

Meeting with the Honorary Consuls on 29th May 2006

Speech by Yvonne E.M.A. Timmerman-Buck, President of the Senate of the Dutch States General

Ladies and gentlemen,

It is with great pleasure that I respond today to the request to deliver this address to you. Firstly, as a token of appreciation for all the good work you do! Secondly, because the intention evidently is to refresh your acquaintance with the Netherlands and familiarise yourself with the way our society, our politics and our political system operate. I would not like to miss this opportunity of informing you how our bicameral system works. It will not surprise you that I will deal in particular with the functioning of the Senate. I will then express some thoughts about the citizens we represent, and more specifically about the tensions which for the time being I am referring to with the words Fortuyn, Van Gogh, the referendum on the constitutional treaty, and Hirsi Magan.

Firstly, the Senate. There are considerable differences between the senates in the various bicameral systems in and outside Europe. Let me start by saying that under the Dutch Constitution, both Houses are of equal standing. They scrutinise the government and both contribute as legislative bodies. The senate, however, with its 75 members (that is half the number of members of the House of Representatives) is more remote from day-to-day politics than the House of Representatives. Traditionally, the Senate is referred to as the “chambre de réflexion”, counterbalancing what is known as the “political issues of the day” in the House of Representatives. The Senate focuses especially on its role as joint legislative body and concentrates on verifying the quality of rules and regulations. It verifies whether the government is not at odds with superior rules and regulations, such as European law and international treaties, it considers whether the rules are enforceable and whether they are practicable. The latter is becoming increasingly important because studies have shown that the practicability of regulations is a considerable problem. This is of such significance and complexity that the Senate conducted a separate debate with the government on this, and unanimously proposed improvements. For the Senate to have taken this initiative is exceptional since, as a rule, it first awaits what, if anything, the House of Representatives is going to do. That is where the primacy lies. The Senate took this initiative, however, because it was of the opinion that the alarming study before it, had to be considered more in depth. Attention for the problem of practicability of regulations is required also because citizens and social organisations not infrequently hold the view that politicians in The Hague, the government as well as the Parliament, have no idea of the effect of legislation in day-to-day practice. In their eyes, legislation regularly creates as many problems, such as bureaucratic ones, as it solves.

The House of Representatives has the right of initiative (the right to initiate bills) and the right of amendment. While the Senate lacks these powers, it has a veto right. If voting goes against a bill, it is definitively removed from the parliamentary agenda. This is a significant difference with most other senates in the world. Other senates frequently do have the right of amendment, but insofar as they also have the right of veto, it will not be absolute. In some countries, the bill then has to be returned to the House of Representatives, while yet other countries have a mediation committee or a joint meeting of the two Houses. In the Netherlands, a bill that has been rejected in a vote by the Senate is removed from the Parliamentary agenda. If the government were to want to make a new attempt at all, it would – if it concerns a political problem – have to await new elections in the hope of a new political constitution of the Senate. In the previous parliamentary year, the Senate was responsible for two bills failing to become law. Both matters were of historic importance. Notably the one

bill was rejected by unanimous vote in the Senate, while the other concerned a change in the Constitution. The change in the Constitution, which required a two-thirds majority related to the method of nominating Dutch Burgomasters. In our country, they are not elected but appointed by the Crown.

The veto right is used sparingly because it has such far-reaching effects. It does, however, work as a deterrent. In each debate with the government about a bill, commitments are exacted by the Senate. The nature of these commitments is very different. For instance, the Senate may want to clarify or tighten the interpretation of a law. In practice, we see that the judiciary, for example, in forming its opinion takes account of what was said in the Senate or what commitment was made to it. The Supreme Court, for instance, our highest court, used the Senate's deliberations on the law concerning euthanasia as an argument in favour of a strict interpretation of these legal rules. In this case, there was no question of a situation in which someone was dying; the elderly patient had requested euthanasia because he was tired of living and "ready to leave this life". The Supreme Court refused to consider situations such as these as permissible mercy killing.

