. With similar support across the country, is it really asking too much for the Prime Minister of Canada to join Canadians in celebrating this anniversary?

The Charter was truly transformative in our nation's history. In 1982, then Minister of Justice Mark MacGuigan said that the Charter was, as he described it, the "most significant legal development in Canada in the 20th century." That was not long after the Charter was signed.

On the tenth anniversary of the Charter, then Chief Justice Antonio Lamer exuberantly said that the Charter had produced "a revolution on the scale of the introduction of the metric system, the great medical discoveries of Louis Pasteur, and the invention of penicillin and the laser."

Most recently, just last week, Louise Arbour, former Supreme Court justice, former UN High Commissioner for Human Rights, and now President and CEO of the International Crisis Group, wrote that "the most significant political event of post-Second World War Canada may be the enactment of the Charter of Rights and Freedoms." She continued: "It has transformed a country obsessed with the federal-provincial division of powers and enabled it to address its diversity in a substantive, principled way."

Honourable senators, why is the Charter so beloved by Canadians? Why does it elicit such extravagant praise? Undoubtedly, it is largely because of the particular rights and freedoms that are enshrined. A number of my colleagues will be speaking to the profound impact of individual provisions of the Charter, but I believe there is something more. It is the pride in knowing that our country stands absolutely for certain fundamental principles, which no individual government may take away — knowing that the courts stand ready to defend those principles, those fundamental prices and freedoms, that they are not held on sufferance or by the good grace of the majority of the day, but by right, under the Constitution itself.

I will admit that I am often surprised when some members of the Conservative Party speak disparagingly of provisions of the Charter. The Charter is the bulwark against government interference into the private lives of Canadians. It is the defender of our personal freedom. I should have thought that this was the ultimate Conservative value, especially for a government so intent upon defending individual freedom against government that it abolished the mandatory long-form census because it allegedly was too intrusive and coercive for Canadians to endure any longer. Sadly, this does not appear to be how those in power today truly view the relationship between government and citizens. Ask the environmental organizations about their freedom to speak out these days against government policies. However, that is another debate.

In the meantime, the members of the Harper government prefer to gloss over the impact of the Charter. They try instead to highlight the contribution of Conservative Prime Minister Diefenbaker and the Bill of Rights.

• (1700)

I recognize and applaud the good efforts of Prime Minister Diefenbaker. I have always acknowledged his visionary contributions to Canadian life. The problem is that the Bill of Rights was an ordinary act of the Parliament of Canada. It never fulfilled its promise. It simply was not an effective vehicle to protect the fundamental rights and freedoms of Canadians, but it was a good beginning.

At the outset of these remarks I quoted Prime Minister Trudeau from 1968 on some of the reasons Canada needed a constitutionally entrenched charter. Let me give honourable senators one more example, from just a few years before the Charter was negotiated and signed.

In 1974, the police in Ontario raided a tavern in Fort Erie. During the raid, they physically searched almost all of the 155 patrons and subjected the 35 women present to strip and body cavity searches. The result? The police snared all of six ounces of marijuana, most of which, by the way, was located on the floor of the tavern and not on anyone's clothing or inside body cavities.

The Honourable Marc Rosenberg, Justice of the Court of Appeal for Ontario, wrote about this case in an article that examined the impact of the Charter on criminal law on the occasion of the twenty-fifth anniversary of the Charter. This is what he said at that time:

> The point of the Fort Erie story, of course, is not that the police acted foolishly or with an excess of zeal but that they acted completely lawfully. The Charter, however, changed that. With the enactment of section 8 — the guarantee to protection against unreasonable search and seizure — writs of assistance and other broad statutory powers of warrantless search were struck down.

The Charter was revolutionary, to use Chief Justice Lamer's word, not just for Canadian law, but as a constitution among constitutions as well. It broke new ground in several ways, most notably with section 1, which guarantees the rights and freedoms prescribed in the Charter "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." There is also section 33, the legislative override, the so-called "notwithstanding" clause.