The Senate can force the government to make commitments of a financial nature as well. As is often the case, tasks and powers of the central government are transferred to other authorities or agencies without adding the financial resources required to be able to perform the tasks properly. The municipalities for instance, were assigned new tasks under the new Social Assistance Act. The government had made a certain amount available for this. The Senate foresaw that this amount would give rise to problems and it ensured that the finances made available to the local authorities were doubled. It happens more than once that the Senate is concerned about the implementation of a law. I mentioned this earlier. It is for this reason that the government is then asked by the Senate to carry out an evaluation study covering specific aspects. Such as the aspect of bureaucracy. All commitments the government makes to the Senate are recorded, and their compliance is monitored. If a Minister or State Secretary fails to comply with a commitment, does not comply with it swiftly enough or in full, he or she is confronted with it in such a way that the commitment is complied with. This is also the case with replies to written questions and adopted motions.

These two competencies, namely posing questions in writing and the right to table motions, are held by both the Senate and the House of Representatives. The Senate handles them very differently, however. As in the case of the veto right, these two instruments are used but sparingly. The reason is to be found in the necessity to prevent the axe from getting blunt by using it too frequently. In the House of Representatives, we see the power of the motion losing its strength as a weapon owing to the large numbers. In the Senate, the quality of the instrument is not affected by the quantity: Ministers and State Secretaries know that they have a problem when ignoring a motion by the Senate. What also plays a role in this regard is that where the government is in danger of not complying with its commitments, or of not implementing motions in the manner wanted by the Senate, all 75 members of the Senate will have difficulty with this. Regardless of whether one agreed with the motion or commitment, senators are conscious of the fact that the Senate derives its power from its status as an institution.

The communal power expresses itself, for example, in the unanimity with which motions are tabled or adopted. If in a debate with the government, a party has put forward a certain point, it happens more than once that other parties will simultaneously lend their support to it, so that political dividing lines are of lesser importance. A phenomenon not known in the House of Representatives, but which occurs more often in the Senate, is that a single spokesperson conducts a debate with the government on behalf of the entire Senate. Not so long ago, a left-wing party donated the allotted speaking time remaining to a small Christian party. The spokesperson for this party, an esteemed member of the House of Representatives for many years, thankfully said: this only happens in the Senate.

A 'chambre de réflexion', that counterbalances the political issues of the day: That is the reason why a different method has been opted for in the past few years when debating the budget. Where in the past, 10 spokespersons would attempt with every budget to skim off some of the cream, we now focus more and more on themes which all spokespersons deal with and prepare jointly. To redo the work of their peers in the House of Representatives is not what the Senate wants to do; instead it wants to realise its added value. This is why we opt for other angles of approach to these debates: more focus on the connections between the political fields and departments, and more focus on the future. As a concrete example I would cite the debate we conducted with a large part of the Cabinet by simultaneously considering six budgets with the theme "the spatial economic development of the Netherlands". That was not discussed with the prospect in mind of an election in four years' time; it was about the development of airports, ports, urbanised and rural areas where the dominant question was: how do we want the Netherlands to look in 20 or 30 years' time? The debate also clarified that on some points the departments of the Ministers and State Secretaries responsible had contemplated incompatible measures, and that there were still some blind spots. Sometimes it takes this type of debate for these matters to be brought home to Ministers and State Secretaries.

Going by the perceptions of Ministers and State Secretaries in successive Cabinets and of experts in the matter, Senate debates with the government about Europe and Foreign Affairs are characterised by considerable relevant knowledge on the part of the senators. The Senate is recognised and appreciated abroad. Senators are very active; from time to time their participation in international activities, not only from a relative but also from an absolute perspective, is at least as substantial as that of the House of Representatives. With due pride, I would accordingly like to mention that it is a Dutch senator who is President of the Parliamentary Assembly of the Council of Europe.

The Dutch Senate is not often mentioned in the media. It may perhaps surprise you, but I don't find this a problem. I would like to explain to you why. If politically, something is really happening in the Senate or something is about to happen, the media has never failed to find us. After all, they know that in the field of legislation, the Senate has the last word. However, matters which in the eyes of journalists and makers of programmes have little news value can still be of importance to citizens, social organisations, authorities or the judiciary. On this, the Senate communicates directly with all these stakeholders and interested parties, including via our website (www.eerstekamer.nl). What plays a role in this is that I wish to avoid becoming involved in the mutual dependency like the one our peers find themselves in: the media and House of Representative members are holding each other hostage, with the public performances via one-liners and hype-like behaviour associated with it. In the Senate we do not miss the hot breath of journalists in our necks. Quite the contrary, we cherish the benefit of seclusion. This seclusion from the media enables us better to skip the political dividing lines, where our task of testing the quality of legislation so demands.

Except for the seclusion from the media in which we steadily do our work, there are two more factors that are relevant to the Senate's proper functioning and its constant force as an institute in our political system. In the first place, senators— as opposed to House of Representative members — are not elected directly but indirectly, namely by members of the Provincial Councils. I realise that — also in the Senate — not everybody is happy with these indirect elections. To be indirectly elected also has advantages, however. One of the advantages is that members of the Senate do not often have to address the media or account for themselves directly to grassroots support. In the perception of many, this relative remoteness means that for the purpose of the Senate's very core task, there is more room than in the House of Representatives to break through the dividing lines between parties and between opposition and coalition parties. A second factor that is of importance to the

strength of the Senate relates to the fact that Senators - unlike House of Representative members – are merely part-time politicians. They meet one day per week, while 1 to 2 days are needed for reading the documents and all the background information. In addition to membership of the Senate, in most cases senators have regular jobs: they are Burgomasters, professors, judges, attorneys, executives in all kinds of sectors such as the care and education sectors, and former Ministers and State Secretaries. In and through their occupations, they are in touch with society on a day-to-day basis. When bills are presented in the House of Representatives, these roots with society enable members of the Senate sometimes to warn their peers in the House of Representatives of problems with the practical effect of a government proposal. House of Representative members are fulltime politicians and endeavour, outside of the three days a week that they meet, to keep in touch as much as possible with the various sections of society. With Senators, the latter is a given, thanks to their functions in society.

Keeping in touch with society. With this, ladies and gentlemen, I have ended up with the people that we, as members of the Senate, too, represent, namely with Dutch society. Worldwide, we were the first or among the first, with legislation which under certain circumstances allowed euthanasia, to have a policy that condoned the use of soft drugs, and to allow homosexuals like heterosexuals to marry. In some countries and with some groupings we have the name of setting an example that is worth emulating, others cite us as the very examples of how it should not be done. Be that as it may: we were on record with everybody as a tolerant country. This tolerance has its roots in our history. In a religious, political and cultural sense we have always been a country of minorities. Throughout the centuries we have had to look for ways and means to find a common destiny, and ultimately we always succeeded in this. The very respect for diversity was the unifying force.

This respect has, however, degenerated into a kind of tolerance that represents little more than a non-committal attitude. It has degenerated into condoning other people with dissenting ideas or a different faith, rather than accepting all of them as individuals, despite the fact that they are different, think differently or believe differently. Fortuyn, the murdered politician, and the murder of Van Gogh, the cinematographer, have triggered discussions about church and state, faith and politics, clashing cultures, the unifying force of mutual understanding and respect, but also the boundaries that need to be set, about our identity as Dutch nation, our culture, our values, our standards if a constitutional state is to be preserved.

Over the years, legislation allowing people to come to and settle in the Netherlands has become stricter. The issue surrounding Hirsi Magan, the member of the House of Representatives, has induced a bipartite perception abroad: those on the left of the political spectrum believe that the tolerance in our country has come to an end. Those on the right of the political spectrum believe that criticism of the Islam has become all but barred. That perception is incorrect. That said, however, there is a struggle going on in our country on how to deal with differences in cultures and faiths.