These were groundbreaking provisions at the time and highly controversial. The result was to provide a new path, an alternative to legislative supremacy along the Westminster model, on the one hand, and judicial supremacy along the American model, on the other.

Professor Weinrib described it this way:

> The Charter's structure of rights protection linked a relatively expansive catalogue of guaranteed rights, coupled with a stringent and principled limitation clause, to a legislative override clause applicable only to some of the guarantees. Thus, the courts acquired a new constitutionally dictated judicial function. Similarly, the override clause vested in Canada's legislatures a new constitutionally dictated political function.

Honourable senators, one of the biggest debates that still rages about the Charter is whether Parliament has ceded too much power to the judiciary or, conversely, that governments today abdicate their responsibilities to address the tough questions, leaving it to the courts to decide under the Charter. Certainly, reasonable people can hold different views over whether, buttressed by the courts' responsibility to uphold the Charter, governments have become too timid or passive on controversial issues. However, surely it is wrong to blame the Charter for a government's timidity.

In my opinion, the Charter strikes a careful balance between judicial and legislative power that takes traditional parliamentary supremacy and adapts it to a new order with a constitution that is supreme and transfers a measure of power to each and every Canadian. The limiting words in section 1, and the ever-present option of invoking section 33, have acted to open up what Peter Hogg has called "the Charter dialogue between the courts and legislatures." In a famous article, he wrote the following:

> In considering the legitimacy of judicial review, it is helpful to think of such review as part of a "dialogue" between judges and legislatures. . . . Thus a judgment can spark a public debate in which Charter values are more prominent than they would have been otherwise. The legislative body is then in a position to decide on a course of action — the re-enactment of the old law, the enactment of a different law, or the abandonment of the project — that is informed by both the judgment and the public debate that followed it.

We are not the United States; we have a different system and our Charter reflects that. In contrast to our neighbours to the south, where some argue that their constitution is to be interpreted according to the original intent of the founders, back in the 1700s, here we have a concept of the constitution as a living tree. Our courts have, thankfully, not been politicized. Our Supreme Court is considered, as John Ibbitson said in a recent *Globe and Mail* article, "an exemplar in balancing constitutional and legislative powers, a role the American Supreme Court lost after Republicans and Democrats turned it into an ideological battleground."

In fact, this Charter, which broke new ground in 1982, has become a model for nations around the world. Two American professors, David Law and Mila Versteeg, recently conducted an extensive study in which they looked at 729 constitutions adopted by 188 different countries from 1946 to 2006. Their analysis concluded that the U.S. Constitution, long considered the model for the world and justifiably called a "gift to all nations," in fact is declining in influence. They concluded that one of the likeliest heirs to the throne as "the primary source of inspiration for constitution-making in other nations," as they described it, is none other than Canada. They stated:

> A stark contrast can be drawn between the declining attraction of the U.S. Constitution as a model for other countries and the increasing attraction of the model provided by America's neighbor to the north, Canada.

The Charter was the leading influence upon the drafting of the South African Bill of Rights, the Israeli Basic Laws, the New Zealand Bill of Rights and the Hong Kong Bill of Rights, among

others. Several scholars have concluded that Canada is at the forefront of a "new Commonwealth model of constitutionalism."

Law and Versteeg headed their chapter on the Charter's influence: "Is Canada a constitutional superpower?" No wonder Canadians are so proud of what was achieved 30 years ago last week.

The Constitution we forged is today influencing the world. The extensive negotiations and direct input of hundreds of Canadians and Canadian organizations have combined to create something now looked to by other nations as a model to follow. What a tribute to the wisdom of Canada's political leaders 30 years ago, spearheaded by the leadership of Pierre Trudeau and Jean Chrétien, but achieved because of the concerted efforts of leaders of diverse political parties and regions — Roy McMurtry, Richard Hatfield, Bill Davis and Roy Romanow, to name a few.

Honourable senators, I know there are some today who deride so-called "soft power." I take great pride in knowing that one of Canada's greatest gifts to the world is our Charter — its ideas of fundamental rights and freedoms, of balancing respective powers in a federal state, and judicial and legislative powers — ideas of basic respect and a just society.