We are not alone in this. I would refer in this connection to the cartoons in Denmark which Muslims perceived as offensive and insulting. Discussions are flaring up in many countries on the freedom of speech and its limitations. The legal framework was clear: our constitution guarantees the freedom of speech. The legislature can put restrictions on this freedom, and has done so in our country by stipulating that insults can be punished. Whether an insult is punishable is for the court to decide. This legal framework fails to tackle the core of the problem, however. The core of the problem is self-restriction which people ought or ought not to observe in their freedom of speech, whether they be journalists, or citizens in their interrelationships. That is not a legal but a moral question which falls back on what we regard as civilisation. This could well cause legal rights to clash with moral obligations. The discussion on this has now faded away in the Netherlands as in other countries. The

discussion is not closed, however. It will no doubt return. For this kind of problem, the legislature cannot provide an ultimate solution, and that is a good thing. It is up to society, citizens, societal relationships and churches jointly to find moral wisdom and coherence. That is of importance, too, because the bar set by the government cannot be raised to a height exceeding that which society is able to scale in the way of moral perception and support.

At the same time, there is a problem on the political side. The referendum on the constitutional treaty in our country has made it clear that the difference between the majority of our population that rejected the treaty, and the expected sizeable majority in the parliament which was to vote in favour was unacceptably high. Much has been discussed and written since then on the remoteness between the voters and the elected, the so-called gap. The government has put committees in place: the National Convention and the Citizenship Forum. As concerns Europe, the government has looked for ways, such as a separate website, to find out what citizens believe is the direction we should be taking with Europe.

“Above all, we have to listen to the people” is now an often heard statement. I wish to qualify this fundamentally. Politicians are not a conduit for all kinds of wishes and desires of citizens. Naturally, politicians have to be au fait with the concerns and wishes of citizens. However, they then have to address these in relation to the general interest, however, and make a knowledgeable assessment. The result of this assessment can mean that a politician is adopting a correct attitude towards citizens. If this is done with empathy and know-how, people will appreciate it, even though they may perhaps not agree with the substantive aspect. The appreciation will in any event be greater than when a politician plays up to the people. Fortunately, people have an unerring feeling for this. In brief, what we are concerned with is the authority of politicians. This authority is what makes people put their confidence in their elected representatives.

A second qualification concerns the fact that the referendum on the constitutional treaty demonstrated that the authority, and with it the confidence issue, not only related to politics. In the run up to the referendum, leaders of all kinds of social organisations, such as employer and employee associations, made known their positive attitude to the treaty. Their supporters, like those of most political parties, voted differently, however. In this area, too, an authority and confidence problem manifested itself in the same way. What is more, we notice the same problem in other countries.

In sum, we are not faced so much with a typical Dutch problem; neither is it a problem that is confined to politics. The problem transcends geographic boundaries, and political and social dividing lines. Studies in this respect come to the same conclusion. It would be wise to do justice to the breadth and depth of this topic by placing it in the context of internationalisation, globalisation, as well as individualisation tendencies. We live in complex societies. People who have no anchorage will feel threatened sooner by the advent of other cultures and faiths in their neighbourhood, their work and their lives and will also sooner admit to being threatened by an ever-expanding Europe. While seeking the shelter of what is familiar may then be human, it is not necessarily desirable. This implies a huge challenge for everyone who bears social and political responsibility.

Ladies and gentlemen, I am going to conclude on an optimistic note. I draw on our history to do this. There is much we are capable of. The Netherlands are well-known in the world. For our art: this year we are celebrating the year of Rembrandt. For our top sportsmen and women: skating, hockey, soccer. For the manner in which we took up the fight against the water: it is 20 years ago this year that the storm surge barrier was built and that land reclamation created a whole new province (Flevoland). Worldwide, we are known as a people who travelled the oceans, who were the first, or the first Europeans, to discover new worlds. In this context, we are this year celebrating 400 years of Dutch-Australian relations.

As a country of minorities, too, we have shown throughout the centuries that ours is a country in which it is good to live. That creates a pledge for the future, also for the “chambre de réflexion”, where political and social responsibility is combined for the benefit of all those we are allowed to represent.

Thank you for listening.