Law and Versteeg wrote:

> All other things being equal, the more democratic that a particular country happens to be, the more that its constitution will resemble that of Canada.

• (1710)

They say that:

> Some countries may be especially prone to borrow from the Canadian Charter of Rights and Freedoms because they perceive themselves as sharing the same goals and values as Canadian society, or because they are exposed to a greater than average degree to Canadian legal thought. . . .

What a tribute — what a great legacy.

Yes, the thirtieth anniversary of achieving what many thought would prove impossible is indeed cause for celebration. It is a time to pause and reflect on how far we have come as a nation and what we have come to represent to the world.

Honourable senators, I must tell you that I cannot comprehend why the Harper government has chosen not to mark this occasion with something more than a perfunctory press release. Is this government not proud of the Charter? It celebrates our military achievements — including spending $30 million to celebrate the War of 1812 — but it could not bring itself to mark the thirtieth anniversary of the Charter. In sending our men and women to places like Afghanistan and Libya, is not one of our goals to introduce to those countries the rights and freedoms we cherish here at home? When we support our military, we do so in no small part because of the Canadian values those who serve so honourably protect.

Some Hon. Senators: Hear, hear!

Senator Cowan: At the centre of those values they defend is the Canadian Charter of Rights and Freedoms.

As I have said, I am very disappointed that the Harper government has decided that the thirtieth anniversary of this Charter is not worthy of a celebration, but I suspect the reason has as much to do with Mr. Harper's approach to governance as it has to do with any particular aspect of the Constitution itself.

I have described how the Charter was the product of extensive hearings and public debates where the Minister of Justice testified for more than 100 hours before a parliamentary committee and where hundreds upon hundreds of individuals and groups presented their views.

What has happened since then to the wide array of diverse public interest groups that, as Professor Weinrib described, functioned as the constituent assembly Canada had never had — that made the Charter the "people's package"? The Harper government has systematically worked to diminish their voices. Many have seen their public funding cut or eliminated — "defunded" in Harper-speak. This government was very clear that it would not support groups doing "advocacy" — women's and other groups were not to speak out and dare to argue with the government. Most recently, government members opposite have attacked charitable organizations that represent thousands of Canadians across the country. These organizations have been maligned as acting against Canadian interests, as being infiltrated by foreigners and indeed, to use Senator Duffy's phrase, of being "anti-Canadian."

We all remember how, as one of the first acts, the Harper government eliminated the Court Challenges Program of Canada back in 2006. This was done for ideological and not financial reasons. This was long before the global financial meltdown. The government then was still enjoying the healthy surplus it inherited from the previous Liberal government. There was no need, under the banner of austerity, to cut this program. This government just does not like to be challenged — not by Canadians, not by the opposition and certainly not with constitutional challenges in court.

The Court Challenges Program helped people whose constitutional rights were being violated but who could not afford to pay for lawyers to take their cases to court.

Senator LeBreton: You keep giving the same speech over and over again.

Senator Cowan: We have not heard your speech, Senator LeBreton. I look forward to that. It will be a challenge. You might listen and learn something.

It helped families with children with disabilities. It helped people who were deaf —

An Hon. Senator: Oh, oh.

Senator Cowan: If the Honourable Senator Duffy wishes to speak, he should sit in his seat.

It helped people who were deaf, who wanted the right to sign language interpretation in hospitals, and it was pivotal in defending the rights of Canadians to use either official language.

Earlier I mentioned the op-ed last week by Madam Louise Arbour. In that article she also wrote about the importance of the Court Challenges Program. In her words:

> This was an admirable companion to the Charter. It expressed the government's faith and commitment to rights enforcement, by equipping litigants and civil-society organizations with the ability to access the courts. This, in turn, provided the courts with high-quality Charter litigation without which the remarkable early Charter jurisprudence might have taken much longer to develop.

I am proud that so many Canadian governments, Liberal and Progressive Conservative, had such commitment to our Constitution that they willingly funded challenges to their own legislation. These were governments that did not fear dissenting views from Canadians. Their overriding concern was that all Canadian laws comply fully with the Constitution.

The current government now takes a very different approach. Not only has it done away with the Court Challenges Program and cut funding to many groups that challenged government action, it openly seeks to circumvent the clear intent and words of the Constitution in its determination to impose its vision of a new Senate on Canadians. It has steadfastly refused to refer the question of the constitutionality of its proposals to the Supreme Court. I can only conclude it is because the government believes that those proposals would be found to be unconstitutional.

Honourable senators, if a government is prepared to amend the Constitution by circumventing the amending formula, what is to prevent it from deciding next to circumvent fundamental rights and freedoms in the Charter? It is precisely to guard against such actions by a government — by any government — that we have a Constitution and a Charter in the first place.

I will end by returning to the beginning, to the words of Prime Minister Trudeau spoken 30 years ago on April 17, 1982, at the proclamation ceremony for the Charter. He expressed his deepest hope that Canada "will match its new legal maturity with that degree of political maturity which will allow us all to make a total commitment to the Canadian ideal." He said:

> I speak of a Canada where men and women of aboriginal ancestry, of French and British heritage, of the diverse cultures of the world, demonstrate the will to share this land in peace, in justice, and with mutual respect. I speak of a Canada which is proud of, and strengthened by its essential bilingual destiny, a Canada whose people believe in sharing and in mutual support, and not in building regional barriers.
>
> I speak of a country where every person is free to fulfill himself or herself to the utmost, unhindered by the arbitrary actions of governments. . . .
>
> We now have a Charter which defines the kind of country in which we wish to live, and guarantees the basic rights and freedoms which each of us shall enjoy as a citizen of Canada.
>
> It reinforces the protection offered to French-speaking Canadians outside Quebec, and to English-speaking Canadians in Quebec. It recognizes our multicultural character. It upholds the equality of women, and the rights of disabled persons.

I will conclude as Trudeau concluded:

> For what we are celebrating today is not so much the completion of our task, but the renewal of our hope — not so much an ending, but a fresh beginning.
>
> Let us celebrate the renewal and patriation of our Constitution; but let us put our faith, first and foremost, in the people of Canada who will breathe life into it.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore***:** Further debate?

[*Translation*]

Hon. Rose-Marie Losier-Cool: Honourable senators, it is with great pleasure that I participate today in the debate on the inquiry raised by my colleague and the Leader of the Opposition in the Senate, the honourable Senator Cowan. He has chosen to recognize the 30th anniversary of the Canadian Charter of Rights and Freedoms, one of the fundamental texts of our federal body of law. I would like to thank him and commend him on his eloquent and inspiring speech.

• (1720)

The Charter of Rights and Freedoms was enshrined in the new Constitution Act in 1982. This Charter guarantees that official language minorities in Canada have rights that we now all take for granted.

I would like to remind you in particular of the provisions of the Charter that deal specifically with my province, New Brunswick, and the minority that I represent in this House, the Acadians. These provisions mainly concern our country's official languages.

Subsection 16(2) of the Charter states that French and English are the official languages of my province and that they have equality of status as to their use in institutions of the legislature and government of New Brunswick. Therefore, this subsection, which is confirmed in subsection 20(2) of the Charter, gives Acadians anywhere in my province the right to be served in French by the Government of New Brunswick.

Section 16.1 of the Charter was added in 1993, after the 1990 Supreme Court ruling in the *Mahé* case, which dealt with the right of language minorities to be involved in the administration of their children's education. This new section repeats that the English and French linguistic communities in my province have

equality of status and equal rights and privileges. The Charter gives Acadia the right to its own distinct educational and cultural institutions needed for its preservation and promotion.

This new section 16.1 also gives the provincial government the constitutional mandate to protect and promote the status, rights and privileges of these two main linguistic communities in our province. This will give you a better understanding of Acadian protests in recent years against attempts by the two past provincial governments to undermine everything we have accomplished in terms of health boards, management of school districts and French education, especially in immersion.

The Charter also includes other provisions that affect my province in terms of official languages. For instance, subsection 17(2) grants all MLAs in New Brunswick the right to express themselves in the official language of their choice. Subsection 18(2) stipulates that all documents produced by the legislature of New Brunswick, including journals, must be published in both official languages, with both language versions being equally authoritative. Subsection 19(2) states that either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick. The defendants in the *Louis Mailloux* case would have loved to have had that right, I can assure you.

Honourable colleagues, if you recall my speech from January 31 on the evolution of French education in New Brunswick, you already know that our Acadia did not wait for the proclamation of the Charter before taking control of its own future.

However, there is absolutely no question that the Charter gave Acadians an enormous boost that has allowed us to consolidate our gains when it comes to speaking French. And as Senator Cowan so aptly put it, the Charter enshrined in our country's Constitution the notion of equal status for both official languages and for the two main language communities of our country — and of my province. That is why Acadia and New Brunswick owe a debt of gratitude to the Charter, and I wish to thank the visionaries who drafted it.

[*English*]

Hon. David P. Smith: Honourable senators, I rise to speak to the thirtieth anniversary of the Canadian Charter of Rights and Freedoms. It is not often in life we have the opportunity to do something that can have a real, positive effect on people's lives; it does not happen every day. The passage of the Charter was one of the most meaningful and moving events of my life. Here is the story.

In 1980, I was a relatively young MP, still in my thirties, and the United Nations had passed a motion that 1981 would be declared as the International Year of Disabled Persons. Prime Minister Trudeau said, "David, look, I want to have a special committee. I want you to review the situation in Canada and bring us a report, you know, within about a year, in early 1981."

I was the chair of the committee; there were seven members. There were four Liberal MPs, whom I just want to mention: Thérèse Killens from Montreal, Peter Lang from Kitchener, who was a medical doctor, and Ray Chénier from Timmins. There were two Conservative members: One was Walter Dinsdale, who was one of the finest men I ever knew. He was a Salvation Army officer, and he had been in the air force in the Second World War. I know his wife, and he had a member of his family who was disabled. The other was Bruce Halliday, the MP for Oxford. He was a wonderful man; we were good friends. His wife, within six months of their being married, got polio — just about a year before they got the vaccine — and she spent her life in a bed on wheels.

We had people on this committee who understood the issues. I had an uncle I was very close to, Lennox Smith, who when he was a baby got polio, and he spent his life walking with a very stiff brace and a cane. In our committee there was not one ounce of partisanship. It is nice when that happens. I felt very strongly we had to get the message out as to what the challenges were for people who had disabilities in this country. I got some of the best script writers and photographers from top Toronto ad agencies to donate their time and we produced a report — some of you may have seen it — called *Obstacles*. It was about the obstacles that disabled people had. We picked 12 people across the country with different obstacles living in different areas, remote areas.

I do not know if we could have a little order.

These people had photographs taken, and I am just showing you some of them. This was a woman, Joan Green, from Saint John, New Brunswick, who had rheumatoid arthritis. She had to live in a bed all the time. Her body temperature was three or four degrees above average, and she always had a smile.

There were some others in there that I want to mention. Julius Hager was a paraplegic, an Aboriginal who lived in Pelly Crossing in the Yukon — a little wee place — in a wheelchair and he was 95 per cent disabled. Craig Ostopovich was totally deaf in his teens, but his accomplishments were astounding, and both his parents were deaf.

Melanie Wise was quite a case because we could only talk to her father. She was profoundly mentally retarded. At the time she was 21; she was also autistic and lived in a wheelchair, rolled up in a ball. She had never had any eye contact or speech contact with her father. She was also epileptic and had about 25 fits a day. Can you imagine? We talked to her father, who was gentleman.

This main report was 190 pages long. We had 130 recommendations, but it was full of photographs of these people. We had to do abbreviated versions that had all the photographs and the summary because high schools all over Canada wanted it. Nursing schools wanted it; community colleges that had health programs wanted it. We had to do 400,000 copies of this report. The Speaker at the time, Madam Sauvé, who was later Governor General — and we were quite good friends — called me in and gave me a bit of trouble. She said, "David, we cannot afford this stuff." I asked, "What is the problem?" She said, "Everyone wants it." I said, "You are complaining? At lot of parliamentary reports are cures for insomnia. Just keep them by the bed and, if you cannot sleep, start reading them." She backed down pretty quick. We also did a special report on native populations. We did a follow-up report a year and a half later and filled it full of photographs telling the story.

• (1730)

Why am I making this point, honourable senators? The point I am making is: We got this issue on people's radar screens. They were talking about it all over. We had gone to 23 different communities in Canada to hear witnesses. We divvied up. We went up to the North and to remote areas. We heard over 600 witnesses.

I lost track of my notes here. I was going to speak briefly about the other ones in the book, who I will briefly mention now. We had a blind fellow, Dennis Beaudry from Montreal; a quadriplegic, Bill Selkirk of Ottawa. Then there was Shaun McCormick from Halifax, who had become a paraplegic at 21; Barbara Goode from North Vancouver, who was mentally retarded and spoke frankly and candidly; Len Seaby from Edmonton, who had had artificial arms since he was four years old; Jennifer Myer from Lethbridge, who had multiple sclerosis; Serge LeBlanc from Chicoutimi, who had cerebral palsy; and Ian Parker from Toronto, who had a spinal cord injury from a car accident and was totally paralyzed.

Honourable senators, just a few months after this report came out, the first draft of the Charter came out. I was the Deputy House Leader and very involved in all this stuff. We had special caucus after special caucus on the Charter. Section 15(1) at that point read like this — and I am deleting some of the legalese to make it understandable — "every individual is equal before and under the law, without discrimination based on race, national or ethnic origin, colour, religion, sex or age." It ended there.

We felt very strongly that it should include mental or physical disability. I got up in our caucus and started giving speeches that this was a question of integrity and a question of principle. It was about our values. I had given this speech several times and had been getting feedback through the grapevine because there were no bureaucrats at these caucus meetings, but they were talking to lawyers and justices. One said, "Does that mean every two-storey building in Canada has to have an elevator?" When I was asked that I said, "Well, if it is a federal government office building where disabled people have to get in, yes, but not houses. We have to assume that the judiciary will apply common sense to this. We have to do it."

I had given this speech four or five times, and it still was not in. I was a little down. We used to have the meetings in the West Block. I was walking back to the Centre Block — and I will never forget this — when I felt an arm around my shoulder. It was Allan J. MacEachen, who was then Finance Minister and Deputy Prime Minister. He said, "David, you are right. Do not give up. This is a question of principle. Do not give up."

Excuse me if I get a little emotional here, but two weeks later I got up again at another special caucus and I started into the same speech with a few variations. I will never, ever forget it. Pierre Trudeau stood up after about two minutes and said, "David, we do not have to listen to your speech again. We are putting it in." I descended into a basket of tears, but they were tears of joy. I will never, ever forget that.

I do want to say — and I would like the leader to listen to this — that we got it through, but it was not really a Liberal thing. Walter Dinsdale and Bruce Halliday were among my best friends. Years later, I went to Bruce's funeral. When Walter died, I flew out to Brandon. I will never forget that because he was a Salvation Army officer, when they lowered the casket, the band was playing *O Boundless Salvation* and there was not a dry eye in the place. They helped do this. This was not a Liberal thing. This was a Canadian thing.

I want to pay tribute here. I feel very proud about what happened and I hope that everyone else in this house does, too. I want to mention some of the folks up there, in particular Barbara Reynolds and Sherri Torjman. They were there; they helped make it, too. That is how I feel about the Canadian Charter. When one reads it now, what does it say? It states: "without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

Hon. Senators: Hear, hear!

(On motion of Senator Andreychuk, debate adjourned.)

(The Senate adjourned until Wednesday, April 25, 2012, at 1:30 p.m.)

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